
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 705 Session of
2021

INTRODUCED BY VOGEL, LANGERHOLC, ARGALL, STREET, BARTOLOTTA,
MARTIN, MENSCH, J. WARD, YUDICHAK, YAW, BAKER, COSTA,
GORDNER, STEFANO, AUMENT AND HAYWOOD, MAY 21, 2021

REFERRED TO BANKING AND INSURANCE, MAY 21, 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 "Asynchronous interaction." An exchange of information
14 between a patient and a health care provider that does not occur
15 in real time, including the secure collection and transmission
16 of a patient's medical information, clinical data, clinical
17 images, laboratory results and self-reported medical history.

18 "Emergency medical condition." A medical condition

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

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

8 (1) An individual who is licensed, certified,
9 registered, permitted or otherwise authorized by law to
10 provide health care services in this Commonwealth.

11 (2) A federally qualified health center as defined in
12 section 1861(aa)(4) of the Social Security Act (49 Stat. 620,
13 42 U.S.C. § 1395x(aa)(4)).

14 (3) A rural health clinic as defined in section 1861(aa)
15 (2) of the Social Security Act (49 Stat. 620, 42 U.S.C. §
16 1395x(aa)(2)).

17 (4) A general, mental, chronic disease or other type of
18 hospital licensed in this Commonwealth.

19 "Health care services." Services for the diagnosis,
20 prevention, treatment, cure or relief of a health condition,
21 injury, disease or illness.

22 "Health Information Technology for Economic and Clinical
23 Health Act." The Health Information Technology for Economic and
24 Clinical Health Act (Public Law 111-5, 123 Stat. 226-279 and
25 467-496).

26 "Health insurance policy." As follows:

27 (1) An individual or group health insurance policy,
28 contract or plan that provides coverage for services provided
29 by a health care facility or health care provider that is
30 offered by a health insurer.

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

4 (3) Except as provided under paragraph (2), the term
5 does not include accident only, fixed indemnity, limited
6 benefit, credit, dental, vision, specified disease, Medicare
7 supplement, Civilian Health and Medical Program of the
8 Uniformed Services (CHAMPUS) supplement, long-term care or
9 disability income, workers' compensation or automobile
10 medical payment insurance.

11 "Health Insurance Portability and Accountability Act of
12 1996." The Health Insurance Portability and Accountability Act
13 of 1996 (Public Law 104-191, 110 Stat. 1936).

14 "Health insurer." An entity that holds a valid license by
15 the Insurance Department with accident and health authority to
16 issue a health insurance policy and governed under any of the
17 following:

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

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

23 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
24 corporations).

25 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
26 services plan corporations).

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

30 "On-call or cross-coverage services." The provision of

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

7 "Participating network provider." A health care provider
8 who has a network participation agreement with an insurer.

9 "Provider-to-provider consultation." The act of seeking
10 advice and recommendations from another health care provider for
11 diagnostic studies, therapeutic interventions or other services
12 that may benefit the patient of the initiating health care
13 provider.

14 "Remote patient monitoring." The collection of physiological
15 data from a patient in one location, which is transmitted via
16 electronic communication technologies to a provider in a
17 different location for use in care and related support of the
18 patient.

19 "Synchronous interaction." A two-way or multiple-way
20 exchange of information between a patient and a health care
21 provider that occurs in real time via audio or video
22 conferencing.

23 "Telemedicine." The delivery of health care services to a
24 patient by a health care provider who is at a different
25 location, through synchronous interactions, asynchronous
26 interactions or remote patient monitoring that meet the
27 requirements of the Health Insurance Portability and
28 Accountability Act of 1996, the Health Information Technology
29 for Economic and Clinical Health Act or other applicable Federal
30 or State law regarding the privacy and security of electronic

1 transmission of health information. The term does not include
2 any of the following:

3 (1) The provision of health care services solely through
4 the use of voicemail, facsimile, e-mail or instant messaging
5 or a combination thereof.

6 (2) A provider-to-provider consultation.

7 Section 3. Regulation of telemedicine by professional licensure
8 boards.

9 Each licensure board shall promulgate regulations that are
10 consistent with this act to provide for and regulate
11 telemedicine within the scope of practice and standard of care
12 regulated by the board. The regulations shall:

13 (1) Consider model policies and clinical guidelines for
14 the appropriate use of synchronous interactions, asynchronous
15 interactions and remote patient monitoring.

16 (2) Include patient privacy and data security standards
17 that comply with Federal and State law, including the Health
18 Insurance Portability and Accountability Act of 1996 and the
19 Health Information Technology for Economic and Clinical
20 Health Act.

21 Section 4. Compliance.

22 A health care provider providing telemedicine services to an
23 individual located within this Commonwealth shall comply with
24 all applicable Federal and State laws and regulations. Failure
25 to comply with applicable laws and regulations shall subject the
26 health care provider to discipline by the respective licensure
27 board.

28 Section 5. Evaluation and treatment.

29 (a) Requirements.--A health care provider who provides
30 healthcare services via telemedicine to an individual located in

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

23 (3) Perform a clinical evaluation that is appropriate
24 for the patient and the condition with which the patient
25 presents before providing treatment or issuing a prescription
26 through the use of telemedicine. A healthcare provider may
27 use a synchronous telemedicine interaction or an asynchronous
28 telemedicine interaction to perform the clinical evaluation.

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

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

7 (6) Provide a visit summary to the individual if
8 requested.

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

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

17 (c) Applicability.--

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

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

22 (d) Standard of care.--A health care provider providing
23 health care services through telemedicine shall be subject to
24 the standard of care that would apply to the provision of the
25 same health care services in an in-person setting.

26 Section 6. Insurance coverage of telemedicine.

27 (a) Insurance coverage and reimbursement.--

28 (1) A health insurance policy issued, delivered,
29 executed or renewed in this Commonwealth after the effective
30 date of this section shall provide coverage for medically

1 necessary telemedicine delivered by a participating network
2 provider who provides a covered service via telemedicine
3 consistent with the insurer's medical policies. A health
4 insurance policy may not exclude a health care service for
5 coverage solely because the service is provided through
6 telemedicine.

7 (2) Subject to paragraph (1), a health insurer shall
8 reimburse a health care provider that is a participating
9 network provider for both in-person and telemedicine services
10 in accordance with the terms and conditions of the network
11 participation agreement as negotiated between the insurer and
12 the participating provider, the form of which shall be filed
13 with and subject to review by the Department of Health. The
14 network participation agreement may not prohibit
15 reimbursement solely because a health care service is
16 provided by telemedicine. Reimbursement shall not be
17 conditioned upon the use of an exclusive or proprietary
18 telemedicine technology or vendor.

19 (3) Payment for a covered service provided via
20 telemedicine by any participating network provider shall be
21 negotiated between the health care provider and health
22 insurer.

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

24 (1) Subsection (a)(1) and (2) shall not apply if the
25 telemedicine service is facilitated via a medical device or
26 other technology that provides clinical data or information,
27 excluding existing information in an electronic medical
28 records system, other than that independently provided
29 through synchronous or asynchronous interactions with the
30 patient.

1 (2) For a health insurance policy for which either rates
2 or forms are required to be filed with the Federal Government
3 or the Insurance Department, this section shall apply to a
4 policy for which a form or rate is first filed on or after
5 180 days after the effective date of this section.

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

11 (c) Construction.--Nothing under this section shall be
12 construed to:

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

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

17 Section 7. Medicaid program reimbursement.

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

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

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

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

30 Section 8. Effective date.

1 This act shall take effect as follows:

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

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