
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1729 Session of
2021

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BRIGGS, DALEY, GUENST, FITZGERALD AND CEPHAS, JULY 20, 2021

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, JULY 20, 2021

AN ACT

1 Providing for teledentistry; authorizing the regulation of
2 teledentistry by the board; and providing for insurance
3 coverage of teledentistry.

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 Teledentistry
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 "Board." The State Board of Dentistry.

16 "Children's Health Insurance Program." The children's health
17 insurance program under Article XXIII-A of the act of May 17,
18 1921 (P.L.682, No.284), known as The Insurance Company Law of

1 1921.

2 "Dental care provider." A dentist, dental hygienist, public
3 health dental hygiene practitioner or certified school dental
4 hygienist who holds a valid license under the Dental Law.

5 "Dental insurance policy." An individual or group health
6 insurance policy, contract or plan that provides coverage for
7 dental services provided by a dental care provider that is
8 offered by a health insurer.

9 "Dental Law." The act of May 1, 1933 (P.L.216, No.76), known
10 as The Dental Law.

11 "Dental services." The general and usual services rendered
12 and care administered by a person who engages in the practice of
13 dentistry, as specified in the Dental Law.

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

18 "Health Insurance Portability and Accountability Act of
19 1996." The Health Insurance Portability and Accountability Act
20 of 1996 (Public Law 104-191, 110 Stat. 1936).

21 "Health insurer." An entity that holds a valid license by
22 the Insurance Department to issue a dental insurance policy and
23 is governed under any of the following:

24 (1) The Insurance Company Law of 1921, including section
25 630 and Article XXIV of that act.

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

28 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
29 corporations).

30 (4) 40 Pa.C.S. Ch. 63 (relating to professional health

1 services plan corporations).

2 "Interactive audio and video." Real-time two-way or
3 multiple-way communication between a dental care provider and a
4 patient.

5 "Medical assistance." Medical assistance as provided in
6 subarticle (f) of Article IV of the act of June 13, 1967
7 (P.L.31, No.21), known as the Human Services Code.

8 "On-call or cross-coverage services." The provision of
9 teledentistry by a dental care provider designated by another
10 dental care provider with a provider-patient relationship to
11 deliver dental services on a temporary basis so long as the
12 designated dental care provider:

- 13 (1) is in the same group or health system;
- 14 (2) has access to the patient's prior dental records;
- 15 (3) holds a valid license under the Dental Law; and
- 16 (4) is in a position to coordinate care.

17 "Store-and-forward technology." As follows:

18 (1) Technology that stores and transmits or grants
19 access to a patient's clinical health information for review
20 by a dental care provider who is at a different location.

21 (2) The term does not include the storage, transmission
22 or use of electronic dental records without the concurrent
23 transmission of additional clinical health information not
24 already present in the electronic dental records.

25 "Teledentistry." The delivery of dental care services
26 provided through teledentistry technologies to a patient by a
27 dental care provider who is at a different location.

28 "Teledentistry technologies." As follows:

- 29 (1) Electronic information and telecommunications
30 technology, including interactive audio and video, remote

1 patient monitoring or store-and-forward technology, which
2 meets the requirements of the following:

3 (i) The Health Insurance Portability and
4 Accountability Act of 1996.

5 (ii) The Health Information Technology for Economic
6 and Clinical Health Act.

7 (iii) Other applicable Federal or State law.

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

9 (i) Audio-only medium, voicemail, facsimile, email,
10 instant messaging, text messaging or online questionnaire
11 or any combination thereof.

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

14 Section 3. Regulation of teledentistry by board.

15 (a) Requirements.--

16 (1) A dental care provider shall be authorized to
17 practice teledentistry in accordance with this act and the
18 corresponding regulations promulgated by the board.

19 (2) A dental care provider who engages in teledentistry
20 in a manner that does not comply with the standards of care
21 or rules of practice shall be subject to discipline by the
22 board under the Dental Law.

23 (b) Regulations.--Within 24 months of the effective date of
24 this subsection, the board shall promulgate final regulations
25 that are consistent with this act to provide for and regulate
26 teledentistry within the scope of practice and standard of care
27 regulated by the board. The following apply:

28 (1) The standard of care applicable to an in-person
29 encounter shall apply to a teledentistry encounter.

30 (2) The regulations shall:

1 (i) Consider model policies and clinical guidelines
2 for the appropriate use of teledentistry technologies,
3 including care coordination, preventive care and
4 emergency care.

5 (ii) Include patient privacy and data security
6 standards that are in compliance with:

7 (A) The Health Insurance Portability and
8 Accountability Act of 1996.

9 (B) The Health Information Technology for
10 Economic and Clinical Health Act.

11 (C) Other applicable Federal or State law.

12 (c) Temporary regulations.--To facilitate the prompt
13 implementation of this act, within 120 days of the effective
14 date of this subsection, the board shall transmit notice of
15 temporary regulations regarding implementation of this act to
16 the Legislative Reference Bureau for publication in the
17 Pennsylvania Bulletin. The following apply:

18 (1) The temporary regulations shall not be subject to:

19 (i) Section 612 of the act of April 9, 1929
20 (P.L.177, No.175), known as The Administrative Code of
21 1929.

22 (ii) Sections 201, 202, 203, 204 and 205 of the act
23 of July 31, 1968 (P.L.769, No.240), referred to as the
24 Commonwealth Documents Law.

25 (iii) Sections 204(b) and 301(10) of the act of
26 October 15, 1980 (P.L.950, No.164), known as the
27 Commonwealth Attorneys Act.

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

30 (2) The temporary regulations shall expire no later than

1 24 months following publication of temporary regulations.
2 Regulations adopted after this period shall be promulgated as
3 provided by law.

4 (d) Construction.--The provisions of this act shall be in
5 full force and effect even if the board has not yet published
6 temporary regulations or implemented the regulations required
7 under this section.

8 Section 4. Compliance.

9 A dental care provider providing teledentistry services to an
10 individual located within this Commonwealth shall comply with
11 all applicable Federal and State laws and regulations and shall
12 hold a valid license by the board. Failure to hold a valid
13 license shall subject the dental care provider to discipline by
14 the board for unlicensed practice under the Dental Law.

15 Section 5. Evaluation and treatment.

16 (a) Requirements.--Except as provided under subsection (c),
17 a dental care provider who provides teledentistry to an
18 individual located in this Commonwealth shall:

19 (1) Except as provided in subsection (b), for a
20 teledentistry encounter in which the dental care provider
21 does not have an established provider-patient relationship:

22 (i) verify the location and identity of the
23 individual receiving dental care; and

24 (ii) disclose the dental care provider's identity,
25 geographic location, license number and dental specialty
26 or applicable credentials.

27 (2) Obtain informed consent regarding the use of
28 teledentistry technologies from the individual or other
29 person acting in a dental care decision-making capacity for
30 the individual. The individual or other person acting in a

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

10 (3) Provide an appropriate problem-focused examination
11 or assessment using teledentistry technologies. The following
12 apply:

13 (i) The dental care provider may utilize interactive
14 audio without the requirement of interactive video if it
15 is used in conjunction with store-and-forward technology
16 and, after access and review of the patient's medical
17 records, the dental care provider determines that the
18 dental care provider is able to meet the appropriate
19 standard of care.

20 (ii) If the dental care provider utilizes
21 interactive audio without interactive video, the dental
22 care provider shall inform the patient that the patient
23 has the option to request interactive audio and video.

24 (4) Establish a diagnosis and treatment plan or execute
25 a treatment plan, including care coordination or referrals,
26 unless inconsistent with the standard of care.

27 (5) Create and maintain an electronic dental record or
28 update an existing electronic dental record for the patient
29 within 24 hours. An electronic dental record shall be
30 maintained in accordance with electronic medical records

1 privacy rules under the Health Insurance Portability and
2 Accountability Act of 1996 and other applicable Federal or
3 State laws.

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

6 (7) Have an emergency action plan in place for dental
7 emergencies and referrals or care coordination.

8 (b) Applicability.--Subsection (a)(1) shall not apply to on-
9 call or cross-coverage services.

10 (c) Limitations on treatment.--Teledentistry services or
11 technologies shall not be permitted to be utilized or employed
12 for the delivery or administration of dental care services that
13 are required to be delivered or administered in a dentist's
14 office.

15 Section 6. Insurance coverage of teledentistry.

16 (a) Insurance coverage and reimbursement.--

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

26 (2) Subject to paragraph (1), a health insurer shall
27 reimburse a dental care provider for both in-person and
28 teledentistry services in accordance with the terms and
29 conditions of the participation agreement as negotiated
30 between the health insurer and the dental care provider. The

1 following apply:

2 (i) The form of the participation agreement shall be
3 filed with and subject to review by the Department of
4 Health.

5 (ii) The participation agreement may not prohibit
6 reimbursement solely because a dental service is provided
7 by teledentistry.

8 (iii) Reimbursement shall not be conditioned upon
9 the use of an exclusive teledentistry platform or
10 teledentistry vendor.

11 (3) Payment for a covered service provided via
12 teledentistry by a dental care provider shall be negotiated
13 between the dental care provider and health insurer.

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

15 (1) Subsection (a)(1) and (2) shall not apply if the
16 teledentistry service is facilitated via a dental device or
17 other technology that provides clinical data or health
18 information, excluding existing information in an electronic
19 dental records system, other than that independently provided
20 through interactive audio and video with, or store-and-
21 forward technology imaging provided by, the patient.

22 (2) For a dental insurance policy for which either rates
23 or forms are required to be filed with the Federal Government
24 or the Insurance Department, this section shall apply to a
25 policy for which a form or rate is first filed on or after
26 180 days after the effective date of this section.

27 (3) For a dental insurance policy for which neither
28 rates nor forms are required to be filed with the Federal
29 Government or the Insurance Department, this section shall
30 apply to a policy issued or renewed on or after 180 days

1 after the effective date of this section.

2 (c) Construction.--Nothing under this section shall be
3 construed to:

4 (1) Prohibit a health insurer from reimbursing other
5 dental providers for covered services provided via
6 teledentistry.

7 (2) Require a health insurer to reimburse an out-of-
8 network dental care provider for teledentistry.

9 Section 7. Medical assistance program reimbursement.

10 (a) Medical assistance payment.--Medical assistance payments
11 shall be made on behalf of eligible individuals for
12 teledentistry, consistent with Federal law, as specified under
13 this act, if the service would be covered through an in-person
14 encounter.

15 (b) Applicability.--

16 (1) To perform teledentistry services, a dental care
17 provider must use technology platforms that are compliant
18 with the Health Insurance Portability and Accountability Act
19 of 1996.

20 (2) Teledentistry services must be consistent with the
21 standard of care.

22 Section 8. Children's Health Insurance Program reimbursement.

23 (a) Children's Health Insurance Program payment.--Children's
24 Health Insurance Program payments shall be made on behalf of
25 eligible individuals for teledentistry, consistent with Federal
26 law, as specified under this act if the service would be covered
27 through an in-person encounter.

28 (b) Applicability.--

29 (1) To perform teledentistry services, a dental care
30 provider must use technology platforms that are compliant

1 with the Health Insurance Portability and Accountability Act
2 of 1996.

3 (2) Teledentistry services must be consistent with the
4 standard of care.

5 Section 9. Effective date.

6 This act shall take effect as follows:

7 (1) Section 6 shall take effect upon publication in the
8 Pennsylvania Bulletin of the temporary regulations required
9 in section 3(c).

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

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