

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 780 Session of 2017

INTRODUCED BY VOGEL, YAW, BARTOLOTTA, BREWSTER, MARTIN, AUMENT, KILLION, COSTA, VULAKOVICH, RAFFERTY, YUDICHAK, MENSCH, BAKER, ARGALL, LANGERHOLC, WHITE, WARD, STEFANO, BLAKE, LEACH, GREENLEAF, BROWNE, STREET AND SCHWANK, JUNE 22, 2017

AS AMENDED ON SECOND CONSIDERATION, JUNE 11, 2018

AN ACT

1 ~~Relating to telemedicine; authorizing the practice of~~ <--
2 ~~telemedicine by health care providers; and providing for~~
3 ~~insurance coverage of telemedicine.~~

4 RELATING TO TELEMEDICINE; AUTHORIZING THE REGULATION OF <--
5 TELEMEDICINE BY PROFESSIONAL LICENSING BOARDS; AND PROVIDING
6 FOR INSURANCE COVERAGE OF TELEMEDICINE.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 ~~Section 1. Short title.~~ <--

10 ~~This act shall be known and may be cited as the Telemedicine~~
11 ~~Act.~~

12 ~~Section 2. Definitions.~~

13 ~~The following words and phrases when used in this act shall~~
14 ~~have the meanings given to them in this section unless the~~
15 ~~context clearly indicates otherwise:~~

16 ~~"Audio only medium." A prerecorded audio presentation or~~
17 ~~recording.~~

18 ~~"Consultation." The act of seeking assistance from another~~
19 ~~health care provider for diagnostic studies, therapeutic~~

1 ~~interventions or other services that may benefit the patient of~~
2 ~~a health care provider who has an ongoing provider-patient~~
3 ~~relationship with the individual.~~

4 ~~"Health care provider" or "provider." Any of the following:~~

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

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

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

13 ~~(4) A pharmacist licensed under the act of September 27,~~
14 ~~1961 (P.L.1700, No.699), known as the Pharmacy Act.~~

15 ~~(5) An occupational therapist licensed under the act of~~
16 ~~June 15, 1982 (P.L.502, No.140), known as the Occupational~~
17 ~~Therapy Practice Act.~~

18 ~~(6) A speech language pathologist licensed under the act~~
19 ~~of December 21, 1984 (P.L.1253, No.238), known as the Speech~~
20 ~~Language Pathologists and Audiologists Licensure Act.~~

21 ~~(7) An audiologist licensed under the Speech Language~~
22 ~~Pathologists and Audiologists Licensure Act.~~

23 ~~(8) A dental hygienist licensed under the act of May 1,~~
24 ~~1933 (P.L.216, No.76), known as The Dental Law.~~

25 ~~(9) A social worker, clinical social worker, marriage~~
26 ~~and family therapist or professional counselor licensed under~~
27 ~~the act of July 9, 1987 (P.L.220, No.39), known as the Social~~
28 ~~Workers, Marriage and Family Therapists and Professional~~
29 ~~Counselors Act.~~

30 ~~(10) A registered nurse licensed under the act of May~~

1 ~~22, 1951 (P.L.317, No.69), known as The Professional Nursing~~
2 ~~Law.~~

3 ~~"Health care services." Services for the diagnosis,~~
4 ~~prevention, treatment, cure or relief of a health condition,~~
5 ~~injury, disease or illness.~~

6 ~~"Health insurance policy." As follows:~~

7 ~~(1) An individual or group health insurance policy,~~
8 ~~contract or plan that provides coverage for services provided~~
9 ~~by a health care facility or health care provider that is~~
10 ~~offered by a health insurer.~~

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

14 ~~(3) Except as provided in paragraph (2), the term does~~
15 ~~not include accident only, fixed indemnity, limited benefit,~~
16 ~~credit, dental, vision, specified disease, Medicare~~
17 ~~supplement, Civilian Health and Medical Program of the~~
18 ~~Uniformed Services (CHAMPUS) supplement, long term care or~~
19 ~~disability income, workers' compensation or automobile~~
20 ~~medical payment insurance.~~

21 ~~"Health insurer." An entity licensed by the Insurance~~
22 ~~Department with accident and health authority to issue a health~~
23 ~~insurance policy and governed under any of the following:~~

24 ~~(1) The act of May 17, 1921 (P.L.682, No.284), known as~~
25 ~~The Insurance Company Law of 1921, including section 630 and~~
26 ~~Article XXIV.~~

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

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

1 ~~(4) 40 Pa.C.S. Ch. 63 (relating to professional health-~~
2 ~~services plan corporations).~~

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

6 ~~"Licensure board." Each licensing board within the Bureau of-~~
7 ~~Professional and Occupational Affairs of the Department of State-~~
8 ~~with jurisdiction over a professional licensee identified as a-~~
9 ~~health care provider under this act.~~

10 ~~"Medical emergency." A condition wherein an individual is-~~
11 ~~unconscious or the probability of harm to an individual because-~~
12 ~~of failure to treat is great and surpasses any threatened harm-~~
13 ~~from the treatment itself.~~

14 ~~"On call or cross coverage services." The provision of-~~
15 ~~telemedicine by a health care provider designated by another-~~
16 ~~provider with a provider patient relationship to deliver-~~
17 ~~services so long as the designated provider is in the same group-~~
18 ~~or health system, has access to the patient's prior medical-~~
19 ~~records and is in a position to coordinate care.~~

20 ~~"Store and forward." Technology that stores and transmits or-~~
21 ~~grants access to a patient's clinical information for review by-~~
22 ~~a health care provider who is at a different location.~~

23 ~~"Telemedicine." The delivery of health care services-~~
24 ~~provided through technology, including, but not limited to,-~~
25 ~~interactive audio or video, store and forward and remote patient-~~
26 ~~monitoring, to a patient by a health care provider who is at a-~~
27 ~~different location. The term does not include the use of audio-~~
28 ~~only medium, voicemail, facsimile, e-mail, instant messaging,-~~
29 ~~text messaging, online questionnaire or any combination thereof.~~

30 ~~Section 3. Practice of telemedicine by health care providers.~~

1 ~~(a) Requirements.~~

2 ~~(1) A health care provider licensed, certified or~~
3 ~~registered by a Commonwealth professional licensure board~~
4 ~~shall be authorized to practice telemedicine in accordance~~
5 ~~with this act and the corresponding licensure board~~
6 ~~regulations.~~

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

11 ~~(b) Regulations. Each licensure board shall within 24~~
12 ~~months of the effective date of this section promulgate~~
13 ~~regulations consistent with this act to provide for and regulate~~
14 ~~telemedicine within the scope of practice and standard of care~~
15 ~~regulated by the board. The regulations shall:~~

16 ~~(1) Consider model policies for the appropriate use of~~
17 ~~telemedicine technologies.~~

18 ~~(2) Include patient privacy and data security standards~~
19 ~~that are in compliance with the Federal Health Insurance~~
20 ~~Portability and Accountability Act of 1996 (Public Law 104-~~
21 ~~191, 110 Stat. 1936) and the Health Information Technology~~
22 ~~for Economic and Clinical Health Act (Public Law 111-5, 123-~~
23 ~~Stat. 226-279 and 467-496).~~

24 ~~(c) Temporary regulations. In order to facilitate the~~
25 ~~prompt implementation of this act, the licensure boards shall~~
26 ~~publish temporary regulations regarding implementation of this~~
27 ~~act in the Pennsylvania Bulletin within 60 days of the effective~~
28 ~~date of this section. Temporary regulations are not subject to:~~

29 ~~(1) Sections 201, 202, 203, 204 and 205 of the act of~~
30 ~~July 31, 1968 (P.L.769, No.240), referred to as the~~

1 Commonwealth Documents Law.

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

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

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

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

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

17 ~~Section 4. Compliance.~~

18 ~~A health care provider engaging in telemedicine shall comply~~
19 ~~with all applicable Federal and State laws and regulations.~~

20 ~~Section 5. Evaluation and treatment.~~

21 ~~(a) Requirements. Except as provided in subsection (c), a~~
22 ~~health care provider who provides telemedicine to an individual~~
23 ~~located in this Commonwealth shall, prior to treatment of the~~
24 ~~individual, establish a provider patient relationship with the~~
25 ~~individual that includes the following:~~

26 ~~(1) Verifying the location and identity of the~~
27 ~~individual receiving care each time telemedicine is provided.~~

28 ~~(2) Disclosing the health care provider's identity,~~
29 ~~geographic location and medical specialty or applicable~~
30 ~~credentials.~~

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

14 ~~(4) Providing an appropriate virtual examination or~~
15 ~~assessment using telemedicine technologies and any~~
16 ~~peripherals and diagnostic tests necessary for an accurate~~
17 ~~diagnosis or care management if the examination or assessment~~
18 ~~would otherwise be medically appropriate in an in person~~
19 ~~encounter. The health care provider may utilize interactive~~
20 ~~audio without the requirement of interactive video if, after~~
21 ~~access and review of the patient's medical records, the~~
22 ~~provider determines that the provider is able to meet the~~
23 ~~same standards of care as if the health care services were~~
24 ~~provided in person. The provider shall inform the patient~~
25 ~~that the patient has the option to request interactive audio~~
26 ~~and video.~~

27 ~~(5) Establishing a diagnosis and treatment plan or~~
28 ~~executing a treatment plan.~~

29 ~~(6) Creating and maintaining an electronic medical~~
30 ~~record or updating an existing electronic medical record for~~

1 ~~the patient within 24 hours. An electronic medical record~~
2 ~~shall be maintained in accordance with electronic medical~~
3 ~~records privacy rules under the Federal Health Insurance~~
4 ~~Portability and Accountability Act of 1996 (Public Law 104-~~
5 ~~191, 110 Stat. 1936).~~

6 ~~(7) Providing a visit summary to the individual if~~
7 ~~requested.~~

8 ~~(8) Having an emergency action plan in place for medical~~
9 ~~and behavioral health emergencies and referrals.~~

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

16 ~~(c) Exceptions to provider patient relationship~~
17 ~~requirements. Subsection (a) does not apply to the following:~~

18 ~~(1) Consultations.~~

19 ~~(2) On call or cross coverage services.~~

20 ~~(3) Medical emergency.~~

21 ~~Section 6. Insurance coverage of telemedicine.~~

22 ~~(a) Insurance coverage and reimbursement.~~

23 ~~(1) A health insurance policy issued, delivered,~~
24 ~~executed or renewed in this Commonwealth after the effective~~
25 ~~date of this section shall provide coverage for telemedicine~~
26 ~~delivered by a participating network provider consistent with~~
27 ~~the insurer's medical policies. A health insurance policy may~~
28 ~~not exclude a health care service for coverage solely because~~
29 ~~the service is provided through telemedicine with the same~~
30 ~~provider.~~

1 ~~(2) A health insurer shall reimburse a health care~~
2 ~~provider that is a participating provider in its network for~~
3 ~~telemedicine if the health insurer reimburses the same~~
4 ~~participating provider for the same service through an in-~~
5 ~~person encounter. The standard of care and rules of practice~~
6 ~~applicable to an in person encounter shall apply to a~~
7 ~~telemedicine encounter. Payment for telemedicine encounters~~
8 ~~shall be established between the health care provider and~~
9 ~~health insurer.~~

10 ~~(b) Applicability. This section applies as follows:~~

11 ~~(1) Subsection (a) (2) does not apply if the~~
12 ~~telemedicine enabling device, technology or service fails to~~
13 ~~comply with applicable law and regulatory guidance regarding~~
14 ~~the secure transmission and maintenance of patient~~
15 ~~information.~~

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

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

26 ~~(c) Construction. Nothing in this act shall prohibit a~~
27 ~~health insurer from providing reimbursement for telemedicine~~
28 ~~where the same or similar service is not otherwise eligible for~~
29 ~~reimbursement when provided through an in person encounter or~~
30 ~~other contact between a health care provider and an individual.~~

1 ~~Section 7. Medicaid program reimbursement.~~

2 ~~The Department of Human Services shall provide medical~~
3 ~~assistance coverage and payment for telemedicine in accordance~~
4 ~~with this act. Nothing in this act shall require the Department~~
5 ~~of Human Services to provide coverage for services that would~~
6 ~~not be covered if delivered through an in person encounter or~~
7 ~~for services that are inconsistent with Federal financial~~
8 ~~participation requirements for the specific service or for~~
9 ~~telemedicine.~~

10 ~~Section 8. Effective date.~~

11 ~~This act shall take effect as follows:~~

12 ~~(1) The following provisions shall take effect in 90~~
13 ~~days:~~

14 ~~(i) Section 6.~~

15 ~~(ii) Section 7.~~

16 ~~(2) The remainder of this act shall take effect~~
17 ~~immediately.~~

18 SECTION 1. SHORT TITLE.

<--

19 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE TELEMEDICINE
20 ACT.

21 SECTION 2. DEFINITIONS.

22 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
23 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
24 CONTEXT CLEARLY INDICATES OTHERWISE:

25 "AUDIO-ONLY MEDIUM." A PRERECORDED AUDIO PRESENTATION OR
26 RECORDING.

27 "EMERGENCY MEDICAL CONDITION." A MEDICAL CONDITION
28 MANIFESTING ITSELF BY ACUTE SYMPTOMS OF SUFFICIENT SEVERITY,
29 INCLUDING SEVERE PAIN, SUCH THAT THE ABSENCE OF IMMEDIATE
30 MEDICAL ATTENTION COULD REASONABLY BE EXPECTED TO RESULT IN

1 PLACING THE HEALTH OF THE INDIVIDUAL IN SERIOUS JEOPARDY,
2 SERIOUS IMPAIRMENT TO BODILY FUNCTIONS OR SERIOUS DYSFUNCTION OF
3 A BODILY ORGAN OR PART.

4 "HEALTH CARE PROVIDER" OR "PROVIDER." ANY OF THE FOLLOWING:

5 (1) A HEALTH CARE PRACTITIONER AS DEFINED IN SECTION 103
6 OF THE ACT OF JULY 19, 1979 (P.L.130, NO.48), KNOWN AS THE
7 HEALTH CARE FACILITIES ACT.

8 (2) A FEDERALLY QUALIFIED HEALTH CENTER AS DEFINED IN
9 SECTION 1861(AA) (4) OF THE SOCIAL SECURITY ACT (49 STAT. 620,
10 42 U.S.C. § 1395X(AA) (4)).

11 (3) A RURAL HEALTH CLINIC AS DEFINED IN SECTION 1861(AA)
12 (2) OF THE SOCIAL SECURITY ACT (42 U.S.C. § 1395X(AA) (2)).

13 (4) A PHARMACIST WHO HOLDS A VALID LICENSE UNDER THE ACT
14 OF SEPTEMBER 27, 1961 (P.L.1700, NO.699), KNOWN AS THE
15 PHARMACY ACT.

16 (5) AN OCCUPATIONAL THERAPIST WHO HOLDS A VALID LICENSE
17 UNDER THE ACT OF JUNE 15, 1982 (P.L.502, NO.140), KNOWN AS
18 THE OCCUPATIONAL THERAPY PRACTICE ACT.

19 (6) A SPEECH-LANGUAGE PATHOLOGIST WHO HOLDS A VALID
20 LICENSE UNDER THE ACT OF DECEMBER 21, 1984 (P.L.1253,
21 NO.238), KNOWN AS THE SPEECH-LANGUAGE PATHOLOGISTS AND
22 AUDIOLOGISTS LICENSURE ACT.

23 (7) AN AUDIOLOGIST WHO HOLDS A VALID LICENSE UNDER THE
24 SPEECH-LANGUAGE PATHOLOGISTS AND AUDIOLOGISTS LICENSURE ACT.

25 (8) A DENTAL HYGIENIST WHO HOLDS A VALID LICENSE UNDER
26 THE ACT OF MAY 1, 1933 (P.L.216, NO.76), KNOWN AS THE DENTAL
27 LAW.

28 (9) A SOCIAL WORKER, CLINICAL SOCIAL WORKER, MARRIAGE
29 AND FAMILY THERAPIST OR PROFESSIONAL COUNSELOR WHO HOLDS A
30 VALID LICENSE UNDER THE ACT OF JULY 9, 1987 (P.L.220, NO.39),

1 KNOWN AS THE SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS
2 AND PROFESSIONAL COUNSELORS ACT.

3 (10) A REGISTERED NURSE WHO HOLDS A VALID LICENSE UNDER
4 THE ACT OF MAY 22, 1951 (P.L.317, NO.69), KNOWN AS THE
5 PROFESSIONAL NURSING LAW.

6 (11) AN OUT-OF-STATE HEALTH CARE PROVIDER.
7 "HEALTH CARE SERVICES." SERVICES FOR THE DIAGNOSIS,
8 PREVENTION, TREATMENT, CURE OR RELIEF OF A HEALTH CONDITION,
9 INJURY, DISEASE OR ILLNESS.

10 "HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL
11 HEALTH ACT." THE HEALTH INFORMATION TECHNOLOGY FOR ECONOMIC AND
12 CLINICAL HEALTH ACT (PUBLIC LAW 111-5, 123 STAT. 226-279 AND
13 467-496).

14 "HEALTH INSURANCE POLICY." AS FOLLOWS:

15 (1) AN INDIVIDUAL OR GROUP HEALTH INSURANCE POLICY,
16 CONTRACT OR PLAN THAT PROVIDES COVERAGE FOR SERVICES PROVIDED
17 BY A HEALTH CARE FACILITY OR HEALTH CARE PROVIDER THAT IS
18 OFFERED BY A HEALTH INSURER.

19 (2) THE TERM INCLUDES AN INDIVIDUAL OR GROUP HEALTH
20 INSURANCE POLICY, CONTRACT OR PLAN THAT PROVIDES DENTAL OR
21 VISION COVERAGE THROUGH A PROVIDER NETWORK.

22 (3) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), THE TERM
23 DOES NOT INCLUDE ACCIDENT ONLY, FIXED INDEMNITY, LIMITED
24 BENEFIT, CREDIT, DENTAL, VISION, SPECIFIED DISEASE, MEDICARE
25 SUPPLEMENT, CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE
26 UNIFORMED SERVICES (CHAMPUS) SUPPLEMENT, LONG-TERM CARE OR
27 DISABILITY INCOME, WORKERS' COMPENSATION OR AUTOMOBILE
28 MEDICAL PAYMENT INSURANCE.

29 "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF
30 1996." THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT

1 OF 1996 (PUBLIC LAW 104-191, 110 STAT. 1936).

2 "HEALTH INSURER." AN ENTITY THAT HOLDS A VALID LICENSE BY
3 THE INSURANCE DEPARTMENT WITH ACCIDENT AND HEALTH AUTHORITY TO
4 ISSUE A HEALTH INSURANCE POLICY AND GOVERNED UNDER ANY OF THE
5 FOLLOWING:

6 (1) THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS
7 THE INSURANCE COMPANY LAW OF 1921, INCLUDING SECTION 630 AND
8 ARTICLE XXIV.

9 (2) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364),
10 KNOWN AS THE HEALTH MAINTENANCE ORGANIZATION ACT.

11 (3) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN
12 CORPORATIONS).

13 (4) 40 PA.C.S. CH. 63 (RELATING TO PROFESSIONAL HEALTH
14 SERVICES PLAN CORPORATIONS).

15 "INTERACTIVE AUDIO AND VIDEO." REAL-TIME TWO-WAY OR
16 MULTIPLE-WAY COMMUNICATION BETWEEN A HEALTH CARE PROVIDER AND A
17 PATIENT.

18 "LICENSURE BOARD." EACH LICENSING BOARD WITHIN THE BUREAU OF
19 PROFESSIONAL AND OCCUPATIONAL AFFAIRS OF THE DEPARTMENT OF STATE
20 WITH JURISDICTION OVER A PROFESSIONAL LICENSEE IDENTIFIED AS A
21 HEALTH CARE PROVIDER UNDER THIS ACT.

22 "ON-CALL OR CROSS-COVERAGE SERVICES." THE PROVISION OF
23 TELEMEDICINE BY A HEALTH CARE PROVIDER DESIGNATED BY ANOTHER
24 PROVIDER WITH A PROVIDER-PATIENT RELATIONSHIP TO DELIVER
25 SERVICES ON A TEMPORARY BASIS SO LONG AS THE DESIGNATED PROVIDER
26 IS IN THE SAME GROUP OR HEALTH SYSTEM, HAS ACCESS TO THE
27 PATIENT'S PRIOR MEDICAL RECORDS, HOLDS A VALID LICENSE IN THIS
28 COMMONWEALTH AND IS IN A POSITION TO COORDINATE CARE.

29 "OUT-OF-STATE HEALTH CARE PROVIDER." A HEALTH CARE PROVIDER
30 PROVIDING A TELEMEDICINE SERVICE THAT HOLDS A VALID LICENSE,

1 CERTIFICATE OR REGISTRATION IN ANOTHER JURISDICTION AND IS:

2 (1) DISCHARGING OFFICIAL DUTIES IN THE ARMED FORCES OF
3 THE UNITED STATES, THE UNITED STATES PUBLIC HEALTH SERVICES
4 OR THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS;

5 (2) PROVIDING TELEMEDICINE SERVICES TO A PATIENT THROUGH
6 A FEDERALLY OPERATED FACILITY;

7 (3) PROVIDING TELEMEDICINE SERVICES IN RESPONSE TO AN
8 EMERGENCY MEDICAL CONDITION, IF THE CARE FOR THE PATIENT IS
9 REFERRED TO AN APPROPRIATE HEALTH CARE PROVIDER IN THIS
10 COMMONWEALTH AS PROMPTLY AS POSSIBLE UNDER THE CIRCUMSTANCES;

11 (4) PROVIDING PROVIDER-TO-PROVIDER CONSULTATION
12 SERVICES; OR

13 (5) PROVIDING SERVICES WHICH WOULD OTHERWISE BE EXEMPT
14 FROM THE REQUIREMENT OF LICENSURE, CERTIFICATION OR
15 REGISTRATION IN THIS COMMONWEALTH UNDER THE RESPECTIVE
16 LICENSURE ACT.

17 "PARTICIPATING NETWORK PROVIDER." ANY OF THE FOLLOWING
18 PROVIDERS WHO ARE UNDER CONTRACT WITH A HEALTH INSURER:

19 (1) A PHYSICIAN WHO HOLDS A VALID LICENSE UNDER THE ACT
20 OF DECEMBER 20, 1985 (P.L.457, NO.112), KNOWN AS THE MEDICAL
21 PRACTICE ACT OF 1985, OR THE ACT OF OCTOBER 5, 1978
22 (P.L.1109, NO.261), KNOWN AS THE OSTEOPATHIC MEDICAL PRACTICE
23 ACT.

24 (2) A CLINICAL NURSE SPECIALIST OR CERTIFIED REGISTERED
25 NURSE PRACTITIONER WHO HOLDS A VALID LICENSE UNDER THE ACT OF
26 MAY 22, 1951 (P.L.317, NO.69), KNOWN AS THE PROFESSIONAL
27 NURSING LAW.

28 (3) A PHYSICIAN ASSISTANT WHO HOLDS A VALID LICENSE
29 UNDER THE MEDICAL PRACTICE ACT OF 1985.

30 (4) A DENTIST WHO HOLDS A VALID LICENSE UNDER THE ACT OF

1 MAY 1, 1933 (P.L.216, NO.76), KNOWN AS THE DENTAL LAW.

2 (5) AN OPTOMETRIST WHO HOLDS A VALID LICENSE UNDER THE
3 ACT OF JUNE 6, 1980 (P.L.197, NO.57), KNOWN AS THE OPTOMETRIC
4 PRACTICE AND LICENSURE ACT.

5 (6) A PSYCHOLOGIST WHO HOLDS A VALID LICENSE UNDER THE
6 ACT OF MARCH 23, 1972 (P.L.136, NO.52), KNOWN AS THE
7 PROFESSIONAL PSYCHOLOGISTS PRACTICE ACT.

8 (7) A SOCIAL WORKER, CLINICAL SOCIAL WORKER OR
9 PROFESSIONAL COUNSELOR WHO HOLDS A VALID LICENSE UNDER THE
10 ACT OF JULY 9, 1987 (P.L.220, NO.39), KNOWN AS THE SOCIAL
11 WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL
12 COUNSELORS ACT.

13 (8) AN OCCUPATIONAL THERAPIST WHO HOLDS A VALID LICENSE
14 UNDER THE ACT OF JUNE 15, 1982 (P.L.502, NO.140), KNOWN AS
15 THE OCCUPATIONAL THERAPY PRACTICE ACT.

16 (9) A PHYSICAL THERAPIST WHO HOLDS A VALID LICENSE UNDER
17 THE ACT OF OCTOBER 10, 1975 (P.L.383, NO.110), KNOWN AS THE
18 PHYSICAL THERAPY PRACTICE ACT.

19 "PROVIDER-TO-PROVIDER CONSULTATION." THE INFORMAL ACT OF
20 SEEKING ADVICE AND RECOMMENDATIONS FROM ANOTHER HEALTH CARE
21 PROVIDER FOR DIAGNOSTIC STUDIES, THERAPEUTIC INTERVENTIONS OR
22 OTHER SERVICES THAT MAY BENEFIT THE PATIENT OF THE INITIATING
23 HEALTH CARE PROVIDER.

24 "STORE-AND-FORWARD." TECHNOLOGY THAT STORES AND TRANSMITS OR
25 GRANTS ACCESS TO A PATIENT'S CLINICAL INFORMATION FOR REVIEW BY
26 A HEALTH CARE PROVIDER WHO IS AT A DIFFERENT LOCATION.

27 "TELEMEDICINE." THE DELIVERY OF HEALTH CARE SERVICES
28 PROVIDED THROUGH TELEMEDICINE TECHNOLOGIES TO A PATIENT BY A
29 HEALTH CARE PROVIDER WHO IS AT A DIFFERENT LOCATION. THE TERM
30 DOES NOT INCLUDE A PROVIDER-TO-PROVIDER CONSULTATION.

1 "TELEMEDICINE TECHNOLOGIES." AS FOLLOWS:

2 (1) ELECTRONIC INFORMATION AND TELECOMMUNICATIONS
3 TECHNOLOGY, INCLUDING, BUT NOT LIMITED TO, INTERACTIVE AUDIO
4 AND VIDEO, REMOTE PATIENT MONITORING OR STORE-AND-FORWARD,
5 THAT MEETS THE REQUIREMENTS OF THE HEALTH INSURANCE
6 PORTABILITY AND ACCOUNTABILITY ACT OF 1996, THE HEALTH
7 INFORMATION TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT
8 OR OTHER APPLICABLE FEDERAL OR STATE LAW.

9 (2) THE TERM DOES NOT INCLUDE THE USE OF:

10 (I) AUDIO-ONLY MEDIUM, VOICEMAIL, FACSIMILE, E-MAIL,
11 INSTANT MESSAGING, TEXT MESSAGING OR ONLINE
12 QUESTIONNAIRE, OR ANY COMBINATION THEREOF.

13 (II) A TELEPHONE CALL, EXCEPT AS PROVIDED UNDER
14 SECTION 5(A)(3).

15 SECTION 3. REGULATION OF TELEMEDICINE BY PROFESSIONAL LICENSURE
16 BOARDS.

17 (A) REQUIREMENTS.--

18 (1) A HEALTH CARE PROVIDER THAT HOLDS A VALID LICENSE,
19 CERTIFICATE OR REGISTRATION FROM A COMMONWEALTH PROFESSIONAL
20 LICENSURE BOARD SHALL BE AUTHORIZED TO PRACTICE TELEMEDICINE
21 IN ACCORDANCE WITH THIS ACT AND THE CORRESPONDING LICENSURE
22 BOARD REGULATIONS.

23 (2) A HEALTH CARE PROVIDER WHO ENGAGES IN TELEMEDICINE
24 IN A MANNER THAT DOES NOT COMPLY WITH THE STANDARDS OF CARE
25 OR RULES OF PRACTICE SHALL BE SUBJECT TO DISCIPLINE BY THE
26 APPROPRIATE LICENSURE BOARD, AS PROVIDED BY LAW.

27 (B) REGULATIONS.--EACH LICENSURE BOARD SHALL WITHIN 24
28 MONTHS OF THE EFFECTIVE DATE OF THIS SECTION PROMULGATE
29 REGULATIONS THAT ARE CONSISTENT WITH THIS ACT TO PROVIDE FOR AND
30 REGULATE TELEMEDICINE WITHIN THE SCOPE OF PRACTICE AND STANDARD

1 OF CARE REGULATED BY THE BOARD. THE REGULATIONS SHALL:

2 (1) CONSIDER MODEL POLICIES FOR THE APPROPRIATE USE OF
3 TELEMEDICINE TECHNOLOGIES.

4 (2) INCLUDE PATIENT PRIVACY AND DATA SECURITY STANDARDS
5 THAT ARE IN COMPLIANCE WITH THE HEALTH INSURANCE PORTABILITY
6 AND ACCOUNTABILITY ACT OF 1996 AND THE HEALTH INFORMATION
7 TECHNOLOGY FOR ECONOMIC AND CLINICAL HEALTH ACT.

8 (C) TEMPORARY REGULATIONS.--IN ORDER TO FACILITATE THE
9 PROMPT IMPLEMENTATION OF THIS ACT, THE LICENSURE BOARDS SHALL
10 PUBLISH TEMPORARY REGULATIONS REGARDING IMPLEMENTATION OF THIS
11 ACT IN THE PENNSYLVANIA BULLETIN WITHIN 120 DAYS OF THE
12 EFFECTIVE DATE OF THIS SECTION. TEMPORARY REGULATIONS ARE NOT
13 SUBJECT TO:

14 (1) SECTIONS 201, 202, 203, 204 AND 205 OF THE ACT OF
15 JULY 31, 1968 (P.L.769, NO.240), REFERRED TO AS THE
16 COMMONWEALTH DOCUMENTS LAW.

17 (2) SECTIONS 204(B) AND 301(10) OF THE ACT OF OCTOBER
18 15, 1980 (P.L.950, NO.164), KNOWN AS THE COMMONWEALTH
19 ATTORNEYS ACT.

20 (3) THE ACT OF JUNE 25, 1982 (P.L.633, NO.181), KNOWN AS
21 THE REGULATORY REVIEW ACT.

22 (4) SECTION 612 OF THE ACT OF APRIL 9, 1929 (P.L.177,
23 NO.175), KNOWN AS THE ADMINISTRATIVE CODE OF 1929.

24 (D) EXPIRATION.--TEMPORARY REGULATIONS SHALL EXPIRE NO LATER
25 THAN 24 MONTHS FOLLOWING PUBLICATION OF TEMPORARY REGULATIONS.
26 REGULATIONS ADOPTED AFTER THIS PERIOD SHALL BE PROMULGATED AS
27 PROVIDED BY LAW.

28 (E) CONSTRUCTION.--THE PROVISIONS OF THIS ACT SHALL BE IN
29 FULL FORCE AND EFFECT EVEN IF THE LICENSURE BOARDS HAVE NOT YET
30 PUBLISHED TEMPORARY REGULATIONS OR IMPLEMENTED THE REGULATIONS

1 REQUIRED UNDER THIS SECTION.

2 SECTION 4. COMPLIANCE.

3 A HEALTH CARE PROVIDER PROVIDING TELEMEDICINE SERVICES TO AN
4 INDIVIDUAL LOCATED WITHIN THIS COMMONWEALTH SHALL COMPLY WITH
5 ALL APPLICABLE FEDERAL AND STATE LAWS AND REGULATIONS, AND SHALL
6 HOLD A VALID LICENSE, CERTIFICATE OR REGISTRATION BY AN
7 APPROPRIATE COMMONWEALTH LICENSURE BOARD. FAILURE TO HOLD A
8 VALID LICENSE, CERTIFICATE OR REGISTRATION SHALL SUBJECT THE
9 HEALTH CARE PROVIDER TO DISCIPLINE BY THE RESPECTIVE LICENSURE
10 BOARD FOR UNLICENSED PRACTICE.

11 SECTION 5. EVALUATION AND TREATMENT.

12 (A) REQUIREMENTS.--EXCEPT AS PROVIDED UNDER SUBSECTION (C),
13 A HEALTH CARE PROVIDER WHO PROVIDES TELEMEDICINE TO AN
14 INDIVIDUAL LOCATED IN THIS COMMONWEALTH SHALL COMPLY WITH THE
15 FOLLOWING:

16 (1) FOR A TELEMEDICINE ENCOUNTER IN WHICH THE PROVIDER
17 DOES NOT HAVE AN ESTABLISHED PROVIDER-PATIENT RELATIONSHIP,
18 THE PROVIDER SHALL:

19 (I) VERIFY THE LOCATION AND IDENTITY OF THE
20 INDIVIDUAL RECEIVING CARE; AND

21 (II) DISCLOSE THE HEALTH CARE PROVIDER'S IDENTITY,
22 GEOGRAPHIC LOCATION AND MEDICAL SPECIALTY OR APPLICABLE
23 CREDENTIALS.

24 (2) OBTAIN INFORMED CONSENT REGARDING THE USE OF
25 TELEMEDICINE TECHNOLOGIES FROM THE INDIVIDUAL OR OTHER PERSON
26 ACTING IN A HEALTH CARE DECISION-MAKING CAPACITY FOR THE
27 INDIVIDUAL. THE INDIVIDUAL OR OTHER PERSON ACTING IN A HEALTH
28 CARE DECISION-MAKING CAPACITY, INCLUDING THE PARENT OR LEGAL
29 GUARDIAN OF A CHILD IN ACCORDANCE WITH THE ACT OF FEBRUARY
30 13, 1970 (P.L.19, NO.10), ENTITLED "AN ACT ENABLING CERTAIN

1 MINORS TO CONSENT TO MEDICAL, DENTAL AND HEALTH SERVICES,
2 DECLARING CONSENT UNNECESSARY UNDER CERTAIN CIRCUMSTANCES,"
3 HAS THE RIGHT TO CHOOSE THE FORM OF SERVICE DELIVERY, WHICH
4 INCLUDES THE RIGHT TO REFUSE TELEMEDICINE SERVICES WITHOUT
5 JEOPARDIZING THE INDIVIDUAL'S ACCESS TO OTHER AVAILABLE
6 SERVICES.

7 (3) PROVIDE AN APPROPRIATE EXAMINATION OR ASSESSMENT
8 USING TELEMEDICINE TECHNOLOGIES. THE HEALTH CARE PROVIDER MAY
9 UTILIZE INTERACTIVE AUDIO WITHOUT THE REQUIREMENT OF
10 INTERACTIVE VIDEO IF IT IS USED IN CONJUNCTION WITH STORE-
11 AND-FORWARD TECHNOLOGY AND, AFTER ACCESS AND REVIEW OF THE
12 PATIENT'S MEDICAL RECORDS, THE PROVIDER DETERMINES THAT THE
13 PROVIDER IS ABLE TO MEET THE SAME STANDARDS OF CARE AS IF THE
14 HEALTH CARE SERVICES WERE PROVIDED IN PERSON. THE PROVIDER
15 SHALL INFORM THE PATIENT THAT THE PATIENT HAS THE OPTION TO
16 REQUEST INTERACTIVE AUDIO AND VIDEO.

17 (4) ESTABLISH A DIAGNOSIS AND TREATMENT PLAN OR EXECUTE
18 A TREATMENT PLAN.

19 (5) CREATE AND MAINTAIN AN ELECTRONIC MEDICAL RECORD OR
20 UPDATE AN EXISTING ELECTRONIC MEDICAL RECORD FOR THE PATIENT
21 WITHIN 24 HOURS. AN ELECTRONIC MEDICAL RECORD SHALL BE
22 MAINTAINED IN ACCORDANCE WITH ELECTRONIC MEDICAL RECORDS
23 PRIVACY RULES UNDER THE HEALTH INSURANCE PORTABILITY AND
24 ACCOUNTABILITY ACT OF 1996.

25 (6) PROVIDE A VISIT SUMMARY TO THE INDIVIDUAL IF
26 REQUESTED.

27 (7) HAVE AN EMERGENCY ACTION PLAN IN PLACE FOR MEDICAL
28 AND BEHAVIORAL HEALTH EMERGENCIES AND REFERRALS.

29 (B) DISCLOSURES.--PROVIDERS OFFERING ONLINE REFRACTIVE
30 SERVICES SHALL INFORM PATIENTS THAT THE SERVICE IS NOT AN OCULAR

1 HEALTH EXAM. THIS SUBSECTION SHALL NOT BE CONSTRUED TO PROHIBIT
2 ONLINE REFRACTIVE SERVICES IF THE INFORMATION NOTICE IS CLEARLY
3 AND CONSPICUOUSLY COMMUNICATED TO THE PATIENT PRIOR TO THE
4 ONLINE REFRACTIVE SERVICE.

5 (C) APPLICABILITY.--

6 (1) SUBSECTION (A) (1) SHALL NOT APPLY TO ON-CALL OR
7 CROSS-COVERAGE SERVICES.

8 (2) SUBSECTION (A) (1) AND (2) SHALL NOT APPLY TO AN
9 EMERGENCY MEDICAL CONDITION.

10 SECTION 6. INSURANCE COVERAGE OF TELEMEDICINE.

11 (A) INSURANCE COVERAGE AND REIMBURSEMENT.--

12 (1) A HEALTH INSURANCE POLICY ISSUED, DELIVERED,
13 EXECUTED OR RENEWED IN THIS COMMONWEALTH AFTER THE EFFECTIVE
14 DATE OF THIS SECTION SHALL PROVIDE COVERAGE FOR TELEMEDICINE
15 DELIVERED BY A PARTICIPATING NETWORK PROVIDER WHO PROVIDES A
16 COVERED SERVICE VIA TELEMEDICINE CONSISTENT WITH THE
17 INSURER'S MEDICAL POLICIES. A HEALTH INSURANCE POLICY MAY NOT
18 EXCLUDE A HEALTH CARE SERVICE FOR COVERAGE SOLELY BECAUSE THE
19 SERVICE IS PROVIDED THROUGH TELEMEDICINE.

20 (2) A HEALTH INSURER SHALL REIMBURSE A HEALTH CARE
21 PROVIDER THAT IS A PARTICIPATING NETWORK PROVIDER FOR
22 TELEMEDICINE IF THE HEALTH INSURER REIMBURSES THE SAME
23 PARTICIPATING PROVIDER FOR THE SAME SERVICE THROUGH AN IN-
24 PERSON ENCOUNTER. THE STANDARD OF CARE AND RULES OF PRACTICE
25 APPLICABLE TO AN IN-PERSON ENCOUNTER SHALL APPLY TO A
26 TELEMEDICINE ENCOUNTER.

27 (3) PAYMENT FOR A COVERED SERVICE PROVIDED VIA
28 TELEMEDICINE BY ANY NETWORK PROVIDER SHALL BE ESTABLISHED
29 BETWEEN THE HEALTH CARE PROVIDER AND HEALTH INSURER.

30 (B) APPLICABILITY.--THIS SECTION SHALL APPLY AS FOLLOWS:

1 (1) SUBSECTION (A) (1) AND (2) SHALL NOT APPLY IF THE
2 TELEMEDICINE SERVICE IS FACILITATED VIA A MEDICAL DEVICE OR
3 OTHER TECHNOLOGY THAT PROVIDES CLINICAL DATA OR INFORMATION,
4 EXCLUDING EXISTING INFORMATION IN AN ELECTRONIC MEDICAL
5 RECORDS SYSTEM, OTHER THAN THAT INDEPENDENTLY PROVIDED
6 THROUGH INTERACTIVE AUDIO OR VIDEO OR WRITTEN INPUT FROM 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 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 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
14 IMMEDIATELY.