



THE VOICE OF
DENTAL EDUCATION

Compilation of State Laws and Regulations Addressing Teledentistry or Telehealth Conducted by Oral Health Practitioners

States K-N

This document is a compilation of state statutes and regulations that address teledentistry or telehealth conducted by oral health practitioners. Each state’s laws and regulations may be divided into three parts: requirements and permissible practices, Medicaid reimbursement and private payer reimbursement. Some states do not address all three of these topic areas and, as a result, a state may have fewer sections.

Because this analysis only focuses on laws as they apply to oral health care providers, it may not include telehealth policies that apply to other groups of health care practitioners.

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Kansas

Kansas statutes and regulations do not address teledentistry or telehealth conducted by oral health professionals. The [Center for Connected Health Policy](#) has assembled an overview of telehealth laws in the state.

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Kentucky

Requirements and Permissible Practices

KRS § 211.332 Definitions for KRS 211.332 to 211.338.

As used in KRS 211.332 to 211.338, unless context otherwise requires:

- (1) "Cabinet" means the Cabinet for Health and Family Services;
- (2) "Health care service" means health care procedures, treatments, or services rendered by a provider within the scope of practice for which the provider is licensed or certified and includes physical and behavioral health care;
- (3) "Professional licensure board" means a licensure board established in Kentucky for the purpose of regulating and overseeing the practice of health care providers, including but not limited to:
 - ...
 - (e) Kentucky Board of Dentistry established by KRS 313.020;
 - ...
- (4) "State agency authorized or required to promulgate administrative regulations relating to telehealth" means:
 - (a) A professional licensure board;
 - (b) The Cabinet for Health and Family Services;
 - (c) The Department for Medicaid Services within the Cabinet for Health and Family Services; and
 - (d) The Department of Insurance within the Public Protection Cabinet; and
- (5) "Telehealth" or "digital health":
 - (a) Means a mode of delivering healthcare services through the use of telecommunication technologies, including but not limited to synchronous and asynchronous technology, remote patient monitoring technology, and audio only encounters, by a health care provider to a patient or to another health care provider at a different location;
 - (b) Shall not include:
 1. The delivery of health care services through electronic mail, text, chat, or facsimile unless a state agency authorized or required to promulgate administrative regulations relating to telehealth determines that health care services can be delivered via these modalities in ways that enhance recipient health and well-being and meet all clinical and technology guidelines for recipient safety and appropriate delivery of services; or
 2. Basic communication between a health care provider and a patient, including but not limited to appointment scheduling, appointment reminders, voicemails, or any other similar communication intended to facilitate the actual provision of healthcare services either in-person or via telehealth; and
 - (c) Unless waived by the applicable federal authority, shall be delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. secs. 1320d to 1320d-9.

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[KRS § 211.336 Duties of agency promulgating administrative regulations relating to telehealth -- Restrictions.](#)

If a state agency authorized or required to promulgate administrative regulations relating to telehealth chooses to promulgate an administrative regulation relating to telehealth, the state agency:

(1) Shall:

- (a) Use terminology consistent with the glossary of telehealth terminology established by the cabinet pursuant to KRS 211.334; and
- (b) Comply with the minimum requirements established by the cabinet pursuant to KRS 211.334;

(2) Shall not:

- (a) Require a provider to be physically present with the recipient, unless the state agency or provider determines that it is medically necessary to perform those services in person;
- (b) Require prior authorization, medical review, or administrative clearance for telehealth that would not be required if a service were provided in person;
- (c) Require a provider to be employed by another provider or agency in order to provide telehealth services that would not be required if that service were provided in person;
- (d) Require demonstration that it is necessary to provide services to a patient through telehealth;
- (e) Restrict or deny coverage of telehealth based solely on the communication technology or application used to deliver the telehealth services;
- (f) Prohibit the delivery of telehealth services to a person located in Kentucky by a provider who is a participant in a recognized interstate compact and delivers telehealth services to a person in Kentucky under the standards and provisions of that interstate compact;
- (g) Prohibit an insurer or managed care organization from utilizing audits for medical coding accuracy in the review of telehealth services specific to audio only encounters; or
- (h) Require a provider to be part of a telehealth network; and

(3) May promulgate administrative regulations, which shall be no more restrictive than administrative regulations for providers who deliver healthcare services in person, to establish additional requirements relating to telehealth, including requirements:

- (a) For the proper use and security of telehealth;
- (b) To address emergency situations, including but not limited to suicidal ideations or plans; threats to self or others; evidence of dependency, neglect, or abuse; or other life-threatening conditions;
- (c) To prevent waste, fraud, and abuse of telehealth services, both in general and specific to the provision of telehealth services delivered via audio-only encounters; or
- (d) That a telehealth provider be licensed in Kentucky, or as allowed under the standards and provisions of a recognized interstate compact, in order to receive reimbursement for telehealth services.

[313.010 Definitions for chapter.](#)

As used in this chapter, unless the context requires otherwise:

...

(15) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of health or medical data, and continuing education;

...

[KRS 313.060 Administrative regulations governing minimal requirements for documentation, oath](#)

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[for disease control compliance, sedation of patients, and compliance with federal statutes and regulations -- Death or incapacity of dentist -- Telehealth -- Continuing education.](#)

...

- (8) A treating dentist who provides or facilitates the use of telehealth shall ensure:
- (a) That the informed consent of the patient, or another appropriate person with authority to make the health care treatment decision for the patient, is obtained before services are provided through telehealth; and
 - (b) That the confidentiality of the patient's medical information is maintained as required by this chapter and other applicable law. At a minimum, confidentiality shall be maintained through appropriate processes, practices, and technology as designated by the board and that conform to applicable federal law.
- (9) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section and as necessary to:
- (a) Prevent abuse and fraud through the use of telehealth services;
 - (b) Prevent fee-splitting through the use of telehealth services; and
 - (c) Utilize telehealth in the provision of dental services and in the provision of continuing education.

...

[201 KAR 8:590. Teledentistry.](#)

Section 1. Definition. "Teledentistry" means the use of electronic and digital communicationsto provide dentistry and dental hygiene-related information and services.

Section 2. Practice of Teledentistry.

- (1) To deliver teledentistry services in Kentucky, one shall have a current, valid dental or dental hygiene license issued by the Board of Dentistry. The practice of dentistry shall occur where the patient is located at the time teledentistry services are initiated.
- (2) This administrative regulation shall not be construed to alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting or in a manner not authorized by KRS Chapter 313. Teledentistry encounters shall be held to the same standard of care as a traditional in-person patient encounter.
 - (3)(a) A patient shall only be treated via teledentistry by:
 - 1. A Kentucky licensed dentist; or
 - 2. A Kentucky licensed dental hygienist who is supervised by, and has delegated authority from, a Kentucky licensed dentist.
 - (b) Any individual may provide any photography or digital imaging to a Kentucky licensed dentist or Kentucky licensed dental hygienist for the sole and limited purpose of screening, assessment, or examination. Anyone providing photography or digital imaging to a Kentucky licensed dentist or Kentucky licensed dental hygienist shall comply with the same standards required for the recording of photography or digital imaging in accordance with KRS 313.010(11).
 - (4) A licensee using teledentistry in the provision of dental services to a patient shall establish the licensee-patient relationship and conduct an evaluation and history of the patient.

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Section 3. Informed Consent. A licensee shall, to the extent possible:

- (e) Confirm the identity of the requesting patient;
 - (f) Verify and authenticate the patient's health history;
 - (g) Disclose the licensee's identity, applicable credentials, and contact information, including a current phone number;
 - (h) Obtain an informed consent from the requesting patient after disclosures have been made regarding the delivery models and treatment methods and limitations, to include any special informed consents regarding the use of teledentistry services. At a minimum, the informed consent shall inform the patient or legal guardian and document acknowledgment of the risk and limitations of:
 - (i) The use of electronic and communications in the provision of care;
 - (j) The potential for breach of confidentiality, or inadvertent access, of protected health information using electronic and digital communication in the provision of care;
 - (k) The potential disruption of electronic and digital communication in the use of
- teledentistry; and
- (a) The types of activities permitted using teledentistry services;
 - (2) Inform the patient or legal guardian that it is the role of the licensee to determine whether the condition being diagnosed or treated is appropriate for a teledentistry encounter;
 - (3) State the requirement for explicit patient or legal guardian consent to forward patient-identifiable information to a third party; and
 - (4) Provide to the patient contact information for the Kentucky Board of Dentistry and a description of, or link to, the patient complaint process.

Section 4. Confidentiality. The licensee shall ensure that any electronic and digital communication used in the practice of teledentistry shall be secure to maintain confidentiality of the patient's medical information as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. 1320d-2 – 1320d-8, and all other applicable laws and administrative regulations.

Section 5. Dental Records.

- (1) Any dental record made through teledentistry shall be in compliance with 201 KAR 8:540, Section 2(1) and (2).
- (2) An informed consent obtained in connection with teledentistry services shall be filed in the patient's dental record.
- (3) The release of patient records established during the use of teledentistry shall comply with KRS 422.317.
- (4) The licensee shall document or record in the file:
 - (a) The patient's chief complaint;
 - (b) The licensee's differential diagnosis;
 - (c) The licensee's recommended treatment plan for the patient; and
 - (d) A description of all services provided by teledentistry.

Section 6. Prescribing.

- (1) The indication, appropriateness, and safety considerations for each prescription for medication, laboratory services, or dental laboratory services provided through the use of teledentistry services shall be evaluated by the licensee in accordance with 201 KAR 8:540, Section 3.

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- (2) A licensee's use of teledentistry carries the same professional accountability as a prescription issued in connection with an in-person encounter.

Section 7. Representation of Services. A licensee using teledentistry to deliver dental services or who practices teledentistry shall not:

- (1) Directly or indirectly engage in false, misleading, or deceptive advertising of teledentistry services; or
- (2) Allow fee-splitting for the use of teledentistry services. (46 Ky.R. 2355; 47 Ky.R. 52; eff. 7-29-2020.)

Medicaid Reimbursement

Medical Assistance (State Medicaid Program)

[KRS 205.510 Definitions for medical assistance law.](#)

...

- (4) "Dentist" means a person authorized to practice dentistry under laws of the Commonwealth;

...

- (16) "Telehealth" means the same as in KRS 211.332;

- (17) "Telehealth consultation" means a medical or health consultation, for purposes of patient diagnosis or treatment, that meets the definition of telehealth in this section;

...

[KRS 205.559 Requirements for Medicaid reimbursement to participating providers for telehealth consultations -- Reimbursement for rural health clinics, federally qualified health centers, and federally qualified health center look-alikes -- Audio-only encounters.](#)

- (1) The Cabinet for Health and Family Services and any managed care organization with whom the Department for Medicaid Services contracts for the delivery of Medicaid services shall provide Medicaid reimbursement for covered telehealth services and telehealth consultations, if the telehealth service or telehealth consultation:

- (a) Is provided by a Medicaid-participating practitioner, including those employed by a home health agency licensed pursuant to KRS Chapter 216, to a Medicaid recipient or another Medicaid-participating practitioner at a different physical location; and
- (b) Meets all clinical, technology, and medical coding guidelines for recipient safety and appropriate delivery of services established by the Department for Medicaid Services or the provider's professional licensure board.

- (2) (a) For rural health clinics, federally qualified health centers, and federally qualified health center look-alikes, reimbursement for covered telehealth services and telehealth consultations shall:

1. To the extent permitted under federal law, include an originating site fee in an amount equal to that which is permitted under 42 U.S.C. sec. 1395m for Medicare-participating providers if the Medicaid beneficiary who received the telehealth service or telehealth consultation was physically located at the rural health clinic, federally qualified health center, or federally qualified health center look-alike at the time of service or consultation delivery and the provider of the telehealth service or telehealth consultation is not employed by the rural health clinic, federally qualified health center, or federally qualified health center look-alike; or
2. If the telehealth service or telehealth consultation provider is employed by the rural health clinic, federally qualified health center, or federally qualified health center look-

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alike, include a supplemental reimbursement paid by the Department for Medicaid Services in an amount equal to the difference between the actual reimbursement amount paid by a Medicaid managed care organization and the amount that would have been paid if reimbursement had been made directly by the department.

(b) A request for reimbursement shall not be denied solely because:

1. An in-person consultation between a Medicaid-participating practitioner and a patient did not occur; or
2. A Medicaid-participating provider employed by a rural health clinic, federally qualified health center, or federally qualified health center look-alike was not physically located on the premises of the clinic or health center when the telehealth service or telehealth consultation was provided.

(c) Telehealth services and telehealth consultations shall not be reimbursable under this section if they are provided through the use of a facsimile machine, text, chat, or electronic mail unless the Department for Medicaid Services determines that telehealth can be provided via these modalities in ways that enhance recipient health and well-being and meet all clinical and technology guidelines for recipient safety and appropriate delivery of services.

(3) (a) A health-care facility that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols, which may include a requirement for an annual in-person or face-to-face consultation with a patient who receives telehealth services, and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.

(b) The Department for Medicaid Services and any managed care organization with whom the department contracts for the delivery of Medicaid services shall not deny reimbursement for telehealth services covered by this section based solely on quality-of-care protocols adopted by a health-care facility pursuant to paragraph (a) of this subsection.

(4) The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.

(5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section and KRS 205.5591.

(6) Medicaid-participating practitioners and home health agencies are strongly encouraged to use audio-only encounters as a mode of delivering telehealth services only when no other approved mode of delivering telehealth services is available.

(7) As used in this section:

- (a) "Federally qualified health center" means the same as in 42 U.S.C. sec. 1396d;
- (b) "Federally qualified health center look-alike" means an organization that meets all of the eligibility requirements of a federally qualified health center but does not receive federal grants issued pursuant to 42 U.S.C. sec. 254b;
- (c) "Originating site" means the site at which a Medicaid beneficiary is physically located at the time a telehealth service or telehealth consultation is provided; and
- (d) "Rural health clinic" means the same as in 42 U.S.C. sec. 1395x

[KRS 205.5591 Medicaid providers using telehealth -- Duties of cabinet, Department for Medicaid Services, and managed care organizations -- Administrative regulations -- Policies and guidelines.](#)

- (1) The cabinet shall provide oversight, guidance, and direction to Medicaid providers delivering care using telehealth.
- (2) The Department for Medicaid Services shall:
 - (a) Within thirty (30) days after June 29, 2021:
 1. Promulgate administrative regulations in accordance with KRS Chapter 13A to establish requirements for telehealth coverage and reimbursement rates, which shall be equivalent to coverage requirements and reimbursement rates for the same service provided in person unless the telehealth provider and the department or a managed care organization contractually agree to a lower reimbursement rate for telehealth services; and
 2. Create, establish, or designate the claim forms, records required, and authorization procedures to be followed in conjunction with this section and KRS 205.559;
 - (b) Require that specialty care be rendered by a health care provider who is recognized and actively participating in the Medicaid program;
 - (c) Require that any required prior authorization requesting a referral or consultation for specialty care be processed by the patient's primary care provider and that any specialist coordinate care with the patient's primary care provider; and
 - (d) Require a telehealth provider to be licensed in Kentucky, or as allowed under the standards and provisions of a recognized interstate compact, in order to receive reimbursement for telehealth services.
- (3) In accordance with KRS 211.336, the Department for Medicaid Services and any managed care organization with whom the department contracts for the delivery of Medicaid services shall not:
 - (a) Require a Medicaid provider to be physically present with a Medicaid recipient, unless the provider determines that it is medically necessary to perform those services in person;
 - (b) Require prior authorization, medical review, or administrative clearance for telehealth that would not be required if a service were provided in person;
 - (c) Require a Medicaid provider to be employed by another provider or agency in order to provide telehealth services that would not be required if that service were provided in person;
 - (d) Require demonstration that it is necessary to provide services to a Medicaid recipient through telehealth;
 - (e) Restrict or deny coverage of telehealth based solely on the communication technology or application used to deliver the telehealth services; or
 - (f) Require a Medicaid provider to be part of a telehealth network.
- (4) Nothing in this section shall be construed to require the Medicaid program or a Medicaid managed care organization to:
 - (a) Provide coverage for telehealth services that are not medically necessary; or
 - (b) Reimburse any fees charged by a telehealth facility for transmission of a telehealth encounter.
- (5) The cabinet, in implementing KRS 211.334 and 211.336, shall maintain telehealth policies and guidelines to providing care that ensure that Medicaid-eligible citizens will have safe, adequate, and efficient medical care, and that prevent waste, fraud, and abuse of the Medicaid program.

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(6) In order to comply with the deadline for the promulgation of administrative regulations established in subsection (2) of this section, the Department for Medicaid Services may promulgate emergency administrative regulations in accordance with KRS 13A.190.

907 KAR 3:170. Telehealth service coverage and reimbursement.

Section 1. Definitions.

- (1) "Asynchronous telehealth" means a store and forward telehealth service that is electronically mediated.
- (2) "Department" means the Department for Medicaid Services or its designated agent.
- (3) "Face-to-face" means:
 - (a) In person; and
 - (b) Not via telehealth.
- (4) "Federal financial participation" is defined by 42 C.F.R. 400.203.
- (5) "Medical necessity" or "medically necessary" means a covered benefit is determined to be needed in accordance with 907 KAR 3:130 or pursuant to the process established by KRS 304.38-240.
- (6) "Place of service" means anywhere the patient is located at the time a telehealth service is provided, and includes telehealth services provided to a patient located at the patient's home or office, or a clinic, school, or workplace.
- (7) "Synchronous telehealth" means a telehealth service that simulates a face-to-face encounter via real-time interactive audio and video technology between a telehealth care provider and a Medicaid recipient.
- (8) "Telehealth" is defined by KRS 205.510(15).
- (9) "Telehealth care provider" means a Medicaid provider who is:
 - (a) Currently enrolled as a Medicaid provider in accordance with 907 KAR 1:672;
 - (b) Currently participating as a Medicaid provider in accordance with 907 KAR 1:671;
 - (c) Operating within the scope of the provider's professional licensure; and
 - (d) Operating within the provider's scope of practice.
- (10) "Telehealth service" means any service that is provided by telehealth and is one (1) of the following:
 - (a) Event;
 - (b) Encounter;
 - (c) Consultation, including a telehealth consultation as defined by KRS 205.510(16);
 - (d) Visit;
 - (e) Store and forward transfer, as limited by Section 4 of this administrative regulation;
 - (f) Remote patient monitoring, as limited by Section 4 of this administrative regulation;
 - (g) Referral; or
 - (h) Treatment.

Section 2. General Policies.

- (1)(a) Except as provided in paragraph (b) of this subsection, the coverage policies established in this administrative regulation shall apply to:
 1. Medicaid services for individuals not enrolled in a managed care organization; and
 2. A managed care organization's coverage of Medicaid services for individuals enrolled in the managed care organization for the purpose of receiving Medicaid or Kentucky Children's Health Insurance Program services.

- (b) A managed care organization shall reimburse the same amount for a telehealth service as the department reimburses unless a different payment rate is negotiated in accordance with Section 3(1)(a)2. of this administrative regulation.
- (2) A telehealth service shall not be reimbursed by the department if:
- (a) It is not medically necessary;
 - (b) The equivalent service is not covered by the department if provided in a face-to-face setting; or
 - (c) The telehealth care provider of the telehealth service is:
 - 1. Not currently enrolled in the Medicaid program pursuant to 907 KAR 1:672;
 - 2. Not currently participating in the Medicaid program pursuant to 907 KAR 1:671;
 - 3. Not in good standing with the Medicaid program;
 - 4. Currently listed on the Kentucky DMS Provider Terminated and Excluded Provider List, which is available at <https://chfs.ky.gov/agencies/dms/dpi/pe/Pages/terminated.aspx>; or
 - 5. Currently listed on the United States Department of Health and Human Services, Office of Inspector General List of Excluded Individuals and Entities, which is available at <https://oig.hhs.gov/exclusions/>.
- (3) (a) A telehealth service shall be subject to utilization review for:
- 1. Medical necessity;
 - 2. Compliance with this administrative regulation; and
 - 3. Compliance with applicable state and federal law.
- (b) The department shall not reimburse for a telehealth service if the department determines that a telehealth service is not:
- 1. Medically necessary;
 - 2. Compliant with this administrative regulation;
 - 3. Applicable to this administrative regulation; or
 - 4. Compliant with applicable state or federal law.
- (c) The department shall recoup the reimbursement for a previously reimbursed telehealth service if the department determines that a telehealth service was not:
- 1. Medically necessary;
 - 2. Compliant with this administrative regulation;
 - 3. Applicable to this administrative regulation; or
 - 4. Compliant with applicable state or federal law.
- (4) A telehealth service shall have the same referral requirements as a face-to-face service.
- (5) Within forty-eight (48) hours of the reconciliation of the record of the telehealth service, a provider shall document within the patient's medical record that a service was provided via telehealth, and follow all documentation requirements established by Section 5 of this administrative regulation.

Section 3. Telehealth Reimbursement.

- (1)(a)1. The department shall reimburse an eligible telehealth care provider for a telehealth service in an amount that is at least 100 percent of the amount paid for a comparable in-person service.
- 2. A managed care organization and provider may establish a different rate for telehealth reimbursement via contract as allowed pursuant to KRS 205.5591(5).
- (b) A telehealth service reimbursed pursuant to this section shall be subject to cost-sharing pursuant to 907 KAR 1:604.

(2) A provider shall appropriately denote telehealth services by place of service or other means as designated by the department or as required in a managed care organization's contract with the provider or member.

Section 4. Asynchronous Telehealth.

(1) An asynchronous telehealth service or store and forward transfer shall be limited to those telehealth services that have an evidence base establishing the service's safety and efficacy.

(2) A store and forward service shall be permissible if the primary purpose of the asynchronous interaction involves high quality digital data transfer, such as digital image transfers. An asynchronous telehealth service within the following specialties or instances of care that meets the criteria established in this section shall be reimbursable as a store and forward telehealth service:

...

(f) Dentistry;

...

(l) A store and forward telehealth service in which a clear digital image is integral and necessary to make a diagnosis or continue a course of treatment;

...

(n) Any code or group of services included as an allowed asynchronous telehealth service pursuant to subsection (4) of this section.

(3) Unless otherwise prohibited by this section, an asynchronous telehealth service shall be reimbursable if that service supports an upcoming synchronous telehealth or face-to-face visit to a provider that is providing one (1) of the specialties or instances of care listed in subsection (2) of this section.

(4) (a) The department shall evaluate available asynchronous telehealth services quarterly, and may clarify that certain asynchronous telehealth services meet the requirements of this section to be included as permissible asynchronous telehealth, as appropriate and as funds are available, if those asynchronous telehealth services have an evidence base establishing the service's:

1. Safety; and
2. Efficacy.

(b) Any asynchronous service that is determined by the department to meet the criteria established pursuant to this subsection shall be available on the department's Web site.

(5) Except as allowed pursuant to subsection (4) of this section or otherwise within the Medicaid program, a provider shall not receive additional reimbursement for an asynchronous telehealth service if the service is an included or integral part of the billed office visit code or service code.

(6) (a) Remote patient monitoring shall not be an eligible telehealth service within the fee-for-service Medicaid program unless that service is:

1. Expanded pursuant to subsection (4) of this section;
2. Otherwise included as a part of a department approved value based payment arrangement; or
3. Otherwise included as a value added service or payment arrangement.

(b) A managed care organization may reimburse for remote patient monitoring as a telehealth service if expanded pursuant to subsection (4) of this section or provided as a:

1. Value based payment arrangement; or
2. Value added service or payment arrangement.

Section 5. Medical Records.

- (1) A medical record of a telehealth service shall be maintained in compliance with 907 KAR 1:672 and 45 C.F.R. 164.530(j).
- (2) A health care provider shall have the capability of generating a hard copy of a medical record of a telehealth service.

Section 6. Federal Financial Participation. A policy established in this administrative regulation shall be null and void if the Centers for Medicare and Medicaid Services:

- (1) Denies federal financial participation for the policy; or
- (2) Disapproves the policy.

Section 7. Appeal Rights.

- (1) An appeal of a department determination regarding a Medicaid beneficiary shall be in accordance with 907 KAR 1:563.
- (2) An appeal of a department determination regarding Medicaid eligibility of an individual shall be in accordance with 907 KAR 1:560.
- (3) A provider may appeal a department-written determination as to the application of this administrative regulation in accordance with 907 KAR 1:671.
- (4) An appeal of a managed care organization's determination regarding a Medicaid beneficiary shall be in accordance with 907 KAR 17:010.

Private Payer Reimbursement

KRS 304.17A-005 Definitions for subtitle.

...

- (23) "Health care provider" or "provider" means any

...

- (a) Dentist licensed under KRS Chapter 313;

...

- (47) "Telehealth":

- a. Means the delivery of health care-related services by a health care provider who is licensed in Kentucky to a patient or client through a face-to-face encounter with access to real-time interactive audio and video technology or store and forward services that are provided via asynchronous technologies as the standard practice of care where images are sent to a specialist for evaluation. The requirement for a face-to-face encounter shall be satisfied with the use of asynchronous telecommunications technologies in which the health care provider has access to the patient's or client's medical history prior to the telehealth encounter;
- b. Shall not include the delivery of services through electronic mail, text chat, facsimile, or standard audio-only telephone call; and
- c. Shall be delivered over a secure communications connection that complies with the federal Health Insurance Portability and Accountability Act of 1996,

[KRS 304.17A-138 Telehealth coverage and reimbursement -- Requirements for health benefit plan -- Benefits subject to deductible, copayment, or coinsurance -- Payment subject to provider network arrangements -- Administrative regulations.](#)

- (1) (a) A health benefit plan shall reimburse for covered services provided to an insured person through telehealth as defined in KRS 304.17A-005. Telehealth coverage and reimbursement shall be equivalent to the coverage for the same service provided in person unless the telehealth provider and the health benefit plan contractually agree to a lower reimbursement rate for telehealth services.
- (b) A health benefit plan shall not:
 1. Require a provider to be physically present with a patient or client, unless the provider determines that it is necessary to perform those services in person;
 2. Require prior authorization, medical review, or administrative clearance for telehealth that would not be required if a service were provided in person;
 3. Require demonstration that it is necessary to provide services to a patient or client through telehealth;
 4. Require a provider to be employed by another provider or agency in order to provide telehealth services that would not be required if that service were provided in person;
 5. Restrict or deny coverage of telehealth based solely on the communication technology or application used to deliver the telehealth services; or
 6. Require a provider to be part of a telehealth network.
- (2) A health benefit plan shall require a telehealth provider to be licensed in Kentucky in order to receive reimbursement for telehealth services.
- (3) Benefits for a service provided through telehealth required by this section may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the health benefit plan for the same service provided in person.
- (4) Nothing in this section shall be construed to require a health benefit plan to:
 - (a) Provide coverage for telehealth services that are not medically necessary; or
 - (b) Reimburse any fees charged by a telehealth facility for transmission of a telehealth encounter.
- (5) Payment made under this section may be consistent with any provider network arrangements that have been established for the health benefit plan.
- (6) The department shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.

[806 KAR 17:270. Telehealth claim forms and records](#)

Section 1. Definitions. (1) "ADA" means American Dental Association.

(2) "Electronic" or "electronically" is defined by KRS 304.17A-700(7).

(3) "HCFA" means Health Care Financing Administration.

(4) "Health benefit plan" is defined by KRS 304.17A-005(22).

(5) "Health care provider" or "provider" is defined by KRS 304.17A-005(23).

(6) "Health insurer" or "insurer" is defined by KRS 304.17A-005(27).

(7) "Kentucky Uniform Billing Committee (KUBC)" is defined by KRS 304.17A-700(13).

(8) "National Uniform Billing Committee (NUBC)" is defined by KRS 304.17A-700(14).

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Kentucky, continued

(9) "Telehealth" is defined by KRS 311.550(17).

(10) "UB" means uniform billing.

Section 2. Application. This administrative regulation shall apply to health benefit plans delivered, issued, or renewed on or after July 15, 2001.

Section 3. Claim Forms. The following claim forms shall be used for reimbursement of telehealth consultations:

(1) A claim form for dentists shall consist of the ADA Form-J588 approved by the American Dental Association effective at the time the service was billed; and

(2) A claim form for all other health care providers shall consist of the HCFA-1500 data set or its successor submitted on the designated paper or electronic format as adopted by the National Uniform Claims Committee effective at the time the service was billed.

Section 4. Retention of Records. A provider shall, upon request, provide a copy of the following to an insurer as support for a claim for reimbursement of a telehealth consultation:

(1) Written record which substantiates the request by the referring provider for the telehealth consultation by the primary care provider; and

(2) Written record of the telehealth consultation.

Section 5. Material Incorporated by Reference. (1) The following material is incorporated by reference:

(a) ADA Form-J588, "Dental Claim Form" (1999 version 2000); and

(b) Form HCFA-1500, "Health Insurance Claim Form" (12-90 Edition).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Office of Insurance, 215 West Main Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

Louisiana

Requirements and Permissible Practices

PART VII. LOUISIANA TELEHEALTH ACCESS ACT

40 § 1223.1. Short title

This Part shall be known and may be cited as the “Louisiana Telehealth Access Act”. Acts 2014, No. 442, §2; Redesignated from R.S. 40:1300.401 by HCR 84 of 2015 R.S.

40 § 1223.2. Legislative findings

The legislature hereby finds and declares the following:

(1) As an innovative form of health care, telehealth is extremely valuable because it enhances access to care, particularly in rural locations and other medically underserved areas; makes delivery of care more cost-effective; and distributes limited provider resources more efficiently.

(2) Many patients with limited access to traditional health care can be diagnosed and treated sooner through telehealth than they would be otherwise, resulting in improved outcomes and less costly treatments due to early detection and prevention.

(3) Telehealth services could potentially address a great unmet need for health care by persons who have limited access to both traditional healthcare settings and to telemedicine as currently defined in Louisiana law.

(4) If this state is to achieve much needed improvement in health outcomes, a prudent and responsible policy for doing so would be to balance patient safety and access to care through expanding access to telehealth services for the people of Louisiana.

40 § 1223.3. Definitions

(1) “Asynchronous store and forward transfer” means the transmission of a patient’s medical information from an originating site to the provider at the distant site without the patient being present.

(2) “Distant site” means the site at which the healthcare provider delivering the service is located at the time the service is provided via a telecommunications system.

(3) “Healthcare provider” means a person, partnership, limited liability partnership, limited liability company, corporation, facility, or institution licensed or certified by this state to provide healthcare or professional services as a physician assistant, hospital, nursing home, dentist, registered nurse, advanced practice registered nurse, licensed dietitian or nutritionist, licensed practical nurse, certified nurse assistant, offshore health service provider, ambulance service, licensed midwife, pharmacist, speech-language pathologist, audiologist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, certified or licensed athletic trainer, psychologist, medical psychologist, social worker, licensed professional counselor, licensed perfusionist, licensed respiratory therapist, licensed radiologic technologist, or licensed clinical laboratory scientist.

(4) “Originating site” means the location of the patient at the time the service is furnished via a telecommunications system or when the asynchronous store and forward transfer occurs.

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(5) "Synchronous interaction" means communication through interactive technology that enables a healthcare provider and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously. The healthcare provider may utilize interactive audio without the requirement of video if, after access and review of the patient's medical records, the provider determines that he is able to meet the same standard of care as if the healthcare services were provided in person.

(6)(a) "Telehealth" means a mode of delivering healthcare services, including behavioral health services, that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from healthcare providers. Telehealth allows services to be accessed when providers are in a distant site and patients are in the originating site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.

...

[40 § 1223.4. Telehealth; rulemaking required](#)

A. Each state agency or professional or occupational licensing board or commission that regulates the practice of a healthcare provider, as defined in this Part, may promulgate, in accordance with the Administrative Procedure Act, any rules necessary to provide for, promote, and regulate the use of telehealth in the delivery of healthcare services within the scope of practice regulated by the licensing entity. However, any rules and regulations shall be consistent with and no more restrictive than the provisions contained in this Section.

B. The rules shall, at a minimum, provide for all of the following:

(1) Application of all laws regarding the confidentiality of healthcare information and the patient's rights to the patient's medical information created during telehealth interactions.

(2) Application of the same standard of care by a healthcare provider as if the healthcare services were provided in person.

(3)(a) Licensing or registration of out-of-state healthcare providers who seek to furnish healthcare services via telehealth to persons at originating sites in Louisiana. The rules shall ensure that any such healthcare provider possesses, at a minimum, an unrestricted and unencumbered license in good standing to perform the healthcare service in the state in which the healthcare provider is located, and that the license is comparable to its corresponding license in Louisiana as determined by the respective Louisiana licensing agency, board, or commission.

(b) Each state agency and professional or occupational licensing board or commission is authorized to provide by rule for a reasonable fee for the license or registration provided for in this Subsection.

(4) Exemption from the telehealth license or registration required by this Subsection for the consultation of a healthcare professional licensed by this state with an out-of-state peer professional.

C. Nothing in this Part shall be construed to authorize a state agency or professional or occupational licensing board or commission to expand, diminish, or alter the scope of practice of any healthcare provider.

[40 § 1223.5. Venue; telehealth and telemedicine](#)

Venue in any suit filed involving care rendered via telehealth pursuant to the provisions of this Part or telemedicine pursuant to the provisions of R.S. 37:1271(B) shall be proper and instituted before the district court of the judicial district in which the patient resides or in the district court having jurisdiction in the parish where the patient was physically located during the provision of the telehealth or telemedicine service. The patient is considered physically located at the originating site as defined in R.S. 40:1223.3.

[La. Admin Code. tit. 46, Pt XXXIII, § 203](#)

§ 203. Teledentistry

1. Teledentistry is defined as the use of medical or dental information exchanged from one site to another via electronic communications to provide dental treatment or diagnosis, but does not include email or telephone exchanges between a provider and a patient with whom an in-person provider-patient relationship has been established.
2. Treatment or diagnosis of a patient via teledentistry is considered to occur at the location of the patient at the time of the treatment or diagnosis.
3. Treatment or diagnosis via teledentistry may be provided to patients in Louisiana only by a dentist who holds a license issued by the Board of Dentistry. The Louisiana licensed dentist need not be in Louisiana while providing the teledentistry services.
4. An exception to the requirement that the provider of teledentistry services to a patient in Louisiana hold a Louisiana license is when a Louisiana licensed dentist with an in-person relationship with a patient consults an expert with a valid dental license in another United States jurisdiction for advice regarding the patient's treatment or diagnosis; in this case the expert consulted need not have a Louisiana license.
5. The standard of care applicable to a provider of teledentistry services, including obtaining informed consent and record documentation, is no different from the standard of care required in traditional dentistry.
6. Direct supervision by a dentist of staff performing dental related tasks may not be done via teledentistry except as otherwise provided by § 701 of these rules.
7. Controlled substances may not be prescribed via teledentistry except in emergency situations where the dentist determines:
 - a. That immediate administration of the controlled substance is necessary for proper treatment of the intended ultimate user, and
 - b. That no appropriate alternate treatment is available, including administration of a drug that is not a controlled substance.

In an emergency situation the prescription for a controlled substance must be limited to the amount adequate to treat the patient during the emergency period.

8. The provider of teledentistry services must provide his identity to the patient, his location at the time of the service, the location of the patient records produced as a result of the treatment, and information on how the patient can obtain copies of the records produced as a result of the treatment.

[La. Admin Code. tit. 46, Pt XXXIII, § 701](#)

§ 701. Authorized Duties

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H. Notwithstanding the above sections, a dental hygienist licensed in Louisiana may perform radiographs, oral prophylaxis, place sealants and place fluoride varnish without a Louisiana licensed dentist being physically present in the clinic if all of the following conditions are met:

1. The dental hygienist is employed by one of the following entities and is performing the radiographs, oral prophylaxis, sealants and/or the fluoride varnish as part of his employment with that entity:
 - a. A government agency.
 - b. A nonprofit entity that meets the statutory, regulatory and program requirements for grantees supported under Section 330 of the Public Health Service Act (42 U.S.C. § 254b or its successor).
 - c. A nonprofit entity providing the radiographs, oral prophylaxis, sealants and/or the fluoride varnish which receives no compensation for the provided service.
2. The radiographs, oral prophylaxis, sealants and/or the fluoride varnish are done in one of the following settings:
 - a. A public elementary or middle school in which 50 percent or more of students are economically disadvantaged or meeting with Community Eligibility Provision (CEP) requirements under the Louisiana Department of Education and is in a parish with a parish-wide geographic Dental Health Professional Shortage Area (HPSA) scores above 15.
 - b. A fixed clinic of a nonprofit entity that meets the statutory, regulatory, and program requirements for grantees supported under Section 330 of the Public Health Service Act (42 U.S.C. § 254b or its successor) that does not have a dentist employed by it and is in a parish with a parish-wide geographic Dental Health Professional Shortage Area (HPSA) scores above 15.
3. A Louisiana licensed dentist is providing direct supervision via teledentistry and reviews exams being done by the hygienist and images of the patient's oral cavity via the teledentistry connection. Unless restricted by bandwidth considerations, the teledentistry must be contemporaneous (synchronist). If bandwidth prohibits contemporaneous viewing by the dentist, non-contemporaneous (asynchronist) viewing of the patient may be employed, but the dentist must review the exam before the patient is dismissed from the clinic on the day of treatment.
4. Oral health education involving the benefits of sealants, fluoride varnish, and fluoridated water is provided to the patient or patient's representative.
5. All patients who are deemed to need additional treatment are referred to a dentist and follow up is done to confirm that the patient has obtained treatment and, if treatment has not been obtained, to re-urge the patient or his representatives to obtain treatment.
6. The patient or his representatives must give informed consent to the use of teledentistry in the supervision of the dental hygienist.

Medicaid Reimbursement

[40 § 1255.1. Definitions](#)

As used in this Part, the following terms have the meaning ascribed to them in this Section:

- (1) "Department" means the Louisiana Department of Health.
- (2) "Medicaid" means the medical assistance program provided for in Title XIX of the Social Security Act.

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(3) "Medicare" means the federal health insurance program provided for in Title XVIII of the Social Security Act.

(4) "Telehealth" has the meaning ascribed in R.S. 40:1223.3.

40 §1255.2. Telehealth services; alignment of reimbursement with Medicare policy

A. The department shall periodically review policies regarding Medicaid reimbursement for telehealth services to identify variations between permissible reimbursement under that program and reimbursement available to healthcare providers under the Medicare program.

B. To the extent practicable, notwithstanding any other law to the contrary, after conducting a review provided for in Subsection A of this Section, the department may modify its administrative rules, policies, and procedures applicable to Medicaid reimbursement for telehealth services as necessary to provide for a reimbursement system that is comparable to that of the Medicare program for those services.

[46 § 460.51. Definitions](#)

...

(16) "Telehealth" has the meaning ascribed in R.S. 40:1223.3.

...

[46 § 460.54 Medicaid policies and procedures; procedure for adoption; required content](#)

...

G. The department shall include in its Medicaid policies and procedures all of the following information relating to telehealth:

(1) An exhaustive listing of the covered healthcare services which may be furnished through telehealth.

(2) Processes by which providers may submit claims for reimbursement for healthcare services furnished through telehealth.

(3) The conditions under which a managed care organization may reimburse a provider or facility that is not physically located in this state for healthcare services furnished to an enrollee through telehealth.

Private Payer Reimbursement

[SUBPART B-1. MEDICAL CLAIMS FOR SERVICES PROVIDED THROUGH TELEHEALTH AND TELEMEDICINE](#)

Editor's note: Excepted benefits referred to in Section (1) as defined in R.S. 22:1061 include limited scope dental benefits.

[22 §1841. Definitions](#)

For purposes of this Subpart, the following definitions apply:

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(1) "Health coverage plan" means any hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, contract, or other agreement with a health maintenance organization or a preferred provider organization, health and accident insurance policy, or any other insurance contract of this type in this state, including a group insurance plan, a self-insurance plan, and the Office of Group Benefits programs. "Health coverage plan" shall not include a plan providing coverage for excepted benefits as defined in R.S. 22:1061, limited benefit health insurance plans, and short-term policies that have a term of less than twelve months.

(2) "Medication adherence management services" means the monitoring of a patient's conformance with the healthcare provider's medication plan with respect to timing, dosing, and frequency of medication-taking through electronic transmission of data in a remote patient monitoring services program.

(3) "Platform" means the technology, system, software, application, modality, or other method through which a healthcare provider remotely interfaces with a patient when providing a healthcare service or procedure as a telemedicine medical service or telehealth healthcare service.

(4) "Remote patient monitoring services" means the delivery of healthcare services using telecommunications technology to enhance the delivery of health care, including but not limited to all of the following:

(a) Monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, and other condition-specific data, such as blood glucose.

(b) Medication adherence monitoring.

(c) Interactive video conferencing with or without digital image upload.

(5) "Telehealth" shall have the same meaning as defined in R.S. 40:1223.3 and may include audio-only conversations as provided for in R.S. 40:1223.3(5).

(6) "Telemedicine" shall have the same meaning as defined in R.S. 37:1262, may be provided as described in R.S. 37:1271(B)(4), and may include audio-only conversations as provided for in R.S. 37:1271(B)(4)(b).

[22 §1842. Telemedicine medical services and telehealth healthcare services statement](#)

A. (1) Each issuer of a health coverage plan shall display in a conspicuous manner on the health coverage plan issuer's website information regarding how to receive covered telemedicine medical services, telehealth healthcare services, and remote patient monitoring services.

(2) A link clearly identified on the health coverage plan's issuer's website to the information required pursuant to this Subsection shall be sufficient to meet the requirements of this Section.

B. This Section shall not require an issuer of a health coverage plan to display negotiated contract payment rates for healthcare providers who contract with the issuer to provide telemedicine medical services or telehealth healthcare services.

22 §1843. Remote patient monitoring services

A. The legislature hereby finds all of the following:

(1) Remote patient monitoring services aim to allow more people to remain at home or in other nontraditional clinical settings and to improve the quality and cost of their care, including prevention of more costly care.

(2) The goal of remote patient monitoring services provided through telemedicine or telehealth is to coordinate primary, acute, behavioral, and long-term social service needs for high need, high cost patients.

B. To receive reimbursement for the delivery of remote patient monitoring services through telehealth, all of the following conditions shall be met:

(1) The services shall consist of all of the following:

(a) An assessment, problem identification, and evaluation which includes all of the following:

(i) Assessment and monitoring of clinical data including but not limited to appropriate vital signs, pain levels, and other biometric measures specified in the plan of care and an assessment of responses to previous changes in the plan of care.

(ii) Detection of condition changes based on the telemedicine or telehealth encounter that may indicate the need for a change in the plan of care.

(b) Implementation of a management plan through one or more of the following:

(i) Teaching regarding medication management as appropriate based on the telemedicine or telehealth findings for that encounter.

(ii) Teaching regarding other interventions as appropriate to both the patient and the caregiver.

(iii) Management and evaluation of the plan of care including changes in visit frequency or addition of other skilled services.

(iv) Coordination of care with the ordering healthcare provider regarding the telemedicine or telehealth findings.

(v) Coordination and referral to other healthcare providers as needed.

(vi) Referral for an in-person visit or the emergency room as needed.

(2) The entity that will provide the remote monitoring services shall have protocols in place to address all of the following:

(a) Authentication and authorization of users.

(b) A mechanism for monitoring, tracking, and responding to changes in the patient's clinical condition.

(c) A standard of acceptable and unacceptable parameters for the patient's clinical parameters, which can be adjusted based on the patient's condition.

(d) How monitoring staff will respond to abnormal parameters for the patient's vital signs, symptoms, or lab results.

(e) The monitoring, tracking, and responding to changes in the patient's clinical condition.

(f) The process for notifying the prescribing healthcare provider for significant changes in the patient's clinical signs and symptoms.

(g) The prevention of unauthorized access to the system or information.

(h) System security, including the integrity of information that is collected, program integrity, and system integrity.

(i) Information storage, maintenance, and transmission.

(j) Synchronization and verification of patient profile data.

(k) Notification of the patient's discharge from the remote patient monitoring services or the deinstallation of the remote patient monitoring unit.

C. A health coverage plan may require an authorization request for remote patient monitoring prior to the health coverage plan's approval of coverage for a specified healthcare service.

22 §1844. Exclusions

The provisions of this Subpart shall not apply to any plan providing coverage for excepted benefits as defined in R.S. 22:1061, limited benefit health insurance plans, and short-term policies that have a term of less than twelve months.

Maine

Requirements and Permissible Practices

32 M.R.S.A. § 18302. Definitions as amended by [HP 1535](#)

...

37. Teledentistry. “Teledentistry,” as it pertains to the delivery of oral health care services, means the use of interactive, real-time visual, audio or other electronic media for the purposes of education, assessment, examination, diagnosis, treatment planning, consultation and directing the delivery of treatment by individuals licensed under this chapter and includes synchronous encounters, asynchronous encounters, remote patient monitoring and mobile oral health care in accordance with practice guidelines specified in rules adopted by the board.

32 M.R.S.A. § 18394. Teledentistry as amended by [HP 1535](#)

An individual licensed under this chapter may provide oral health care services and procedures authorized under this chapter or by rule using teledentistry. The board shall adopt by rule guidelines and practice standards for the use of teledentistry, including, but not limited to, practice requirements for protecting patient rights and protocols for referrals, quality and safety, informed consent, patient evaluation, treatment parameters, patient records, prescribing, supervision and compliance with data exchange standards for the security and confidentiality of patient information. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

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Maryland

Requirements and Permissible Practices

[MD Code, Health Occupations, § 1-1001](#)

§ 1-1001. Definitions

In general

(a) In this subtitle the following words have the meanings indicated.

Asynchronous telehealth interaction

(b) "Asynchronous telehealth interaction" means an exchange of information between a patient and a health care practitioner that does not occur in real time, including the secure collection and transmission of a patient's medical information, clinical data, clinical images, laboratory results, and self-reported medical history.

Health care practitioner

(c) "Health care practitioner" means an individual who is licensed, certified, or otherwise authorized by law to provide health care services under this article.

Synchronous telehealth interaction

(d) "Synchronous telehealth interaction" means an exchange of information between a patient and a health care practitioner that occurs in real time.

Telehealth

(e)(1) "Telehealth" means a mode of delivering health care services through the use of telecommunications technologies by a health care practitioner to a patient at a different physical location than the health care practitioner.

(2) "Telehealth" includes synchronous and asynchronous interactions.

(3) "Telehealth" does not include the provision of health care services solely through audio-only calls, e-mail messages, or facsimile transmissions.

[MD Code, Health Occupations, § 1-1002](#)

§ 1-1002. Establishment of practitioner-patient relationship

A health care practitioner may establish a practitioner-patient relationship through either a synchronous telehealth interaction or an asynchronous telehealth interaction, if the health care practitioner:

(1) Verifies the identity of the patient receiving health care services through telehealth;

(2) Discloses to the patient the health care practitioner's name, contact information, and the type of health occupation license held by the health care practitioner; and

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(3) Obtains oral or written consent from the patient or from the patient's parent or guardian if State law requires the consent of a parent or guardian.

[MD Code, Health Occupations, § 1-1003](#)

§ 1-1003. Requirements

In general

- (a) A health care practitioner providing telehealth services shall:
- (1) Be held to the same standards of practice that are applicable to in-person health care settings; and
 - (2) If clinically appropriate for the patient, provide or refer a patient to in-person health care services or another type of telehealth service.

Clinical evaluation

- (b)(1) A health care practitioner shall perform a clinical evaluation that is appropriate for the patient and the condition with which the patient presents before providing treatment or issuing a prescription through telehealth.
- (2) A health care practitioner may use a synchronous telehealth interaction or an asynchronous telehealth interaction to perform the clinical evaluation required under paragraph (1) of this subsection.

Prescriptions

- (c)(1) A health care practitioner may not prescribe an opiate described in the list of Schedule II substances under § 5-403 of the Criminal Law Article for the treatment of pain through telehealth, unless:
- (i) The individual receiving the prescription is a patient in a health care facility, as defined in § 19-114 of the Health--General Article; or
 - (ii) The Governor has declared a state of emergency due to a catastrophic health emergency.
- (2) Subject to paragraph (1) of this subsection, a health care practitioner who through telehealth prescribes a controlled dangerous substance, as defined in § 5-101 of the Criminal Law Article, is subject to any applicable regulation, limitation, and prohibition in federal and State law relating to the prescription of controlled dangerous substances.

[MD Code, Health Occupations, § 1-1004](#)

§ 1-1004. Documentation and confidentiality

Documentation

(a) A health care practitioner shall document in a patient's medical record the health care services provided through telehealth to the patient according to the same documentation standards used for in-person health care services.

Confidentiality

(b) All laws regarding the confidentiality of health information and a patient's right to the patient's health information apply to telehealth interactions in the same manner as the laws apply to in-person health care interactions.

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[MD Code, Health Occupations, § 1-1005](#)

§ 1-1005. Licensure, certification, or authorization to provide health care services

A health care practitioner providing health care services through telehealth must be licensed, certified, or otherwise authorized by law to provide health care services in the State if the health care services are being provided to a patient located in the State.

[MD Code, Health Occupations, § 1-1006](#)

§ 1-1006. Regulations

Authority

(a) A health occupations board may adopt regulations to implement this subtitle.

Requirements

- (b) Regulations adopted by a health occupations board under subsection (a) of this section:
- (1) May not establish a separate standard of care for telehealth; and
 - (2) Shall allow for the establishment of a practitioner-patient relationship through a synchronous telehealth interaction or an asynchronous telehealth interaction provided by a health care practitioner who is complying with the health care practitioner's standard of care.

Medicaid Reimbursement

Editorial Note: Sections of code impacting reimbursement for telehealth services were significantly amended by [HB 123](#), which was signed into law on 4/13/21. Amended text for these sections of code had not been added to Maryland's online database of statutes at the time of publication. Please refer to the links for HB 123 for updated text updated text.

[MD Code, Health - General, § 15-105.2](#)

§ 15-105.2. Reimbursement of health care providers

See [HB 123](#) for updated text.

[MD Code, Health - General, § 15-141.2](#)

§ 15-141.2. Program to provide telehealth services to Program recipients regardless of the Program recipient's location at the time telehealth services are provided

See [HB 123](#) for updated text.

[Title 10 MARYLAND DEPARTMENT OF HEALTH](#)
[Subtitle 09 MEDICAL CARE PROGRAMS](#)
[Chapter 49 Telehealth Services](#)

.01 Scope.

A. This chapter applies to telehealth programs reimbursed by the Maryland Medicaid Program.

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- B. The purpose of providing medically necessary services via telehealth is to improve:
- (1) Access to somatic and behavioral health services, thus reducing preventable hospitalizations and reducing barriers to health care access;
 - (2) Access to outpatient and inpatient subspecialty services, thus improving diagnostic clarification, treatment recommendations, and planning for the individual;
 - (3) Health outcomes through timely disease detection and treatment options; and
 - (4) Capacity and choice for ongoing treatment in underserved areas of the State.

10.09.49.02

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

...

(3) "Department" means the Maryland Department of Health, which is the single State agency designated to administer the telehealth program.

(4) "Distant site" means a site at which the licensed distant site provider is located at the time the service is provided via technology-assisted communication.

(5) "Distant site provider" means the licensed provider at the distant site who provides medically necessary services to the patient at the originating site via telehealth upon request from the originating site provider.

(6) "Federally qualified health center (FQHC)" has the meaning stated in Health-General Article, §24-1301, Annotated Code of Maryland.

(7) "GT modifier" means the Healthcare Common Procedure Coding System (HCPCS) service code modifier indicating that the provider rendered a healthcare service via an interactive audio and video telecommunications system.

(8) "Medically necessary" means that the service or benefit is:

(a) Directly related to diagnostic, preventive, curative, palliative, rehabilitative, or ameliorative treatment of an illness, injury, disability, or health condition;

(b) Consistent with currently accepted standards of good medical practice;

(c) The most cost-efficient service that can be provided without sacrificing effectiveness or access to care; and

(d) Not primarily for the convenience of the participant, family, or provider.

...

(10) "Originating site" means the location of an eligible Medicaid participant at the time the service being furnished via technology-assisted communication occurs.

(11) "Participant" means an individual who is certified as eligible for, and is receiving, Medical Assistance benefits.

(12) "Provider" means:

(a) An individual, association, partnership, corporation, unincorporated group, or any other person authorized, licensed, or certified to provide services for Medical Assistance participants and who, through appropriate agreement with the Department, has been identified as a Maryland Medical Assistance Provider by the issuance of an individual account number;

(b) An agent, employee, or related party of a person identified in §B(12)(a) of this regulation;

(c) An individual or any other person with an ownership interest in a person identified in §B(12)(a) of this regulation.

...

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(16) Store and Forward Technology.

(a) "Store and forward technology" means the transmission of medical images or other media captured by the originating site provider and sent electronically to a distant site provider, who does not physically interact with the patient located at the originating site.

(b) "Store and forward technology" does not mean dermatology, ophthalmology, or radiology services according to COMAR 10.09.02.07.

(17) "Technology-assisted communication" means multimedia communication equipment permitting two-way real-time interactive communication between a patient at an originating site and a distant site provider at a distant site.

(18) "Telehealth" means the delivery of medically necessary somatic or behavioral health services to a patient at an originating site by distant site provider, through the use of technology-assisted communication.

(19) "Telehealth Program" means the program by which medically necessary somatic or behavioral health services are authorized to be delivered via technology-assisted communication between originating and distant site providers.

.03 Service Model.

A. Telehealth improves access to distant site providers.

B. Telehealth providers may be part of a private practice, hospital, or other health care system.

C. Services rendered via telehealth are reimbursed on a fee-for-service basis.

.04 Covered Services.

Under the Telehealth Program, the Department shall cover:

A. Medically necessary services covered by the Maryland Medical Assistance Program rendered by a distant site provider that shall be:

(1) Distinct from services provided by the originating site provider;

(2) Able to be delivered using technology-assisted communication; and

(3) Clinically appropriate to be delivered via telehealth;

B. Services provided via telehealth to the same extent and standard of care as services provided in person; and

C. As determined by the provider's licensure or credentialing board, services performed via telehealth within the scope of a provider's practice.

.05 Participant Eligibility.

A participant is eligible to receive telehealth services if the individual:

A. Is enrolled in the Maryland Medical Assistance Program on the date the service is rendered;

B. Consents to telehealth services unless there is an emergency that prevents obtaining consent, which the originating site shall document in the participant's medical record; and

C. Is present at the originating site at the time the telehealth service is rendered.

.06 Provider Conditions for Participation.

A. To participate in the Program, the provider shall meet the requirements for participation in the Medical Assistance Program as set forth in:

(1) COMAR 10.09.36.02;

(2) COMAR 10.09.36.03; and

(3) The COMAR chapter defining the covered service being rendered;

B. Medical Record Documentation. An originating and distant site provider shall:

- (1) Maintain documentation in the same manner as during an in-person visit, using either electronic or paper medical records;
- (2) Retain telehealth records according to the provisions of Health-General Article, §4-403, Annotated Code of Maryland; and
- (3) Include the participant's consent to participate in telehealth or an explanation as to why consent was not available.

C. Originating Sites include:

- (1) A college or university student health or counseling office;

...

- (5) A local health department;
- (6) A FQHC;
- (7) A hospital, including the emergency department;

...

D. Distant Site Providers may render services via telehealth within the provider's scope of practice.

.07 Technical Requirements.

A. A provider of health care services delivered through telehealth shall adopt and implement technology in a manner that supports the standard of care to deliver the required service.

B. A provider of health services delivered through telehealth shall, at a minimum, meet the following technology requirements:

- (1) A camera that has the ability to manually or under remote control provide multiple views of a patient with the capability of altering the resolution, focus, and zoom requirements according to the service;
- (2) Unless engaging in a telehealth communication with a participant who is deaf or hard of hearing, audio equipment that ensures clear communication and includes echo cancellation;
- (3) Bandwidth speed and image resolution sufficient to provide quality video to meet a minimum of 15 frames per second, or higher, as industry standards change;
- (4) Display monitor size sufficient to support diagnostic needs used in the telehealth services; and
- (5) Create video and audio transmission with less than 300 millisecond delay.

.08 Confidentiality.

The originating and distant site providers:

A. Shall comply with the laws and regulations concerning the privacy and security of protected health information under:

- (1) Health-General Article, Title 4, Subtitle 3, Annotated Code of Maryland; and
- (2) The Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. §§1320d et seq., as amended, the HITECH Act, 42 U.S.C. §§17932, et seq., as amended, and 45 CFR Parts 160 and 164, as amended;

B. Shall ensure that all interactive video technology-assisted communication comply with HIPAA patient privacy and security regulations at the originating site, at the distance site, and in the transmission process;

C. Shall occupy a space or area that meets the minimum standards for privacy expected for a patient-provider interaction;

D. May not disseminate any participant images or information to other entities without the participant's consent, unless there is an emergency that prevents obtaining consent; and

E. May not store at originating and distant sites the video images or audio portion of the telehealth service for future use.

.09 Limitations.

A. A service provided through telehealth is subject to the same program restrictions, preauthorizations, limitations, and coverage that exist for the service when provided in person.

B. A telehealth service does not include:

- (1) An audio-only telephone conversation between a health care provider and a patient;
- (2) An electronic mail message between a health care provider and a patient;
- (3) A facsimile transmission between a health care provider and a patient; or
- (4) A telephone conversation, electronic mail message, or facsimile transmission between the originating and distant site providers without interaction between the distant site provider and the patient.

C. Store and forward technology does not meet the Maryland Medical Assistance Program's definition of telehealth. The Maryland Medical Assistance Program covers services such as dermatology, ophthalmology, and radiology according to COMAR 10.09.02.07.

D. Telehealth-delivered services may not bill to the Maryland Medical Assistance Program or to the ASO when technical difficulties preclude the delivery of part or all of the telehealth session.

E. The Department may not reimburse a provider for the following:

- (1) Services that occur during an ambulance transport;
- (2) Communications between providers where the participant is not physically present at the originating site;
- (3) Telehealth services delivered where the originating site is not a permitted originating site provider as set forth in Regulation .06 of this chapter; or
- (4) Mental health and substance use disorder services that did not receive prior authorization from the Department or its ASO.

F. The Department may not reimburse for services that:

- (1) Require in-person evaluation; or
- (2) Cannot be reasonably delivered via telehealth.

G. The Department may not reimburse distant site providers for a facility fee.

H. The Department may not reimburse for home health monitoring services.

.10 Reimbursement.

A. To receive reimbursement for telehealth services, a provider shall:

- (1) Be actively enrolled with Maryland Medical Assistance;
- (2) Participate with a telehealth partner that meets provider conditions for participation as set forth in Regulation .06 of this chapter; and
- (3) If a provider is a behavioral health service provider, be registered as a provider through the ASO on the date the service is rendered.

B. Distant Site Reimbursement.

(1) The distant site shall be reimbursed:

(a) For somatic services provided via telehealth, as set forth in COMAR 10.09.02.07D;

(b) For mental health services provided via telehealth, as set forth in COMAR 10.09.59.09; or

(c) For substance use disorder services provided via telehealth, as set forth in COMAR 10.09.80.08.

(2) Services delivered via telehealth shall be billed with the telehealth GT modifier.

(3) Services delivered via telehealth shall be within the provider's scope of practice as determined by its governing licensure or credentialing board.

10.67.06.31

.31 Benefits — Telemedicine Services.

An MCO shall provide to its enrollees medically necessary telemedicine services as described in COMAR 10.09.49.

Private Payer Reimbursement

MD Code, Insurance, § 15-139

§ 15-139. Health care services delivered through telehealth

Telehealth defined

(a)(1) In this section, "telehealth" means, as it relates to the delivery of health care services, the use of interactive audio, video, or other telecommunications or electronic technology by a licensed health care provider to deliver a health care service within the scope of practice of the health care provider at a location other than the location of the patient.

(2) "Telehealth" includes, from July 1, 2021, to June 30, 2023, both inclusive, an audio-only telephone conversation between a health care provider and a patient that results in the delivery of a billable, covered health care service.

(3) "Telehealth" does not include:

- (i) except as provided in paragraph (2) of this subsection, an audio-only telephone conversation between a health care provider and a patient;
- (ii) an electronic mail message between a health care provider and a patient; or
- (iii) a facsimile transmission between a health care provider and a patient.

Application of section

(b) This section applies to:

- (1) insurers and nonprofit health service plans that provide hospital, medical, or surgical benefits to individuals or groups on an expense-incurred basis under health insurance policies or contracts that are issued or delivered in the State; and
- (2) health maintenance organizations that provide hospital, medical, or surgical benefits to individuals or groups under contracts that are issued or delivered in the State.

Coverage for health care services delivered through telehealth

(c)(1) An entity subject to this section:

- (i) shall provide coverage under a health insurance policy or contract for health care services appropriately delivered through telehealth regardless of the location of the patient at the time the telehealth services are provided;
- (ii) may not exclude from coverage a health care service solely because it is provided through telehealth and is not provided through an in-person consultation or contact between a health care provider and a patient; and
- (iii) may not exclude from coverage or deny coverage for a behavioral health care service that is a covered benefit under a health insurance policy or contract when provided in person solely because the behavioral health care service may also be provided through a covered telehealth benefit.

(2) The health care services appropriately delivered through telehealth shall include counseling and treatment for substance use disorders and mental health conditions.

Reimbursement to health care provider for services delivered through telehealth

(d)(1) Subject to paragraph (2) of this subsection, an entity subject to this section:

(i) shall reimburse a health care provider for the diagnosis, consultation, and treatment of an insured patient for a health care service covered under a health insurance policy or contract that can be appropriately provided through telehealth;

(ii) is not required to:

1. reimburse a health care provider for a health care service delivered in person or through telehealth that is not a covered benefit under the health insurance policy or contract; or
2. reimburse a health care provider who is not a covered provider under the health insurance policy or contract; and

(iii) 1. may impose a deductible, copayment, or coinsurance amount on benefits for health care services that are delivered either through an in-person consultation or through telehealth;

2. may impose an annual dollar maximum as permitted by federal law; and
3. may not impose a lifetime dollar maximum.

(2)(i) From July 1, 2021, to June 30, 2023, both inclusive, when a health care service is appropriately provided through telehealth, an entity subject to this section shall provide reimbursement in accordance with paragraph (1)(i) of this subsection on the same basis and at the same rate as if the health care service were delivered by the health care provider in person.

(ii) The reimbursement required under subparagraph (i) of this paragraph does not include:

1. clinic facility fees unless the health care service is provided by a health care provider not authorized to bill a professional fee separately for the health care service; or
2. any room and board fees.

(iii) This paragraph may not be construed to supersede the authority of the Health Services Cost Review Commission to set the appropriate rates for hospitals, including setting the hospital facility fee for hospital-provided telehealth.

Requirement for third-party vendor prohibited

(e) Subject to subsection (d)(1)(ii) of this section, an entity subject to this section may not impose as a condition of reimbursement of a covered health care service delivered through telehealth that the health care service be provided by a third-party vendor designated by the entity.

Utilization review to determine appropriateness of health care service

(f) An entity subject to this section may undertake utilization review, including preauthorization, to determine the appropriateness of any health care service whether the service is delivered through an in-person consultation or through telehealth if the appropriateness of the health care service is determined in the same manner.

Policies or contracts not to distinguish between patients in rural or urban locations

(g) A health insurance policy or contract may not distinguish between patients in rural or urban locations in providing coverage under the policy or contract for health care services delivered through telehealth.

Decision by entity not to provide coverage for telehealth

(h) A decision by an entity subject to this section not to provide coverage for telehealth in accordance with this section constitutes an adverse decision, as defined in § 15-10A-01 of this title, if the decision is based on a finding that telehealth is not medically necessary, appropriate, or efficient.

Title 31. Maryland Insurance Administration

Subtitle 10. Health Insurance--General

Chapter 45. Dental Network Adequacy

[COMAR 31.10.45.02](#)

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

...

(15) Telehealth.

(a) "Telehealth" means, as it relates to the delivery of dental services, the use of interactive audio, video, or other telecommunications or electronic technology by a provider to deliver a dental service within the scope of practice of the provider at a location other than the location of the patient.

(b) "Telehealth" does not include:

- (i) An audio-only telephone conversation between a provider and a patient;
- (ii) An electronic mail message between a provider and a patient; or
- (iii) A facsimile transmission between a provider and a patient.

...

[COMAR 31.10.45.04 Appointment Waiting Time Standards.](#)

A. Sufficiency Standards.

(1) Subject to § B of this regulation, each carrier's provider panel shall meet the waiting time standards listed in § C of this regulation for at least 95 percent of the enrollees covered under dental plans that use that provider panel.

(2) When it is clinically appropriate and an enrollee elects to utilize a telehealth appointment, a carrier may consider that utilization as a part of its meeting the standards listed in § C of this regulation.

Massachusetts

Requirements and Permissible Practices

M.G.L.A. 112 § 50

Chapter 112. Registration of Certain Professions and Occupations

[§ 50. Telehealth](#)

(a) For purposes of this section “telehealth” shall mean the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient’s physical health, oral health, mental health or substance use disorder condition.

(b) Notwithstanding any provision of this chapter to the contrary, the board shall allow a physician licensed by the board to obtain proxy credentialing and privileging for telehealth services with other health care providers, as defined in section 1 of chapter 111, or facilities that comply with the federal Centers for Medicare and Medicaid Services’ conditions of participation for telehealth services.

Editor’s note: “Doctors of dental science” are included among health care providers defined in section 1 of chapter 111.

Medicaid Reimbursement

M.G.L.A. 118E § 79

Chapter 118E. Division of Medical Assistance

[§ 79. Coverage for health care services delivered via telehealth by a contracted health care provider; right in in-person services; copayment or coinsurance; rate of payment; standards of care](#)

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

...

“Telehealth”, the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient’s physical health, oral health, mental health or substance use disorder condition.

(b) The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization, accountable care organization or primary care clinician plan shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to

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access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) The division may undertake utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if service was delivered in-person. The division, a contracted health insurer, health plan, health maintenance organization, behavioral health management firm or third-party administrator under contract to a Medicaid managed care organization or primary care clinician plan shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

(e) A contract that provides coverage for telehealth services may include a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate of payment for telehealth services provided via interactive audio-video technology and audio-only telephone may be greater than the rate of payment for the same service delivered by other telehealth modalities.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider's profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards, as well as standards for informed consent.

Code of Massachusetts Regulations

Title 101: Executive Office of Health and Human Services

[Chapter 314.00: Dental Services](#)

[314.05: Allowable Fees: Non-hospital Services](#)

...

D9995 I.C. I.C. Teledentistry - synchronous; real-time encounter

D9996 I.C. I.C. Teledentistry - asynchronous; information stored and forwarded to dentist for subsequent review

...

Private Payer Reimbursement

M.G.L.A. 32A § 30

Chapter 32A. Contributory Group General or Blanket Insurance for Persons in the Service of the Commonwealth

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§ 30. Coverage for telehealth services

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

...

“Telehealth”, the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient’s physical health, oral health, mental health or substance use disorder condition.

(b) Coverage offered by the commission to an active or retired employee of the commonwealth insured under the group insurance commission shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that the commission, or its carriers or other contracted entities providing health benefits, shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) Coverage for telehealth services may include utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

(e) Coverage for telehealth services may include a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate of payment for telehealth services provided via interactive audio-video technology may be greater than the rate of payment for the same service delivered by other telehealth modalities.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider’s profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

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Chapter 175. Insurance

M.G.L.A. 175 § 47MM

§ 47MM. Coverage for health care services delivered via telehealth

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

...

“Telehealth”, the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient’s physical health, oral health, mental health or substance use disorder condition.

(b) An individual policy of accident and sickness insurance issued under section 108 that provides hospital expense and surgical expense insurance and any group blanket or general policy of accident and sickness insurance issued under section 110 that provides hospital expense and surgical expense insurance that is issued or renewed within or without the commonwealth shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that an insurer shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) Coverage for telehealth services may include utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in-person. A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within or without the commonwealth shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

(e) A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth that provides coverage for telehealth services may include a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate of payment for telehealth services provided via interactive audio-video technology may be greater than the rate of payment for the same service delivered by other telehealth modalities.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider's profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

Chapter 176A. Non-Profit Hospital Service Corporations M.G.L.A. 176A § 38

[§ 38. Coverage for health care services delivered via telehealth by a contracted health care provider](#)

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

...

"Telehealth", the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient's physical health, oral health, mental health or substance use disorder condition.

(b) A contract between a subscriber and a nonprofit hospital service corporation under an individual or group hospital service plan shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that an insurer shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) Coverage for telehealth services may include utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in-person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

(e) Coverage for telehealth services may include a provision for a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate

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of payment for telehealth services provided via interactive audio-video technology may be greater than the rate of payment for the same service delivered by other telehealth modalities.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider's profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

Chapter 176B. Medical Service Corporations

M.G.L.A. 176B § 25

§ 25. Coverage for health care services delivered via telehealth by a contracted health care provider

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

...

"Telehealth", the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient's physical health, oral health, mental health or substance use disorder condition.

(b) A contract between a subscriber and a medical service corporation shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that an insurer shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) Coverage may include utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

(e) A contract that provides coverage for telehealth services may contain a provision for a deductible, copayment or coinsurance requirement for a health care service provided via

telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate of payment for telehealth services provided via interactive audio-video technology may be greater than the rate of payment for the same service delivered by other telehealth modalities.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider's profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

Chapter 176G. Health Maintenance Organizations

M.G.L.A. 176G § 33

§ 33. Coverage for health care services delivered via telehealth by a contracted health care provider

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

...

"Telehealth", the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient's physical health, oral health, mental health or substance use disorder condition.

(b) A contract between a member and a health maintenance organization shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that an insurer shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) A carrier may undertake utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

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(e) A contract that provides coverage for telehealth services may contain a provision for a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate of payment for telehealth services provided via interactive audio-video technology may be greater than the rate of payment for the same service delivered by other telehealth modalities.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider's profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

Chapter 176I. Preferred Provider Arrangements

M.G.L.A. 176I § 13

[§ 13. Coverage for health care services delivered via telehealth by a contracted health care provider](#)

(a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:

...

"Telehealth", the use of synchronous or asynchronous audio, video, electronic media or other telecommunications technology, including, but not limited to: (i) interactive audio-video technology; (ii) remote patient monitoring devices; (iii) audio-only telephone; and (iv) online adaptive interviews, for the purpose of evaluating, diagnosing, consulting, prescribing, treating or monitoring of a patient's physical health, oral health, mental health or substance use disorder condition.

(b) A preferred provider contract between a covered person and an organization shall provide coverage for health care services delivered via telehealth by a contracted health care provider if: (i) the health care services are covered by way of in-person consultation or delivery; and (ii) the health care services may be appropriately provided through the use of telehealth; provided, however, that an insurer shall not meet network adequacy through significant reliance on telehealth providers and shall not be considered to have an adequate network if patients are not able to access appropriate in-person services in a timely manner upon request. Coverage shall not be limited to services delivered by third-party providers.

(c) An organization may undertake utilization review, including preauthorization, to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. An organization shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O.

(d) A health care provider shall not be required to document a barrier to an in-person visit nor shall the type of setting where telehealth services are provided be limited for health care

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services provided via telehealth; provided, however, that a patient may decline receiving services via telehealth in order to receive in-person services.

(e) A preferred provider contract that provides coverage for telehealth services may contain a provision for a deductible, copayment or coinsurance requirement for a health care service provided via telehealth as long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-person delivery of services. The rate of payment for telehealth services provided via interactive audio-video technology may be greater than the rate of payment for the same service delivered by other telehealth modalities.

(f) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telehealth services to set the global payment amount.

...

(h) Health care services provided via telehealth shall conform to the standards of care applicable to the telehealth provider's profession and specialty. Such services shall also conform to applicable federal and state health information privacy and security standards as well as standards for informed consent.

Michigan

Requirements and Permissible Practices

333.16283 Definitions.

Sec. 16283.

As used in this section and sections 16284 to 16288:

(a) "Health professional" means an individual who is engaging in the practice of a health profession.

(b) "Prescriber" means that term as defined in section 17708.

(c) "Telehealth" means the use of electronic information and telecommunication technologies to support or promote long-distance clinical health care, patient and professional health-related education, public health, or health administration. Telehealth may include, but is not limited to, telemedicine. As used in this subdivision, "telemedicine" means that term as defined in section 3476 of the insurance code of 1956, 1956 PA 218, MCL 500.3476.

(d) "Telehealth service" means a health care service that is provided through telehealth.

333.16284 Telehealth service; consent required; exception.

Sec. 16284.

Except as otherwise provided in this section, a health professional shall not provide a telehealth service without directly or indirectly obtaining consent for treatment. This section does not apply to a health professional who is providing a telehealth service to an inmate who is under the jurisdiction of the department of corrections and is housed in a correctional facility.

333.16285 Telehealth service; prescribing patient with drug; conditions; requirements.

Sec. 16285.

(1) A health professional who is providing a telehealth service to a patient may prescribe the patient a drug if both of the following are met:

(a) The health professional is a prescriber who is acting within the scope of his or her practice in prescribing the drug.

(b) If the health professional is prescribing a drug that is a controlled substance, the health professional meets the requirements of this act applicable to that health professional for prescribing a controlled substance.

(2) A health professional who prescribes a drug under subsection (1) shall comply with both of the following:

(a) If the health professional considers it medically necessary, he or she shall provide the patient with a referral for other health care services that are geographically accessible to the patient, including, but not limited to, emergency services.

(b) After providing a telehealth service, the health professional, or a health professional who is acting under the delegation of the delegating health professional, shall make himself or herself available to provide follow-up health care services to the patient or refer the patient to another health professional for follow-up health care services.

333.16286 Telehealth service; restrictions or conditions; findings by disciplinary subcommittee.

Sec. 16286.

In a manner consistent with this part and in addition to the provisions set forth in this part, a disciplinary subcommittee may place restrictions or conditions on a health professional's ability

to provide a telehealth service if the disciplinary subcommittee finds that the health professional has violated section 16284 or 16285.

[333.16287 Rules.](#)

Sec. 16287.

The department, in consultation with a board, shall promulgate rules to implement sections 16284 and 16285.

Medicaid Reimbursement

[400.105g Remote patient monitoring services; definition.](#)

Sec. 105g.

(1) The department must provide coverage for remote patient monitoring services through the medical assistance program and Healthy Michigan program under this act.

(2) As used in this section, "remote patient monitoring" means digital technology to collect medical and other forms of health data from an individual in 1 location and electronically transmit that information via a health insurance portability and accountability act of 1996, Public Law 104-191 compliant, secure system to a health care provider in a different location for assessment and recommendations.

[400.105h Telemedicine; eligibility; definitions.](#)

Sec. 105h.

(1) Beginning October 1, 2020, telemedicine services are covered under the medical assistance program and Healthy Michigan program if the originating site is an in-home or in-school setting, in addition to any other originating site allowed in the Medicaid provider manual or any established site considered appropriate by the provider.

(2) The distant provider or organization is responsible for verifying a recipient's identification and program eligibility.

(3) The distant provider or organization must ensure that the information is available to the primary care provider.

(4) As used in this section:

(a) "Originating site" means the location of the eligible recipient at the time the service being furnished by a telecommunications system occurs.

(b) "Telemedicine" means that term as defined in section 3476 of the insurance code of 1956, 1956 PA 218, MCL 500.3476.

Private Payer Reimbursement

[500.3476 Telemedicine services; provisions; definitions.](#)

Sec. 3476.

(1) An insurer that delivers, issues for delivery, or renews in this state a health insurance policy shall not require face-to-face contact between a health care professional and a patient for services appropriately provided through telemedicine, as determined by the insurer.

Telemedicine services must be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located. Telemedicine services are subject to all terms and conditions of the health insurance policy agreed upon between the policy holder and the insurer, including, but not limited to, required copayments, coinsurances, deductibles, and approved amounts.

(2) As used in this section:

(a) After December 31, 2017, "insurer" includes a nonprofit dental care corporation operating under 1963 PA 125, MCL 550.351 to 550.373.

(b) "Telemedicine" means the use of an electronic media to link patients with health care professionals in different locations. To be considered telemedicine under this section, the health care professional must be able to examine the patient via a health insurance portability and accountability act of 1996, Public Law 104-191 compliant, secure interactive audio or video, or both, telecommunications system, or through the use of store and forward online messaging.

550.1401k Telemedicine services; provisions; definition; applicability.

Sec. 401k.

(1) A group or nongroup health care corporation certificate must not require face-to-face contact between a health care professional and a patient for services appropriately provided through telemedicine, as determined by the health care corporation. Telemedicine services must be provided by a health care professional who is licensed, registered, or otherwise authorized to engage in his or her health care profession in the state where the patient is located. Telemedicine services are subject to all terms and conditions of the certificate agreed upon between the certificate holder and the health care corporation, including, but not limited to, required copayments, coinsurances, deductibles, and approved amounts.

(2) As used in this section, "telemedicine" means the use of an electronic media to link patients with health care professionals in different locations. To be considered telemedicine under this section, the health care professional must be able to examine the patient via a health insurance portability and accountability act of 1996, Public Law 104-91 compliant, secure interactive audio or video, or both, telecommunications system, or through the use of store and forward online messaging.

(3) This section applies to a certificate issued or renewed after December 31, 2012.

Minnesota

Medicaid Reimbursement

This section of code was amended by [HF 33](#) in 2021
Chapter 256B. Medical Assistance for Needy Persons
[M.S.A. § 256B.0625 COVERED SERVICES.](#)

...

Subd. 3b. Telehealth services. (a) Medical assistance covers medically necessary services and consultations delivered by a health care provider through telehealth in the same manner as if the service or consultation was delivered through in-person contact. Services or consultations delivered through telehealth shall be paid at the full allowable rate.

(b) The commissioner may establish criteria that a health care provider must attest to in order to demonstrate the safety or efficacy of delivering a particular service through telehealth. The attestation may include that the health care provider:

- (1) has identified the categories or types of services the health care provider will provide through telehealth;
- (2) has written policies and procedures specific to services delivered through telehealth that are regularly reviewed and updated;
- (3) has policies and procedures that adequately address patient safety before, during, and after the service is delivered through telehealth;
- (4) has established protocols addressing how and when to discontinue telehealth services;
- and
- (5) has an established quality assurance process related to delivering services through telehealth.

(c) As a condition of payment, a licensed health care provider must document each occurrence of a health service delivered through telehealth to a medical assistance enrollee. Health care service records for services delivered through telehealth must meet the requirements set forth in Minnesota Rules, part 9505.2175, subparts 1 and 2, and must document:

- (1) the type of service delivered through telehealth;
- (2) the time the service began and the time the service ended, including an a.m. and p.m. designation;
- (3) the health care provider's basis for determining that telehealth is an appropriate and effective means for delivering the service to the enrollee;
- (4) the mode of transmission used to deliver the service through telehealth and records evidencing that a particular mode of transmission was utilized;
- (5) the location of the originating site and the distant site;
- (6) if the claim for payment is based on a physician's consultation with another physician through telehealth, the written opinion from the consulting physician providing the telehealth consultation; and
- (7) compliance with the criteria attested to by the health care provider in accordance with paragraph (b).

(d) Telehealth visits, as described in this subdivision provided through audio and visual communication, may be used to satisfy the face-to-face requirement for reimbursement under the payment methods that apply to a federally qualified health center, rural health clinic, Indian health service, 638 tribal clinic, and certified community behavioral health clinic, if the service would have otherwise qualified for payment if performed in person.

(e) For mental health services or assessments delivered through telehealth that are based on an

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individual treatment plan, the provider may document the client's verbal approval or electronic written approval of the treatment plan or change in the treatment plan in lieu of the client's signature in accordance with Minnesota Rules, part 9505.0371.

(f) For purposes of this subdivision, unless otherwise covered under this chapter:

(1) "telehealth" means the delivery of health care services or consultations through the use of real time two-way interactive audio and visual communication to provide or support health care delivery and facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care. Telehealth includes the application of secure video conferencing, store-and-forward technology, and synchronous interactions between a patient located at an originating site and a health care provider located at a distant site. Telehealth does not include communication between health care providers, or between a health care provider and a patient that consists solely of an audio-only communication, e-mail, or facsimile transmission or specified by law;

(2) "health care provider" means a health care provider as defined under section 62A.673, a community paramedic as defined under section 144E.001, subdivision 5f, a community health worker who meets the criteria under subdivision 49, paragraph (a), a mental health certified peer specialist under section 256B.0615, subdivision 5, a mental health certified family peer specialist under section 256B.0616, subdivision 5, a mental health rehabilitation worker under section 256B.0623, subdivision 5, paragraph (a), clause (4), and paragraph (b), a mental health behavioral aide under section 256B.0943, subdivision 7, paragraph (b), clause (3), a treatment coordinator under section 245G.11, subdivision 7, an alcohol and drug counselor under section 245G.11, subdivision 5, a recovery peer under section 245G.11, subdivision 8; and

(3) "originating site," "distant site," and "store-and-forward technology" have the meanings given in section 62A.673, subdivision 2.

Private Payer Reimbursement

This section of code was added by [HF 33](#) in 2021.

M.S.A. § 62A.673

62A.673. Coverage of services provided through telehealth

Subdivision 1. Citation. This section may be cited as the "Minnesota Telehealth Act."

Subd. 2. Definitions. (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Distant site" means a site at which a health care provider is located while providing health care services or consultations by means of telehealth.

(c) "Health care provider" means a health care professional who is licensed or registered by the state to perform health care services within the provider's scope of practice and in accordance with state law. A health care provider includes a mental health professional as defined under section 245.462, subdivision 18, or 245.4871, subdivision 27; a mental health practitioner as defined under section 245.462, subdivision 17, or 245.4871, subdivision 26; a treatment coordinator under section 245G.11, subdivision 7; an alcohol and drug counselor under section 245G.11, subdivision 5; and a recovery peer under section 245G.11, subdivision 8.

(d) "Health carrier" has the meaning given in section 62A.011, subdivision 2.

(e) "Health plan" has the meaning given in section 62A.011, subdivision 3. Health plan includes dental plans as defined in section 62Q.76, subdivision 3, but does not include dental plans that

provide indemnity-based benefits, regardless of expenses incurred, and are designed to pay benefits directly to the policy holder.

(f) "Originating site" means a site at which a patient is located at the time health care services are provided to the patient by means of telehealth. For purposes of store-and-forward technology, the originating site also means the location at which a health care provider transfers or transmits information to the distant site.

(g) "Store-and-forward technology" means the asynchronous electronic transfer or transmission of a patient's medical information or data from an originating site to a distant site for the purposes of diagnostic and therapeutic assistance in the care of a patient.

(h) "Telehealth" means the delivery of health care services or consultations through the use of real time two-way interactive audio and visual communications to provide or support health care delivery and facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care. Telehealth includes the application of secure video conferencing, store-and-forward technology, and synchronous interactions between a patient located at an originating site and a health care provider located at a distant site. Until July 1, 2023, telehealth also includes audio-only communication between a health care provider and a patient in accordance with subdivision 6, paragraph (b). Telehealth does not include communication between health care providers that consists solely of a telephone conversation, e-mail, or facsimile transmission. Telehealth does not include communication between a health care provider and a patient that consists solely of an e-mail or facsimile transmission. Telehealth does not include telemonitoring services as defined in paragraph (i).

(i) "Telemonitoring services" means the remote monitoring of clinical data related to the enrollee's vital signs or biometric data by a monitoring device or equipment that transmits the data electronically to a health care provider for analysis. Telemonitoring is intended to collect an enrollee's health-related data for the purpose of assisting a health care provider in assessing and monitoring the enrollee's medical condition or status.

Subd. 3. Coverage of telehealth. (a) A health plan sold, issued, or renewed by a health carrier in Minnesota must (1) cover benefits delivered through telehealth in the same manner as any other benefits covered under the health plan, and (2) comply with this section.

(b) Coverage for services delivered through telehealth must not be limited on the basis of geography, location, or distance for travel subject to the health care provider network available to the enrollee through the enrollee's health plan.

(c) A health carrier must not create a separate provider network to deliver services through telehealth that does not include network providers who provide in-person care to patients for the same service or require an enrollee to use a specific provider within the network to receive services through telehealth.

(d) A health carrier may require a deductible, co-payment, or coinsurance payment for a health care service provided through telehealth, provided that the deductible, co-payment, or coinsurance payment is not in addition to, and does not exceed, the deductible, co-payment, or coinsurance applicable for the same service provided through in-person contact.

(e) Nothing in this section:

(1) requires a health carrier to provide coverage for services that are not medically necessary or are not covered under the enrollee's health plan; or

(2) prohibits a health carrier from:

(i) establishing criteria that a health care provider must meet to demonstrate the safety or efficacy of delivering a particular service through telehealth for which the health

carrier does not already reimburse other health care providers for delivering the service through telehealth;

(ii) establishing reasonable medical management techniques, provided the criteria or techniques are not unduly burdensome or unreasonable for the particular service; or

(iii) requiring documentation or billing practices designed to protect the health carrier or patient from fraudulent claims, provided the practices are not unduly burdensome or unreasonable for the particular service.

(f) Nothing in this section requires the use of telehealth when a health care provider determines that the delivery of a health care service through telehealth is not appropriate or when an enrollee chooses not to receive a health care service through telehealth.

Subd. 4. Parity between telehealth and in-person services. (a) A health carrier must not restrict or deny coverage of a health care service that is covered under a health plan solely:

(1) because the health care service provided by the health care provider through telehealth is not provided through in-person contact; or

(2) based on the communication technology or application used to deliver the health care service through telehealth, provided the technology or application complies with this section and is appropriate for the particular service.

(b) Prior authorization may be required for health care services delivered through telehealth only if prior authorization is required before the delivery of the same service through in-person contact.

(c) A health carrier may require a utilization review for services delivered through telehealth, provided the utilization review is conducted in the same manner and uses the same clinical review criteria as a utilization review for the same services delivered through in-person contact.

(d) A health carrier or health care provider shall not require an enrollee to pay a fee to download a specific communication technology or application.

Subd. 5. Reimbursement for services delivered through telehealth. (a) A health carrier must reimburse the health care provider for services delivered through telehealth on the same basis and at the same rate as the health carrier would apply to those services if the services had been delivered by the health care provider through in-person contact.

(b) A health carrier must not deny or limit reimbursement based solely on a health care provider delivering the service or consultation through telehealth instead of through in-person contact.

(c) A health carrier must not deny or limit reimbursement based solely on the technology and equipment used by the health care provider to deliver the health care service or consultation through telehealth, provided the technology and equipment used by the provider meets the requirements of this section and is appropriate for the particular service.

(d) Nothing in this subdivision prohibits a health carrier and health care provider from entering into a contract that includes a value-based reimbursement arrangement for the delivery of covered services that may include services delivered through telehealth, and such an arrangement shall not be considered a violation of this subdivision.

Subd. 6. Telehealth equipment. (a) A health carrier must not require a health care provider to use specific telecommunications technology and equipment as a condition of coverage under this section, provided the health care provider uses telecommunications technology and equipment that complies with current industry interoperable standards and complies with standards required under the federal Health Insurance Portability and Accountability Act of

1996, Public Law 104-191, and regulations promulgated under that Act, unless authorized under this section.

(b) A health carrier must provide coverage for health care services delivered through telehealth by means of the use of audio-only communication if the communication is a scheduled appointment and the standard of care for that particular service can be met through the use of audio-only communication. Substance use disorder treatment services and mental health care services delivered through telehealth by means of audio-only communication may be covered without a scheduled appointment if the communication was initiated by the enrollee while in an emergency or crisis situation and a scheduled appointment was not possible due to the need of an immediate response. This paragraph expires July 1, 2023.

Subd. 7. Telemonitoring services. A health carrier must provide coverage for telemonitoring services if:

- (1) the telemonitoring service is medically appropriate based on the enrollee's medical condition or status;
- (2) the enrollee is cognitively and physically capable of operating the monitoring device or equipment, or the enrollee has a caregiver who is willing and able to assist with the monitoring device or equipment; and
- (3) the enrollee resides in a setting that is suitable for telemonitoring and not in a setting that has health care staff on site.

Subd. 8. Exception. This section does not apply to coverage provided to state public health care program enrollees under chapter 256B or 256L.

Mississippi

Mississippi statutes and regulations do not address teledentistry or telehealth conducted by oral health professionals. While state laws and regulations do require reimbursement for certain telehealth and telemedicine services provided to Medicaid and private payer patients, services for oral health are not clearly included. The [Center for Connected Health Policy](#) has assembled an overview of telehealth laws in the state.

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Missouri

Requirements and Permissible Practices

Title XII PUBLIC HEALTH AND WELFARE

Chapter 191 Health and Welfare

TELEHEALTH

191.1145. Definitions — telehealth services authorized, when. — 1. As used in sections [191.1145](#) and [191.1146](#), the following terms shall mean:

- (1) **"Asynchronous store-and-forward transfer"**, the collection of a patient's relevant health information and the subsequent transmission of that information from an originating site to a health care provider at a distant site without the patient being present;
- (2) **"Clinical staff"**, any health care provider licensed in this state;
- (3) **"Distant site"**, a site at which a health care provider is located while providing health care services by means of telemedicine;
- (4) **"Health care provider"**, as that term is defined in section [376.1350](#);
- (5) **"Originating site"**, a site at which a patient is located at the time health care services are provided to him or her by means of telemedicine. For the purposes of asynchronous store-and-forward transfer, originating site shall also mean the location at which the health care provider transfers information to the distant site;
- (6) **"Telehealth" or "telemedicine"**, the delivery of health care services by means of information and communication technologies which facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while such patient is at the originating site and the health care provider is at the distant site. Telehealth or telemedicine shall also include the use of asynchronous store-and-forward technology.

2. Any licensed health care provider shall be authorized to provide telehealth services if such services are within the scope of practice for which the health care provider is licensed and are provided with the same standard of care as services provided in person. This section shall not be construed to prohibit a health carrier, as defined in section [376.1350](#), from reimbursing nonclinical staff for services otherwise allowed by law.

3. In order to treat patients in this state through the use of telemedicine or telehealth, health care providers shall be fully licensed to practice in this state and shall be subject to regulation by their respective professional boards.

4. Nothing in subsection 3 of this section shall apply to:

- (1) Informal consultation performed by a health care provider licensed in another state, outside of the context of a contractual relationship, and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation;
- (2) Furnishing of health care services by a health care provider licensed and located in another state in case of an emergency or disaster; provided that, no charge is made for the medical assistance; or
- (3) Episodic consultation by a health care provider licensed and located in another state who provides such consultation services on request to a physician in this state.

5. Nothing in this section shall be construed to alter the scope of practice of any health care provider or to authorize the delivery of health care services in a setting or in a manner not otherwise authorized by the laws of this state.

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6. No originating site for services or activities provided under this section shall be required to maintain immediate availability of on-site clinical staff during the telehealth services, except as necessary to meet the standard of care for the treatment of the patient's medical condition if such condition is being treated by an eligible health care provider who is not at the originating site, has not previously seen the patient in person in a clinical setting, and is not providing coverage for a health care provider who has an established relationship with the patient.

7. Nothing in this section shall be construed to alter any collaborative practice requirement as provided in [chapters 334](#) and [335](#).

Title XXIV BUSINESS AND FINANCIAL INSTITUTIONS

[Chapter 376 Life, Health and Accident Insurance](#)

Chapter 376

376.1350. Definitions.

...

(19) **"Health care professional"**, a physician or other health care practitioner licensed, accredited or certified by the state of Missouri to perform specified health services consistent with state law;

(20) **"Health care provider"** or **"provider"**, a health care professional or a facility;

...

Medicaid Reimbursement

Title XII PUBLIC HEALTH AND WELFARE

[Chapter 208 Old Age Assistance, Aid to Dependent Children and General Relief](#)

TELEHEALTH

208.670. Practice of telehealth, definitions — reimbursement of providers. — 1. As used in this section, these terms shall have the following meaning:

(1) **"Consultation"**, a type of evaluation and management service as defined by the most recent edition of the Current Procedural Terminology published annually by the American Medical Association;

(2) **"Distant site"**, the same meaning as such term is defined in section [191.1145](#);

(3) **"Originating site"**, the same meaning as such term is defined in section [191.1145](#);

(4) **"Provider"**, the same meaning as the term **"health care provider"** is defined in section [191.1145](#), and such provider meets all other MO HealthNet eligibility requirements;

(5) **"Telehealth"**, the same meaning as such term is defined in section [191.1145](#).

2. The department of social services shall reimburse providers for services provided through telehealth if such providers can ensure services are rendered meeting the standard of care that would otherwise be expected should such services be provided in person. The department shall not restrict the originating site through rule or payment so long as the provider can ensure services are rendered meeting the standard of care that would otherwise be expected should such services be provided in person. Payment for services rendered via telehealth shall not depend on any minimum distance requirement between the originating and distant site. Reimbursement for telehealth services shall be made in the same way as reimbursement for in-person contact; however, consideration shall also be made for reimbursement to the originating site. Reimbursement for asynchronous store-and-forward may be capped at the reimbursement rate had the service been provided in person.

208.677. School children, parental authorization required for telehealth. — Prior to the provision of telehealth services in a school, the parent or guardian of the child shall provide authorization for the provision of such service. Such authorization shall include the ability for the parent or guardian to authorize services via telehealth in the school for the remainder of the school year.

208.686. Home telemonitoring services, reimbursement program authorized — discontinuance, when — rules. — 1. Subject to appropriations, the department shall establish a statewide program that permits reimbursement under the MO HealthNet program for home telemonitoring services. For the purposes of this section, “**home telemonitoring service**” shall mean a health care service that requires scheduled remote monitoring of data related to a participant’s health and transmission of the data to a health call center accredited by the Utilization Review Accreditation Commission (URAC).

2. The program shall:

(1) Provide that home telemonitoring services are available only to persons who:

(a) Are diagnosed with one or more of the following conditions:

- a. Pregnancy;
- b. Diabetes;
- c. Heart disease;
- d. Cancer;
- e. Chronic obstructive pulmonary disease;
- f. Hypertension;
- g. Congestive heart failure;
- h. Mental illness or serious emotional disturbance;
- i. Asthma;
- j. Myocardial infarction; or
- k. Stroke; and

(b) Exhibit two or more of the following risk factors:

- a. Two or more hospitalizations in the prior twelve-month period;
- b. Frequent or recurrent emergency department admissions;
- c. A documented history of poor adherence to ordered medication regimens;
- d. A documented history of falls in the prior six-month period;
- e. Limited or absent informal support systems;
- f. Living alone or being home alone for extended periods of time;
- g. A documented history of care access challenges; or
- h. A documented history of consistently missed appointments with health care providers;

(2) Ensure that clinical information gathered by a home health agency or hospital while providing home telemonitoring services is shared with the participant’s physician; and

(3) Ensure that the program does not duplicate any disease management program services provided by MO HealthNet.

3. If, after implementation, the department determines that the program established under this section is not cost effective, the department may discontinue the program and stop providing reimbursement under the MO HealthNet program for home telemonitoring services.

4. The department shall determine whether the provision of home telemonitoring services to persons who are eligible to receive benefits under both the MO HealthNet and Medicare programs achieves cost savings for the Medicare program.

5. If, before implementing any provision of this section, the department determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the department shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

6. The department shall promulgate rules and regulations to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section [536.010](#), that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of [chapter 536](#) and, if applicable, section [536.028](#). This section and [chapter 536](#) are nonseverable and if any of the powers vested with the general assembly pursuant to [chapter 536](#) to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

Private Payer Reimbursement

Title XXIV BUSINESS AND FINANCIAL INSTITUTIONS Chapter 376 Life, Health and Accident Insurance TELEHEALTH

[376.1900. Definitions — reimbursement for telehealth services, when.](#) — 1. As used in this section, the following terms shall mean:

(1) **"Electronic visit"**, or **"e-visit"**, an online electronic medical evaluation and management service completed using a secured web-based or similar electronic-based communications network for a single patient encounter. An electronic visit shall be initiated by a patient or by the guardian of a patient with the health care provider, be completed using a federal Health Insurance Portability and Accountability Act (HIPAA)-compliant online connection, and include a permanent record of the electronic visit;

(2) **"Health benefit plan"** shall have the same meaning ascribed to it in section [376.1350](#);

(3) **"Health care provider"** shall have the same meaning ascribed to it in section [376.1350](#);

(4) **"Health care service"**, a service for the diagnosis, prevention, treatment, cure or relief of a physical or mental health condition, illness, injury or disease;

(5) **"Health carrier"** shall have the same meaning ascribed to it in section [376.1350](#);

(6) **"Telehealth"** shall have the same meaning ascribed to it in section [208.670](#).

2. Each health carrier or health benefit plan that offers or issues health benefit plans which are delivered, issued for delivery, continued, or renewed in this state on or after January 1, 2014, shall not deny coverage for a health care service on the basis that the health care service is provided through telehealth if the same service would be covered if provided through face-to-face diagnosis, consultation, or treatment.

3. A health carrier may not exclude an otherwise covered health care service from coverage solely because the service is provided through telehealth rather than face-to-face consultation or contact between a health care provider and a patient.

4. A health carrier shall not be required to reimburse a telehealth provider or a consulting provider for site origination fees or costs for the provision of telehealth services; however, subject to correct coding, a health carrier shall reimburse a health care provider for the diagnosis, consultation, or treatment of an insured or enrollee when the health care service is delivered through telehealth on the same basis that the health carrier covers the service when it is delivered in person.

5. A health care service provided through telehealth shall not be subject to any greater deductible, co-payment, or coinsurance amount than would be applicable if the same health care service was provided through face-to-face diagnosis, consultation, or treatment.

6. A health carrier shall not impose upon any person receiving benefits under this section any co-payment, coinsurance, or deductible amount, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services that is not equally imposed upon all terms and services covered under the policy, contract, or health benefit plan.

7. Nothing in this section shall preclude a health carrier from undertaking utilization review to determine the appropriateness of telehealth as a means of delivering a health care service, provided that the determinations shall be made in the same manner as those regarding the same service when it is delivered in person.

8. A health carrier or health benefit plan may limit coverage for health care services that are provided through telehealth to health care providers that are in a network approved by the plan or the health carrier.

9. Nothing in this section shall be construed to require a health care provider to be physically present with a patient where the patient is located unless the health care provider who is providing health care services by means of telehealth determines that the presence of a health care provider is necessary.

10. The provisions of this section shall not apply to a supplemental insurance policy, including a life care contract, accident-only policy, specified disease policy, hospital policy providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-term major medical policies of six months' or less duration, or any other supplemental policy as determined by the director of the department of commerce and insurance.

Rules of Missouri Consolidated Health Care Plan

Division 10—Health Care Plan

[Chapter 3—Public Entity Membership](#)

22 CSR 10-3.055 Health Savings Account Plan Benefit Provisions and Covered Charges

...

(10) Virtual visits offered through the vendor's telehealth tool are covered at one hundred percent (100%)

...

22 CSR 10-3.057 Medical Plan Benefit Provisions and Covered Charges

43. Telehealth Services. Telehealth services are covered for the diagnosis, consultation, or treatment of a member on the same basis that the service would be covered when it is delivered in person;

...

22 CSR 10-3.058 PPO 750 Plan Benefit Provisions and Covered Charges

...

(5) The following services are not subject to deductible, coinsurance, or copayment requirements and will be paid at one hundred percent (100%) when provided by a network provider:

...

(F) Virtual visits offered through the vendor's telehealth tool.

...

22 CSR 10-3.059 PPO 1250 Plan Benefit Provisions and Covered Charges

...

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Missouri, continued

(5) The following services are not subject to deductible, coinsurance, or copayment requirements and will be paid at one hundred percent (100%) when provided by a network provider:

...

(F) Virtual visits offered through the vendor's telehealth tool.

...

22 CSR 10-3.061 Plan Limitations

...

(WW) Telehealth site origination fees or costs for the provision of telehealth services are not covered

...

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Montana

Requirements and Permissible Practices

2021 SB 357

Section 1. Telehealth services -- rulemaking authority.

- (1) A person licensed under this title to provide health care in the ordinary course of business or practice of a profession may provide services by means of telehealth when the use of telehealth:
 - (a) is appropriate for the services being provided;
 - (b) meets the standard of care for delivery of services; and
 - (c) complies with any administrative rules for telehealth adopted by the board that licenses the health care provider.
- (2) A board may adopt rules establishing requirements for the use of telehealth by its licensees.
- (3) (a) For the purposes of this section, "telehealth" means the use of audio, video, or other telecommunications technology or media, including audio-only communication, that is:
 - (i) used by a health care provider or health care facility to deliver health care services; and
 - (ii) delivered over a secure connection that complies with the requirements of state and federal privacy laws.

(b) The term does not include delivery of health care services by means of facsimile machines or electronic messaging alone. The use of facsimile machines and electronic messaging is not precluded if used in conjunction with other audio, video, or telecommunications technology or media

...

Medicaid Reimbursement

2021 SB 357

Section 2. Telehealth services -- requirements -- limitations.

- (1) Providers enrolled in the Medicaid program may provide medically necessary services by means of telehealth if the service:
 - (a) is clinically appropriate for delivery by telehealth as specified by the department by rule or policy;
 - (b) comports with the guidelines of the applicable Medicaid provider manual; and
 - (c) is not specifically required in the applicable provider manual to be provided in a face-to-face manner.
- (2) A provider shall:
 - (a) ensure an enrollee receiving telehealth services has the same rights to confidentiality and security as provided for traditional office visits;
 - (b) follow consent and patient information protocols consistent with the protocols followed for in person visits; and
 - (c) comply with recordkeeping requirements established by the department by rule.
- (3) Telehealth services:
 - (a) may be provided using secure portal messaging, secure instant messaging, telephone communication, or audiovisual communication;
 - (b) may not be provided in a setting or manner not otherwise authorized by law; and
 - (c) must be reimbursed at the same rate of payment as services delivered in person.
- (4) An enrollee's residence is not reimbursable as an enrolled originating site provider.

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(5) The department shall adopt rules for the provision of telehealth services, including but not limited to:

- (a) billing procedures for enrolled providers;
- (b) the services considered clinically appropriate for telehealth purposes;
- (c) recordkeeping requirements for providers, including originating site providers; and
- (d) other requirements for originating site providers, including allowable provider types, reimbursement rates, and requirements for the secure technology to be used at originating sites.

(6) Nothing in this section may be construed as altering the scope of practice of any enrolled provider delivering services by means of telehealth.

...

Section 11. Section 53-6-113, MCA, is amended to read: "53-6-113. Department to adopt rules.

(1) The department shall adopt appropriate rules necessary for the administration of the Montana Medicaid program as provided for in this part and that may be required by federal laws and regulations governing state participation in Medicaid under Title XIX of the Social Security Act, 42 U.S.C. 1396, et seq., as amended.

...

(3) The department shall establish by rule the rates for reimbursement of services provided under this part. The department may in its discretion set rates of reimbursement that it determines necessary for the purposes of the program. In establishing rates of reimbursement, the department may consider but is not limited to considering:

...

- (b) deliver services by means of telehealth in accordance with [section 2].

...

Section 12. Section 53-6-155, MCA, is amended to read: "53-6-155. Definitions. As used in this part, unless expressly provided otherwise, the following definitions apply:

...

(14) (a) "Originating site provider" means an enrolled provider who is operating a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d, et seq., and assisting an enrollee with the technology necessary for a telehealth visit.

- (b) An originating site provider is not required to participate in the delivery of the health care service.

...

(17) (a) "Telehealth" means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, and information across distance, including but not limited to the use of secure portal messaging, secure instant messaging, audiovisual communications, and audio-only communications.

- (b) The term includes both clinical and nonclinical services."

Private Payer Reimbursement

2021 HB 43

Section 1. Section 2-18-704, MCA, is amended to read: "2-18-704. Mandatory provisions. (1) An insurance contract or plan issued under this part must contain provisions that permit:

...

(7) An insurance contract or plan issued under this part must include coverage for:

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...

(b) telehealth services, as provided for in 33-22-138

...

Section 2. Section 20-25-1303, MCA, is amended to read: "20-25-1303.

Duties of commissioner -- group benefits plans and employee premium levels not mandatory subjects for collective bargaining. (1) The commissioner shall:

...

(2) (a) Except as provided in subsection (2)(b), the provisions of Title 33 do not apply to the commissioner when exercising the duties provided for in this part.

(b) Group benefit plans designed under this part must include coverage for telehealth services as provided in 33-22-138.

...

Section 3. Section 20-25-1403, MCA, is amended to read: "20-25-1403. Authorization to establish self-insured health plan for students -- requirements -- exemption.

(1) The commissioner may establish a self-insured student health plan for enrolled students of the system and their dependents, including students of a community college district. In developing a self-insured student health plan, the commissioner shall:

...

(5) (a) Except as provided in subsection (5)(b), the provisions of Title 33 do not apply to the commissioner when exercising the duties provided for in this part.

(b) A self-insured student health plan established under this part must include coverage for telehealth services as provided in 33-22-138."

Section 4. Section 33-22-138, MCA, is amended to read: "33-22-138. Coverage for telehealth services -- rulemaking. (1) Each group or individual policy, certificate of disability insurance, subscriber contract, membership contract, or health care services agreement that provides coverage for health care services must provide coverage for health care services provided by a health care provider or health care facility by means of telehealth if the services are otherwise covered by the policy, certificate, contract, or agreement.

(2) A policy, certificate, contract, or agreement may not:

(a) impose restrictions involving:

(i) the site at which the patient is physically located and receiving health care services by means of telehealth; or

(ii) the site at which the health care provider is physically located and providing the services by means of telehealth; or

(b) distinguish between telehealth services provided to patients in rural locations and telehealth services provided to patients in urban locations.

(3) Coverage under this section must be equivalent to the coverage for services that are provided in person by a health care provider or health care facility.

(4) Nothing in this section may be construed to require:

(a) a health insurance issuer to provide coverage for services that are not medically necessary, subject to the terms and conditions of the insured's policy;

(b) coverage of an otherwise noncovered benefit;

(c) a health care provider to be physically present with a patient at the site where the patient is located unless the health care provider who is providing health care services by means of telehealth determines that the presence of a health care provider is necessary; or

- (d) except as provided in 50-46-310 or as provided in Title 37 and related administrative rules, a patient to have a previously established patient-provider relationship with a specific health care provider in order to receive health care services by means of telehealth.
- (5) Coverage under this section may be subject to deductibles, coinsurance, and copayment provisions. Special deductible, coinsurance, copayment, or other limitations that are not generally applicable to other medical services covered under the plan may not be imposed on the coverage for services provided by means of telehealth.
- (6) This section does not apply to disability income, hospital indemnity, Medicare supplement, specified disease, or long-term care policies.
- (7) The commissioner may adopt rules necessary to implement the provisions of this section.
- (8) For the purposes of this section, the following definitions apply:
- (a) "Health care facility" means a critical access hospital, hospice, hospital, long-term care facility, mental health center, outpatient center for primary care, or outpatient center for surgical services licensed pursuant to Title 50, chapter 5.
 - (b) "Health care provider" means an individual:
 - (i) licensed pursuant to Title 37, chapter 3, 4, 6, 7, 10, 11, 15, 17, 20, 22, 23, 24, 25, 26, or 35;
- ...
- (c) (i) "Telehealth" means the use of audio, video, or other telecommunications technology or media, including audio-only communication, that is:
 - (A) used by a health care provider or health care facility to deliver health care services; and
 - (B) delivered over a secure connection that complies with state and federal privacy laws.
 - (ii) The term does not include delivery of health care services by means of facsimile machines or electronic messaging alone. The use of facsimile and electronic message is not precluded if used in conjunction with other audio, video, or telecommunications technology or media.

Nebraska

Requirements and Permissible Practices

[Nebraska Revised Statute 38-120.01](#)

Telehealth, defined.

Telehealth means the use of medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a credential holder in the diagnosis or treatment of a patient. Telehealth includes services originating from a patient's home or any other location where such patient is located, asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a credential holder at another site for medical evaluation, and telemonitoring.

[Nebraska Revised Statute 38-120.02](#)

Telemonitoring, defined.

Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a credential holder for analysis and storage.

[Nebraska Revised Statute 38-1,143](#)

Telehealth; provider-patient relationship; prescription authority; applicability of section.

(1) Except as otherwise provided in subsection (4) of this section, any credential holder under the Uniform Credentialing Act may establish a provider-patient relationship through telehealth.

(2) Any credential holder under the Uniform Credentialing Act who is providing a telehealth service to a patient may prescribe the patient a drug if the credential holder is authorized to prescribe under state and federal law.

(3) The department may adopt and promulgate rules and regulations pursuant to section [38-126](#) that are consistent with this section.

(4) This section does not apply to a credential holder under the Cosmetology, Electrology, Esthetics, Nail Technology, and Body Art Practice Act, the Dialysis Patient Care Technician Registration Act, the Environmental Health Specialists Practice Act, the Funeral Directing and Embalming Practice Act, the Massage Therapy Practice Act, the Medical Radiography Practice Act, the Nursing Home Administrator Practice Act, the Perfusion Practice Act, the Surgical First Assistant Practice Act, the Veterinary Medicine and Surgery Practice Act, or the Water Well Standards and Contractors' Practice Act.

[Neb. Admin. R. & Regs. Tit. 172, Ch. 56, § 008](#)

[008. UNPROFESSIONAL CONDUCT.](#)

Unprofessional conduct is set out in Neb. Rev. Stat. § 38-179 and includes the following:

...

(M) Prescribing drugs to an individual based solely on answers to questions provided by teledentistry without first establishing a proper dentist-patient relationship;

...

[Neb. Admin. R. & Regs. Tit. 471, Ch. 6, § 002](#)

[Ch. 6, § 002 Formerly cited as 471 NE ADC Ch. 6, § 6-001](#)

[002. DEFINITIONS.](#)

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The following definitions apply:

...

002.06 TELEDENTISTRY. Teledentistry is the use of technology, including digital radiographs, digital photos and videos, and electronic health records, to facilitate delivery of oral healthcare and oral health education services from a provider in one location to a patient in a physically different location. Teledentistry is to be used for the purposes of evaluation, diagnosis, or treatment.

[Neb. Admin. R. & Regs. Tit. 471, Ch. 6, § 006](#)

[Ch. 6, § 006](#)

[006. TELEDENTISTRY.](#)

006.01 GENERAL REQUIREMENTS. Teledentistry follows the requirements of telehealth in accordance with 471 NAC 1. Services requiring hands on professional care are excluded.

Medicaid Reimbursement

[Nebraska Revised Statute 71-8501](#)

Act, how cited.

Sections [71-8501](#) to [71-8508](#) shall be known and may be cited as the Nebraska Telehealth Act.

[Nebraska Revised Statute 71-8502](#)

Legislative findings.

The Legislature finds that:

- (1) Access to health care facilities and health care practitioners is critically important to the citizens of Nebraska;
- (2) Access to a continuum of health care services is restricted in some medically underserved areas of Nebraska, and many health care practitioners in such areas are isolated from mentors, colleagues, and information resources necessary to support them personally and professionally;
- (3) The use of telecommunications technology to deliver health care services can reduce health care costs, improve health care quality, improve access to health care, and enhance the economic health of communities in medically underserved areas of Nebraska; and
- (4) The full potential of delivering health care services through telehealth cannot be realized without the assurance of payment for such services and the resolution of existing legal and policy barriers to such payment.

[Nebraska Revised Statute 71-8503](#)

Terms, defined.

For purposes of the Nebraska Telehealth Act:

- (1) Department means the Department of Health and Human Services;
- (2) Health care practitioner means a Nebraska medicaid-enrolled provider who is licensed, registered, or certified to practice in this state by the department;
- (3) Telehealth means the use of medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a health care practitioner in the diagnosis or treatment of a patient. Telehealth includes services originating from a patient's home or any other location where such patient is located, asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a health care practitioner at another site for medical evaluation, and telemonitoring;

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- (4) Telehealth consultation means any contact between a patient and a health care practitioner relating to the health care diagnosis or treatment of such patient through telehealth; and
- (5) Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care practitioner for analysis and storage.

[Nebraska Revised Statute 71-8504](#)

Act; how construed.

The Nebraska Telehealth Act does not: (1) Alter the scope of practice of any health care practitioner; (2) authorize the delivery of health care services in a setting or manner not otherwise authorized by law; or (3) limit a patient's right to choose in-person contact with a health care practitioner for the delivery of health care services for which telehealth is available.

[Nebraska Revised Statute 71-8505](#)

71-8505.

Written statement; requirements.

(1) Prior to an initial telehealth consultation under section [71-8506](#), a health care practitioner who delivers a health care service to a patient through telehealth shall ensure that the following written information is provided to the patient:

- (a) A statement that the patient retains the option to refuse the telehealth consultation at any time without affecting the patient's right to future care or treatment and without risking the loss or withdrawal of any program benefits to which the patient would otherwise be entitled;
- (b) A statement that all existing confidentiality protections shall apply to the telehealth consultation;
- (c) A statement that the patient shall have access to all medical information resulting from the telehealth consultation as provided by law for patient access to his or her medical records; and
- (d) A statement that dissemination of any patient identifiable images or information from the telehealth consultation to researchers or other entities shall not occur without the written consent of the patient.

(2) The patient shall sign a written statement prior to an initial telehealth consultation, indicating that the patient understands the written information provided pursuant to subsection (1) of this section and that this information has been discussed with the health care practitioner or his or her designee. Such signed statement shall become a part of the patient's medical record.

(3) If the patient is a minor or is incapacitated or mentally incompetent such that he or she is unable to sign the written statement required by subsection (2) of this section, such statement shall be signed by the patient's legally authorized representative.

(4) This section shall not apply in an emergency situation in which the patient is unable to sign the written statement required by subsection (2) of this section and the patient's legally authorized representative is unavailable.

[Nebraska Revised Statute 71-8506](#)

Medical assistance program; reimbursement; requirements.

(1) In-person contact between a health care practitioner and a patient shall not be required under the medical assistance program established pursuant to the Medical Assistance Act and Title XXI of the federal Social Security Act, as amended, for health care services delivered through telehealth that are otherwise eligible for reimbursement under such program and

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federal act. Such services shall be subject to reimbursement policies developed pursuant to such program and federal act. This section also applies to managed care plans which contract with the department pursuant to the Medical Assistance Act only to the extent that:

- (a) Health care services delivered through telehealth are covered by and reimbursed under the medicaid fee-for-service program; and
- (b) Managed care contracts with managed care plans are amended to add coverage of health care services delivered through telehealth and any appropriate capitation rate adjustments are incorporated.

(2) The reimbursement rate for a telehealth consultation shall, as a minimum, be set at the same rate as the medical assistance program rate for a comparable in-person consultation, and the rate shall not depend on the distance between the health care practitioner and the patient.

(3) The department shall establish rates for transmission cost reimbursement for telehealth consultations, considering, to the extent applicable, reductions in travel costs by health care practitioners and patients to deliver or to access health care services and such other factors as the department deems relevant. Such rates shall include reimbursement for all two-way, real-time, interactive communications, unless provided by an Internet service provider, between the patient and the physician or health care practitioner at the distant site which comply with the federal Health Insurance Portability and Accountability Act of 1996 and rules and regulations adopted thereunder and with regulations relating to encryption adopted by the federal Centers for Medicare and Medicaid Services and which satisfy federal requirements relating to efficiency, economy, and quality of care.

[Nebraska Revised Statute 71-8507](#)

Health care facility; duties.

A health care facility licensed under the Health Care Facility Licensure Act that receives reimbursement under the Nebraska Telehealth Act for telehealth consultations shall establish quality of care protocols and patient confidentiality guidelines to ensure that such consultations meet the requirements of the act and acceptable patient care standards.

[Nebraska Revised Statute 71-8508](#)

Rules and regulations.

The department shall adopt and promulgate rules and regulations to carry out the Nebraska Telehealth Act, including, but not limited to, rules and regulations to: (1) Ensure the provision of appropriate care to patients; (2) prevent fraud and abuse; and (3) establish necessary methods and procedures.

[TITLE 471 NEBRASKA MEDICAL ASSISTANCE PROGRAM SERVICES CHAPTER 1 ADMINISTRATION](#)

...

004. TELEHEALTH SERVICES FOR PHYSICAL AND BEHAVIORAL HEALTH SERVICES. This section applies to medical services in Medicaid fee-for-service and Managed Care.

004.01 DEFINITIONS. The following definitions apply to this section: 004.01

(A) CHILD. An individual under 19 years of age. 004.01

(B) COMPARABLE SERVICE. A service provided face-to-face. 004.01

(C) DISTANT SITE. The location of the provider of the telehealth service. 004.01

(D) ORIGINATING SITE. The location of the client at the time of the telehealth consultation.

004.01

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(E) TELEHEALTH CONSULTATION. Any contact between a client and a health care practitioner relating to the health care diagnosis or treatment of such client through telehealth. For the purposes of telehealth services, a consultation includes any service delivered through telehealth. 004.01

(F) TELEMONITORING. The remote monitoring of a client's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care practitioner for analysis and storage.

004.02 APPLICABLE LAWS. Health care practitioners providing telehealth services must follow all applicable state and federal laws and regulations governing their practice and the services they provide.

004.03 ORIGINATING SITES. Health care practitioners must ensure that the originating sites meet the standards for telehealth services. Originating sites must provide a place where the client's right to receive confidential and private services is protected.

004.04 INFORMED CONSENT. Before an initial telehealth consultation, the health care practitioner must provide the client the following written information which must be acknowledged by the client in writing or via email:

(A) Alternative options are available, including in-person services. These alternatives are specifically listed on the client's informed consent statement;

(B) All existing laws and protections for services received in-person also apply to telehealth, including:

(i) Confidentiality of information;

(ii) Access to medical records; and

(iii) Dissemination of client identifiable information;

(C) Whether the telehealth consultation will be or will not be recorded;

(D) The identification of all the parties who will be present at each telehealth consultation, and a statement indicating that the client has the right to exclude anyone from either the originating or the distant site; and

(E) The written consent form becomes a part of the client's medical record and a copy must be provided to the client or the client's authorized representative.

...

004.06 TELECOMMUNICATIONS TECHNOLOGY COSTS. Telehealth services and transmission costs are covered by Medicaid when:

(1) The technology used meets industry standards;

(2) The technology is Health Insurance Portability and Accountability Act of 1996 (HIPAA) compliant; and

(3) The telehealth technology solution in use at both the originating and the distant site must be sufficient to allow the health care practitioner to appropriately complete the service billed to Medicaid.

004.06(A) STANDARDS. The standards above apply to any peripheral diagnostic scope or device used during the telehealth consultation.

...

004.07 TELEMONITORING REIMBURSEMENT. Medicaid will reimburse for telemonitoring when all of the following requirements are met:

(1) The services are from the originating site;

(2) The client is cognitively capable to operate the equipment or has a willing and able person to assist in the transmission of electronic data;

(3) The originating site has space for all program equipment and full transmission capability; and

(4) The provider must maintain a client's record containing data supporting the medical necessity of the service, all transmissions and subsequent review received from the client, and how the data transmitted from the client is being utilized in the continuous development and implementation of the client's plan of care.

004.07(A) PER DIEM RATE. Telemonitoring is paid at a daily per diem rate set by Medicaid and includes the following:

- (i) Health care practitioner review and interpretation of the client data;
- (ii) Equipment and all supplies, accessories, and services necessary for proper functioning and effective use of the equipment;
- (iii) Medically necessary visits to the home by a health care practitioner; and
- (iv) Training on the use of equipment and completion of necessary records.

004.07(B) FIXED PAYMENT. No additional or separate payment beyond the fixed payment is allowable.

004.08 PRACTITIONER CONSULTATION REIMBURSEMENT. Medicaid will reimburse a consulting health care practitioner when all of the following requirements are met:

- (1) After obtaining and analyzing the transmitted information, the consulting health care practitioner reports back to the referring health care practitioner;
- (2) The consulting health care practitioner must bill for services using the appropriate modifier; and
- (3) Payment is not made to the referring health care practitioner who sends the medical documentation.

...

004.09 REIMBURSEMENT OF TELEHEALTH. Telehealth services are reimbursed by Medicaid at the same rate as the service when it is delivered in person in accordance with each service specific chapter in Title 471 NAC.

004.10 REIMBURSEMENT OF ORIGINATION SITE FEE. The originating site fee is paid to the Medicaid-enrolled facility hosting the client for telehealth services at a rate set forth in the Medicaid fee schedule or under arrangement with the Managed Care Organization (MCO).

004.11 OUT-OF-STATE TELEHEALTH SERVICES. Out-of-State telehealth services are covered if the telehealth services otherwise meet the regulatory requirements for payment for services provided outside Nebraska and:

- (A) When the distant site is located in another state and the originating site is located in Nebraska; or
- (B) When the Nebraska client is located at an originating site in another state, whether or not the provider's distant site is located in or out of Nebraska.

004.12 DOCUMENTATION. The medical record for telehealth services must follow all applicable statutes and regulations on documentation. The use of telehealth technology must be documented in the same medical record, and must include the following telehealth information:

- (A) Documentation of which site initiated the call;
- (B) Documentation of the telecommunication technology utilized; and
- (C) The time the service began and ended.

Private Payer Reimbursement

[Nebraska Revised Statute 44-312](#)

Telehealth and telemonitoring services covered under policy, certificate, contract, or plan; insurer; duties.

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(1) For purposes of this section:

(a) Telehealth means the use of medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a health care provider in the diagnosis or treatment of a patient. Telehealth includes services originating from a patient's home or any other location where such patient is located, asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a health care provider at another site for medical evaluation, and telemonitoring; and

(b) Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care provider for analysis and storage.

(2) Any insurer offering (a) any individual or group sickness and accident insurance policy, certificate, or subscriber contract delivered, issued for delivery, or renewed in this state, (b) any hospital, medical, or surgical expense-incurred policy, except for policies that provide coverage for a specified disease or other limited-benefit coverage, or (c) any self-funded employee benefit plan to the extent not preempted by federal law, shall provide upon request to a policyholder, certificate holder, or health care provider a description of the telehealth and telemonitoring services covered under the relevant policy, certificate, contract, or plan.

(3) The description shall include:

(a) A description of services included in telehealth and telemonitoring coverage, including, but not limited to, any coverage for transmission costs;

(b) Exclusions or limitations for telehealth and telemonitoring coverage, including, but not limited to, any limitation on coverage for transmission costs;

(c) Requirements for the licensing status of health care providers providing telehealth and telemonitoring services; and

(d) Requirements for demonstrating compliance with the signed written statement requirement in section [71-8505](#).

[Nebraska Revised Statute 44-7,107](#)

Telehealth; asynchronous review by dermatologist; coverage.

(1) For purposes of this section:

(a) Asynchronous review means the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a health care provider at another site for medical evaluation;

...

(c) Telehealth has the same meaning as in section [44-312](#).

(2) Any insurer offering (a) any individual or group sickness and accident insurance policy, certificate, or subscriber contract delivered, issued for delivery, or renewed in this state, (b) any hospital, medical, or surgical expense-incurred policy, or (c) any self-funded employee benefit plan to the extent not preempted by federal law, shall not exclude, in any policy, certificate, contract, or plan offered or renewed on or after August 24, 2017, a service from coverage solely because the service is delivered through telehealth and is not provided through in-person consultation or contact between a licensed health care provider and a patient.

...

(c) It is not a violation of this subsection for an insurer to include a deductible, copayment, or coinsurance requirement for a health care service provided through telehealth if such costs do not exceed those included for the same services provided through in-person contact.

Nebraska, continued

(4) Nothing in this section shall be construed to require an insurer to provide coverage for services that are not medically necessary.

(5) This section does not apply to any policy, certificate, contract, or plan that provides coverage for a specified disease or other limited-benefit coverage.

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Nevada

Requirements and Permissible Practices

CHAPTER 629 – HEALING ARTS GENERALLY GENERAL PROVISIONS

Definitions

[NRS 629.031 “Provider of health care” defined.](#)

Except as otherwise provided by a specific statute:

1. “Provider of health care” means:

...

(c) A dentist;

...

TELEHEALTH

[NRS 629.510 Legislative findings and declarations.](#)

The Legislature hereby finds and declares that:

1. Health care services provided through telehealth are often as effective as health care services provided in person;
2. The provision of services through telehealth does not detract from, and often improves, the quality of health care provided to patients and the relationship between patients and providers of health care; and
3. It is the public policy of this State to:
 - (a) Encourage and facilitate the provision of services through telehealth to improve public health and the quality of health care provided to patients and to lower the cost of health care in this State; and
 - (b) Ensure that services provided through telehealth are covered by policies of insurance to the same extent as though provided in person or by other means.

[NRS 629.515 Valid license or certificate required; exception; restrictions; jurisdiction over and applicability of laws. As amended by 2021 SB 5](#)

1. Except as otherwise provided in this subsection, before a provider of health care who is located at a distant site may use telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient, the provider must hold a valid license or certificate to practice his or her profession in this State, including, without limitation, a special purpose license issued pursuant to [NRS 630.261](#). The requirements of this subsection do not apply to a provider of health care who is providing services within the scope of his or her employment by or pursuant to a contract entered into with an urban Indian organization, as defined in 25 U.S.C. § 1603.
2. The provisions of this section must not be interpreted or construed to:
 - (a) Modify, expand or alter the scope of practice of a provider of health care; or
 - (b) Authorize a provider of health care to provide services in a setting that is not authorized by law or in a manner that violates the standard of care required of the provider of health care.
3. A provider of health care who is located at a distant site and uses telehealth to direct or manage the care or render a diagnosis of a patient who is located at an originating site in this State or write a treatment order or prescription for such a patient:
 - (a) Is subject to the laws and jurisdiction of the State of Nevada, including, without limitation, any regulations adopted by an occupational licensing board in this State,

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regardless of the location from which the provider of health care provides services through telehealth.

(b) Shall comply with all federal and state laws that would apply if the provider were located at a distant site in this State.

4. A provider of health care may establish a relationship with a patient using telehealth when it is clinically appropriate to establish a relationship with a patient in that manner. The State Board of Health may adopt regulations governing the process by which a provider of health care may establish a relationship with a patient using telehealth.

5. As used in this section:

(a) "Distant site" means the location of the site where a telehealth provider of health care is providing telehealth services to a patient located at an originating site.

(b) "Originating site" means the location of the site where a patient is receiving telehealth services from a provider of health care located at a distant site.

(c) "Telehealth" means the delivery of services from a provider of health care to a patient at a different location through the use of information and audio-visual communication technology, not including, facsimile or electronic mail. The term includes, without limitation, the delivery of services from a provider of health care to a patient at a different location through the use of:

(1) Synchronous interaction or an asynchronous system of storing and forwarding information; and

(2) Audio-only interaction, whether synchronous or asynchronous.

PRESCRIPTIONS

General Provisions

[NRS 639.235 Persons authorized to prescribe and write prescriptions; procedure for filling certain prescriptions written by persons not licensed in this State.](#)

1. No person other than a practitioner holding a license to practice his or her profession in this State may prescribe or write a prescription, except that a prescription written by a person who is not licensed to practice in this State, but is authorized by the laws of another state to prescribe, shall be deemed to be a legal prescription unless the person prescribed or wrote the prescription in violation of the provisions of [NRS 453.3611](#) to [453.3648](#), inclusive.

2. If a prescription that is prescribed by a person who is not licensed to practice in this State, but is authorized by the laws of another state to prescribe, calls for a controlled substance listed in:

(a) Schedule II, the registered pharmacist who is to fill the prescription shall establish and document that the prescription is authentic and that a bona fide relationship between the patient and the person prescribing the controlled substance did exist when the prescription was written.

(b) Schedule III or IV, the registered pharmacist who is to fill the prescription shall establish that the prescription is authentic and that a bona fide relationship between the patient and the person prescribing the controlled substance did exist when the prescription was written. This paragraph does not require the registered pharmacist to inquire into such a relationship upon the receipt of a similar prescription subsequently issued for that patient.

3. A pharmacist who fills a prescription described in subsection 2 shall record on the prescription or in the prescription record in the pharmacy's computer:

(a) The name of the person with whom the pharmacist spoke concerning the prescription;

(b) The date and time of the conversation; and

(c) The date and time the patient was examined by the person prescribing the controlled substance for which the prescription was issued.

4. For the purposes of subsection 2, a bona fide relationship between the patient and the person prescribing the controlled substance shall be deemed to exist if the patient was examined in person, electronically, telephonically or by fiber optics, including, without limitation, through telehealth, within or outside this State or the United States by the person prescribing the controlled substances within the 6 months immediately preceding the date the prescription was issued.

[NRS 639.23911 Initial prescription for certain controlled substances for treatment of pain: Requirements for issuance; condition on issuing additional prescriptions.](#)

1. Before issuing an initial prescription for a controlled substance listed in schedule II, III or IV for the treatment of pain, a practitioner, other than a veterinarian, must:

(a) Have established a bona fide relationship, as described in subsection 4 of [NRS 639.235](#), with the patient;

(b) Perform an evaluation and risk assessment of the patient that meets the requirements of subsection 1 of [NRS 639.23912](#);

(c) Establish a preliminary diagnosis of the patient and a treatment plan tailored toward treating the pain of the patient and the cause of that pain;

(d) Document in the medical record of the patient the reasons for prescribing the controlled substance instead of an alternative treatment that does not require the use of a controlled substance; and

(e) Obtain informed consent to the use of the controlled substance that meets the requirements of subsection 2 of [NRS 639.23912](#) from:

(1) The patient, if the patient is 18 years of age or older or legally emancipated and has the capacity to give such consent;

(2) The parent or guardian of a patient who is less than 18 years of age and not legally emancipated; or

(3) The legal guardian of a patient of any age who has been adjudicated mentally incapacitated.

2. If a practitioner, other than a veterinarian, prescribes a controlled substance listed in schedule II, III or IV for the treatment of pain, the practitioner shall not issue more than one additional prescription that increases the dose of the controlled substance unless the practitioner meets with the patient, in person or using telehealth, to reevaluate the treatment plan established pursuant to paragraph (c) of subsection 1.

Medicaid Reimbursement

CHAPTER 695G - MANAGED CARE COVERAGE BY MANAGED CARE ORGANIZATIONS

[NRS 695G.162 Required provision concerning coverage for services provided through telehealth. As amended by 2021 SB 5](#)

1. A health care plan issued by a managed care organization for group coverage must include coverage for services provided to an insured through telehealth to the same extent and, except for services provided through audio-only interaction, in the same amount as though provided in person or by other means.

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2. A managed care organization shall not:
 - (a) Require an insured to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;
 - (b) Require a provider of health care to demonstrate that it is necessary to provide services to an insured through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;
 - (c) Refuse to provide the coverage described in subsection 1 because of:
 - (1) The distant site from which a provider of health care provides services through telehealth or the originating site at which a member receives services through telehealth; or
 - (2) The technology used to provide the services;
 - (d) Require covered services to be provided through telehealth as a condition to providing coverage for such services.
 - (e) Categorize a service provided through telehealth differently for purposes relating to coverage or reimbursement than if the service had been provided in person or through other means.
3. A health care plan of a managed care organization must not require an insured to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. Such a health care plan may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.
4. The provisions of this section do not require a managed care organization to:
 - (a) Ensure that covered services are available to an insured through telehealth at a particular originating site;
 - (b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or
 - (c) Enter into a contract with any provider of health care or cover any service if the managed care organization is not otherwise required by law to do so.
5. Evidence of coverage that is delivered, issued for delivery or renewed on or after July 1, 2015, has the legal effect of including the coverage required by this section, and any provision of the plan or the renewal which is in conflict with this section is void.
6. As used in this section:
 - (a) "Distant site" has the meaning ascribed to it in [NRS 629.515](#).
 - (b) "Originating site" has the meaning ascribed to it in [NRS 629.515](#).
 - (c) "Provider of health care" has the meaning ascribed to it in [NRS 439.820](#).
 - (d) "Telehealth" has the meaning ascribed to it in [NRS 629.515](#).

Private Payer Reimbursement

CHAPTER 695B - NONPROFIT CORPORATIONS FOR HOSPITAL, MEDICAL AND DENTAL SERVICE

[NRS 695B.1904 Required provision concerning coverage for services provided through telehealth](#). As amended by [2021 SB 5](#)

1. A contract for hospital, medical or dental services subject to the provisions of this chapter must include services provided to an insured through telehealth to the same extent and, except

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for services provided through audio-only interaction, in the same amount as though provided in person or by other means.

2. A medical services corporation that issues contracts for hospital, medical or dental services shall not:

(a) Require an insured to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;

(b) Require a provider of health care to demonstrate that it is necessary to provide services to an insured through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;

(c) Refuse to provide the coverage described in subsection 1 because of:

(1) The distant site from which a provider of health care provides services through telehealth or the originating site at which a member receives services through telehealth; or

(2) The technology used to provide the services;

(d) Require covered services to be provided through telehealth as a condition to providing coverage for such services.

(e) Categorize a service provided through telehealth differently for purposes relating to coverage or reimbursement than if the service had been provided in person or through other means.

3. A contract for hospital, medical or dental services must not require an insured to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. A contract for hospital, medical or dental services may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.

4. The provisions of this section do not require a medical services corporation that issues contracts for hospital, medical or dental services to:

(a) Ensure that covered services are available to an insured through telehealth at a particular originating site;

(b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or

(c) Enter into a contract with any provider of health care or cover any service if the medical services corporation is not otherwise required by law to do so.

5. A contract for hospital, medical or dental services subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after October 5, 2021, has the legal effect of including the coverage required by this section, and any provision of the contract or the renewal which is in conflict with this section is void.

6. As used in this section:

(a) "Distant site" has the meaning ascribed to it in [NRS 629.515](#).

(b) "Originating site" has the meaning ascribed to it in [NRS 629.515](#).

(c) "Provider of health care" has the meaning ascribed to it in [NRS 439.820](#).

(d) "Telehealth" has the meaning ascribed to it in [NRS 629.515](#).

CHAPTER 695D - PLANS FOR DENTAL CARE

[NRS 695D.216 Required provision concerning coverage for services provided through telehealth. As amended by 2021 SB 5](#)

1. A plan for dental care must include coverage for services provided to a member through telehealth to the same extent and, except for services provided through audio-only interaction, in the same amount as though provided in person or by other means.
2. An organization for dental care shall not:
 - (a) Require a member to establish a relationship in person with a provider of health care or provide any additional consent to or reason for obtaining services through telehealth as a condition to providing the coverage described in subsection 1;
 - (b) Require a provider of health care to demonstrate that it is necessary to provide services to a member through telehealth or receive any additional type of certification or license to provide services through telehealth as a condition to providing the coverage described in subsection 1;
 - (c) Refuse to provide the coverage described in subsection 1 because of:
 - (3) The distant site from which a provider of health care provides services through telehealth or the originating site at which a member receives services through telehealth; or
 - (4) The technology used to provide the services;
 - (d) Require covered services to be provided through telehealth as a condition to providing coverage for such services.
 - (e) Categorize a service provided through telehealth differently for purposes relating to coverage or reimbursement than if the service had been provided in person or through other means.
3. A plan for dental care must not require a member to obtain prior authorization for any service provided through telehealth that is not required for the service when provided in person. A plan for dental care may require prior authorization for a service provided through telehealth if such prior authorization would be required if the service were provided in person or by other means.
4. The provisions of this section do not require an organization for dental care to:
 - (a) Ensure that covered services are available to a member through telehealth at a particular originating site;
 - (b) Provide coverage for a service that is not a covered service or that is not provided by a covered provider of health care; or
 - (c) Enter into a contract with any provider of health care or cover any service if the organization for dental care is not otherwise required by law to do so.
5. A plan for dental care subject to the provisions of this chapter that is delivered, issued for delivery or renewed on or after July 1, 2015, has the legal effect of including the coverage required by this section, and any provision of the plan or the renewal which is in conflict with this section is void.
6. As used in this section:
 - (a) "Distant site" has the meaning ascribed to it in [NRS 629.515](#).
 - (b) "Originating site" has the meaning ascribed to it in [NRS 629.515](#).
 - (c) "Provider of health care" has the meaning ascribed to it in [NRS 439.820](#).
 - (d) "Telehealth" has the meaning ascribed to it in [NRS 629.515](#).

New Hampshire

Requirements and Permissible Practices

TITLE XXX

OCCUPATIONS AND PROFESSIONS

CHAPTER 310-A

OFFICE OF PROFESSIONAL LICENSURE AND CERTIFICATION

310-A:1-g Telemedicine and Telehealth Services. –

I. “Telemedicine” means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

II. “Telehealth” means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

III. Individuals licensed, certified, or registered pursuant to RSA 137-F; RSA 151-A; RSA 315; RSA 316-A; RSA 317-A; RSA 326-B; RSA 326-D; RSA 326-H; RSA 327; RSA 328-E; RSA 328-F; RSA 328-G; RSA 329-B; RSA 330-A; RSA 330-C; RSA 327-A; RSA 329; RSA 326-B; RSA 318; RSA 328-I; RSA 328-J may provide services through telemedicine or telehealth, provided the services rendered are authorized by scope of practice. Nothing in this provision shall be construed to expand the scope of practice for individuals regulated under this chapter.

IV. Notwithstanding any provision of law to the contrary, an out-of-state healthcare professional providing services by means of telemedicine or telehealth shall be required to be licensed, certified, or registered by the appropriate licensing board within the division of health professions. This paragraph shall not apply to out-of-state physicians who provide consultation services pursuant to RSA 329:21, II.

V. An individual providing services by means of telemedicine or telehealth directly to a patient shall:

(a) Use the same standard of care as used in an in-person encounter;

(b) Maintain a medical record; and

(c) Subject to the patient’s consent, forward the medical record to the patient’s primary care or treating provider, if appropriate.

VI. Under this section, Medicaid coverage for telehealth services shall comply with the provisions of 42 C.F.R. section 410.78 and RSA 167:4-d.

(Editor’s Note: Dentists and dental hygienists are licensed under RSA 317-A.)

CHAPTER 317-A

DENTISTS AND DENTISTRY

Examinations and Licenses

Section 317-A:7-b

317-A:7-b Telemedicine. – Persons licensed by the board shall be permitted to provide services through the use of telemedicine. “Telemedicine” means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment.

Medicaid Reimbursement

TITLE XII
PUBLIC SAFETY AND WELFARE
CHAPTER 167
PUBLIC ASSISTANCE TO BLIND, AGED, OR DISABLED PERSONS, AND TO DEPENDENT CHILDREN

167:4-d Medicaid Coverage of Telehealth Services.

I. It is the intent of this section to recognize the application of telehealth for covered services provided within the scope of practice of a physician or other health care provider as a method of delivery of medical care by which an individual at an originating site shall receive medical services which are clinically appropriate for delivery through telehealth from a health care provider at a distant site without in-person contact with the provider.

II. In this section:

(a) "Telehealth services" shall comply with 42 C.F.R. section 410.78, except for 42 C.F.R. section 410.78(b)(4). The use of the term "telemedicine" shall comply with the Centers for Medicare and Medicaid Services requirements governing the aforementioned telehealth services.

(b) "Distant site" means the location of the health care provider delivering services through telemedicine at the time the services are provided.

(c) "Doorways" means the statewide points of entry for the delivery of substance use services.

(d) "Originating site" means the location of the patient, whether or not accompanied by a health care provider, at the time services are provided by a health care provider through telemedicine, including, but not limited to, a health care provider's office, a hospital, or a health care facility, or the patient's home or another nonmedical environment such as a school-based health center, a university-based health center, or the patient's workplace.

(e) "Remote patient monitoring" means the use of electronic technology to remotely monitor a patient's health status through the collection and interpretation of clinical data while the patient remains at an originating site. Remote patient monitoring may or may not take place in real time. Remote patient monitoring shall include assessment, observation, education and virtual visits provided by all covered providers including licensed home health care providers.

(f) "Store and forward," as it pertains to telemedicine and as an exception to 42 C.F.R. section 410.78, means the use of asynchronous electronic communications between a patient at an originating site and a health care service provider at a distant site for the purpose of diagnostic and therapeutic assistance in the care of patients. This includes the forwarding and/or transfer of stored medical data from the originating site to the distant site through the use of any electronic device that records data in its own storage and forwards its data to the distant site via telecommunication for the purpose of diagnostic and therapeutic assistance.

III. (a) Coverage under this section shall include the use of telehealth or telemedicine for Medicaid-covered services provided within the scope of practice of a physician or other health care provider as a method of delivery of medical care:

(1) Which is an appropriate application of telehealth services provided by physicians and other health care providers, as determined by the department based on the Centers for

Medicare and Medicaid Services regulations, and also including persons providing psychotherapeutic services as provided in He-M 426.08 and 426.09;

(2) By which telemedicine services for primary care, remote patient monitoring, and substance use disorder services shall only be covered in the event that the patient has already established care at an originating site via face-to-face in-person service. A provider shall not be required to establish care via face-to-face in-person service when:

- (a) The provider is a Department of Veteran Affairs (VA) practitioner or VA-contracted practitioner not required to obtain a special registration pursuant to 21 U.S.C. section 831(h);
 - (b) The patient is being treated by, and is physically located in a correctional facility administered by the state of New Hampshire or a New Hampshire county;
 - (c) The patient is being treated by, and is physically located in a doorway as defined in RSA 167:4-d, II(c);
 - (d) The patient is being treated by and is physically located in a state designated community mental health center pursuant to RSA 135; or
 - (e) The patient is being treated by, and physically located in, a hospital or clinic registered in a manner fully consistent with 21 U.S.C. section 823(f); and
- (3) By which an individual shall receive medical services from a physician or other health care provider who is an enrolled Medicaid provider without in-person contact with that provider.

- (b) The Medicaid program shall provide coverage and reimbursement for health care services provided through telemedicine on the same basis as the Medicaid program provides coverage and reimbursement for health care services provided in person.
- (c) The combined amount of reimbursement that the Medicaid program allows for the compensation to the distant site and the originating site shall not be less than the total amount allowed for health care services provided in person.
- (d) There shall be no restriction on eligible originating or distant sites for telehealth services. An originating site means the location of the member at the time the service is being furnished via a telecommunication system. A distant site means the location of the provider at the time the service is being furnished via a telecommunication system.
- (e) The Medicaid program shall provide reimbursement for all modes of telehealth, including video and audio, audio-only, or other electronic media provided by medical providers to treat all members for all medically necessary services.
- (f) Medical providers below shall be allowed to perform health care services through the use of all modes of telehealth, including video and audio, audio-only, or other electronic media. Medical providers include, but are not limited to, the following:

...

- (6) Dentists, governed by RSA 317-A;

...

(g) Nothing in this section shall be construed to prohibit the Medicaid program from providing coverage for only those services that are medically necessary and subject to all other terms and conditions of the coverage. Services delivered through telehealth under this section shall comply with all applicable state and federal law or regulation as allowed by the Medicaid program. Any conflict with the provisions of this section and federal law or regulation shall preempt and supersede any provision of this section.

IV. This section shall be conditioned upon review and approval of a state plan amendment submitted by the department to the Centers for Medicare and Medicaid Services, as deemed necessary.

...

V. The department shall adopt rules, pursuant to RSA 541-A, necessary to carry out the purposes of this section.

Private Payer Reimbursement

TITLE XXXVII

INSURANCE

CHAPTER 415-J

NEW HAMPSHIRE TELEMEDICINE ACT

415-J:1 New Hampshire Telemedicine Act. – This chapter shall be known and may be cited as the New Hampshire telemedicine act.

415-J:2 Definitions. –

In this chapter:

I. “Distant site” means the location of the health care provider delivering services through telemedicine at the time the services are provided.

I-a. “Health benefit policy” means any individual or group plan, policy, or contract for health care services issued, delivered, issued for delivery, executed, or renewed in this state, including, but not limited to, those contracts executed by the state of New Hampshire on behalf of state employees under RSA 21-I, by an insurer.

II. “Insurer” means an accident and sickness insurer, fraternal benefit society, hospital service corporation, medical service corporation, health care corporation, health maintenance organization, preferred provider organization, provider sponsored health care corporation, managed care entity, or any similar entity authorized to issue contracts under this title or to provide health benefit policies.

II-a. “Originating site” means the location of the patient, whether or not accompanied by a health care provider, at the time services are provided by a health care provider through telemedicine, including, but not limited to, a health care provider’s office, a hospital, or a health care facility, or the patient’s home or another nonmedical environment such as a school-based health center, a university-based health center, or the patient’s workplace.

II-b. “Remote patient monitoring” means the use of electronic technology to remotely monitor a patient’s health status through the collection and interpretation of clinical data while the patient remains at an originating site. Remote patient monitoring may or may not take place in real time. Remote patient monitoring shall include assessment, observation, education, and virtual visits provided by all covered providers including licensed home health care providers.

II-c. “Store and forward,” as it pertains to telemedicine, means the use of asynchronous electronic communications between a patient at an originating site and a health care service provider at a distant site for the purpose of diagnostic and therapeutic assistance in the care of patients. This includes the forwarding and/or transfer of stored medical data from the originating site to the distant site through the use of any electronic device that records data in its own storage and forwards its data to the distant site via telecommunication for the purpose of diagnostic and therapeutic assistance.

III. "Telemedicine," as it pertains to the delivery of health care services, means the use of audio, video, or other electronic media for the purpose of diagnosis, consultation, or treatment. Telemedicine does not include the use of facsimile.

415-J:3 Coverage for Telemedicine Services. –

I. It is the intent of the general court to recognize the application of telemedicine for covered services provided within the scope of practice of a physician or other health care provider as a method of delivery of medical care by which an individual at an originating site shall receive medical services which are clinically appropriate for delivery through telemedicine from a health care provider at a distant site without in-person contact with the provider. For the purposes of this chapter, covered services include remote patient monitoring and store and forward.

II. An insurer offering a health plan in this state may not deny coverage on the sole basis that the coverage is provided through telemedicine if the health care service would be covered if it were provided through in-person consultation between the covered person and a health care provider.

III. An insurer offering a health plan in this state shall provide coverage and reimbursement for health care services provided through telemedicine on the same basis as the insurer provides coverage and reimbursement for health care services provided in person.

IV. An insurer shall provide reasonable compensation to an originating site operated by a health care provider or a licensed health care facility if the health care provider or licensed health care facility is authorized to bill the insurer directly for health care services. In the event of a dispute between a provider and an insurance carrier relative to the reasonable compensation under this section, the insurance commissioner shall have exclusive jurisdiction under RSA 420-J:8-e to determine if the compensation is commercially reasonable. The provider and the insurance carrier shall each make best efforts to resolve any dispute prior to applying to the insurance commissioner for resolution, which shall include presenting to the other party evidence supporting its contention that the compensation level it is proposing is commercially reasonable.

V. The combined amount of reimbursement that a health benefit plan allows for the compensation to the distant site and the originating site shall be the same as the total amount allowed for health care services provided in person.

VI. Nothing in this section shall be construed to prohibit an insurer from paying reasonable compensation to a provider at a distant site in addition to a fee paid to the health care provider.

VII. If an insurer excludes a health care service from its in-person reimbursable service, then comparable services shall not be reimbursable as a telemedicine service.

VIII. An insurer shall not impose on coverage for health care services provided through telemedicine any additional benefit plan limitations to include annual or lifetime dollar maximums on coverage, deductibles, copayments, coinsurance, benefit limitation or maximum benefits that are not equally imposed upon similar services provided in-person.

IX. Nothing in this section shall be construed to allow an insurer to reimburse more for a health care service provided through telemedicine than would have been reimbursed if the health care service was provided in person.

X. There shall be no restriction on eligible originating or distant sites for telehealth services. An originating site means the location of the member at the time the service is being furnished via a telecommunication system. A distant site means the location of the provider at the time the service is being furnished via a telecommunication system.

XI. An insurer shall provide reimbursement for all modes of telehealth, including video and audio, audio-only, or other electronic media provided by medical providers to treat all members for all medically necessary services.

XII. The following medical providers shall be allowed to perform health care services through the use of all modes of telehealth, including video and audio, audio-only, or other electronic media. Medical providers include, but are not limited to:

...

(f) Dentists, under RSA 317-A;

...

XIII. Nothing in this section shall be construed to prohibit an insurer from providing coverage for only those services that are medically necessary and subject to the terms and conditions of the covered person's policy.

New Jersey

Requirements and Permissible Practices

C.45:1-61 Definitions relative to telemedicine and telehealth.

1. As used in P.L.2017, c.117 (C.45:1-61 et al.):

“Asynchronous store-and-forward” means the acquisition and transmission of images, diagnostics, data, and medical information either to, or from, an originating site or to, or from, the health care provider at a distant site, which allows for the patient to be evaluated without being physically present.

“Cross-coverage service provider” means a health care provider, acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes, who engages in a remote medical evaluation of a patient, without in-person contact, at the request of another health care provider who has established a proper provider-patient relationship with the patient.

“Distant site” means a site at which a health care provider, acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes, is located while providing health care services by means of telemedicine or telehealth.

“Health care provider” means an individual who provides a health care service to a patient, and includes, but is not limited to, a licensed physician, nurse, nurse practitioner, psychologist, psychiatrist, psychoanalyst, clinical social worker, physician assistant, professional counselor, respiratory therapist, speech pathologist, audiologist, optometrist, or any other health care professional acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes.

“On-call provider” means a licensed or certified health care provider who is available, where necessary, to physically attend to the urgent and follow-up needs of a patient for whom the provider has temporarily assumed responsibility, as designated by the patient’s primary care provider or other health care provider of record.

“Originating site” means a site at which a patient is located at the time that health care services are provided to the patient by means of telemedicine or telehealth.

“Telehealth” means the use of information and communications technologies, including telephones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration, and other services in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).

“Telemedicine” means the delivery of a health care service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care provider who is located at a distant site and a patient who is located at an originating site, either with or without the assistance of an intervening health care provider, and in accordance with the provisions of P.L.2017, c.117 (C.45:1-61 et al.). “Telemedicine” does not include the use, in isolation, of audio-only telephone conversation, electronic mail, instant messaging, phone text, or facsimile transmission.

“Telemedicine or telehealth organization” means a corporation, sole proprietorship, partnership, or limited liability company that is organized for the primary purpose of administering services in the furtherance of telemedicine or telehealth.

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C.45:1-62 Provision of health care through use of telemedicine, telehealth; requirements for provider.

2. a. Unless specifically prohibited or limited by federal or State law, a health care provider who establishes a proper provider-patient relationship with a patient may remotely provide health care services to a patient through the use of telemedicine. A health care provider may also engage in telehealth as may be necessary to support and facilitate the provision of health care services to patients.

b. Any health care provider who uses telemedicine or engages in telehealth while providing health care services to a patient, shall: (1) be validly licensed, certified, or registered, pursuant to Title 45 of the Revised Statutes, to provide such services in the State of New Jersey; (2) remain subject to regulation by the appropriate New Jersey State licensing board or other New Jersey State professional regulatory entity; (3) act in compliance with existing requirements regarding the maintenance of liability insurance; and (4) remain subject to New Jersey jurisdiction if either the patient or the provider is located in New Jersey at the time services are provided.

c. (1) Telemedicine services shall be provided using interactive, real-time, two-way communication technologies.

(2) A health care provider engaging in telemedicine or telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of images, diagnostics, data, and medical information; except that the health care provider may use interactive, real-time, two-way audio in combination with asynchronous store-and-forward technology, without video capabilities, if, after accessing and reviewing the patient's medical records, the provider determines that the provider is able to meet the same standard of care as if the health care services were being provided in person.

(3) The identity, professional credentials, and contact information of a health care provider providing telemedicine or telehealth services shall be made available to the patient during and after the provision of services. The contact information shall enable the patient to contact the health care provider, or a substitute health care provider authorized to act on behalf of the provider who provided services, for at least 72 hours following the provision of services.

(4) A health care provider engaging in telemedicine or telehealth shall review the medical history and any medical records provided by the patient. For an initial encounter with the patient, the provider shall review the patient's medical history and medical records prior to initiating contact with the patient, as required pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017, c.117 (C.45:1-63). In the case of a subsequent telemedicine or telehealth encounter conducted pursuant to an ongoing provider-patient relationship, the provider may review the information prior to initiating contact with the patient or contemporaneously with the telemedicine or telehealth encounter.

(5) Following the provision of services using telemedicine or telehealth, the patient's medical information shall be made available to the patient upon the patient's request, and, with the patient's affirmative consent, forwarded directly to the patient's primary care provider or health care provider of record, or, upon request by the patient, to other health care providers. For patients without a primary care provider or other health care provider of record, the health care provider engaging in telemedicine or telehealth may advise the patient to contact a primary care provider, and, upon request by the patient, assist the patient with locating a primary care provider or other in-person medical assistance that, to the extent possible, is located within reasonable proximity to the

patient. The health care provider engaging in telemedicine or telehealth shall also refer the patient to appropriate follow up care where necessary, including making appropriate referrals for emergency or complimentary care, if needed. Consent may be oral, written, or digital in nature, provided that the chosen method of consent is deemed appropriate under the standard of care.

d. (1) Any health care provider providing health care services using telemedicine or telehealth shall be subject to the same standard of care or practice standards as are applicable to in-person settings. If telemedicine or telehealth services would not be consistent with this standard of care, the health care provider shall direct the patient to seek in-person care.

(2) Diagnosis, treatment, and consultation recommendations, including discussions regarding the risk and benefits of the patient's treatment options, which are made through the use of telemedicine or telehealth, including the issuance of a prescription based on a telemedicine or telehealth encounter, shall be held to the same standard of care or practice standards as are applicable to in-person settings. Unless the provider has established a proper provider-patient relationship with the patient, a provider shall not issue a prescription to a patient based solely on the responses provided in an online questionnaire.

e. The prescription of Schedule II controlled dangerous substances through the use of telemedicine or telehealth shall be authorized only after an initial in-person examination of the patient, as provided by regulation, and a subsequent in-person visit with the patient shall be required every three months for the duration of time that the patient is being prescribed the Schedule II controlled dangerous substance. However, the provisions of this subsection shall not apply, and the in-person examination or review of a patient shall not be required, when a health care provider is prescribing a stimulant which is a Schedule II controlled dangerous substance for use by a minor patient under the age of 18, provided that the health care provider is using interactive, real-time, two-way audio and video technologies when treating the patient and the health care provider has first obtained written consent for the waiver of these in-person examination requirements from the minor patient's parent or guardian.

...

g. A health care provider who engages in telemedicine or telehealth, as authorized by P.L.2017, c.117 (C.45:1-61 et al.), shall maintain a complete record of the patient's care, and shall comply with all applicable State and federal statutes and regulations for recordkeeping, confidentiality, and disclosure of the patient's medical record.

h. A health care provider shall not be subject to any professional disciplinary action under Title 45 of the Revised Statutes solely on the basis that the provider engaged in telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-61 et al.).

i. (1) In accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the State boards or other entities that, pursuant to Title 45 of the Revised Statutes, are responsible for the licensure, certification, or registration of health care providers in the State, shall each adopt rules and regulations that are applicable to the health care providers under their respective jurisdictions, as may be necessary to implement the provisions of this section and facilitate the provision of telemedicine and telehealth services. Such rules and regulations shall, at a minimum:

(a) include best practices for the professional engagement in telemedicine and telehealth;

(b) ensure that the services patients receive using telemedicine or telehealth are appropriate, medically necessary, and meet current quality of care standards;

(c) include measures to prevent fraud and abuse in connection with the use of telemedicine and telehealth, including requirements concerning the filing of claims and maintaining appropriate records of services provided; and

(d) provide substantially similar metrics for evaluating quality of care and patient outcomes in connection with services provided using telemedicine and telehealth as currently apply to services provided in person.

(2) In no case shall the rules and regulations adopted pursuant to paragraph (1) of this subsection require a provider to conduct an initial in-person visit with the patient as a condition of providing services using telemedicine or telehealth.

(3) The failure of any licensing board to adopt rules and regulations pursuant to this subsection shall not have the effect of delaying the implementation of this act, and shall not prevent health care providers from engaging in telemedicine or telehealth in accordance with the provisions of this act and the practice act applicable to the provider's professional licensure, certification, or registration.

C.45:1-63 Establishment of proper provider-patient relationship; exceptions.

3. a. Any health care provider who engages in telemedicine or telehealth shall ensure that a proper provider-patient relationship is established. The establishment of a proper provider-patient relationship shall include, but shall not be limited to:

(1) properly identifying the patient using, at a minimum, the patient's name, date of birth, phone number, and address. When properly identifying the patient, the provider may additionally use the patient's assigned identification number, social security number, photo, health insurance policy number, or other appropriate patient identifier associated directly with the patient;

(2) disclosing and validating the provider's identity and credentials, such as the provider's license, title, and, if applicable, specialty and board certifications;

(3) prior to initiating contact with a patient in an initial encounter for the purpose of providing services to the patient using telemedicine or telehealth, reviewing the patient's medical history and any available medical records; and

(4) prior to initiating contact with a patient for the purpose of providing services to the patient using telemedicine or telehealth, determining whether the provider will be able to provide the same standard of care using telemedicine or telehealth as would be provided if the services were provided in person. The provider shall make this determination prior to each unique patient encounter.

b. Telemedicine or telehealth may be practiced without a proper provider-patient relationship, as defined in subsection a. of this section, in the following circumstances:

(1) during informal consultations performed by a health care provider outside the context of a contractual relationship, or on an irregular or infrequent basis, without the expectation or exchange of direct or indirect compensation;

(2) during episodic consultations by a medical specialist located in another jurisdiction who provides consultation services, upon request, to a properly licensed or certified health care provider in this State;

(3) when a health care provider furnishes medical assistance in response to an emergency or disaster, provided that there is no charge for the medical assistance; or

(4) when a substitute health care provider, who is acting on behalf of an absent health care provider in the same specialty, provides health care services on an on-call or

cross-coverage basis, provided that the absent health care provider has designated the substitute provider as an on-call provider or cross-coverage service provider.

C.45:1-64 Annual registration, report.

4. a. Each telemedicine or telehealth organization operating in the State shall annually register with the Department of Health.

b. Each telemedicine or telehealth organization operating in the State shall submit an annual report to the Department of Health in a manner as determined by the commissioner. The annual report shall include de-identified encounter data including, but not limited to: the total number of telemedicine and telehealth encounters conducted; the type of technology utilized to provide services using telemedicine or telehealth; the category of medical condition for which services were sought; the geographic region of the patient and the provider; the patient's age and sex; and any prescriptions issued. The commissioner may require the reporting of any additional information as the commissioner deems necessary and appropriate, subject to all applicable State and federal laws, rules, and regulations for recordkeeping and privacy. Commencing six months after the effective date of P.L.2017, c.117 (C.45:1-61 et al.), telemedicine and telehealth organizations shall include in the annual report, for each telemedicine or telehealth encounter: the patient's race and ethnicity; the diagnostic codes; the evaluation management codes; and the source of payment for the encounter.

c. The Department of Health shall compile the information provided in the reports submitted by telemedicine and telehealth organizations pursuant to subsection b. of this section to generate Statewide data concerning telemedicine and telehealth services provided in the State. The department shall annually share the Statewide data with the Department of Human Services, the Department of Banking and Insurance, the Telemedicine and Telehealth Review Commission established pursuant to section 5 of P.L.2017, c.117 (C.45:1-65), State boards and other entities that, under Title 45 of the Revised Statutes, are responsible for the professional licensure, certification, or registration of health care providers in the State who provide health care services using telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-61 et al.), and the Legislature pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1). The department shall also transmit a report to the Legislature and the Telemedicine and Telehealth Review Commission that includes: an analysis of each rule and regulation adopted pursuant to subsection i. of section 2 of P.L.2017, c.117 (C.45:1-62) by a State board or other entity responsible for the professional licensure, certification, or registration of health care providers in the State who provide health care services using telemedicine or telehealth; and an assessment of the effect that telemedicine and telehealth is having on health care delivery, health care outcomes, population health, and in-person health care services provided in facility-based and office-based settings.

d. A telemedicine or telehealth organization that fails to register with the Department of Health pursuant to subsection a. of this section or that fails to submit the annual report required pursuant to subsection b. of this section shall be liable to such disciplinary actions as the Commissioner of Health may prescribe by regulation.

C.45:1-65 Telemedicine and Telehealth Review Commission.

5. a. Six months after the effective date of P.L.2017, c.117 (C.45:1-61 et al.), there shall be established in the Department of Health the Telemedicine and Telehealth Review Commission, which shall review the information reported by telemedicine and telehealth organizations pursuant to subsection b. of section 4 of P.L.2017, c.117 (C.45:1-64) and make recommendations

for such executive, legislative, regulatory, administrative, and other actions as may be necessary and appropriate to promote and improve the quality, efficiency, and effectiveness of telemedicine and telehealth services provided in this State.

b. The commission shall consist of seven members, as follows: the Commissioner of Health, or a designee, who shall serve ex officio, and six public members, with two members each to be appointed by the Governor, the Senate President, and the Speaker of the General Assembly. The public members shall be health care professionals with a background in the provision of health care services using telemedicine and telehealth. The public members shall serve at the pleasure of the appointing authority, and vacancies in the membership shall be filled in the same manner as the original appointments.

c. Members of the commission shall serve without compensation but may be reimbursed for necessary travel expenses incurred in the performance of their duties within the limits of funds made available for that purpose.

d. The members shall select a chairperson and a vice chairperson from among the members. The chairperson may appoint a secretary, who need not be a member of the commission. The Department of Health shall provide staff and administrative support to the commission.

e. The commission shall meet at least twice a year and at such other times as the chairperson may require. The commission shall be entitled to call to its assistance and avail itself of the services of the employees of any State, county, or municipal department, board, bureau, commission, or agency as it may require and as may be available for its purposes.

f. The commission shall report its findings and recommendations to the Governor, the Commissioner of Health, the State boards or other entities that, pursuant to Title 45 of the Revised Statutes, are responsible for the licensure, certification, or registration of health care providers in the State who provide health care services using telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-61 et al.), and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature no later than two years after the date the commission first meets. The commission shall expire upon submission of its report.

C.45:1-66 Severability.

6. If any provision of P.L.2017, c.117 (C.45:1-61 et al.) or its application to any person or circumstance is held to be invalid, the invalidity shall not affect any other provision or application of P.L.2017, c.117 (C.45:1-61 et al.) which can be given effect without the invalid provision or application, and, to this end, the provisions of P.L.2017, c.117 (C.45:1-61 et al.) are severable.

Medicaid Reimbursement

C.30:4D-6k State Medicaid, NJ FamilyCare programs to provide coverage, payment

7. a. The State Medicaid and NJ FamilyCare programs shall provide coverage and payment for health care services delivered to a benefits recipient through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. The State Medicaid and NJ FamilyCare programs may limit coverage to services that are delivered by participating health care providers, but may not charge any deductible,

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copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation.

c. Nothing in this section shall be construed to:

(l) prohibit the State Medicaid or NJ FamilyCare programs from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the recipient's benefits plan; or

(2) allow the State Medicaid or NJ FamilyCare programs to require a benefits recipient to use telemedicine or telehealth in lieu of obtaining an in-person service from a participating health care provider.

d. The Commissioner of Human Services, in consultation with the Commissioner of Children and Families, shall apply for such State plan amendments or waivers as may be necessary to implement the provisions of this section and to secure federal financial participation for State expenditures under the federal Medicaid program and Children's Health Insurance Program.

e. As used in this section:

"Benefits recipient" or "recipient" means a person who is eligible for, and who is receiving, hospital or medical benefits under the State Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), or under the NJ FamilyCare program established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), as appropriate.

"Participating health care provider" means a licensed or certified health care provider who is registered to provide health care services to benefits recipients under the State Medicaid or NJ FamilyCare programs, as appropriate.

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

Private Payer Reimbursement

C.26:2S-29 Carrier offering a health benefits plan to provide coverage, payment.

8. a. A carrier that offers a health benefits plan in this State shall provide coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. A carrier may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation.

c. Nothing in this section shall be construed to:

(1) prohibit a carrier from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's health benefits plan; or

(2) allow a carrier to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider.

d. The Commissioner of Banking and Insurance shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

e. As used in this section:

"Carrier" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Covered person" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Health benefits plan" means the same as that term is defined by section 2 of P.L.1997, c.192 (C.26:2S-2).

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

C.52:14-17.29w State Health Benefits Commission to provide coverage, payment.

9. a. The State Health Benefits Commission shall ensure that every contract purchased thereby, which provides hospital and medical expense benefits, additionally provides coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. A health benefits contract purchased by the State Health Benefits Commission may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation.

c. Nothing in this section shall be construed to:

(1) prohibit a health benefits contract from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's health benefits plan; or

(2) allow the State Health Benefits Commission, or a contract purchased thereby, to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider.

d. The State Health Benefits Commission shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

e. As used in this section:

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

C.52:14-17.46.6h School Employees Health Benefits Commission to provide coverage, payment.

10. a. The School Employees' Health Benefits Commission shall ensure that every contract purchased thereby, which provides hospital and medical expense benefits, additionally provides coverage and payment for health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

b. A health benefits contract purchased by the School Employees' Health Benefits Commission may limit coverage to services that are delivered by health care providers in the health benefits plan's network, but may not charge any deductible, copayment, or coinsurance for a health care service, delivered through telemedicine or telehealth, in an amount that exceeds the deductible, copayment, or coinsurance amount that is applicable to an in-person consultation.

c. Nothing in this section shall be construed to:

(1) prohibit a health benefits contract from providing coverage for only those services that are medically necessary, subject to the terms and conditions of the covered person's health benefits plan; or

(2) allow the School Employees' Health Benefits Commission, or a contract purchased thereby, to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider.

d. The School Employees' Health Benefits Commission shall adopt rules and regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this section.

e. As used in this section:

"Telehealth" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

"Telemedicine" means the same as that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

11. This act shall take effect immediately, and section 5 of this act shall expire upon submission of the commission's report.

New Mexico

Requirements and Permissible Practices

NMSA Section 61-5A-3 Definitions.

...

AA. "teledentistry" means a dentist's, dental hygienist's or dental therapist's use of electronic information, imaging and communication technologies, including interactive audio, video and data communications as well as store-and-forward technologies, to provide and support dental health care delivery, diagnosis, consultation, treatment, transfer of dental data and education." (Editorial Note: SB 200 also clarifies that dentists and dental hygienists who practice teledentistry are subject to disciplinary proceedings established by Section 61-5A-21 NMSA).

...

NMSA 61-5A-4. Scope of practice

A. As used in the Dental Health Care Act, "practice of dentistry" means:

...

(5) with specific reference to the teeth, gingivae, jaws or adjacent hard or soft tissues of the oral and maxillofacial region in living persons, to propose, agree or attempt to do or make an examination or give an estimate of cost with intent to, or undertaking to:

...

(j) provide limited diagnostic and treatment planning via teledentistry; or

...

NMSA 61-5A-21. Disciplinary proceedings; application of uniform licensing act

...

F. A dentist, dental hygienist or dental therapist practicing teledentistry is subject to the provisions of this section.

ARTICLE 25

New Mexico Telehealth Act

24-25-1. Short title.

Chapter [24](#), Article [25](#) NMSA 1978 may be cited as the "New Mexico Telehealth Act".

24-25-2. Findings and purpose.

A. The legislature finds that:

- (1) lack of primary care, specialty providers and transportation continue to be significant barriers to access to health services in medically underserved rural areas;
- (2) there are parts of this state where it is difficult to attract and retain health professionals, as well as to support local health facilities in providing a continuum of health care;
- (3) many health care providers in medically underserved areas are isolated from mentors and colleagues and from the information resources necessary to support them personally and professionally;
- (4) using information technology to deliver medical services and information from one location to another is part of a multifaceted approach to address the problems of provider distribution and the development of health systems in medically underserved areas by improving communication capabilities and providing convenient access to up-to-date information, consultations and other forms of support;

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(5) the use of telecommunications to deliver health services has the potential to reduce costs, improve quality, change the conditions of practice and improve access to health care in rural, medically underserved areas; and

(6) telehealth will assist in maintaining or improving the physical and economic health of medically underserved communities by keeping the source of general health, behavioral health and oral health care in the local area, strengthening the health infrastructure and preserving health-care-related jobs.

B. The purpose of the New Mexico Telehealth Act is to provide a framework for health care providers to follow in providing telehealth services to New Mexico citizens in a manner that provides efficient and effective access to quality health services. Telehealth services include consultations, direct patient care and education for health care professionals, support personnel, students, families, patients and other consumers of health care services.

24-25-3. Definitions.

As used in the New Mexico Telehealth Act:

A. "health care provider" means a person licensed to provide health care to patients in New Mexico, including:

...

(3) a dentist;

...

(18) a dental hygienist;

...

B. "originating site" means a place where a patient may receive health care via telehealth. An originating site may include:

(1) a licensed inpatient center;

(2) an ambulatory surgical or treatment center;

(3) a skilled nursing center;

(4) a residential treatment center;

(5) a home health agency;

(6) a diagnostic laboratory or imaging center;

(7) an assisted living center;

(8) a school-based health program;

(9) a mobile clinic;

(10) a mental health clinic;

(11) a rehabilitation or other therapeutic health setting;

(12) the patient's residence;

(13) a federally qualified health center; or

(14) a community health center; and

C. "telehealth" means the use of electronic information, imaging and communication technologies, including interactive audio, video, data communications as well as store-and-forward technologies, to provide and support health care delivery, diagnosis, consultation, treatment, transfer of medical data and education.

24-25-4. Telehealth authorized; procedure.

The delivery of health care via telehealth is recognized and encouraged as a safe, practical and necessary practice in New Mexico. No health care provider or operator of an originating site shall be disciplined for or discouraged from participating in telehealth pursuant to the New Mexico Telehealth Act. In using telehealth procedures, health care providers and operators of

originating sites shall comply with all applicable federal and state guidelines and shall follow established federal and state rules regarding security, confidentiality and privacy protections for health care information.

24-25-5. Scope of act.

A. The New Mexico Telehealth Act does not alter the scope of practice of any health care provider or authorize the delivery of health care services in a setting, or in a manner, not otherwise authorized by law.

B. Because the use of telehealth improves access to quality health care and will generally benefit the citizens of New Mexico, health insurers, health maintenance organizations, managed care organizations and third-party payors offering services to the citizens of New Mexico are encouraged to use and provide coverage for telehealth within the scope of their plans or policies. The state's medical assistance program is also encouraged to include telehealth within the scope of its plan or policy.

[New Mexico Administrative Code 16.5.1.7](#)

...

FF. "Teledentistry" means a dentist's use of health information technology in real time to provide limited diagnostic treatment planning services in cooperation with another dentist, a dental hygienist, a community health coordinator, dental therapist or a student enrolled in a program of study to become a dental assistant, dental hygienist, dental therapist or dentist.

Medicaid Reimbursement

New Mexico Administrative Code
TITLE 8 SOCIAL SERVICES
CHAPTER 308 MANAGED CARE PROGRAM
PART 9 BENEFIT PACKAGE

[8.308.9.18](#) **TELEMEDICINE SERVICES:** The benefit package includes telemedicine services as detailed in 8.310.2 NMAC.

- A. The MCO must:
- (1) promote and employ broad-based utilization of statewide access to Health Insurance Portability and Accountability Act (HIPAA)-compliant telemedicine service systems including, but not limited to, access to text telephones or teletype (TTYs) and 711 telecommunication relay services;
 - (2) follow state guidelines for telemedicine equipment or connectivity;
 - (3) follow accepted HIPAA and 42 CFR part two regulations that affect telemedicine transmission, including but not limited to staff and contract provider training, room setup, security of transmission lines, etc; the MCO shall have and implement policies and procedures that follow all federal and state security and procedure guidelines;
 - (4) identify, develop, and implement training for accepted telemedicine practices;
 - (5) participate in the needs assessment of the organizational, developmental, and programmatic requirements of telemedicine programs;
 - (6) report to HSD on the telemedicine outcomes of telemedicine projects and submit the telemedicine report; and

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(7) ensure that telemedicine services meet the following shared values, which are ensuring: competent care with regard to culture and language needs; work sites are distributed across the state, including native American sites for both clinical and educational purposes; and coordination of telemedicine and technical functions at either end of network connection.

B. The MCO shall participate in project extension for community healthcare outcomes (ECHO), in accordance with state prescribed requirements and standards, and shall:

- (1) work collaboratively with HSD, the university of New Mexico, and providers on project ECHO;
- (2) identify high needs, high cost members who may benefit from project ECHO participation;
- (3) identify its PCPs who serve high needs, high cost members to participate in project ECHO;
- (4) assist project ECHO with engaging its MCO PCPs in project ECHO's center for medicare and medicaid innovation (CMMI) grant project;
- (5) reimburse primary care clinics for participating in the project ECHO model;
- (6) reimburse "intensivist" teams;
- (7) provide claims data to HSD to support the evaluation of project ECHO;
- (8) appoint a centralized liaison to obtain prior authorization approvals related to project ECHO; and
- (9) track quality of care and outcome measures related to project ECHO.

TITLE 8 SOCIAL SERVICES
CHAPTER 309 ALTERNATIVE BENEFIT PROGRAM
PART 4 MAD ADMINISTERED BENEFITS AND LIMITATION OF SERVICES

8.309.4.16 TELEMEDICINE SERVICES: The benefit package includes telemedicine services as detailed in 8.310.2 NMAC.

TITLE 8 SOCIAL SERVICES
CHAPTER 310 HEALTH CARE PROFESSIONAL SERVICES
PART 2 GENERAL BENEFIT DESCRIPTION

8.310.2.12 SERVICES: MAD covers services and procedures that are medically necessary for the diagnosis and treatment of an illness or injury as indicated by the MAP eligible recipient's condition. All services must be furnished within the limits of provider program rules and within the scope of their practice board and licensure.

...

M. Telemedicine services:

(1) The telemedicine originating-site is the location of a MAP eligible recipient at the time the service is being furnished via an interactive telemedicine communications system. The origination-site can be any medically warranted site. An interactive telemedicine communication system must include both interactive audio and video and be delivered on a real-time basis at the originating and distant-sites. Coverage for services rendered through telemedicine shall be determined in a manner consistent with Medicaid coverage for health

care services provided through in person consultation. For telemedicine services, when the originating-site is in New Mexico and the distant-site (consulting telemedicine provider) is outside New Mexico, the provider at the distant-site must be licensed for telemedicine to the extent required by New Mexico state law and regulations or meet federal requirements for providing services to IHS facilities or tribal contract facilities. Provision of telemedicine services does not require that a certified medicaid healthcare provider be physically present with the patient at the originating site unless the telemedicine consultant at the distant site deems it necessary.

(2) The distant-site is the location where the consulting telemedicine provider is physically located at time of the telemedicine service. All services are covered to the same extent the service and the provider are covered when not provided through telemedicine. For these services, use of the telemedicine communications system fulfills the requirement for a face-to-face encounter.

(3) MAD will reimburse for services delivered through store-and forward. To be eligible for payment under store-and-forward, the service must be provided through the transference of digital images, sounds, or previously recorded video from one location to another; to allow a consulting provider to obtain information, analyze it, and report back to the referring physician providing the telemedicine consultation. Store-and-forward telemedicine includes encounters that do not occur in real time (asynchronous) and are consultations that do not require a face-to-face live encounter between patient and telemedicine provider.

(4) Telemedicine providers: Reimbursement for professional services at the originating-site and the distant-site are made at the same rate as when the services provided are furnished without the use of a telecommunication system. In addition, reimbursement is made to the originating-site for an interactive telemedicine system fee at the lesser of the provider's billed charge; or the maximum allowed by MAD for the specific service or procedure.

(5) A telemedicine originating-site communication system fee is covered if the MAP eligible recipient was present at and participated in the telemedicine visit at the originating-site and the system in use meets the definition of a telemedicine system.

(6) Noncovered telemedicine services: A service provided through telemedicine is subject to the same program restrictions, limitations and coverage which exist for the service when not provided through telemedicine.

...

TITLE 8 SOCIAL SERVICES
CHAPTER 310 HEALTH CARE PROFESSIONAL SERVICES
PART 12 INDIAN HEALTH SERVICE AND TRIBAL 638 FACILITIES

8.310.12.12 - COVERED SERVICES

...

C. Services not subject to office of management and budget (OMB) codes or rates:
Some services are covered by MAD when occurring within an IHS or a tribal facility but are not included or billed at the OMB rate. These services are covered to the extent described under applicable rules for the service, and include:

...

(8) telemedicine's originating site facility fee; a telemedicine originating site fee is covered when the requirements of 8.310.2 NMAC are met; both the originating and distant sites may be IHS or tribal facilities at two different locations or if the distant site is under contract to the IHS or tribal facility and would qualify to be an enrolled provider; a telemedicine originating site fee is not payable if the telemedicine technology is used to connect an

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employee or staff member of a facility to the eligible recipient being seen at the same facility; however, even if the service does not qualify for a telemedicine originating site fee, the use of telemedicine technology may be appropriate thereby allowing the service provided to meet the standards to qualify as an encounter by providing the equivalent of face-to-face contact.

...

TITLE 8 SOCIAL SERVICES
CHAPTER 320 EARLY AND PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT)
SERVICES
PART 6 SCHOOL-BASED SERVICES FOR MAP ELIGIBLE RECIPIENTS UNDER
TWENTY-ONE YEARS OF AGE
8.320.6.13 COVERED SERVICES:

...

I. **Telemedicine services:** MAD covers school-based services provided via telemedicine; see 8.310.2 NMAC.

...

Private Payer Reimbursement

NMSA 59A-22-49.3. Coverage for telemedicine services.

A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall provide coverage for services provided via telemedicine to the same extent that the health insurance plan, policy or contract covers the same services when those services are provided via in-person consultation or contact. An insurer shall not impose any unique condition for coverage of services provided via telemedicine.

B. An insurer shall not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by an insurer that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act [Chapter [59A](#), Article [57](#) NMSA 1978].

D. The provisions of this section shall not apply in the event that federal law requires the state to make payments on behalf of enrollees to cover the costs of implementing this section.

E. Nothing in this section shall require a health care provider to be physically present with a patient at the originating site unless the consulting telemedicine provider deems it necessary.

F. An insurer shall not limit coverage of services delivered via telemedicine only to those health care providers who are members of the health insurance plan, policy or contract provider network where no in-network provider is available and accessible, as availability and accessibility are defined in network adequacy standards issued by the superintendent.

G. An insurer may charge a deductible, copayment, or coinsurance for a health care service delivered via telemedicine if it does not exceed the deductible, copayment or coinsurance applicable to a service delivered via in-person consultation or contact.

H. An insurer shall not impose any annual or lifetime dollar maximum on coverage for services delivered via telemedicine, other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the health insurance plan, policy or contract, or impose upon any person receiving benefits pursuant to this section any copayment,

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coinsurance or deductible amounts, or any plan, policy or contract year, calendar year, lifetime or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the health insurance plan, policy or contract.

I. An insurer shall reimburse for health care services delivered via telemedicine on the same basis and at least the same rate that the insurer reimburses for comparable services delivered via in-person consultation or contact.

J. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

K. The provisions of this section shall not apply to an individual policy, plan or contract intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

L. As used in this section:

(1) "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

(2) "health care provider" means a duly licensed hospital or other licensed facility, physician or other health care professional authorized to furnish health care services within the scope of the professional's license;

(3) "in real time" means occurring simultaneously, instantaneously or within seconds of an event so that there is little or no noticeable delay between two or more events;

(4) "originating site" means a place at which a patient is physically located and receiving health care services via telemedicine;

(5) "store-and-forward technology" means electronic information, imaging and communication, including interactive audio, video and data communication, that is transferred or recorded or otherwise stored for asynchronous use; and

(6) "telemedicine" means the use of telecommunications and information technology to provide clinical health care from a distance. "Telemedicine" allows health care professionals to evaluate, diagnose and treat patients in remote locations using telecommunications and information technology in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or remote patient monitoring and telecommunications in order to deliver health care services to a site where the patient is located, along with the use of electronic media and health information. "Telemedicine" allows patients in remote locations to access medical expertise without travel.

New Mexico Administrative Code

TITLE 13 INSURANCE

CHAPTER 10 HEALTH INSURANCE

PART 34 STANDARDS FOR ACCIDENT ONLY, SPECIFIED DISEASE OR ILLNESS, HOSPITAL INDEMNITY, AND RELATED EXCEPTED BENEFITS

13.10.34.8 PROHIBITED PLAN PROVISIONS:

...

K. **Telemedicine services.** A plan shall pay a benefit to a covered person for eligible telemedicine or otherwise covered services, but shall not offer a benefit for a telemedicine service provided through a contracted provider.

...

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New York

Requirements, Permissible Practices and Medicaid Reimbursement

Public Health Law

Chapter 45. Of the Consolidated Laws

Article 29-G. Telehealth Delivery of Services

McKinney's Public Health Law § 2999-cc

[§ 2999-cc. Definitions](#)

As used in this article, the following terms shall have the following meanings:

1. "Distant site" means a site at which a telehealth provider is located while delivering health care services by means of telehealth. Any site within the United States or United States' territories is eligible to be a distant site for delivery and payment purposes.
2. "Telehealth provider" means:
 - ...
 - (c) a dentist licensed pursuant to article one hundred thirty-three of the education law;
 - ...
 - (y) any other provider as determined by the commissioner pursuant to regulation or, in consultation with the commissioner, by the commissioner of the office of mental health, the commissioner of the office of addiction services and supports, or the commissioner of the office for people with developmental disabilities pursuant to regulation.
3. "Originating site" means a site at which a patient is located at the time health care services are delivered to him or her by means of telehealth.
4. "Telehealth" means the use of electronic information and communication technologies by telehealth providers to deliver health care services, which shall include the assessment, diagnosis, consultation, treatment, education, care management and/or self-management of a patient. Telehealth shall not include delivery of health care services by means of facsimile machines, or electronic messaging alone, though use of these technologies is not precluded if used in conjunction with telemedicine, store and forward technology, or remote patient monitoring. For purposes of this section, telehealth shall be limited to telemedicine, store and forward technology, remote patient monitoring and audio-only telephone communication, except that with respect to the medical assistance program established under section three hundred sixty-six of the social services law, and the child health insurance plan under title one-A of article twenty-five of this chapter, telehealth shall include audio-only telephone communication only to the extent defined in regulations as may be promulgated by the commissioner. This subdivision shall not preclude the delivery of health care services by means of "home telehealth" as used in section thirty-six hundred fourteen of this chapter.
5. "Telemedicine" means the use of synchronous, two-way electronic audio-visual communications to deliver clinical health care services, which shall include the assessment, diagnosis, and treatment of a patient, while such patient is at the originating site and a telehealth provider is at a distant site.
6. "Store and forward technology" means the asynchronous, electronic transmission of a patient's health information in the form of patient-specific digital images and/or pre-recorded videos from a provider at an originating site to a telehealth provider at a distant site.
7. "Remote patient monitoring" means the use of synchronous or asynchronous electronic information and communication technologies to collect personal health information and medical data from a patient at an originating site that is transmitted to a telehealth provider at a

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distant site for use in the treatment and management of medical conditions that require frequent monitoring. Such technologies may include additional interaction triggered by previous transmissions, such as interactive queries conducted through communication technologies or by telephone. Such conditions shall include, but not be limited to, congestive heart failure, diabetes, chronic obstructive pulmonary disease, wound care, polypharmacy, mental or behavioral problems, and technology-dependent care such as continuous oxygen, ventilator care, total parenteral nutrition or enteral feeding. Remote patient monitoring shall be ordered by a physician licensed pursuant to article one hundred thirty-one of the education law, a nurse practitioner licensed pursuant to article one hundred thirty-nine of the education law, or a midwife licensed pursuant to article one hundred forty of the education law, with which the patient has a substantial and ongoing relationship.

McKinney's Public Health Law § 2999-dd
[§ 2999-dd. Telehealth delivery of services](#)

1. Health care services delivered by means of telehealth shall be entitled to reimbursement under section three hundred sixty-seven-u of the social services law; provided however, reimbursement for additional modalities, provider categories and originating sites specified in accordance with section twenty-nine hundred ninety-nine-ee of this article, and audio-only telephone communication defined in regulations promulgated pursuant to subdivision four of section twenty-nine hundred ninety-nine-cc of this article, shall be contingent upon federal financial participation.
2. The department of health, the office of mental health, the office of alcoholism and substance abuse services, and the office for people with developmental disabilities shall coordinate on the issuance of a single guidance document, to be updated as appropriate, that shall: (a) identify any differences in regulations or policies issued by the agencies, including with respect to reimbursement pursuant to section three hundred sixty-seven-u of the social services law; and (b) be designed to assist consumers, providers, and health plans in understanding and facilitating the appropriate use of telehealth in addressing barriers to care.
3. (a) Dental telehealth services shall adhere to the standards of appropriate patient care required in other dental health care settings, including but not limited to appropriate patient examination, taking of x-rays, and review of a patient's medical and dental history. All dental telehealth providers shall identify themselves to patients, including providing the professional's New York state license number. No dental telehealth provider shall attempt to waive liability for its telehealth services in advance of delivering such telehealth services and no dental telehealth provider shall attempt to prevent a patient from filing any complaint with any governmental agency or authority.
(b) This subdivision shall not be construed to diminish requirements for other telehealth services.
4. Nothing in this article shall be deemed to allow any person to provide any service for which a license, registration, certification or other authorization under title eight of the education law is required and which the person does not possess.

McKinney's Public Health Law § 2999-ee
[§ 2999-ee. Telehealth delivery of services](#)

§ 2999-ee. Increased application of telehealth. In order to increase the application of telehealth in behavioral health, oral health, maternity care, care management, services provided in

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emergency departments, and services provided to certain high-need populations to the extent such services are deemed appropriate for the populations served, and notwithstanding the definitions set forth in section twenty-nine hundred ninety-nine-cc of this article, in consultation with the commissioner of the office of children and family services, the commissioner of the office of mental health, the commissioner of the office of addiction services and supports, or the commissioner of the office for people with developmental disabilities, as applicable, the commissioner may specify in regulation additional acceptable modalities for the delivery of health care services via telehealth, including but not limited to audio-only or video-only telephone communications, online portals and survey applications, and may specify additional categories of originating sites at which a patient may be located at the time health care services are delivered to the extent such additional modalities and originating sites are deemed appropriate for the populations served.

Private Payer Reimbursement

McKinney's Insurance Law § 4306-g [§ 4306-g. Telehealth delivery of services](#)

(a) A corporation shall not exclude from coverage a service that is otherwise covered under a contract that provides comprehensive coverage for hospital, medical or surgical care because the service is delivered via telehealth, as that term is defined in subsection (b) of this section; provided, however, that a corporation may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the contract. A corporation may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the insured as those established for the same service when not delivered via telehealth. A corporation may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth.

(b) For purposes of this section, "telehealth" means the use of electronic information and communication technologies by a health care provider to deliver health care services to an insured individual while such individual is located at a site that is different from the site where the health care provider is located.

McKinney's Insurance Law § 3217-h [§ 3217-h. Telehealth delivery of services](#)

(a) An insurer shall not exclude from coverage a service that is otherwise covered under a policy that provides comprehensive coverage for hospital, medical or surgical care because the service is delivered via telehealth, as that term is defined in subsection (b) of this section; provided, however, that an insurer may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the policy. An insurer may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the insured as those established for the same service when not delivered via telehealth. An insurer may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth.

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New York, continued

(b) For purposes of this section, “telehealth” means the use of electronic information and communication technologies by a health care provider to deliver health care services to an insured individual while such individual is located at a site that is different from the site where the health care provider is located.

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North Carolina

Requirements and Permissible Practices

§ 90-29. Necessity for license; dentistry defined; exemptions as amended by SB 146

...

(b) A person shall be deemed to be practicing dentistry in this State who does, undertakes or attempts to do, or claims the ability to do any one or more of the following acts or things which, for the purposes of this Article, constitute the practice of dentistry:

...

(6) Administers an anesthetic of any kind in the treatment of dental or oral diseases or physical conditions, or in preparation for or incident to any operation within the oral cavity; provided, however, that this subsection shall not apply to a lawfully qualified nurse anesthetist who administers such anesthetic under the supervision and direction of a licensed dentist or physician; physician, or to a registered dental hygienist qualified to administer local anesthetics.

...

(11) Owns, manages, supervises, controls or conducts, either himself, by and through another person or other persons, or by use of any electronic or other digital means, any enterprise wherein any one or more of the acts or practices set forth in subdivisions (1) through (10) above are done, attempted to be done, or represented to be done.

§ 90-30.2. Teledentistry practice; definitions; requirements as added by SB 146

(a) The following definitions apply in this section:

(1) Authorized person.—An appropriate person with legal authority to make the health care treatment decision for a patient.

(2) Licensed dental hygienist.—An individual who holds a valid license to practice dental hygiene duly issued by the North Carolina Board of Dental Examiners in accordance with Article 16 of this Chapter.

(3) Licensed dentist.—A person who holds a valid license to practice dentistry duly issued by the North Carolina Board of Dental Examiners in accordance with this Article.

(4) Licensee.—A person who is a licensed dental hygienist or licensed dentist in this State.

(5) Practice of teledentistry.—The provision of dental services by use of any electronic or other digital means, as authorized in G.S. 90-29(b)(11) and provided for in subsection (b) of this section.

(6) Supervision.—Acts are deemed to be under the supervision of a licensed dentist when performed pursuant to the licensed dentist's order, control, and approval and do not require the physical presence of the licensed dentist.

(b) Practice of Teledentistry Requirements.—For the purposes of this Article, the practice of teledentistry includes any of the following:

(1) Delivery of service.—Teledentistry services may be delivered by a licensed dentist or a licensed dental hygienist who is under the supervision of a licensed dentist. Licensees shall comply with all rules of professional conduct and applicable State and federal law relevant to licensed dentists and licensed dental hygienists when delivering teledentistry services.

(2) Encounter location.—The location of service is determined at the time teledentistry services are initiated, as follows:

a. When the service is between patient and provider, the location of the patient is the originating site, and the location of the provider is the distant site.

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- b. When the service is between providers, conducted for the purposes of consultation, the location of the provider initiating the consult is the originating site, and the location of the consulting provider is the distant site.
- (3) Data.—Any licensee, patient, or authorized person may transmit data, electronic images, and related information as appropriate to provide teledentistry services to a patient.
- (4) Patient care.—A licensee using teledentistry services in the provision of dental services to a patient shall take appropriate steps to establish the licensee-patient relationship, conduct all appropriate evaluations and history of the patient, and provide access to comprehensive dental care where clinically indicated.
- (5) Evaluations.—Notwithstanding any provision of law to the contrary, patient evaluations may be conducted by a licensed dentist using teledentistry modalities.
- (c) Informed Consent.—A licensee who provides or facilitates the use of teledentistry shall ensure that the informed consent of the patient or authorized person is obtained before services are provided through teledentistry. All informed consents shall be included in the patient’s dental records. To obtain an informed consent, the licensee shall do all of the following:
- (1) Confirm the identity of the requesting patient.
 - (2) Verify and authenticate the patient’s health history.
 - (3) Disclose the licensee’s identity, applicable credentials, and contact information, including a current phone number and mailing address of the licensee’s practice.
 - (4) Obtain an appropriate informed consent from the requesting patient after disclosures have been made regarding the delivery models and treatment methods and limitations, including any special informed consents regarding the use of teledentistry services.
 - (5) In addition to other areas that must be discussed in traditional in-person dental encounters with a patient before treatment, the informed consent shall inform the patient or authorized person and document acknowledgment of the risk and limitations of all of the following:
 - a. The use of electronic communications in the provision of care.
 - b. The potential for breach of confidentiality, or inadvertent access of protected health information using electronic and digital communication in the use of teledentistry.
 - c. The types of activities permitted using teledentistry services.
 - (6) Inform the patient or authorized person that it is the role of the licensed dentist to determine whether the condition being diagnosed or treated is appropriate for a teledentistry encounter.
 - (7) Obtain written consent from the patient or authorized person to forward patient-identifiable information to a third party.
 - (8) Provide the patient and authorized person with contact information for the North Carolina State Board of Dental Examiners and a description of, or link to, the patient complaint process.
- (d) Confidentiality.—The licensee shall ensure that any electronic and digital communication used in the practice of teledentistry is secure to maintain confidentiality of the patient’s medical information as required by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and all other applicable laws and administrative regulations. Patients receiving services through teledentistry under this section are entitled to protection of their medical information no less stringent than the requirements that apply to patients receiving in-person services.
- (e) Patient Dental Records.—Records of teledentistry services provided to a patient or authorized person shall be held to the same record retention standards as records of traditional in-person dental encounters. A patient record established during the use of teledentistry

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services shall be accessible to both the licensee and the patient or authorized person, consistent with all established State and federal laws and regulations governing patient health care records. In addition to other areas that must be included in traditional in-person dental encounters, the licensee shall document or record in the patient dental record all of the following:

- (1) The patient's presenting problem.
- (2) The patient's diagnosis.
- (3) The patient's treatment plan.
- (4) A description of all services that were provided through teledentistry.

(f) Prescribing.—The indication, appropriateness, and safety considerations for each prescription for medication, laboratory services, or dental laboratory services provided through the use of teledentistry shall be evaluated by the licensed dentist in accordance with applicable law and current standards of care, including those for appropriate documentation. A licensed dentist's use of teledentistry carries the same professional accountability as a prescription issued in connection with an in-person encounter. A licensed dentist who prescribes any type of analgesic or pain medication as part of the provision of teledentistry services shall comply with all applicable North Carolina Controlled Substance Reporting System requirements.

§ 90–41. Disciplinary action, as amended by SB 146

(a) The North Carolina State Board of Dental Examiners shall have the power and authority to (i) Refuse to issue a license to practice dentistry; (ii) Refuse to issue a certificate of renewal of a license to practice dentistry; (iii) Revoke or suspend a license to practice dentistry; and (iv) Invoke such other disciplinary measures, censure, or probative terms against a licensee as it deems fit and proper;

in any instance or instances in which the Board is satisfied that such applicant or licensee:

...

- (27) Has allowed fee-splitting for the use of teledentistry services; or
- (28) Has limited, in any way, a patient's right or ability to raise grievances or file complaints with any appropriate oversight body, including the North Carolina State Board of Dental Examiners, the North Carolina Department of Justice, Division of Medicaid Investigations, and the North Carolina Department of Health and Human Services, Division of Health Benefits, Office of Compliance and Program Integrity.

North Dakota

Permitted Practices and Requirements

North Dakota Century Code
CHAPTER 43-28
DENTISTS
[As amended by HB 1151](#)

43-28-01. Definitions.

As used in this chapter and chapter 43-20, unless the context otherwise requires:

...

8. "Telehealth" has the same meaning as in section 26.1 – 36 – 09.15.

SECTION 4. A new section to chapter 43-28 of the North Dakota Century Code is created and enacted as follows:

Standard of care and professional ethics – Telehealth.

A dentist is held to the same standard of care and ethical standards, whether practicing traditional in – person dentistry or telehealth. The following apply in the context of telehealth:

1. Professional ethical standards require a dentist to practice only in areas in which the dentist has demonstrated competence, based on the dentist's training, ability, and experience.
2. A dentist may not practice telehealth unless a bona fide dentist-patient relationship is established in person or through telehealth. A dentist practicing telehealth shall verify the identity of the patient seeking care and shall disclose to the patient the dentist's identity, physical location, contact information, and licensure status.
3. Before a dentist initially diagnoses or treats a patient for a specific illness, disease, or condition, the dentist shall perform an examination or evaluation. A dentist may perform an examination or evaluation entirely through telehealth if the examination or evaluation may be performed in accordance with the standard of care required for an in – person dental examination or evaluation. A dentist may not use telehealth to perform an initial examination or evaluation in circumstances in which the standard of care necessitates an in – person dental examination.
 - a. An appropriate telehealth examination or evaluation may include an examination utilizing secure videoconferencing in conjunction with store – and – forward technology or appropriate diagnostic testing that would be required during an in – person examination or evaluation or an examination conducted with an appropriately licensed intervening dental health care provider, practicing within the scope of the dental health care provider's profession, providing necessary physical findings to the dentist during a live, two – way telehealth encounter. An examination or evaluation consisting only of a static online questionnaire or an audio conversation does not meet the standard of care.
 - b. The use of telehealth does not expand the scope of practice for a dental health care provider, and may not be used to circumvent the licensure requirements established for dental health care providers in this state.
 - c. A dentist who practices telehealth in this state must have adequate knowledge of the availability and location of local dentists and dental health care providers to provide

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followup care to a patient following a dental telehealth encounter, including emergent and acute care facilities, in order to enable a patient to receive followup care. Once a dentist conducts an appropriate examination or evaluation, whether in – person or by telehealth, and establishes a patient – dentist relationship, subsequent followup care may be provided as deemed appropriate by the treating dentist, or by another dentist licensed by the board designated by the treating dentist to act temporarily in the treating dentist’s absence.

4. A dentist practicing telehealth is subject to all North Dakota laws governing the adequacy of dental records and the provision of dental records to the patient and other dental health care providers treating the patient.

5. A dentist practicing telehealth must have procedures for providing in-person services or for the referral of a patient requiring dental services that cannot be provided by telehealth to another dentist who practices in the area of the state and the patient can readily access.

North Dakota Century Code

CHAPTER 19-02.1

NORTH DAKOTA FOOD, DRUG, AND COSMETIC ACT

...

19-02.1-15.1. Requirements for dispensing controlled substances and specified drugs – Penalty.

1. As used in this section:

...

c. “In-person medical evaluation” means a medical evaluation that is conducted with the patient in the physical presence of the practitioner, without regard to whether portions of the evaluation are conducted by other practitioners, and must include one of the following actions:

(1) The prescribing practitioner examines the patient at the time the prescription or drug order is issued;

(2) The prescribing practitioner has performed a prior examination of the patient within twelve months;

(3) Another prescribing practitioner practicing within the same health system, group, or clinic as the prescribing practitioner has examined the patient within twelve months;

(4) A consulting practitioner to whom the prescribing practitioner has referred the patient has examined the patient within twelve months; or

(5) The referring practitioner has performed an examination in the case of a consultant practitioner issuing a prescription or drug order when providing services by means of telemedicine.

d. “Internet” and “practice of telemedicine” have the meanings set forth in the Ryan Haight Online Pharmacy Consumer Protection Act of 2008 [Pub. L. 110-425; 21 U.S.C. 802-803].

...

f. “Valid prescription” means a prescription that is issued for a legitimate medical purpose in the usual course of professional practice by a practitioner who has conducted an in-person medical evaluation of the patient.

2. A controlled substance or specified drug may not be delivered, distributed, or dispensed without a valid prescription. It is also unlawful for a person to knowingly or intentionally aid or abet in these activities. An example of such an activity includes knowingly or intentionally serving as an agent, intermediary, or other entity that causes the internet to be used to bring together a buyer and seller to engage in the dispensing of a controlled substance or specified drug.

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North Dakota Administrative Code

CHAPTER 20-01-02

DEFINITIONS

20-01-02-01. Definitions.

[As amended by rules adopted by the Board of Dental Examiners](#)

...

35. "Telehealth" means the federal Health Insurance Portability and Accountability Act compliant practice of providing health care to a patient of record, using electronic technology or secure communication technologies between a licensee in one location and a patient in another location.

...

North Dakota Administrative Code

DENTISTS

CHAPTER 20-02-01

GENERAL REQUIREMENTS

[As amended by rules adopted by the Board of Dental Examiners](#)

...

20-02-01-09. Retention of records.

Dental records must be legible and include a chronology of the patient's progress throughout the course of all treatment and postoperative visits. All entries in the patient record must be dated, initialed, and handwritten in ink or computer printed. Digital radiographs must be transferred by compact or optical disc, electronic communication, or printing on high quality photographic paper. All transferred film or digital radiographs must reveal images of diagnostic quality using proper exposure settings and processing procedures. For purposes of this section:

1. "Dental record" or "patient's chart" means the detailed history of the physical examination, diagnosis, treatment, patient-related communications, and management of a patient documented in chronological order. The dental record must contain the following components:
 - a. Personal data to include name, address, date of birth, name of patient's parent or guardian, name and telephone number of a person to contact in case of an emergency, and patient's insurance information.
 - b. Patient's reason for visit or chief complaint.
 - c. Dental and physical health history.
 - d. Clinical examination must include record of existing oral health status, radiographs used, and any other diagnostic aids used.
 - e. Diagnosis.
 - f. Dated treatment plan except for routine dental care such as preventive services.
 - g. Informed consent must include notation of treatment options discussed with the patient, including prognosis of such treatment plan, benefits and risks of each treatment, and documentation of the treatment the patient has chosen.
 - h. Corrections of records must be legible, written in ink, and contain no erasures or use of "white-outs." If incorrect information is placed in the record, it must be crossed out with one single line and initialed by a dental health care worker.
 - i. Progress notes must include a chronology of the patient's progress throughout the course of all treatment and postoperative visits of treatment provided; medications used; materials placed; the treatment provider by name or initials; name of collaborating dentist; administration information of nitrous oxide inhalation; any medication dispensed before, during, or after discharge; and patient status at discharge.

j. Each patient shall have access to health provider information as it pertains to their treating doctor or potential doctors. Any entity, utilizing telehealth must provide upon request of a patient the name of the dentist, telephone number, practice address, and state license number of any dentist who was involved with the provision of services to a patient before, prior to, or during the rendering of dental services.

2. "Patient" means an individual who has received dental care services from a provider for treatment of a dental condition. 3. "Retention of records" means a dentist shall retain a patient's dental record for a minimum of six years after the patient's last examination, prescription, or treatment. Records for minors shall be retained for a minimum of either one year after the patient reaches the age of eighteen or six years after the patient's last examination, prescription, or treatment, whichever is longer. Proper safeguards shall be maintained to ensure safety of records from destructive elements. The requirements of this rule apply to electronic records as well as to records kept by any other means.

Medicaid Reimbursement

North Dakota statutes and regulations do not require the state to reimburse for teledentistry. The state will reimburse synchronous teledentistry as outline in this [state Medicaid policy memo](#).

Private Payer Reimbursement

North Dakota Century Code

CHAPTER 26.1-36

ACCIDENT AND HEALTH INSURANCE

[As amended by HB 1465](#)

...

26.1-36-09.15. Coverage of telehealth services.

1. As used in this section: a. "Distant site" means a site at which a health care provider or health care facility is located while providing medical services by means of telehealth.

b. "E - visit" means a face-to-face digital communication initiated by a patient to a provider through the provider's online patient portal.

c. "Health care facility" means any office or institution at which health services are provided. The term includes hospitals; clinics; ambulatory surgery centers; outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted living facilities; laboratories; and offices of any health care provider.

d. "Health care provider" includes an individual licensed under chapter 43-05, 43-06, 43-12.1 as a registered nurse or as an advanced practice registered nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42, 43-44, 43-45, 43-47, 43-58, or 43-60.

e. "Nonpublic facing product" means a remote communication product that, as a default, allows only the intended parties to participate in the communication.

f. "Originating site" means a site at which a patient is located at the time health services are provided to the patient by means of telehealth.

g. "Policy" means an accident and health insurance policy, contract, or evidence of coverage on a group, individual, blanket, franchise, or association basis.

h. "Secure connection" means a connection made using a nonpublic facing remote communication product that employs end - to - end encryption, and which allows only an individual and the person with whom the individual is communicating to see what is transmitted.

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i. "Store-and-forward technology" means electronic information, imaging, and communication that is transferred, recorded, or otherwise stored in order to be reviewed at a distant site at a later date by a health care provider or health care facility without the patient present in real time. The term includes telehome monitoring and interactive audio, video, and data communication.

j. "Telehealth": (1) Means the use of interactive audio, video, or other telecommunications technology that is used by a health care provider or health care facility at a distant site to deliver health services at an originating site and that is delivered over a secure connection that complies with the requirements of state and federal laws. (2) Includes the use of electronic media for consultation relating to the health care diagnosis or treatment of a patient in real time or through the use of store-and-forward technology. (3) Does not include the use of audio-only telephone, electronic mail, or facsimile transmissions, or audio-only telephone unless for the purpose of e - visits or a virtual check - in.

k. "Virtual check - in" means a brief communication via telephone or other telecommunications device to decide whether an office visit or other service is needed.

2. An insurer may not deliver, issue, execute, or renew a policy that provides health benefits coverage unless that policy provides coverage for health services delivered by means of telehealth which is the same as the coverage for health services delivered by in-person means.
3. Payment or reimbursement of expenses for covered health services delivered by means of telehealth under this section may be established through negotiations conducted by the insurer with the health services providers in the same manner as the insurer establishes payment or reimbursement of expenses for covered health services that are delivered by in-person means.
4. Coverage under this section may be subject to deductible, coinsurance, and copayment provisions.
5. This section does not require:
 - a. A policy to provide coverage for health services that are not medically necessary, subject to the terms and conditions of the policy;
 - b. A policy to provide coverage for health services delivered by means of telehealth if the policy would not provide coverage for the health services if delivered by in-person means;
 - c. A policy to reimburse a health care provider or health care facility for expenses for health services delivered by means of telehealth if the policy would not reimburse that health care provider or health care facility if the health services had been delivered by in-person means;or
 - d. A health care provider to be physically present with a patient at the originating site unless the health care provider who is delivering health services by means of telehealth determines the presence of a health care provider is necessary.