

Title 45.
Subtitle 1.
Chapter 1.
Article 6. (New)
Telemedicine and
Telehealth
§§1-6 -
C.45:1-61 to
45:1-66
§7 - C.30:4D-6k
§8 - C.26:2S-29
§9 – C.52:14-17.29w
§10 – C.52:14-17.46.6h
§11 - Note

(CORRECTED COPY)

P.L.2017, CHAPTER 117, approved July 21, 2017
Senate Substitute for Senate Committee Substitute for
Senate, Nos. 291 SCS, 652, and 1954

1 **AN ACT** authorizing the provision of health care services through
2 telemedicine and telehealth, and supplementing various parts of
3 the statutory law.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

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

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

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

25 “Health care provider” means an individual who provides a
26 health care service to a patient, and includes, but is not limited to,
27 licensed physician, nurse, nurse practitioner, psychologist,
28 psychiatrist, psychoanalyst, clinical social worker, physician
29 assistant, professional counselor, respiratory therapist, speech
30 pathologist, audiologist, optometrist, or any other health care

1 professional acting within the scope of a valid license or
2 certification issued pursuant to Title 45 of the Revised Statutes.

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

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

12 “Telehealth” means the use of information and communications
13 technologies, including telephones, remote patient monitoring
14 devices, or other electronic means, to support clinical health care,
15 provider consultation, patient and professional health-related
16 education, public health, health administration, and other services in
17 accordance with the provisions of P.L. , c. (C.) (pending
18 before the Legislature as this bill).

19 “Telemedicine” means the delivery of a health care service using
20 electronic communications, information technology, or other
21 electronic or technological means to bridge the gap between a
22 health care provider who is located at a distant site and a patient
23 who is located at an originating site, either with or without the
24 assistance of an intervening health care provider, and in accordance
25 with the provisions of P.L. , c. (C.) (pending before the
26 Legislature as this bill). “Telemedicine” does not include the use,
27 in isolation, of audio-only telephone conversation, electronic mail,
28 instant messaging, phone text, or facsimile transmission.

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

33

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

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

1 subject to New Jersey jurisdiction if either the patient or the
2 provider is located in New Jersey at the time services are provided.

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

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

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

23 (4) A health care provider engaging in telemedicine or
24 telehealth shall review the medical history and any medical records
25 provided by the patient. For an initial encounter with the patient,
26 the provider shall review the patient's medical history and medical
27 records prior to initiating contact with the patient, as required
28 pursuant to paragraph (3) of subsection a. of section 3 of P.L. , c.
29 (C.) (pending before the Legislature as this bill). In the case of
30 a subsequent telemedicine or telehealth encounter conducted
31 pursuant to an ongoing provider-patient relationship, the provider
32 may review the information prior to initiating contact with the
33 patient or contemporaneously with the telemedicine or telehealth
34 encounter.

35 (5) Following the provision of services using telemedicine or
36 telehealth, the patient's medical information shall be made available
37 to the patient upon the patient's request, and, with the patient's
38 affirmative consent, forwarded directly to the patient's primary care
39 provider or health care provider of record, or, upon request by the
40 patient, to other health care providers. For patients without a
41 primary care provider or other health care provider of record, the
42 health care provider engaging in telemedicine or telehealth may
43 advise the patient to contact a primary care provider, and, upon
44 request by the patient, assist the patient with locating a primary care
45 provider or other in-person medical assistance that, to the extent
46 possible, is located within reasonable proximity to the patient. The
47 health care provider engaging in telemedicine or telehealth shall
48 also refer the patient to appropriate follow up care where necessary,

1 including making appropriate referrals for emergency or
2 complimentary care, if needed. Consent may be oral, written, or
3 digital in nature, provided that the chosen method of consent is
4 deemed appropriate under the standard of care.

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

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

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

37 f. A mental health screener, screening service, or screening
38 psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-
39 27.1 et seq.):

40 (1) shall not be required to obtain a separate authorization in
41 order to engage in telemedicine or telehealth for mental health
42 screening purposes; and

43 (2) shall not be required to request and obtain a waiver from
44 existing regulations, prior to engaging in telemedicine or telehealth.

45 g. A health care provider who engages in telemedicine or
46 telehealth, as authorized by P.L. , c. (C.) (pending before
47 the Legislature as this bill), shall maintain a complete record of the
48 patient's care, and shall comply with all applicable State and federal

1 statutes and regulations for recordkeeping, confidentiality, and
2 disclosure of the patient's medical record.

3 h. A health care provider shall not be subject to any
4 professional disciplinary action under Title 45 of the Revised
5 Statutes solely on the basis that the provider engaged in
6 telemedicine or telehealth pursuant to P.L. , c. (C.)
7 (pending before the Legislature as this bill).

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

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

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

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

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

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

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

42

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

47 (1) properly identifying the patient using, at a minimum, the
48 patient's name, date of birth, phone number, and address. When

- 1 properly identifying the patient, the provider may additionally use
2 the patient's assigned identification number, social security number,
3 photo, health insurance policy number, or other appropriate patient
4 identifier associated directly with the patient;
- 5 (2) disclosing and validating the provider's identity and
6 credentials, such as the provider's license, title, and, if applicable,
7 specialty and board certifications;
- 8 (3) prior to initiating contact with a patient in an initial
9 encounter for the purpose of providing services to the patient using
10 telemedicine or telehealth, reviewing the patient's medical history
11 and any available medical records; and
- 12 (4) prior to initiating contact with a patient for the purpose of
13 providing services to the patient using telemedicine or telehealth,
14 determining whether the provider will be able to provide the same
15 standard of care using telemedicine or telehealth as would be
16 provided if the services were provided in person. The provider
17 shall make this determination prior to each unique patient
18 encounter.
- 19 b. Telemedicine or telehealth may be practiced without a
20 proper provider-patient relationship, as defined in subsection a. of
21 this section, in the following circumstances:
- 22 (1) during informal consultations performed by a health care
23 provider outside the context of a contractual relationship, or on an
24 irregular or infrequent basis, without the expectation or exchange of
25 direct or indirect compensation;
- 26 (2) during episodic consultations by a medical specialist located
27 in another jurisdiction who provides consultation services, upon
28 request, to a properly licensed or certified health care provider in
29 this State;
- 30 (3) when a health care provider furnishes medical assistance in
31 response to an emergency or disaster, provided that there is no
32 charge for the medical assistance; or
- 33 (4) when a substitute health care provider, who is acting on
34 behalf of an absent health care provider in the same specialty,
35 provides health care services on an on-call or cross-coverage basis,
36 provided that the absent health care provider has designated the
37 substitute provider as an on-call provider or cross-coverage service
38 provider.
- 39
- 40 4. a. Each telemedicine or telehealth organization operating in
41 the State shall annually register with the Department of Health.
- 42 b. Each telemedicine or telehealth organization operating in the
43 State shall submit an annual report to the Department of Health in a
44 manner as determined by the commissioner. The annual report
45 shall include de-identified encounter data including, but not limited
46 to: the total number of telemedicine and telehealth encounters
47 conducted; the type of technology utilized to provide services using
48 telemedicine or telehealth; the category of medical condition for

1 which services were sought; the geographic region of the patient
2 and the provider; the patient's age and sex; and any prescriptions
3 issued. The commissioner may require the reporting of any
4 additional information as the commissioner deems necessary and
5 appropriate, subject to all applicable State and federal laws, rules,
6 and regulations for recordkeeping and privacy. Commencing six
7 months after the effective date of P.L. , c. (C.) (pending
8 before the Legislature as this bill), telemedicine and telehealth
9 organizations shall include in the annual report, for each
10 telemedicine or telehealth encounter: the patient's race and
11 ethnicity; the diagnostic codes; the evaluation management codes;
12 and the source of payment for the encounter.

13 c. The Department of Health shall compile the information
14 provided in the reports submitted by telemedicine and telehealth
15 organizations pursuant to subsection b. of this section to generate
16 Statewide data concerning telemedicine and telehealth services
17 provided in the State. The department shall annually share the
18 Statewide data with the Department of Human Services, the
19 Department of Banking and Insurance, the Telemedicine and
20 Telehealth Review Commission established pursuant to section 5 of
21 P.L. , c. (C.) (pending before the Legislature as this bill),
22 State boards and other entities that, under Title 45 of the Revised
23 Statutes, are responsible for the professional licensure, certification,
24 or registration of health care providers in the State who provide
25 health care services using telemedicine or telehealth pursuant to
26 P.L. , c. (C.) (pending before the Legislature as this bill),
27 and the Legislature pursuant section 2 of P.L.1991, c.164 (C.52:14-
28 19.1). The department shall also transmit a report to the Legislature
29 and the Telemedicine and Telehealth Review Commission that
30 includes: an analysis of each rule and regulation adopted pursuant
31 to subsection i. of section 2 of P.L. , c. (C.) (pending
32 before the Legislature as this bill) by a State board or other entity
33 responsible for the professional licensure, certification, or
34 registration of health care providers in the State who provide health
35 care services using telemedicine or telehealth; and an assessment of
36 the effect that telemedicine and telehealth is having on health care
37 delivery, health care outcomes, population health, and in-person
38 health care services provided in facility-based and office-based
39 settings.

40 d. A telemedicine or telehealth organization that fails to
41 register with the Department of Health pursuant to subsection a. of
42 this section or that fails to submit the annual report required
43 pursuant to subsection b. of this section shall be liable to such
44 disciplinary actions as the Commissioner of Health may prescribe
45 by regulation.

46
47 5. a. Six months after the effective date of P.L. , c. (C.)
48 (pending before the Legislature as this bill), there shall be

1 established in the Department of Health the Telemedicine and
2 Telehealth Review Commission, which shall review the information
3 reported by telemedicine and telehealth organizations pursuant to
4 subsection b. of section 4 of P.L. , c. (C.) (pending before
5 the Legislature as this bill) and make recommendations for such
6 executive, legislative, regulatory, administrative, and other actions
7 as may be necessary and appropriate to promote and improve the
8 quality, efficiency, and effectiveness of telemedicine and telehealth
9 services provided in this State.

10 b. The commission shall consist of seven members, as follows:
11 the Commissioner of Health, or a designee, who shall serve ex
12 officio, and six public members, with two members each to be
13 appointed by the Governor, the Senate President, and the Speaker of
14 the General Assembly. The public members shall be health care
15 professionals with a background in the provision of health care
16 services using telemedicine and telehealth. The public members
17 shall serve at the pleasure of the appointing authority, and vacancies
18 in the membership shall be filled in the same manner as the original
19 appointments.

20 c. Members of the commission shall serve without
21 compensation but may be reimbursed for necessary travel expenses
22 incurred in the performance of their duties within the limits of funds
23 made available for that purpose.

24 d. The members shall select a chairperson and a vice
25 chairperson from among the members. The chairperson may
26 appoint a secretary, who need not be a member of the commission.
27 The Department of Health shall provide staff and administrative
28 support to the commission.

29 e. The commission shall meet at least twice a year and at such
30 other times as the chairperson may require. The commission shall
31 be entitled to call to its assistance and avail itself of the services of
32 the employees of any State, county, or municipal department, board,
33 bureau, commission, or agency as it may require and as may be
34 available for its purposes.

35 f. The commission shall report its findings and
36 recommendations to the Governor, the Commissioner of Health, the
37 State boards or other entities that, pursuant to Title 45 of the
38 Revised Statutes, are responsible for the licensure, certification, or
39 registration of health care providers in the State who provide health
40 care services using telemedicine or telehealth pursuant to P.L. , c.
41 (C.) (pending before the Legislature as this bill), and, pursuant
42 to section 2 of P.L.1991, c.164 (C.52:14-19.1), the Legislature no
43 later than two years after the date the commission first meets. The
44 commission shall expire upon submission of its report.

45

46 6. If any provision of P.L. , c. (C.) (pending before the
47 Legislature as this bill) or its application to any person or
48 circumstance is held to be invalid, the invalidity shall not affect any

1 other provision or application of P.L. , c. (C.) (pending
2 before the Legislature as this bill) which can be given effect without
3 the invalid provision or application, and, to this end, the provisions
4 of P.L. , c. (C.) (pending before the Legislature as this bill)
5 are severable.
6

7 7. a. The State Medicaid and NJ FamilyCare programs shall
8 provide coverage and payment for health care services delivered to
9 a benefits recipient through telemedicine or telehealth, on the same
10 basis as, and at a provider reimbursement rate that does not exceed
11 the provider reimbursement rate that is applicable, when the
12 services are delivered through in-person contact and consultation in
13 New Jersey. Reimbursement payments under this section may be
14 provided either to the individual practitioner who delivered the
15 reimbursable services, or to the agency, facility, or organization that
16 employs the individual practitioner who delivered the reimbursable
17 services, as appropriate.

18 b. The State Medicaid and NJ FamilyCare programs may limit
19 coverage to services that are delivered by participating health care
20 providers, but may not charge any deductible, copayment, or
21 coinsurance for a health care service, delivered through
22 telemedicine or telehealth, in an amount that exceeds the deductible,
23 copayment, or coinsurance amount that is applicable to an in-person
24 consultation.

25 c. Nothing in this section shall be construed to:

26 (1) prohibit the State Medicaid or NJ FamilyCare programs
27 from providing coverage for only those services that are medically
28 necessary, subject to the terms and conditions of the recipient's
29 benefits plan; or

30 (2) allow the State Medicaid or NJ FamilyCare programs to
31 require a benefits recipient to use telemedicine or telehealth in lieu
32 of obtaining an in-person service from a participating health care
33 provider.

34 d. The Commissioner of Human Services, in consultation with
35 the Commissioner of Children and Families, shall apply for such
36 State plan amendments or waivers as may be necessary to
37 implement the provisions of this section and to secure federal
38 financial participation for State expenditures under the federal
39 Medicaid program and Children's Health Insurance Program.

40 e. As used in this section:

41 "Benefits recipient" or "recipient" means a person who is
42 eligible for, and who is receiving, hospital or medical benefits under
43 the State Medicaid program established pursuant to P.L.1968, c.413
44 (C.30:4D-1 et seq.), or under the NJ FamilyCare program
45 established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), as
46 appropriate.

47 "Participating health care provider" means a licensed or certified
48 health care provider who is registered to provide health care

1 services to benefits recipients under the State Medicaid or NJ
2 FamilyCare programs, as appropriate.

3 “Telehealth” means the same as that term is defined by section 1
4 of P.L. , c. (C.) (pending before the Legislature as this
5 bill).

6 “Telemedicine” means the same as that term is defined by
7 section 1 of P.L. , c. (C.) (pending before the Legislature
8 as this bill).

9
10 8. a. A carrier that offers a health benefits plan in this State
11 shall provide coverage and payment for health care services
12 delivered to a covered person through telemedicine or telehealth, on
13 the same basis as, and at a provider reimbursement rate that does
14 not exceed the provider reimbursement rate that is applicable, when
15 the services are delivered through in-person contact and
16 consultation in New Jersey. Reimbursement payments under this
17 section may be provided either to the individual practitioner who
18 delivered the reimbursable services, or to the agency, facility, or
19 organization that employs the individual practitioner who delivered
20 the reimbursable services, as appropriate.

21 b. A carrier may limit coverage to services that are delivered
22 by health care providers in the health benefits plan’s network, but
23 may not charge any deductible, copayment, or coinsurance for a
24 health care service, delivered through telemedicine or telehealth, in
25 an amount that exceeds the deductible, copayment, or coinsurance
26 amount that is applicable to an in-person consultation.

27 c. Nothing in this section shall be construed to:

28 (1) prohibit a carrier from providing coverage for only those
29 services that are medically necessary, subject to the terms and
30 conditions of the covered person’s health benefits plan; or

31 (2) allow a carrier to require a covered person to use
32 telemedicine or telehealth in lieu of receiving an in-person service
33 from an in-network provider.

34 d. The Commissioner of Banking and Insurance shall adopt
35 rules and regulations, pursuant to the “Administrative Procedure
36 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the
37 provisions of this section.

38 e. As used in this section:

39 “Carrier” means the same as that term is defined by section 2 of
40 P.L.1997, c.192 (C.26:2S-2).

41 “Covered person” means the same as that term is defined by
42 section 2 of P.L.1997, c.192 (C.26:2S-2).

43 “Health benefits plan” means the same as that term is defined by
44 section 2 of P.L.1997, c.192 (C.26:2S-2).

45 “Telehealth” means the same as that term is defined by section 1
46 of P.L. , c. (C.) (pending before the Legislature as this
47 bill).

1 “Telemedicine” means the same as that term is defined by
2 section 1 of P.L. , c. (C.) (pending before the Legislature
3 as this bill).

4
5 9. a. The State Health Benefits Commission shall ensure that
6 every contract purchased thereby, which provides hospital and
7 medical expense benefits, additionally provides coverage and
8 payment for health care services delivered to a covered person
9 through telemedicine or telehealth, on the same basis as, and at a
10 provider reimbursement rate that does not exceed the provider
11 reimbursement rate that is applicable, when the services are
12 delivered through in-person contact and consultation in New Jersey.
13 Reimbursement payments under this section may be provided either
14 to the individual practitioner who delivered the reimbursable
15 services, or to the agency, facility, or organization that employs the
16 individual practitioner who delivered the reimbursable services, as
17 appropriate.

18 b. A health benefits contract purchased by the State Health
19 Benefits Commission may limit coverage to services that are
20 delivered by health care providers in the health benefits plan’s
21 network, but may not charge any deductible, copayment, or
22 coinsurance for a health care service, delivered through
23 telemedicine or telehealth, in an amount that exceeds the deductible,
24 copayment, or coinsurance amount that is applicable to an in-person
25 consultation.

26 c. Nothing in this section shall be construed to:

27 (1) prohibit a health benefits contract from providing coverage
28 for only those services that are medically necessary, subject to the
29 terms and conditions of the covered person’s health benefits plan;
30 or

31 (2) allow the State Health Benefits Commission, or a contract
32 purchased thereby, to require a covered person to use telemedicine
33 or telehealth in lieu of receiving an in-person service from an in-
34 network provider.

35 d. The State Health Benefits Commission shall adopt rules and
36 regulations, pursuant to the “Administrative Procedure Act,”
37 P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions
38 of this section.

39 e. As used in this section:

40 “Telehealth” means the same as that term is defined by section 1
41 of P.L. , c. (C.) (pending before the Legislature as this
42 bill).

43 “Telemedicine” means the same as that term is defined by
44 section 1 of P.L. , c. (C.) (pending before the Legislature
45 as this bill).

46
47 10. a. The School Employees’ Health Benefits Commission
48 shall ensure that every contract purchased thereby, which provides

1 hospital and medical expense benefits, additionally provides
2 coverage and payment for health care services delivered to a
3 covered person through telemedicine or telehealth, on the same
4 basis as, and at a provider reimbursement rate that does not exceed
5 the provider reimbursement rate that is applicable, when the
6 services are delivered through in-person contact and consultation in
7 New Jersey. Reimbursement payments under this section may be
8 provided either to the individual practitioner who delivered the
9 reimbursable services, or to the agency, facility, or organization that
10 employs the individual practitioner who delivered the reimbursable
11 services, as appropriate.

12 b. A health benefits contract purchased by the State Health
13 Benefits Commission may limit coverage to services that are
14 delivered by health care providers in the health benefits plan's
15 network, but may not charge any deductible, copayment, or
16 coinsurance for a health care service, delivered through
17 telemedicine or telehealth, in an amount that exceeds the deductible,
18 copayment, or coinsurance amount that is applicable to an in-person
19 consultation.

20 c. Nothing in this section shall be construed to:

21 (1) prohibit a health benefits contract from providing coverage
22 for only those services that are medically necessary, subject to the
23 terms and conditions of the covered person's health benefits plan;
24 or

25 (2) allow the School Employees' Health Benefits Commission,
26 or a contract purchased thereby, to require a covered person to use
27 telemedicine or telehealth in lieu of receiving an in-person service
28 from an in-network provider.

29 d. The School Employees' Health Benefits Commission shall
30 adopt rules and regulations, pursuant to the "Administrative
31 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement
32 the provisions of this section.

33 e. As used in this section:

34 "Telehealth" means the same as that term is defined by section 1
35 of P.L. , c. (C.) (pending before the Legislature as this
36 bill).

37 "Telemedicine" means the same as that term is defined by
38 section 1 of P.L. , c. (C.) (pending before the Legislature
39 as this bill).

40

41 11. This act shall take effect immediately, and section 5 of this
42 act shall expire upon submission of the commission's report.

43

44

45

STATEMENT

46

47 This Senate floor substitute authorizes health care providers,
48 including, but not limited to, licensed physicians, nurses, nurse

1 practitioners, psychologists, psychiatrists, psychoanalysts, clinical
2 social workers, physician assistants, professional counselors,
3 respiratory therapists, speech pathologists, audiologists, and
4 optometrists, to remotely provide health care services to patients
5 through the use of telemedicine and telehealth.

6 “Telehealth” is defined to mean the use of information and
7 communications technologies, including telephones, remote patient
8 monitoring devices, or other electronic means, to support clinical
9 health care, provider consultation, patient and professional health-
10 related education, public health, health administration, and other
11 services as described in regulation.

12 “Telemedicine” is defined to mean means the delivery of a health
13 care service using electronic communications, information
14 technology, or other electronic or technological means to bridge the
15 gap between a health care provider who is located at a distant site
16 and a patient who is located at an originating site, either with or
17 without the assistance of an intervening health care provider.
18 “Telemedicine” would not include the use, in isolation, of audio-
19 only telephone conversation, electronic mail, instant messaging,
20 phone text, or facsimile transmission.

21 Specifically, a health care provider will be permitted to remotely
22 provide health care services to a patient through the use of
23 telemedicine, and will be permitted to engage in telehealth as may
24 be necessary to support and facilitate the provision of health care
25 services to patients.

26 The substitute bill requires any health care provider who uses
27 telemedicine or engages in telehealth while providing health care
28 services to a patient to: (1) be validly licensed, certified, or
29 registered to provide such services in the State of New Jersey; (2)
30 remain subject to regulation by the appropriate New Jersey State
31 licensing board or professional regulatory entity; (3) act in
32 compliance with existing requirements regarding the maintenance
33 of liability insurance; and (4) remain subject to New Jersey
34 jurisdiction if either the patient or the provider is located in New
35 Jersey at the time services are provided.

36 The bill requires telemedicine services to be provided using
37 interactive, real-time, two-way communication technologies. A
38 health care provider engaging in telemedicine or telehealth may use
39 asynchronous store-and-forward technology to allow for the
40 electronic transmission of images, diagnostics, data, and medical
41 information; except that the health care provider may use
42 interactive, real-time, two-way audio in combination with
43 asynchronous store-and-forward technology, without video
44 capabilities, if, after accessing and reviewing the patient’s medical
45 records, the provider determines that the provider is able to meet the
46 same standard of care as if the health care services were being
47 provided in person. The provider’s identity, professional
48 credentials, and contact information are to be made available to the

1 patient during and after the provision of services. The substitute
2 bill requires the contact information to enable the patient to contact
3 the health care provider, or a substitute health care provider
4 authorized to act on the provider's behalf, for at least 72 hours
5 following the provision of services.

6 A health care provider engaging in telemedicine or telehealth
7 will be required to review the medical history and any medical
8 records provided by the patient. In the case of an initial encounter
9 with the patient, the provider is to conduct the review before
10 initiating contact with the patient; in the case of a subsequent
11 encounter pursuant to an ongoing provider-patient relationship, the
12 provider may conduct the review prior to initiating contact or
13 contemporaneously with the telemedicine or telehealth encounter.

14 Health care providers who engage in telemedicine or telehealth
15 will be required to maintain a complete record of the patient's care
16 and comply with all applicable State and federal statutes and
17 regulations for recordkeeping, confidentiality, and disclosure of the
18 patient's medical record. Health care providers will not be subject
19 to any professional disciplinary action under Title 45 of the Revised
20 Statutes solely on the basis that the provider engaged in
21 telemedicine or telehealth pursuant to the substitute bill.

22 Following the provision of services using telemedicine or
23 telehealth, the patient's medical information is to be made available
24 to the patient upon the patient's request, and, with the patient's
25 affirmative consent, forwarded directly to the patient's primary care
26 provider or health care provider of record, or, upon request by the
27 patient, to other health care providers. For patients without a
28 primary care provider or other health care provider of record, the
29 health care provider engaging in telemedicine or telehealth may
30 advise the patient to contact a primary care provider, and, upon
31 request by the patient, may assist the patient with locating a primary
32 care provider or other in-person medical assistance that, to the
33 extent possible, is located within reasonable proximity to the
34 patient. The health care provider engaging in telemedicine or
35 telehealth will also be required to refer the patient to appropriate
36 follow up care where necessary, including making appropriate
37 referrals for emergency or complimentary care, if needed. The
38 patient's consent may be oral, written, or digital in nature, provided
39 it is appropriate under the standard of care.

40 Health care providers providing health care services using
41 telemedicine or telehealth will be subject to the same standard of
42 care or practice standards as are applicable to in-person settings. If
43 telemedicine services would not be consistent with this standard of
44 care, the health care provider is to direct the patient to seek in-
45 person care. Similarly, diagnosis, treatment, and consultation
46 recommendations made through the use of telemedicine or
47 telehealth, including the issuance of a prescription based on a
48 telemedicine encounter, are to be held to the same standard of care

1 or practice standards as are applicable to in-person settings. A
2 provider may not issue a prescription to a patient based solely on
3 the responses provided in an online questionnaire, unless the
4 provider has established a proper provider-patient relationship with
5 the patient.

6 Schedule II controlled dangerous substances may be prescribed
7 through the use of telemedicine only after the provider conducts an
8 initial in-person examination of the patient. Subsequent in-person
9 visits with the patient will be required every three months for the
10 duration of time that the patient is being prescribed the Schedule II
11 controlled dangerous substance. However, these restrictions do not
12 apply when a health care provider is prescribing a stimulant which
13 is a Schedule II controlled dangerous substance for use by a minor
14 patient under the age of 18, provided that the health care provider is
15 using interactive, real-time, two-way audio and video technologies
16 when treating the patient, and the provider has first obtained written
17 consent for the waiver of these in-person examination requirements
18 from the minor patient's parent or guardian.

19 The substitute bill provides that mental health screeners,
20 screening services, and screening psychiatrists subject to the
21 provisions of P.L.1987, c.116 (C.30:4-27.1 et seq.) will not be
22 required to obtain a separate authorization in order to engage in
23 telemedicine or telehealth for mental health screening purposes, and
24 will not be required to request and obtain a waiver from existing
25 regulations prior to engaging in telemedicine or telehealth.

26 Professional licensing and certification boards will be required to
27 adopt rules and regulations, which will be applicable to the health
28 care providers under their respective jurisdictions, in order to
29 implement the provisions of the bill and facilitate the provision of
30 telemedicine and telehealth services. The rules and regulations are
31 to, at a minimum: include best practices for the professional
32 engagement in telemedicine and telehealth; ensure that the services
33 patients receive using telemedicine or telehealth are appropriate,
34 medically necessary, and meet current quality of care standards;
35 include measures to prevent fraud and abuse in connection with the
36 use of telemedicine and telehealth, including requirements
37 concerning the filing of claims and maintaining appropriate records
38 of services provided; and provide substantially similar metrics for
39 evaluating quality of care and patient outcomes in connection with
40 services provided using telemedicine and telehealth as currently
41 apply to services provided in person. The rules and regulations may
42 not include any provision requiring an initial in-person visit with a
43 patient before providing services using telemedicine or telehealth.

44 In order to engage in telemedicine or telehealth, a health care
45 provider will be required to establish a proper patient-provider
46 relationship with the patient. Establishing this relationship
47 includes, but is not be limited to: (1) properly identifying the patient
48 using certain patient identifiers, including, at a minimum, the

1 patient's name, date of birth, phone number, address, and social
2 security number, whenever possible; (2) disclosing and validating
3 the provider's identity and credentials; (3) prior to initiating contact
4 with a patient during an initial encounter, reviewing the patient's
5 medical history and any available medical records; and (4) prior to
6 initiating contact with the patient, determining whether the provider
7 will be able to provide the appropriate standard of care using
8 telemedicine and telehealth as would be provided in an inpatient
9 setting.

10 Telemedicine may be practiced without establishing a proper
11 provider-patient relationship during informal consultations without
12 compensation; during episodic consultations by a medical specialist
13 located in another jurisdiction; when a health care provider
14 furnishes medical assistance in response to an emergency or
15 disaster, provided that there is no charge for the medical assistance;
16 and when a substitute health care provider acting on behalf of an
17 absent health care provider in the same specialty provides health
18 care services on an on-call or cross-coverage basis, provided that
19 the absent health care provider has designated the substitute
20 provider as an on-call provider or cross-coverage service provider.

21 The substitute bill requires each telemedicine or telehealth
22 organization operating in the State to annually register with the
23 Department of Health (DOH) and to submit an annual report to
24 DOH in a manner as determined by the commissioner. A
25 telemedicine or telehealth organization that fails to register or that
26 fails to submit the annual report will be subject to disciplinary
27 action.

28 The annual report submitted by each telemedicine and telehealth
29 organization is to include de-identified encounter data setting forth
30 the total number of telemedicine encounters conducted; the type of
31 technology utilized to provide services using telemedicine or
32 telehealth; the category of medical condition for which services
33 were sought; the geographic region of the patient and the provider;
34 the patient's age and sex; and any prescriptions issued. The
35 commissioner may require the reporting of any additional
36 information as the commissioner deems necessary and appropriate,
37 subject to all applicable State and federal laws, rules, and
38 regulations for recordkeeping and privacy. Commencing six
39 months after the effective date of the bill, the annual report
40 submitted by telemedicine and telehealth organizations is to
41 additionally, include, for each telemedicine or telehealth encounter:
42 the patient's race and ethnicity; the diagnostic code; the encounter
43 management code; and the source of payment for the encounter.
44 DOH will be required to share the reported information with the
45 Legislature, the Department of Human Services, the Department of
46 Banking and Insurance, the Telemedicine and Telehealth Review
47 Commission established under the bill, and the appropriate boards

1 and entities that license or certify professionals who provide health
2 care services in the State using telemedicine or telehealth.

3 Additionally, DOH will be required to compile the reported
4 information to generate Statewide data concerning telemedicine and
5 telehealth services provided in New Jersey, and report the Statewide
6 data to the Legislature and the Telemedicine and Telehealth Review
7 Commission on an annual basis. The report is to include an
8 analysis of each rule and regulation adopted by State boards and
9 entities responsible for the licensure or certification of health care
10 providers using telemedicine and telehealth, and an assessment of
11 the effect that the provision of health care services using
12 telemedicine and telehealth is having in New Jersey on health care
13 delivery, health care outcomes, population health, and in-person
14 health care services provided in facility-based and office-based
15 settings.

16 Six months after the effective date of the substitute bill, the
17 Telemedicine and Telehealth Review Commission will be
18 established in DOH. The commission will be required to review the
19 information reported by telemedicine and telehealth organizations
20 and make recommendations for such executive, legislative,
21 regulatory, administrative, and other actions as may be necessary
22 and appropriate to promote and improve the quality, efficiency, and
23 effectiveness of telemedicine and telehealth services provided in
24 New Jersey. The commission will consist of seven members: the
25 Commissioner of Health, or a designee, who will serve ex officio,
26 and six public members, with two members each to be appointed by
27 the Governor, the Senate President, and the Speaker of the General
28 Assembly. The public members are to be health care professionals
29 with a background in the provision of health care services using
30 telemedicine and telehealth. The public members will serve at the
31 pleasure of the appointing authority, and vacancies in the
32 membership shall be filled in the same manner as the original
33 appointments. Members of the commission will serve without
34 compensation but may be reimbursed for necessary travel expenses
35 incurred in the performance of their duties within the limits of funds
36 made available for that purpose. The commission will meet at least
37 twice a year and at such other times as the chairperson may require.
38 The commission will be entitled to call to its assistance and avail
39 itself of the services of the employees of any State, county, or
40 municipal department, board, bureau, commission, or agency as it
41 may require and as may be available for its purposes. The
42 commission will be required to report its findings and
43 recommendations to the Governor, the Commissioner of Health, the
44 State boards or other entities which are responsible for the
45 licensure, certification, or registration of health care providers in
46 the State who provide health care services using telemedicine or
47 telehealth, and the Legislature no later than two years after the date

1 the commission first meets, and will expire upon submission of the
2 report.

3 The substitute bill specifies that Medicaid, NJ FamilyCare, and
4 certain health insurance providers, including the carriers of health
5 benefits plans, the State Health Benefits Commission, and the
6 School Employees' Health Benefits Commission, are each to
7 provide coverage and payment for services provided through
8 telemedicine and telehealth on the same basis as, and at a provider
9 reimbursement rate that does not exceed the provider
10 reimbursement rate that is applicable, when the services are
11 delivered in-person in New Jersey. Reimbursement payments may
12 be made to the individual practitioner who delivered the
13 reimbursable services, or to the telemedicine or telehealth
14 organization that employs the practitioner.

15 Each such carrier or insurance provider will be authorized to
16 charge a deductible, copayment, or coinsurance for a health care
17 service delivered through telemedicine or telehealth, provided that
18 the amount charged does not exceed the charge for an in-person
19 consultation. Where applicable, each carrier or insurance provider
20 will be limited in its ability to impose annual or lifetime dollar
21 maximum amounts on the coverage of services provided through
22 telemedicine. Nothing in the substitute bill will prohibit a carrier or
23 other insurance provider from providing coverage only for services
24 deemed to be medically necessary, and nothing will allow a carrier
25 or other insurance provider to coerce a covered person to use
26 telehealth or telemedicine in lieu of receiving an in-person service.

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29 _____
30 Authorizes health care providers to engage in telemedicine and
telehealth.