



Reprinted
February 22, 2017

HOUSE BILL No. 1337

DIGEST OF HB 1337 (Updated February 21, 2017 10:54 am - DI 77)

Citations Affected: IC 12-15; IC 25-1.

Synopsis: Telemedicine matters. Requires the office of Medicaid policy and planning (office) to reimburse a Medicaid provider for telemedicine services who meets certain requirements. Prohibits the office from setting any distance restrictions under Medicaid on telehealth services and telemedicine services. Requires reimbursement for telemedicine services under the healthy Indiana plan. Adds certain providers to the definition of "provider" for purposes of telemedicine services. Gives a telemedicine services provider discretion in contacting the patient's primary care provider if the telemedicine services provider has provided care to the patient at least two consecutive times through the use of telemedicine services. Removes a limitation on prescribing controlled substances through the use of telemedicine except for the prescribing of opioids. Allows the use of a partial agonist to treat or manage an opioid dependence.

Effective: Upon passage; July 1, 2017.

Kirchhofer, Bacon, Shackelford

January 12, 2017, read first time and referred to Committee on Public Health.
February 16, 2017, amended, reported — Do Pass.
February 21, 2017, read second time, amended, ordered engrossed.

HB 1337—LS 6947/DI 104



Reprinted
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First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1337

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 12-15-5-11, AS ADDED BY P.L.204-2013,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 11. (a) As used in this section, "telehealth
4 services" means the use of telecommunications and information
5 technology to provide access to health assessment, diagnosis,
6 intervention, consultation, supervision, and information across a
7 distance.

8 (b) As used in this section, "telemedicine services" ~~means a specific~~
9 ~~method of delivery of services, including medical exams and~~
10 ~~consultations and behavioral health evaluations and treatment,~~
11 ~~including those for substance abuse, using videoconferencing~~
12 ~~equipment to allow a provider to render an examination or other service~~
13 ~~to a patient at a distant location. The term does not include the use of~~
14 ~~the following: has the meaning set forth for "telemedicine" in~~
15 ~~IC 25-1-9.5-6.~~

16 (1) ~~A telephone transmitter for transtelephonic monitoring.~~
17 (2) ~~A telephone or any other means of communication for the~~

HB 1337—LS 6947/DI 104



- 1 ~~consultation from one (1) provider to another provider.~~
- 2 (c) The office shall reimburse a Medicaid provider who is licensed
- 3 as a home health agency under IC 16-27-1 for telehealth services.
- 4 (d) The office shall reimburse the following Medicaid providers for
- 5 **medically necessary** telemedicine services **and facility costs related**
- 6 **to the use of telemedicine:**
- 7 (1) A federally qualified health center (as defined in 42 U.S.C.
- 8 1396d(l)(2)(B)).
- 9 (2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).
- 10 (e) The office shall reimburse the following Medicaid providers for
- 11 telemedicine services regardless of the distance between the provider
- 12 and the patient:
- 13 (1) A federally qualified health center (as defined in 42 U.S.C.
- 14 1396d(l)(2)(B)).
- 15 (2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).
- 16 (3) A community mental health center certified under
- 17 IC 12-21-2-3(5)(C).
- 18 (4) A critical access hospital that meets the criteria under 42 CFR
- 19 485.601 et seq.
- 20 (5) **A provider, determined by the office, who meets the**
- 21 **requirements under IC 25-1-9.5 and is enrolled as an Indiana**
- 22 **Medicaid provider.**
- 23 ~~(f) The office shall, not later than December 1, 2013, file any~~
- 24 ~~Medicaid state plan amendment with the United States Department of~~
- 25 ~~Health and Human Services necessary to implement and administer~~
- 26 ~~this section including an amendment to eliminate the current twenty~~
- 27 ~~(20) mile distance restriction.~~
- 28 (f) **The office may not impose any distance restrictions on**
- 29 **providers of telehealth services or telemedicine services. Before**
- 30 **December 31, 2017, the office shall do the following:**
- 31 (1) **Submit a Medicaid state plan amendment with the United**
- 32 **States Department of Health and Human Services that**
- 33 **eliminates distance restrictions for telehealth services or**
- 34 **telemedicine services in the state Medicaid plan.**
- 35 (2) **Issue a notice of intent to adopt a rule to amend any**
- 36 **administrative rules that include distance restrictions for the**
- 37 **provision of telehealth services or telemedicine services.**
- 38 (g) The office shall implement any part of this section that is
- 39 approved by the United States Department of Health and Human
- 40 Services.
- 41 (h) The office may adopt rules under IC 4-22-2 necessary to
- 42 implement and administer this section.



1 SECTION 2. IC 25-1-9.5-4, AS ADDED BY P.L.78-2016,
 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2017]: Sec. 4. As used in this chapter, "provider" means any
 4 of the following:

- 5 (1) A physician licensed under IC 25-22.5.
 6 (2) A physician assistant licensed under IC 25-27.5 and granted
 7 the authority to prescribe by the physician assistant's supervisory
 8 physician in accordance with IC 25-27.5-5-4.
 9 (3) An advanced practice nurse licensed and granted the authority
 10 to prescribe drugs under IC 25-23.
 11 (4) An optometrist licensed under IC 25-24.
 12 **(5) A podiatrist licensed under IC 25-29.**
 13 **(6) A health service provider in psychology.**
 14 **(7) A federally qualified health center (as defined in 42 U.S.C.**
 15 **1396d(l)(2)(B)).**
 16 **(8) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).**
 17 **(9) A community mental health center certified under**
 18 **IC 12-21-2-3(5)(C).**
 19 **(10) A critical access hospital that meets the criteria under 42**
 20 **CFR 485.601 et seq.**
 21 **(11) A provider, determined by the office, who meets the**
 22 **requirements under IC 25-1-9.5 and is enrolled as an Indiana**
 23 **Medicaid provider.**

24 SECTION 3. IC 25-1-9.5-7, AS ADDED BY P.L.78-2016,
 25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2017]: Sec. 7. (a) A provider who provides health care
 27 services through telemedicine shall be held to the same standards of
 28 appropriate practice as those standards for health care services
 29 provided at an in-person setting.

30 (b) A provider may not use telemedicine, including issuing a
 31 prescription, for an individual who is located in Indiana unless a
 32 provider-patient relationship between the provider and the individual
 33 has been established. A provider who uses telemedicine shall, if such
 34 action would otherwise be required in the provision of the same health
 35 care services in a manner other than telemedicine, ensure that a proper
 36 provider-patient relationship is established. The provider-patient
 37 relationship by a provider who uses telemedicine must at a minimum
 38 include the following:

- 39 (1) Obtain the patient's name and contact information and:
 40 (A) a verbal statement or other data from the patient
 41 identifying the patient's location; and
 42 (B) to the extent reasonably possible, the identity of the



- 1 requesting patient.
- 2 (2) Disclose the provider's name and disclose whether the
- 3 provider is a physician, physician assistant, advanced practice
- 4 nurse, or optometrist.
- 5 (3) Obtain informed consent from the patient.
- 6 (4) Obtain the patient's medical history and other information
- 7 necessary to establish a diagnosis.
- 8 (5) Discuss with the patient the:
- 9 (A) diagnosis;
- 10 (B) evidence for the diagnosis; and
- 11 (C) risks and benefits of various treatment options, including
- 12 when it is advisable to seek in-person care.
- 13 (6) Create and maintain a medical record for the patient and,
- 14 subject to the consent of the patient, notify the patient's primary
- 15 care provider of any prescriptions the provider has **written issued**
- 16 for the patient if the primary care provider's contact information
- 17 is provided by the patient. The requirements in this subdivision do
- 18 not apply when **any of the following are met:**
- 19 (A) The provider is using an electronic health record system
- 20 that the patient's primary care provider is authorized to access.
- 21 **(B) The provider has established an ongoing**
- 22 **provider-patient relationship with the patient by providing**
- 23 **care to the patient at least two (2) consecutive times**
- 24 **through the use of telemedicine services. If the conditions**
- 25 **of this clause are met, the provider shall maintain a**
- 26 **medical record for the patient and may notify the patient's**
- 27 **primary care provider of any issued prescriptions.**
- 28 (7) Issue proper instructions for appropriate follow-up care.
- 29 (8) Provide a telemedicine visit summary to the patient, including
- 30 information that indicates any prescription that is being
- 31 prescribed.
- 32 SECTION 4. IC 25-1-9.5-8, AS ADDED BY P.L.78-2016,
- 33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34 UPON PASSAGE]: Sec. 8. A provider may issue a prescription to a
- 35 patient who is receiving services through the use of telemedicine ~~even~~
- 36 if the patient has not been ~~seen~~ **examined** previously by the provider
- 37 in person if the following conditions are met:
- 38 (1) The provider has satisfied the applicable standard of care in
- 39 the treatment of the patient.
- 40 (2) The issuance of the prescription by the provider is within the
- 41 provider's scope of practice and certification.
- 42 (3) The prescription is not for a ~~controlled substance~~ (as defined



1 in ~~IC 35-48-1-9~~): **an opioid. However, an opioid may be**
2 **prescribed if the opioid is a partial agonist that is used to treat**
3 **or manage opioid dependence.**
4 (4) The prescription is not for an abortion inducing drug (as
5 defined in IC 16-18-2-1.6).
6 (5) The prescription is not for an ophthalmic device, including:
7 (A) glasses;
8 (B) contact lenses; or
9 (C) low vision devices.
10 **SECTION 5. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred House Bill 1337, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 12-15-5-11, AS ADDED BY P.L.204-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) As used in this section, "telehealth services" means the use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation, supervision, and information across a distance.

(b) As used in this section, "telemedicine services" means a specific method of delivery of services, including medical exams and consultations and behavioral health evaluations and treatment, including those for substance abuse, using videoconferencing equipment to allow a provider to render an examination or other service to a patient at a distant location. The term does not include the use of the following: **has the meaning set forth for "telemedicine" in IC 25-1-9.5-6.**

(1) A telephone transmitter for transtelephonic monitoring;

(2) A telephone or any other means of communication for the consultation from one (1) provider to another provider;

(c) The office shall reimburse a Medicaid provider who is licensed as a home health agency under IC 16-27-1 for telehealth services.

(d) The office shall reimburse the following Medicaid providers for **medically necessary** telemedicine services **and facility costs related to the use of telemedicine:**

(1) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).

(2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).

(e) The office shall reimburse the following Medicaid providers for telemedicine services regardless of the distance between the provider and the patient:

(1) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).

(2) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).

(3) A community mental health center certified under IC 12-21-2-3(5)(C).

(4) A critical access hospital that meets the criteria under 42 CFR



485.601 et seq.

(5) A provider, determined by the office, who meets the requirements under IC 25-1-9.5 and is enrolled as an Indiana Medicaid provider.

~~(f) The office shall, not later than December 1, 2013, file any Medicaid state plan amendment with the United States Department of Health and Human Services necessary to implement and administer this section including an amendment to eliminate the current twenty (20) mile distance restriction.~~

(f) The office may not impose any distance restrictions on providers of telehealth services or telemedicine services. Before December 31, 2017, the office shall do the following:

(1) Submit a Medicaid state plan amendment with the United States Department of Health and Human Services that eliminates distance restrictions for telehealth services or telemedicine services in the state Medicaid plan.

(2) Issue a notice of intent to adopt a rule to amend any administrative rules that include distance restrictions for the provision of telehealth services or telemedicine services.

(g) The office shall implement any part of this section that is approved by the United States Department of Health and Human Services.

(h) The office may adopt rules under IC 4-22-2 necessary to implement and administer this section."

Delete pages 2 through 3.

Page 4, delete lines 1 through 22.

Page 4, between lines 34 and 35, begin a new line block indented and insert:

"(6) A health service provider in psychology.

(7) A federally qualified health center (as defined in 42 U.S.C. 1396d(l)(2)(B)).

(8) A rural health clinic (as defined in 42 U.S.C. 1396d(l)(1)).

(9) A community mental health center certified under IC 12-21-2-3(5)(C).

(10) A critical access hospital that meets the criteria under 42 CFR 485.601 et seq.

(11) A provider, determined by the office, who meets the requirements under IC 25-1-9.5 and is enrolled as an Indiana Medicaid provider."

Page 6, line 3, delete "JULY 1, 2017]" and insert "UPON PASSAGE]:".

Page 6, line 13, delete "overdose intervention drug (as" and insert



"agonist or partial agonist that is used to treat or manage opioid dependence."

Page 6, delete lines 14 through 15.

Page 6, after line 21, begin a new paragraph and insert:
"SECTION 5. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1337 as introduced.)

KIRCHHOFER

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1337 be amended to read as follows:

Page 5, line 2, delete "an agonist or" and insert "**a**".

(Reference is to HB 1337 as printed February 17, 2017.)

KIRCHHOFER

