

SENATE BILL No. 248

By Committee on Ways and Means

2-16

1 AN ACT concerning health and healthcare; relating to the practice of
2 telemedicine; pertaining to the Kansas telemedicine act; updating
3 certain definitions; requiring referral to specialists and coordination of
4 care under certain circumstances; amending K.S.A. 2020 Supp. 40-
5 2,211 and 40-2,212 and repealing the existing sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2020 Supp. 40-2,211 is hereby amended to read as
9 follows: 40-2,211. ~~(a)~~ For purposes of *the* Kansas telemedicine act:

10 ~~(+)~~(a) "Distant site" means a site *that may be an unlicensed or*
11 *private location* at which a healthcare provider is located while providing
12 healthcare services by means of telemedicine.

13 ~~(2)~~(b) "Healthcare provider" means a physician, licensed physician
14 assistant, licensed advanced practice registered nurse or person licensed,
15 registered, certified or otherwise authorized to practice by the behavioral
16 sciences regulatory board.

17 ~~(3)~~(c) "Originating site" means a site *that may be a domicile or other*
18 *non-public location* at which a patient is located at the time healthcare
19 services are provided by means of telemedicine.

20 ~~(4)~~(d) "Physician" means a person licensed to practice medicine and
21 surgery by the state board of healing arts.

22 ~~(5)~~(e) "Telemedicine," including "telehealth," means the delivery of
23 healthcare services or consultations while the patient is at an originating
24 site and the healthcare provider is at a distant site. Telemedicine shall be
25 provided by means of real-time two-way interactive audio, visual, or
26 audio-visual communications, including the application of secure video
27 conferencing or store-and-forward technology *utilizing medical devices* to
28 provide or support healthcare delivery, that facilitate the *verbal consent*,
29 assessment, diagnosis, consultation, treatment, education and care
30 management of a patient's healthcare. "Telemedicine" does not include
31 communication between:

32 ~~(A)~~(1) Healthcare providers that consist solely of a telephone voice-
33 only conversation, email or facsimile transmission; or

34 ~~(B)~~(2) a physician and a patient that consists solely of an email or
35 facsimile transmission.

36 ~~(b) This section shall take effect on and after January 1, 2019.~~

1 Sec. 2. K.S.A. 2020 Supp. 40-2,212 is hereby amended to read as
2 follows: 40-2,212. (a) The same requirements for patient privacy and
3 confidentiality under the health insurance portability and accountability act
4 of 1996 and 42 C.F.R. § 2.13, as applicable, that apply to healthcare
5 services delivered via in-person contact shall also apply to healthcare
6 services delivered via telemedicine. Nothing in this section shall supersede
7 the provisions of any state law relating to the confidentiality, privacy,
8 security or privileged status of protected health information.

9 (b) Telemedicine may be used to establish a valid provider-patient
10 relationship *and referral to specialty services to the extent such services*
11 *are consistent with the standard of care.*

12 (c) The same standards of practice and conduct that apply to
13 healthcare services delivered via in-person contact shall also apply to
14 healthcare services delivered via telemedicine.

15 (d) (1) A person authorized by law to provide and who provides
16 telemedicine services to a patient shall provide the patient with guidance
17 on appropriate follow-up care.

18 (2) (A) Except when otherwise prohibited by any other provision of
19 law, when the patient consents and the patient has a primary care or other
20 treating physician, the ~~person~~ *healthcare provider* providing telemedicine
21 services shall send within three business days a report to such primary care
22 or other treating physician of the treatment and services rendered to the
23 patient in the telemedicine encounter.

24 (B) A person licensed, registered, certified or otherwise authorized to
25 practice by the behavioral sciences regulatory board shall not be required
26 to comply with the provisions of subparagraph (A).

27 (3) *Except when otherwise prohibited by any other provision of law,*
28 *when the patient consents and the patient has a medical home, as defined*
29 *in K.S.A. 75-7429, and amendments thereto, a primary care or other*
30 *treating physician, a care coordinator or other Kansas-based healthcare*
31 *provider, the healthcare provider providing telemedicine services shall*
32 *coordinate care to the greatest extent possible with such medical home,*
33 *primary care or other treating physician, care coordinator or other*
34 *Kansas-based healthcare provider.*

35 ~~(e) This section shall take effect on and after January 1, 2019.~~

36 Sec. 3. K.S.A. 2020 Supp. 40-2,211 and 40-2,212 are hereby
37 repealed.

38 Sec. 4. This act shall take effect and be in force from and after its
39 publication in the statute book.