

HOUSE No. 578

The Commonwealth of Massachusetts

PRESENTED BY:

John W. Scibak

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act advancing and expanding access to telemedicine services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John W. Scibak</i>	<i>2nd Hampshire</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>
<i>William Smitty Pignatelli</i>	<i>4th Berkshire</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>
<i>William M. Straus</i>	<i>10th Bristol</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>

<i>Thomas J. Calter</i>	<i>12th Plymouth</i>
<i>Paul Tucker</i>	<i>7th Essex</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>
<i>Thomas P. Walsh</i>	<i>12th Essex</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>
<i>Diana DiZoglio</i>	<i>14th Essex</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>James M. Cantwell</i>	<i>4th Plymouth</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>
<i>Gailanne M. Cariddi</i>	<i>1st Berkshire</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Nick Collins</i>	<i>4th Suffolk</i>
<i>Keiko M. Orrall</i>	<i>12th Bristol</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>
<i>Kate D. Campanale</i>	<i>17th Worcester</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Adrian Madaro</i>	<i>1st Suffolk</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>
<i>Jonathan Hecht</i>	<i>29th Middlesex</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>

HOUSE No. 578

By Mr. Scibak of South Hadley, a petition (accompanied by bill, House, No. 578) of John W. Scibak and others relative to advancing and expanding access to telemedicine services. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act advancing and expanding access to telemedicine services.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 32A of the General Laws, as appearing in the 2014 Official
2 Edition, is hereby amended by adding at the end the following new section:

3 Section 28: Notwithstanding any general or special law or rule or regulation to the
4 contrary, the Group Insurance Commission and any carrier, as defined in Section 1 of Chapter
5 176O of the general laws or other entity which contracts with the Commission to provide health
6 benefits to eligible Employees and Retirees and their eligible dependents, shall not decline to
7 provide coverage for health care services solely on the basis that those services were delivered
8 through the use of telemedicine by a contracted health care provider. Health care services
9 delivered by way of telemedicine shall be covered to the same extent as if they were provided via
10 in-person consultation or in-person delivery, nor shall the rates of payments for otherwise
11 covered services be reduced on the grounds that those services were delivered through
12 telemedicine. A contract that provides coverage for telemedicine services may contain a

13 provision for a deductible, copayment or coinsurance requirement for a health care service
14 provided through telemedicine as long as the deductible, copayment or coinsurance does not
15 exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-
16 person delivery of the same health care services. For health care services provided through
17 telemedicine, a health care provider shall not be required to document a barrier to an in-person
18 visit, nor shall the type of setting where such telemedicine is provided be limited. For the
19 purposes of this section, “telemedicine” shall mean the use of synchronous or asynchronous
20 audio, video or other electronic media for the purpose of diagnosis, consultation, prescribing, and
21 treatment of a patient's physical, oral and mental health care that meets applicable health
22 information privacy and security standards similar to those provided during an in- person visit.
23 Telemedicine shall not include audio-only telephone or facsimile machine communications, but
24 may include an online adaptive interview. Telemedicine may also include text only email when
25 it occurs for the purpose of patient management in the context of a pre-existing physician patient
26 relationship. Nothing in this paragraph shall be interpreted as changing the prevailing standard
27 of care for healthcare services whether delivered in person or through telemedicine.

28 SECTION 2. Section 2 of Chapter 112 of the General Laws, as so appearing, is hereby
29 amended by inserting at the end thereof the following:

30 Notwithstanding any other provision of this chapter, the board shall promulgate
31 regulations to allow licensees to obtain proxy credentialing and privileging for telemedicine
32 services with other healthcare providers as defined in section 1 of chapter 111 of the general laws
33 or facilities consistent with federal Medicare Conditions of Participation telemedicine standards.
34 Said regulations shall ensure that licensees using telemedicine to provide services are done
35 within a provider to patient relationship which includes the provider agreeing to affirmatively

36 diagnose, treat and prescribe to the patient, or affirmatively agreeing to participate in the
37 patient's diagnosis and treatment. Said regulations shall allow for the establishment of the
38 physician-patient relationship via telemedicine. Such regulations shall be promulgated six
39 months after the effective date of this act. For the purposes of this section, "telemedicine" shall
40 mean the use of synchronous or asynchronous audio, video or other electronic media for the
41 purpose of diagnosis, consultation, prescribing, and treatment of a patient's physical, oral and
42 mental health care that meets applicable health information privacy and security standards
43 similar to those provided during an in-person visit. Telemedicine shall not include audio-only
44 telephone or facsimile machine communications, but may include an online adaptive interview.
45 Telemedicine may also include text only email when it occurs for the purpose of patient
46 management in the context of a pre-existing physician patient relationship. For the purposes of
47 this paragraph, nothing herein shall modify any law or regulation related to the requirements for
48 Massachusetts licensure for individual providers delivering services through telemedicine
49 services to consumers in the Commonwealth; provided further, that this paragraph shall not
50 change the prevailing standard of care for healthcare services whether delivered in-person or
51 through telemedicine.

52 SECTION 3. Chapter 118E of the General Laws, as so appearing, is hereby amended by
53 inserting at the end thereof the following new section:

54 Section 13C1/2. Notwithstanding any general or special law or rule or regulation to the
55 contrary, the Executive Office of Health and Human Services shall provide coverage under its
56 Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral
57 health management firms and third party administrators under contract to a Medicaid managed
58 care organization, the Medicaid primary care clinician plan, or an accountable care organization

59 for health care services provided through telemedicine by a contracted provider. Health care
60 services delivered by way of telemedicine shall be covered to the same extent as if they were
61 provided via in-person consultation or in-person delivery, nor shall the rates of payments for
62 otherwise covered services be reduced on the grounds that those services were delivered through
63 telemedicine. A contract that provides coverage for telemedicine services may contain a
64 provision for a deductible, copayment or coinsurance requirement for a health care service
65 provided through telemedicine as long as the deductible, copayment or coinsurance does not
66 exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-
67 person delivery of the same health care services. For health care services provided through
68 telemedicine, a health care provider shall not be required to document a barrier to an in-person
69 visit, nor shall the type of setting where such telemedicine is provided be limited. For the
70 purposes of this section, “telemedicine” shall mean the use of synchronous or asynchronous
71 audio, video or other electronic media for the purpose of diagnosis, consultation, prescribing, and
72 treatment of a patient's physical, oral and mental health care that meets applicable health
73 information privacy and security standards similar to those provided during an in- person visit.
74 Telemedicine shall not include audio-only telephone or facsimile machine communications, but
75 may include an online adaptive interview. Telemedicine may also include text only email when
76 it occurs for the purpose of patient management in the context of a pre-existing physician patient
77 relationship. Nothing in this section shall be interpreted as changing the prevailing standard of
78 care for healthcare services whether delivered in person or through telemedicine.

79 SECTION 4. Section 47BB of chapter 175 of the General Laws, is hereby amended by
80 striking subsections (a)-(d) and adding at the end of the existing paragraph the following new
81 paragraph:

82 Notwithstanding any general or special law or rule or regulation to the contrary, an
83 insurer shall provide for coverage for health care services under an individual, group, or general
84 policy of accident and sickness insurance to an insured through the use of telemedicine by a
85 contracted health care provider. Health care services delivered by way of telemedicine shall be
86 covered to the same extent as if they were provided via in-person consultation or in-person
87 delivery, nor shall the rates of payments for otherwise covered services be reduced on the
88 grounds that those services were delivered through telemedicine. A contract that provides
89 coverage for telemedicine services may contain a provision for a deductible, copayment or
90 coinsurance requirement for a health care service provided through telemedicine as long as the
91 deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance
92 applicable to an in-person consultation or in- person delivery of the same health care services.
93 For health care services provided through telemedicine, a health care provider shall not be
94 required to document a barrier to an in-person visit, nor shall the type of setting where such
95 telemedicine is provided be limited. For the purposes of this section, “telemedicine” shall mean
96 the use of synchronous or asynchronous audio, video or other electronic media for the purpose of
97 diagnosis, consultation, prescribing, and treatment of a patient's physical, oral and mental health
98 care that meets applicable health information privacy and security standards similar to those
99 provided during an in- person visit. Telemedicine shall not include audio-only telephone or
100 facsimile machine communications, but may include an online adaptive interview. Telemedicine
101 may also include text only email when it occurs for the purpose of patient management in the
102 context of a pre-existing physician patient relationship. Nothing in this paragraph shall be
103 interpreted as changing the prevailing standard of care for healthcare services whether delivered
104 in person or through telemedicine.

105 SECTION 5. Chapter 176A of the General Laws, as so appearing, is hereby amended by
106 inserting at the end thereof the following new section:

107 Section 38: Notwithstanding any general or special law or rule or regulation to the
108 contrary, any contract between a subscriber and the corporation under an individual or group
109 hospital service plan shall provide for coverage for health care services to a subscriber through
110 the use of telemedicine by a contracted health care provider. Health care services delivered by
111 way of telemedicine shall be covered to the same extent as if they were provided via in-person
112 consultation or in-person delivery, nor shall the rates of payments for otherwise covered services
113 be reduced on the grounds that those services were delivered through telemedicine. A contract
114 that provides coverage for telemedicine services may contain a provision for a deductible,
115 copayment or coinsurance requirement for a health care service provided through telemedicine as
116 long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or
117 coinsurance applicable to an in-person consultation or in-person delivery of the same health care
118 services. For health care services provided through telemedicine, a health care provider shall not
119 be required to document a barrier to an in-person visit, nor shall the type of setting where such
120 telemedicine is provided be limited. For the purposes of this section, “telemedicine” shall mean
121 the use of synchronous or asynchronous audio, video or other electronic media for the purpose of
122 diagnosis, consultation, prescribing, and treatment of a patient's physical, oral and mental health
123 care that meets applicable health information privacy and security standards similar to those
124 provided during an in- person visit. Telemedicine shall not include audio-only telephone or
125 facsimile machine communications, but may include an online adaptive interview. Telemedicine
126 may also include text only email when it occurs for the purpose of patient management in the
127 context of a pre-existing physician patient relationship. Nothing in this paragraph shall be

128 interpreted as changing the prevailing standard of care for healthcare services whether delivered
129 in person or through telemedicine.

130 SECTION 6. Chapter 176B of the General Laws, as so appearing, is hereby amended by
131 inserting at the end thereof the following new section:

132 Section 25: Notwithstanding any general or special law or rule or regulation to the
133 contrary, any contract between a subscriber and the medical service corporation shall provide for
134 coverage for health care services to a subscriber through the use of telemedicine by a contracted
135 health care provider. Health care services delivered by way of telemedicine shall be covered to
136 the same extent as if they were provided via in-person consultation or in-person delivery, nor
137 shall the rates of payments for otherwise covered services be reduced on the grounds that those
138 services were delivered through telemedicine. A contract that provides coverage for telemedicine
139 services may contain a provision for a deductible, copayment or coinsurance requirement for a
140 health care service provided through telemedicine as long as the deductible, copayment or
141 coinsurance does not exceed the deductible, copayment or coinsurance applicable to an in-person
142 consultation or in- person delivery of the same health care services. For health care services
143 provided through telemedicine, a health care provider shall not be required to document a barrier
144 to an in-person visit, nor shall the type of setting where such telemedicine is provided be limited.
145 For the purposes of this section, “telemedicine” shall mean the use of synchronous or
146 asynchronous audio, video or other electronic media for the purpose of diagnosis, consultation,
147 prescribing, and treatment of a patient's physical, oral and mental health care that meets
148 applicable health information privacy and security standards similar to those provided during an
149 in- person visit. Telemedicine shall not include audio-only telephone or facsimile machine
150 communications, but may include an online adaptive interview. Telemedicine may also include

151 text only email when it occurs for the purpose of patient management in the context of a pre-
152 existing physician patient relationship. Nothing in this section shall be interpreted as changing
153 the prevailing standard of care for healthcare services whether delivered in person or through
154 telemedicine.

155 SECTION 7. Chapter 176G of the General Laws, as so appearing, is hereby amended by
156 inserting at the end thereof the following new section:

157 Section 33: Notwithstanding any general or special law or rule or regulation to the
158 contrary, any contract between a member and a carrier shall provide for coverage for health
159 services to a subscriber through the use of telemedicine by a contracted health care provider.
160 Health care services delivered by way of telemedicine shall be covered to the same extent as if
161 they were provided via in-person consultation or in-person delivery, nor shall the rates of
162 payments for otherwise covered services be reduced on the grounds that those services were
163 delivered through telemedicine. A contract that provides coverage for telemedicine services may
164 contain a provision for a deductible, copayment or coinsurance requirement for a health care
165 service provided through telemedicine as long as the deductible, copayment or coinsurance does
166 not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or
167 in-person delivery of the same health care services. For health care services provided through
168 telemedicine, a health care provider shall not be required to document a barrier to an in-person
169 visit, nor shall the type of setting where such telemedicine is provided be limited. For the
170 purposes of this section, “telemedicine” shall mean the use of synchronous or asynchronous
171 audio, video or other electronic media for the purpose of diagnosis, consultation, prescribing, and
172 treatment of a patient's physical, oral and mental health care that meets applicable health
173 information privacy and security standards similar to those provided during an in- person visit.

174 Telemedicine shall not include audio-only telephone or facsimile machine communications, but
175 may include an online adaptive interview. Telemedicine may also include text only email when
176 it occurs for the purpose of patient management in the context of a pre-existing physician patient
177 relationship. Nothing in this section shall be interpreted as changing the prevailing standard of
178 care for healthcare services whether delivered in person or through telemedicine.

179 SECTION 8. Chapter 176I of the General Laws, as so appearing, is hereby amended by
180 inserting at the end thereof the following new section:

181 Section 13: Notwithstanding any general or special law or rule or regulation to the
182 contrary, any contract between a covered person and an organization shall provide for coverage
183 for health care services to a subscriber through the use of telemedicine by a contracted health
184 care provider. Health care services delivered by way of telemedicine shall be covered to the same
185 extent as if they were provided via in-person consultation or in-person delivery, nor shall the
186 rates of payments for otherwise covered services be reduced on the grounds that those services
187 were delivered through telemedicine. A contract that provides coverage for telemedicine services
188 may contain a provision for a deductible, copayment or coinsurance requirement for a health care
189 service provided through telemedicine as long as the deductible, copayment or coinsurance does
190 not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or
191 in-person delivery of the same health care services. For health care services provided through
192 telemedicine, a health care provider shall not be required to document a barrier to an in-person
193 visit, nor shall the type of setting where such telemedicine is provided be limited. For the
194 purposes of this section, “telemedicine” shall mean the use of synchronous or asynchronous
195 audio, video or other electronic media for the purpose of diagnosis, consultation, prescribing, and
196 treatment of a patient's physical, oral and mental health care that meets applicable health

197 information privacy and security standards similar to those provided during an in- person visit.
198 Telemedicine shall not include audio-only telephone or facsimile machine communications, but
199 may include an online adaptive interview. Telemedicine may also include text only email when
200 it occurs for the purpose of patient management in the context of a pre-existing physician patient
201 relationship. Nothing in this section shall be interpreted as changing the prevailing standard of
202 care for healthcare services whether delivered in person or through telemedicine.

203 SECTION 9. Notwithstanding any general or special law or rule or regulation to the
204 contrary, the Bureau of Health Professions Licensure within the Department of Public Health and
205 the Division of Professional Licensure within the Office of Consumer Affairs and Business
206 Regulation shall, respectively, promulgate regulations to allow licensees to obtain proxy
207 credentialing and privileging for telemedicine services with other healthcare providers as defined
208 in section 1 of chapter 111 of the general laws, allied health professionals as defined in section
209 23A of chapter 112 of the general laws, and allied mental health or human service professionals
210 as defined in section 163 of chapter 112 of the general laws or facilities consistent with federal
211 Medicare Conditions of Participation telemedicine standards. Said regulations shall ensure that
212 providers using telemedicine to provide services are done within a provider to patient
213 relationship, which includes the provider agreeing to affirmatively diagnose and treat the patient,
214 including prescriptions when appropriate, or affirmatively agreeing to participate in the patient's
215 diagnosis and treatment. Said regulations shall also allow for the establishment of the provider-
216 patient relationship via telemedicine. Such regulations shall be promulgated six months after the
217 effective date of this act. For the purposes of this section, "telemedicine" shall mean the use of
218 synchronous or asynchronous audio, video or other electronic media for the purpose of
219 diagnosis, consultation, prescribing, and treatment of a patient's physical, oral and mental health

220 care that meets applicable health information privacy and security standards similar to those
221 provided during an in- person visit. Telemedicine shall not include audio-only telephone or
222 facsimile machine communications, but may include an online adaptive interview. Telemedicine
223 may also include text only email when it occurs for the purpose of patient management in the
224 context of a pre-existing physician patient relationship. For the purposes of this paragraph,
225 nothing herein shall modify any law or regulation related to the requirements for Massachusetts
226 licensure for individual providers delivering services through telemedicine services to consumers
227 in the Commonwealth; provided further, that this paragraph shall not change the prevailing
228 standard of care for healthcare services whether delivered in-person or through telemedicine.

229 SECTION 10. The provisions this Act shall be effective for all contracts which are
230 entered into, renewed, or amended one year after its effective date.