

SENATE No. 2471

The Commonwealth of Massachusetts

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

SENATE, Monday, April 23, 2018

The committee on Financial Services, to whom was referred the petitions (accompanied by bill, Senate, No. 501) of Harriette L. Chandler, Kay Khan and John W. Scibak for legislation to expand access to telemedicine services; (accompanied by bill, Senate, No. 527) of Jennifer L. Flanagan for legislation relative to telemedicine; (accompanied by bill, Senate, No. 532) of Anne M. Gobi, Barbara A. L'Italien, Tricia Farley-Bouvier and Chris Walsh for legislation relative to the use of interactive audio, video or other electronic media for the purpose of medical diagnosis, consultation or treatment; and (accompanied by bill, Senate, No. 549) of Jason M. Lewis, Chris Walsh, Jennifer E. Benson, John W. Scibak and other members of the General Court for legislation to advance and expand access to telemedicine services,- reports the accompanying bill (Senate, No. 2471).

For the committee,
James B. Eldridge

SENATE No. 2471

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 2016 official edition,
2 is hereby amended by adding at the end thereof the following new section:-

3 Section 28. (a) For the purposes of this section, “telemedicine” shall mean the use of
4 interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a
5 patient's physical, oral or mental health; provided, however, that “telemedicine” shall not include
6 audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

7 (b) Coverage offered by the commission to an active or retired employee of the
8 commonwealth insured under the group insurance commission shall provide coverage for health
9 care services through the use of telemedicine by a contracted health care provider if the health
10 care services are covered by way of in-person consultation or delivery. Health care services
11 delivered by way of telemedicine shall be covered to the same extent as if they were provided via
12 in-person consultation or delivery.

13 (c) Coverage may include utilization review, including preauthorization, to determine the
14 appropriateness of telemedicine as a means of delivering a health care service, provided that the
15 determination shall be made in the same manner as if the service was delivered in person. A
16 carrier shall not be required to reimburse a health care provider for a health care service that is
17 not a covered benefit under the plan nor reimburse a health care provider not contracted under
18 the plan.

19 A health care provider shall not be required to document a barrier to an in-person visit,
20 nor shall the type of setting where telemedicine is provided be limited for health care services
21 provided through telemedicine.

22 Coverage for telemedicine services may include a deductible, copayment or coinsurance
23 requirement for a health care service provided through telemedicine as long as the deductible,
24 copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable
25 to an in-person consultation or in-person delivery of services.

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

29 (e) Health care services provided by telemedicine shall conform to the standards of care
30 applicable to the telemedicine provider's profession. Such services shall also conform to
31 applicable federal and state health information privacy and security standards as well as
32 standards for informed consent.

33 SECTION 2. Section 2 of chapter 112 of the General Laws, as appearing in the 2016
34 Official Edition, is hereby amended by adding the following 3 paragraphs:-

35 For the purposes of this section, “telemedicine” shall mean the use of audio, video or
36 other electronic media for a diagnosis, consultation or treatment of a patient's physical, oral or
37 mental health; provided, however, that “telemedicine” shall not include audio-only telephone,
38 facsimile machine, online questionnaire, texting or text-only e-mail.

39 Notwithstanding any other provision of this chapter, the board shall allow a physician to
40 obtain proxy credentialing and privileging for telemedicine services with other health care
41 providers, as defined in section 1 of chapter 111, or facilities consistent with Medicare conditions
42 of participation telemedicine standards.

43 The board shall promulgate regulations regarding the appropriate use of telemedicine to
44 provide health care services. These regulations shall provide for and include, but shall not be
45 limited to: (i) prescribing medications; (ii) services that are not appropriate to provide through
46 telemedicine; (iii) establishing a patient-provider relationship; (iv) consumer protections; and (v)
47 ensuring that services comply with appropriate standards of care.

48 SECTION 3. Chapter 118E of the General Laws, as appearing in the 2016 official
49 edition, is hereby amended by adding the following section:-

50 Section 78. (a) For the purposes of this section, “telemedicine” shall mean the use of
51 interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a
52 patient’s physical, oral or mental health; provided, however, that “telemedicine” shall not include
53 audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

54 (b) The division and its contracted health insurers, health plans, health maintenance
55 organizations, behavioral health management firms and third party administrators under contract

56 to a Medicaid managed care organization or primary care clinician plan may provide coverage
57 for health care services appropriately provided through telemedicine by a contracted provider.

58 (c) The division may undertake utilization review, including preauthorization, to
59 determine the appropriateness of telemedicine as a means of delivering a health care service;
60 provided, however, that determinations shall be made in the same manner as if service was
61 delivered in person. The division, a contracted health insurer, health plan, health maintenance
62 organization, behavioral health management firm or third party administrators under contract to a
63 Medicaid managed care organization or primary care clinician plan shall not be required to
64 reimburse a health care provider for a health care service that is not a covered benefit under the
65 plan nor reimburse a health care provider not contracted under the plan.

66 A health care provider shall not be required to document a barrier to an in-person visit,
67 nor shall the type of setting where telemedicine is provided be limited for health care services
68 provided through telemedicine.

69 (d) A contract that provides coverage for telemedicine services may include a deductible,
70 copayment or coinsurance requirement for a health care service provided through telemedicine as
71 long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or
72 coinsurance applicable to an in-person consultation or in-person delivery of services. Coverage
73 that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall
74 account for the provision of telemedicine services in setting that global payment amount.

75 (e) Health care services provided by telemedicine shall conform to the standards of care
76 applicable to the telemedicine provider's profession. Such services shall also conform to

77 applicable federal and state health information privacy and security standards as well as
78 standards for informed consent.

79 SECTION 4. Chapter 175 of the General Laws, as appearing in the 2016 official edition,
80 is hereby amended by inserting after section 47BB the following section:-

81 Section 47CC. (a) For the purposes of this section, “telemedicine” shall mean the use of
82 interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a
83 patient's physical, oral or mental health; provided, however, that “telemedicine” shall not include
84 audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

85 (b) An individual policy of accident and sickness insurance issued under section 108 that
86 provides hospital expense and surgical expense insurance and any group blanket or general
87 policy of accident and sickness insurance issued under section 110 that provides hospital expense
88 and surgical expense insurance which is issued or renewed within or without the commonwealth,
89 shall not decline to provide coverage for health care services solely on the basis that those
90 services were delivered through the use of telemedicine by a contracted health care provider.
91 Health care services delivered by way of telemedicine shall be covered to the same extent as if
92 they were provided by way of in-person consultation or in-person delivery.

93 (c) Coverage may include utilization review, including preauthorization, to determine the
94 appropriateness of telemedicine as a means of delivering a health care service; provided,
95 however, that the determinations shall be made in the same manner as if the service was
96 delivered in person. A policy, contract, agreement, plan or certificate of insurance issued,
97 delivered or renewed within the commonwealth, shall not be required to reimburse a health care

98 provider for a health care service that is not a covered benefit under the plan nor reimburse a
99 health care provider not contracted under the plan.

100 A health care provider shall not be required to document a barrier to an in-person visit,
101 nor shall the type of setting where telemedicine is provided be limited for health care services
102 provided through telemedicine.

103 A contract that provides coverage for telemedicine services may include a deductible,
104 copayment or coinsurance requirement for a health care service provided through telemedicine as
105 long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or
106 coinsurance applicable to an in-person consultation or in-person delivery of services.

107 (d) Coverage that reimburses a provider with a global payment, as defined in section 1 of
108 chapter 6D, shall account for the provision of telemedicine services in setting that global
109 payment amount.

110 (e) Health care services provided by telemedicine shall conform to the standards of care
111 applicable to the telemedicine provider's profession. Such services shall also conform to
112 applicable federal and state health information privacy and security standards as well as
113 standards for informed consent.

114 SECTION 5. Chapter 176A of the General Laws, as appearing in the 2016 official
115 edition, is hereby amended by adding the following section:-

116 Section 38. (a) For purposes of this section, "telemedicine" shall mean the use of
117 interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a

118 patient's physical, oral or mental health; provided, however, that “telemedicine” shall not include
119 audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

120 (b) A contract between a subscriber and a nonprofit hospital service corporation under an
121 individual or group hospital service plan shall not decline to provide coverage for health care
122 services solely on the basis that those services were delivered by way of telemedicine by a
123 contracted health care provider. Health care services delivered by way of telemedicine shall be
124 covered to the same extent as if they were provided by way of in-person consultation or in-
125 person delivery.

126 (c) Coverage may include utilization review, including preauthorization, to determine the
127 appropriateness of telemedicine as a means of delivering a health care service, provided that the
128 determinations shall be made as if the service was delivered in person. A carrier shall not be
129 required to reimburse a health care provider for a health care service that is not a covered benefit
130 under the plan nor reimburse a health care provider not contracted under the plan.

131 Coverage for telemedicine services may include a provision for a deductible, copayment
132 or coinsurance requirement for a health care service provided through telemedicine as long as the
133 deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance
134 applicable to an in-person consultation or in-person delivery of services.

135 Coverage that reimburses a provider with a global payment, as defined in section 1 of
136 chapter 6D, shall account for the provision of telemedicine services in setting that global
137 payment amount.

138 (d) A health care provider shall not be required to document a barrier to an in-person
139 visit, nor shall the type of setting where telemedicine is provided be limited for health care
140 services provided through telemedicine.

141 (e) Health care services provided by telemedicine shall conform to the standards of care
142 applicable to the telemedicine provider's profession. Such services shall also conform to
143 applicable federal and state health information privacy and security standards as well as
144 standards for informed consent.

145 SECTION 6. Chapter 176B of the General Laws, as appearing in the 2016 official
146 edition, is hereby amended by adding the following section:-

147 Section 25. (a) For the purposes of this section, "telemedicine" shall mean the use of
148 interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a
149 patient's physical, oral or mental health; provided, however, that "telemedicine" shall not include
150 audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

151 (b) A contract between a subscriber and a medical service corporation shall not decline to
152 provide coverage for health care services solely on the basis that those services were delivered
153 by way e of telemedicine by a contracted health care provider. Health care services delivered by
154 way of telemedicine shall be covered to the same extent as if they were provided by way of in-
155 person consultation or in-person delivery.

156 (c) Coverage may include utilization review, including preauthorization, to determine the
157 appropriateness of telemedicine as a means of delivering a health care service, provided that the
158 determinations shall be made as if the service was delivered in person. A carrier is not required
159 to reimburse a health care provider for a health care service that is not a covered benefit under

160 the plan nor reimburse a health care provider not contracted under the plan. Coverage that
161 reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account
162 for the provision of telemedicine services in setting that global payment amount. A contract that
163 provides coverage for telemedicine services may contain a provision for a deductible, copayment
164 or coinsurance requirement for a health care service provided through telemedicine as long as the
165 deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance
166 applicable to an in-person consultation or in-person delivery of services.

167 (d) A health care provider shall not be required to document a barrier to an in-person
168 visit, nor shall the type of setting where telemedicine is provided be limited for health care
169 services provided through telemedicine.

170 (e) Health care services provided by telemedicine shall conform to the standards of care
171 applicable to the telemedicine provider's profession. Such services shall also conform to
172 applicable federal and state health information privacy and security standards as well as
173 standards for informed consent.

174 SECTION 7. Chapter 176G of the General Laws, as appearing in the 2016 official
175 edition, is hereby further amended by adding the following section:-

176 Section 33. (a) For the purposes of this section, "telemedicine" shall mean the use of
177 interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a
178 patient's physical, oral or mental health; provided, however, that "telemedicine" shall not include
179 audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

180 (b) A contract between a member and a health maintenance organization shall not decline
181 to provide coverage for health care services solely on the basis that those services were delivered

182 by way of telemedicine by a contracted health care provider. Health care services delivered by
183 way of telemedicine shall be covered to the same extent as if they were provided by way of in-
184 person consultation or in-person delivery.

185 (c) A carrier may undertake utilization review, including preauthorization, to determine
186 the appropriateness of telemedicine as a means of delivering a health care service, provided that
187 the determinations shall be made as if the service was delivered in person. A carrier is not
188 required to reimburse a health care provider for a health care service that is not a covered benefit
189 under the plan nor reimburse a health care provider not contracted under the plan. A contract
190 that provides coverage for telemedicine services may contain a provision for a deductible,
191 copayment or coinsurance requirement for a health care service provided through telemedicine as
192 long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or
193 coinsurance applicable to an in-person consultation or in-person delivery of services. Coverage
194 that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall
195 account for the provision of telemedicine services in setting that global payment amount.

196 (d) A health care provider shall not be required to document a barrier to an in-person
197 visit, nor shall the type of setting where telemedicine is provided be limited for health care
198 services provided through telemedicine.

199 (e) Health care services provided by telemedicine shall conform to the standards of care
200 applicable to the telemedicine provider's profession. Such services shall also conform to
201 applicable federal and state health information privacy and security standards as well as
202 standards for informed consent.

203 SECTION 8. Chapter 176I of the General Laws, as appearing in the 2016 official edition,
204 is hereby amended by adding the following section:-

205 Section 13. (a) For the purposes of this section, “telemedicine” shall mean the use of
206 interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a
207 patient's physical, oral or mental health; provided, however, that “telemedicine” shall not include
208 audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

209 (b) A preferred provider contract between a covered person and an organization shall not
210 decline to provide coverage for health care services solely on the basis that those services were
211 delivered by way of telemedicine by a contracted health care provider. Health care services
212 delivered by way of telemedicine shall be covered to the same extent as if they were provided by
213 way of in-person consultation or in-person delivery.

214 (c) An organization may undertake utilization review, including preauthorization, to
215 determine the appropriateness of telemedicine as a means of delivering a health care service,
216 provided that the determinations shall be made in the same manner as those regarding the same
217 service when it is delivered in person. An organization is not required to reimburse a health care
218 provider for a health care service that is not a covered benefit under the plan nor reimburse a
219 health care provider not contracted under the plan.

220 A preferred provider contract that provides coverage for telemedicine services may
221 contain a provision for a deductible, copayment or coinsurance requirement for a health care
222 service provided through telemedicine as long as the deductible, copayment or coinsurance does
223 not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or
224 in-person delivery of services. Coverage that reimburses a provider with a global payment, as

225 defined in section 1 of chapter 6D, shall account for the provision of telemedicine services in
226 setting that global payment amount.

227 (d) A health care provider shall not be required to document a barrier to an in-person
228 visit, nor shall the type of setting where telemedicine is provided be limited for health care
229 services provided through telemedicine.

230 (e) Health care services provided by telemedicine shall conform to the standards of care
231 applicable to the telemedicine provider's profession. Such services shall also conform to
232 applicable federal and state health information privacy and security standards as well as
233 standards for informed consent.

234 SECTION 9. Notwithstanding any general or special law to the contrary, the department
235 of public health and the office of consumer affairs and business regulation shall allow licensees
236 to obtain proxy credentialing and privileging for telemedicine services with other health care
237 providers as defined in section 1 of chapter 111 of the General Laws or facilities that comply
238 with the Centers for Medicare & Medicaid Services' conditions of participation for telemedicine
239 services.

240 For the purposes of this section, "telemedicine" shall mean the use of interactive audio,
241 video or other electronic media for the purposes of a diagnosis, consultation or treatment of a
242 patient's physical, oral or mental health; provided, however, that "telemedicine" shall not include
243 an audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

244 SECTION 10. This act shall take effect on January 1, 2019.