

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1305 Session of 2024

INTRODUCED BY CULVER, PENNYCUICK, ROTHMAN, J. WARD, FLYNN, KANE,  
MILLER AND FARRY, SEPTEMBER 13, 2024

REFERRED TO BANKING AND INSURANCE, SEPTEMBER 13, 2024

AN ACT

1 Amending the act of May 31, 2018 (P.L.123, No.25), entitled "An  
2 act providing for outpatient psychiatric oversight," further  
3 providing for definitions and for requirements; and  
4 abrogating regulations.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. The definitions of "advanced practice  
8 professional" and "telebehavioral health technology" in section  
9 2 of the act of May 31, 2018 (P.L.123, No.25), known as the  
10 Outpatient Psychiatric Oversight Act, are amended and the  
11 section is amended by adding definitions to read:

12 Section 2. Definitions.

13 The following words and phrases when used in this act shall  
14 have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16 "Advanced practice professional." [A person who:

17 (1) (i) holds a current Pennsylvania license as a  
18 certified registered nurse practitioner with a mental  
19 health certification; or

1 (ii) obtains a mental health certification within  
2 two years of being hired by an outpatient psychiatric  
3 clinic or within two years of the effective date of this  
4 section, whichever is later; or

5 (2) (i) holds a current Pennsylvania license as a  
6 physician assistant with a mental health certification;  
7 or

8 (ii) obtains a mental health certification within  
9 two years of being hired by an outpatient psychiatric  
10 clinic or within two years of the effective date of this  
11 section, whichever is later.] A person who holds a

12 current Pennsylvania license as a certified registered  
13 nurse practitioner or a physician assistant and:

14 (1) holds a mental health certification; or

15 (2) obtains a mental health certification within two  
16 years of being hired by an outpatient psychiatric clinic.

17 \* \* \*

18 "Mental health professional." As defined in 55 Pa. Code §  
19 1153.2 (relating to definitions).

20 "Mental health worker." As defined in 55 Pa. Code § 1153.2.

21 \* \* \*

22 ["Telebehavioral health"] "Telehealth technology." As

23 follows:

24 (1) Any of the following:

25 (i) Real-time interactive audio and video  
26 communication using technology that conforms to industry-  
27 wide standards and is in compliance with Federal and  
28 State privacy and security laws.

29 (ii) Real-time interactive audio-only  
30 telecommunication, provided that the use of audio-only

1 telecommunication technology is consistent with Federal  
2 and State laws, guidance and requirements.

3 (2) The term does not include technology solely using  
4 voicemail, electronic mail messages, facsimile transmissions  
5 or instant messaging, or a combination thereof.

6 Section 2. Section 3 of the act is amended to read:

7 Section 3. Requirements.

8 [The following shall apply:

9 (3) Required psychiatric time may be provided in person  
10 or by the use of telebehavioral health technology by  
11 psychiatrists, as specified by department regulations.  
12 Advanced practice professionals may also provide a portion of  
13 the psychiatric time, as specified by department regulations,  
14 either in person or by the use of telebehavioral health  
15 technology.

16 (4) Nothing in this section shall be construed to limit  
17 the ability of the department to issue a waiver pursuant to  
18 regulation.]

19 (a) Provision of services.--Except as permitted under  
20 subsection (c), 50% of the aggregate treatment provided by a  
21 psychiatrist or an advanced practice professional shall be  
22 provided with the psychiatrist or advanced practice professional  
23 being physically present in the outpatient psychiatric clinic,  
24 with the remainder of time being permitted to be provided by  
25 telehealth technology.

26 (b) Supervision of services.--Supervision provided by either  
27 a psychiatrist or an advanced practice professional may be  
28 provided with the psychiatrist or advanced practice professional  
29 either being physically present in the outpatient psychiatric  
30 clinic or by telehealth technology. The supervision of services

1 must equal at least two hours of time per week for each full-  
2 time equivalent mental health professional and mental health  
3 worker providing clinical services.

4 (c) Waiver request.--

5 (1) An outpatient psychiatric clinic may submit a  
6 written waiver request to the department to provide services  
7 by telehealth technology in excess of the 50% requirement  
8 under subsection (a).

9 (2) The department may grant a waiver request under this  
10 subsection under the following conditions:

11 (i) There is no jeopardy to the health, safety or  
12 well-being of an individual receiving services at the  
13 outpatient psychiatric clinic.

14 (ii) An individual receiving services at the  
15 outpatient psychiatric clinic is provided in-person  
16 services at the outpatient psychiatric clinic when  
17 requested or as clinically appropriate.

18 (iii) If the outpatient psychiatric clinic requests  
19 to provide 100% of services by telehealth technology, the  
20 outpatient psychiatric clinic must enter into and  
21 maintain a written agreement with a geographically  
22 proximate outpatient psychiatric clinic that operates a  
23 physical facility and provides in-person services at the  
24 outpatient psychiatric clinic. For purposes of this  
25 subparagraph:

26 (A) The phrase "geographically proximate" means  
27 that the physical facility is within 40 miles or 60  
28 minutes travel from the residence of the individual  
29 receiving services or as otherwise updated by  
30 departmental guidance.

1                   (B) The written agreement must include a  
2                   provision that a referred individual must be seen by  
3                   the geographically proximate outpatient psychiatric  
4                   clinic within 10 days of the referral.

5           (d) Notice.--If the department grants a waiver to an  
6           outpatient clinic following the waiver request under subsection  
7           (c), the outpatient psychiatric clinic shall provide written  
8           notice to each individual receiving services, upon the  
9           commencement of services and annually thereafter, of the right  
10           to receive in-person services when requested or clinically  
11           appropriate.

12           (e) Medical assistance.--A waiver granted under this  
13           section:

14                   (1) Pertains to a waiver of a licensure requirement.

15                   (2) Does not supersede medical assistance payment  
16                   requirements.

17           (f) Guidance.--The department may issue guidance regarding  
18           the use of telehealth technology, which shall be exempt from all  
19           of the following:

20                   (1) Section 612 of the act of April 9, 1929 (P.L.177,  
21                   No.175), known as The Administrative Code of 1929.

22                   (2) Sections 201, 202, 203, 204 and 205 of the act of  
23                   July 31, 1968 (P.L.769, No.240), referred to as the  
24                   Commonwealth Documents Law.

25                   (3) Sections 204(b) and 301(10) of the act of October  
26                   15, 1980 (P.L.950, No.164), known as the Commonwealth  
27                   Attorneys Act.

28                   (4) The act of June 25, 1982 (P.L.633, No.181), known as  
29                   the Regulatory Review Act.

30           (g) Direction.--

1           (1) The direction of an outpatient psychiatric clinic  
2 shall be by a psychiatrist.

3           (2) The direction under this subsection shall, at a  
4 minimum, include the following:

5                 (i) Establishment of appropriate standards for  
6 treatment and prescribing practices.

7                 (ii) Involvement in the quality management process.

8                 (iii) Participation in clinical staff meetings two  
9 times per month. The psychiatric outpatient clinic shall  
10 maintain written documentation of clinical staff  
11 meetings, including attendance.

12                 (iv) Consultation to all clinical staff, which may  
13 be in person or by telehealth technology. The psychiatric  
14 outpatient clinic shall maintain documentation of the  
15 consultation, regardless of the manner in which the  
16 consultation occurred.

17 Section 3. The following regulations are abrogated:

18           (1) 55 Pa. Code § 1153.52(d)(4).

19           (2) 55 Pa. Code § 1153.53(6).

20           (3) 55 Pa. Code § 5200.52(b)(1).

21 Section 4. This act shall take effect in 60 days.