LEGISLATIVE BILL 1078

INTRODUCED BY NORDQUIST, 7; CAMPBELL, 25; DUBAS, 34; McGill, 26.

READ FIRST TIME JANUARY 22, 2014

COMMITTEE: HEALTH AND HUMAN SERVICES

A BILL

FOR AN ACT relating to telehealth; to amend sections 71-8503 and 71-8508, Reissue Revised Statutes of Nebraska, sections 38-2001, 38-2301, and 38-2801, Revised Statutes Cumulative Supplement, 2012, and section 71-8506, Revised Statutes Supplement, 2013; to provide for the establishment of a patient relationship through video conferencing as prescribed; to require insurance coverage for telehealth services as prescribed; to define and redefine terms; to change provisions relating to reimbursement rates and rules and regulations under the Nebraska Telehealth Act; to harmonize provisions; and to repeal the original sections.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF NEBRASKA,
Section 1. Section 38-2001, Revised Statutes Cumulative Supplement, 2012, is amended to read:

38-2001 Sections 38-2001 to 38-2062 and section 2 of this act shall be known and may be cited as the Medicine and Surgery Practice Act.

Sec. 2. A properly licensed physician or physician assistant may establish a physician-patient relationship for the purpose of prescribing medication either through an in-person meeting or by seeing the patient through the use of a real-time, two-way electronic video conference.

Sec. 3. Section 38-2301, Revised Statutes Cumulative Supplement, 2012, is amended to read:

38-2301 Sections 38-2301 to 38-2324 and section 4 of this act shall be known and may be cited as the Nurse Practitioner Practice Act.

Sec. 4. A nurse practitioner may establish a nurse practitioner-patient relationship for the purpose of prescribing medication either through an in-person meeting or by seeing the patient through the use of a real-time, two-way electronic video conference.

Sec. 5. Section 38-2801, Revised Statutes Cumulative Supplement, 2012, is amended to read:

38-2801 Sections 38-2801 to 38-28,103 and section 6 of this act shall be known and may be cited as the Pharmacy Practice Act.
Sec. 6. A pharmacist may establish a pharmacist-patient relationship either through an in-person meeting or by seeing the patient through the use of a real-time, two-way electronic video conference.

Sec. 7. (1) Notwithstanding section 44-3,131, any individual or group sickness and accident insurance policy or subscriber contract delivered, issued for delivery, or renewed in this state and any hospital, medical, or surgical expense-incurred policy, except for policies that provide coverage for a specified disease or other limited-benefit coverage, and any self-funded employee benefit plan to the extent not preempted by federal law shall include coverage for treatment provided using telehealth if the health care provider has determined the use of telehealth is appropriate and if such treatment is covered when provided in person.

(2) The coverage provided by this section shall not be less favorable than for similar treatment provided in person.

(3) This section does not prevent application of deductible or copayment provisions contained in the policy, contract, or plan.

(4) This section shall not be construed to require coverage for services that are not medically necessary.

(5) This section shall apply to any policy, contract, or plan that is delivered, issued for delivery, or renewed in this state on or after October 1, 2014.

(6) For purposes of this section:
(a) Telehealth means the use of medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a health care provider in the diagnosis or treatment of a patient. Telehealth includes services originating from a patient's home or any other location where such patient is located, asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a health care provider at another site for medical evaluation, and telemonitoring; and

(b) Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care provider for analysis and storage.

Sec. 8. Section 71-8503, Reissue Revised Statutes of Nebraska, is amended to read:

71-8503 For purposes of the Nebraska Telehealth Act:

(1) Department means the Department of Health and Human Services;

(2) Health care practitioner means a Nebraska medicaid-enrolled provider who is licensed, registered, or certified to practice in this state by the department;

(3) Telehealth means the use of telecommunications technology by a health care practitioner to deliver health care services within his or her scope of practice at a site other than the site where the patient is located; and medical information
electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a health care practitioner in the diagnosis or treatment of a patient. Telehealth includes services originating from a patient's home or any other location where such patient is located, asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a health care practitioner at another site for medical evaluation, and telemonitoring;

(4) Telehealth consultation means any contact between a patient and a health care practitioner relating to the health care diagnosis or treatment of such patient through telehealth; and but does not include a telephone conversation, electronic mail message, or facsimile transmission between a health care practitioner and a patient or a consultation between two health care practitioners.

(5) Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care practitioner for analysis and storage.

Sec. 9. Section 71-8506, Revised Statutes Supplement, 2013, is amended to read:

71-8506 (1) In-person contact between a health care practitioner and a patient shall not be required under the medical assistance program established pursuant to the Medical Assistance Act and Title XXI of the federal Social Security Act, as amended, for health care services delivered through telehealth that are otherwise
eligible for reimbursement under such program and federal act. Such services shall be subject to reimbursement policies developed pursuant to such program and federal act. This section also applies to managed care plans which contract with the department pursuant to the Medical Assistance Act only to the extent that:

(a) Health care services delivered through telehealth are covered by and reimbursed under the medicaid fee-for-service program; and

(b) Managed care contracts with managed care plans are amended to add coverage of health care services delivered through telehealth and any appropriate capitation rate adjustments are incorporated.

(2) The reimbursement rate for a telehealth consultation shall, as a minimum, be set at the same rate as the medical assistance program rate for a comparable in-person consultation, and the rate shall not depend on the distance between the health care practitioner and the patient.

(3) The department shall establish rates for transmission cost reimbursement for telehealth consultations, considering, to the extent applicable, reductions in travel costs by health care practitioners and patients to deliver or to access health care services and such other factors as the department deems relevant. Such rates shall include reimbursement for all two-way, real-time, interactive communications, unless provided by an Internet service provider, between the patient and the physician or health care
practitioner at the distant site which comply with the federal Health
Insurance Portability and Accountability Act of 1996 and rules and
regulations adopted thereunder and with regulations relating to
encryption adopted by the federal Centers for Medicare and Medicaid
Services and which satisfy federal requirements relating to
efficiency, economy, and quality of care.

Sec. 10. Section 71-8508, Reissue Revised Statutes of
Nebraska, is amended to read:

71-8508 By July 1, 2000, the The department shall adopt
and promulgate rules and regulations to carry out the Nebraska
Telehealth Act, including, but not limited to, rules and regulations
to: (1) Ensure the provision of appropriate care to patients; (2)
prevent fraud and abuse; and (3) establish necessary methods and
procedures necessary to safeguard against unnecessary utilization of
telehealth consultations.

Sec. 11. Original sections 71-8503 and 71-8508, Reissue
Revised Statutes of Nebraska, sections 38-2001, 38-2301, and 38-2801,
Revised Statutes Cumulative Supplement, 2012, and section 71-8506,
Revised Statutes Supplement, 2013, are repealed.