

LEGISLATIVE BILL 559

Approved by the Governor May 5, 1999

Introduced by Kristensen, 37; Thompson, 14; Jensen, 20; Byars, 30; Jones, 43

AN ACT relating to public health; to adopt the Nebraska Telehealth Act.
Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 8 of this act shall be known and may be cited as the Nebraska Telehealth Act.

Sec. 2. The Legislature finds that:

(1) Access to health care facilities and health care practitioners is critically important to the citizens of Nebraska;

(2) Access to a continuum of health care services is restricted in some medically underserved areas of Nebraska, and many health care practitioners in such areas are isolated from mentors, colleagues, and information resources necessary to support them personally and professionally;

(3) The use of telecommunications technology to deliver health care services can reduce health care costs, improve health care quality, improve access to health care, and enhance the economic health of communities in medically underserved areas of Nebraska; and

(4) The full potential of delivering health care services through telehealth cannot be realized without the assurance of payment for such services and the resolution of existing legal and policy barriers to such payment.

Sec. 3. For purposes of the Nebraska Telehealth Act:

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

(2) Health care practitioner means a Nebraska medicaid-enrolled provider who is licensed, registered, or certified to practice in this state by the Department of Health and Human Services Regulation and Licensure;

(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

(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 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.

Sec. 4. The Nebraska Telehealth Act does not: (1) Alter the scope of practice of any health care practitioner; (2) authorize the delivery of health care services in a setting or manner not otherwise authorized by law; or (3) limit a patient's right to choose in-person contact with a health care practitioner for the delivery of health care services for which telehealth is available.

Sec. 5. (1) Prior to an initial telehealth consultation under section 6 of this act, a health care practitioner who delivers a health care service to a patient through telehealth shall ensure that the following written information is provided to the patient:

(a) A statement that the patient retains the option to refuse the telehealth consultation at any time without affecting the patient's right to future care or treatment and without risking the loss or withdrawal of any program benefits to which the patient would otherwise be entitled;

(b) A statement that all existing confidentiality protections shall apply to the telehealth consultation;

(c) A statement that the patient shall have access to all medical information resulting from the telehealth consultation as provided by law for patient access to his or her medical records; and

(d) A statement that dissemination of any patient identifiable images or information from the telehealth consultation to researchers or other entities shall not occur without the written consent of the patient.

(2) The patient shall sign a written statement prior to an initial telehealth consultation, indicating that the patient understands the written information provided pursuant to subsection (1) of this section and that this information has been discussed with the health care practitioner or his or her designee. Such signed statement shall become a part of the patient's medical record.

(3) If the patient is a minor or is incapacitated or mentally

incompetent such that he or she is unable to sign the written statement required by subsection (2) of this section, such statement shall be signed by the patient's legally authorized representative.

(4) This section shall not apply in an emergency situation in which the patient is unable to sign the written statement required by subsection (2) of this section and the patient's legally authorized representative is unavailable.

Sec. 6. (1) On or after July 1, 2000, in-person contact between a health care practitioner and a patient shall not be required under the medical assistance program established in sections 68-1018 to 68-1025 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 Managed Care Plan 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.

(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.

Sec. 7. A health care facility licensed pursuant to sections 71-2017 to 71-2029 that receives reimbursement under the Nebraska Telehealth Act for telehealth consultations shall establish quality of care protocols and patient confidentiality guidelines to ensure that such consultations meet the requirements of the act and acceptable patient care standards.

Sec. 8. By July 1, 2000, 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 methods and procedures necessary to safeguard against unnecessary utilization of telehealth consultations.