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Legislative Document

No. 1263

S.P. 383

In Senate, March 14, 2019

An Act Regarding Telehealth

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator GRATWICK of Penobscot.
Cosponsored by Representative TALBOT ROSS of Portland and
Senator: MOORE of Washington, Representatives: CRAVEN of Lewiston, GRIFFIN of
Levant, HIGGINS of Dover-Foxcroft, HYMANSON of York, KORNFIELD of Bangor,
O'NEIL of Saco, PERRY of Calais.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 24 MRSA §2904, sub-§1, ¶A,** as amended by PL 2017, c. 396, §1, is
3 further amended to read:

4 A. A licensed health care practitioner who voluntarily, without the expectation or
5 receipt of monetary or other compensation either directly or indirectly, provides
6 professional services, including services provided through telehealth as defined in
7 Title 24-A, section 4316, subsection 1, paragraph E, within the scope of that health
8 care practitioner's licensure:

- 9 (1) To a nonprofit organization;
- 10 (2) To an agency of the State or any political subdivision of the State;
- 11 (3) To members or recipients of services of a nonprofit organization or state or
12 local agency;
- 13 (4) To support the State's response to a public health threat as defined in Title 22,
14 section 801, subsection 10;
- 15 (5) To support the State's response to an extreme public health emergency as
16 defined in Title 22, section 801, subsection 4-A; or
- 17 (6) To support the State's response to a disaster as defined in Title 37-B, section
18 703, subsection 2;

19 **Sec. 2. 24-A MRSA §4316,** as enacted by PL 2009, c. 169, §1, is repealed and the
20 following enacted in its place:

21 **§4316. Coverage for telehealth services**

22 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
23 following terms have the following meanings.

24 A. "Enrollee originating site" means a site where an enrollee is physically located at
25 the time that health care services are provided through telehealth.

26 B. "Mobile health device" means a wearable device used to track health and
27 wellness, including, but not limited to, a heart rate and respiratory monitor, an
28 electrocardiogram monitor and a glucose monitor.

29 C. "Provider distant site" means a site where a provider is physically located while
30 providing health care services through telehealth.

31 D. "Store and forward transfers" means transmission of an enrollee's recorded health
32 history through a secure electronic system to a provider.

33 E. "Telehealth," as it pertains to the delivery of health care services, means the use of
34 interactive real-time visual and audio or other electronic media for the purpose of
35 consultation and education concerning and diagnosis, treatment, care management
36 and self-management of an enrollee's physical and mental health and includes real-
37 time interaction between the enrollee at an enrollee originating site and the telehealth
38 provider at a provider distant site, synchronous encounters, asynchronous encounters,

1 store and forward transfers and telemonitoring. "Telehealth" does not include the use
2 of audio-only telephone, facsimile machine, e-mail or texting.

3 F. "Telemonitoring," as it pertains to the delivery of health care services, means the
4 use of information technology to remotely monitor an enrollee's health status via
5 electronic means through the use of clinical data while the enrollee remains in a
6 residential setting, allowing the provider to track the enrollee's health data over time.
7 Telemonitoring may or may not take place in real time.

8 G. "Telephonic services," as it pertains to the delivery of health care services, means
9 the use of telephone communication by a provider at a distance for the purpose of
10 diagnosis, disease monitoring or treatment.

11 **2. Parity for telehealth services.** A carrier offering a health plan in this State may
12 not deny coverage on the basis that the health care service is provided through telehealth
13 if the health care service would be covered if it was provided through in-person
14 consultation between an enrollee and a provider. Coverage for health care services
15 provided through telehealth must be determined in a manner consistent with coverage for
16 health care services provided through in-person consultation. If an enrollee is eligible for
17 coverage and the delivery of the health care service through telehealth is medically
18 appropriate, a carrier may not deny coverage for telehealth services. A carrier may offer a
19 health plan containing a provision for a deductible, copayment or coinsurance
20 requirement for a health care service provided through telehealth as long as the
21 deductible, copayment or coinsurance does not exceed the deductible, copayment or
22 coinsurance applicable to a comparable service provided through in-person consultation.
23 A carrier may not exclude a health care service from coverage solely because such health
24 care service is provided only through a telehealth encounter between the enrollee and the
25 provider and not through an in-person consultation between the enrollee and the provider,
26 as long as telehealth is appropriate for the provision of such health care service.

27 **3. Coverage for telehealth services.** Except as provided in this section, a carrier
28 shall provide coverage for any medically necessary health care service delivered through
29 telehealth as long as the following requirements are met.

30 A. The health care service is otherwise covered under an enrollee's health plan.

31 B. The health care service delivered by telehealth is of comparable quality to the
32 health care service delivered through in-person consultation.

33 C. Prior authorization is required for telehealth services only if prior authorization is
34 required for the corresponding covered health care service. An in-person consultation
35 prior to the delivery of services through telehealth is not required.

36 D. Coverage for telehealth services is not limited in any way on the basis of
37 geography, location or distance for travel.

38 E. The carrier shall require that a physical exam is conducted either in person or
39 through telehealth before a provider may write a prescription that is covered.

40 F. Coverage for a prescribed schedule I, II or III controlled substance, as defined in
41 21 United States Code, Section 812, is not permitted.

1 G. The carrier shall provide coverage for the treatment of 2 or more persons who are
2 enrolled in the carrier's health plan at the same time through telehealth, including
3 counseling for substance use disorders involving opioids.

4 **4. Telemonitoring requirements.** A carrier shall provide coverage for
5 telemonitoring if:

6 A. The telemonitoring is intended to collect an enrollee's health-related data,
7 including, but not limited to, pulse and blood pressure readings, that assist a provider
8 in monitoring and assessing the enrollee's medical condition;

9 B. A provider has evaluated an enrollee and determined that telemonitoring is
10 medically necessary for the enrollee;

11 C. A provider has evaluated an enrollee and determined that the enrollee is
12 cognitively and physically capable of operating the mobile health devices or
13 determined that the enrollee has a caregiver willing and able to assist with the mobile
14 health devices; and

15 D. A provider has evaluated an enrollee's residence and determined its suitability for
16 telemonitoring. If the residence appears unable to support telemonitoring, the
17 telemonitoring may not be provided unless necessary adaptations are made.

18 **5. Coverage for telephonic services.** A carrier shall provide coverage for
19 telephonic services when telehealth services are unavailable and the telephonic services
20 are medically appropriate for the corresponding covered health care services.

21 **6. Exclusions.** A carrier may exclude the following health care services from
22 coverage under a health plan in this State:

23 A. Health care services delivered via telehealth if those services are not otherwise
24 covered under a health plan;

25 B. Health care services that require direct physical contact with an enrollee by a
26 provider and that cannot be delegated to another provider at the enrollee originating
27 site; and

28 C. Any health care service that is medically inappropriate for delivery through
29 telehealth.

30 **7. Utilization review.** This section does not prohibit or limit a carrier from
31 conducting a utilization review for telehealth services as long as the utilization review is
32 conducted in the same manner and uses the same clinical review criteria as a utilization
33 review for an in-person consultation for the same service.

34 **8. Provider eligibility.** In order to be eligible for reimbursement under this section,
35 a provider providing health care services through telehealth must be acting within the
36 scope of the provider's license. A carrier may not impose additional credentialing
37 requirements or prior approval requirements for a provider as a condition of
38 reimbursement for health care services provided under this section unless those
39 credentialing requirements or prior approval requirements are the same as those imposed
40 for a provider that does not provide health care services through telehealth.

