

HOUSE No. 4442

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

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 2014 official edition,
2 is hereby amended by adding at the end the following new section:

3 Section 28: Notwithstanding any general or special law or rule or regulation to the
4 contrary, the Group Insurance Commission and any carrier, as defined in Section 1 of Chapter
5 176O of the general laws or other entity which contracts with the Commission to provide health
6 benefits to eligible Employees and Retirees and their eligible dependents, may provide coverage
7 for health care services appropriately provided through the use of telemedicine by a contracted
8 health care provider. For the purposes of this section, “telemedicine” shall mean the use of
9 interactive audio, video or other electronic media for the purpose of diagnosis, consultation, and
10 treatment of a patient's physical and mental health. Telemedicine shall not include audio-only
11 telephone, facsimile machine, online questionnaires, texting or text-only e-mail.

12 A carrier may undertake utilization review, including preauthorization, to determine the
13 appropriateness of telemedicine as a means of delivering a health care service, provided that the

determinations shall be made in the same manner as those regarding the same service when it is delivered in person. A carrier is not required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider when the provider is not a contracted provider under the plan.

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

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

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

SECTION 2. Section 2 of Chapter 112 of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting at the end thereof the following:

Notwithstanding any other provision of this chapter, the board shall allow Massachusetts licensed physicians to obtain proxy credentialing and privileging for telemedicine services with other healthcare providers as defined in Section 1 of Chapter 111 of the general laws or facilities consistent with federal Medicare Conditions of Participation telemedicine standards.

The board shall promulgate regulations regarding the appropriate use of telemedicine to provide health care services. These regulations shall include but not be limited to the following:

- a) prescribing medications, b) services that are not appropriate to provide through telemedicine;
- c) establishing a patient-provider relationship; d) protections for consumers; and e) ensuring services comply with appropriate standards of care.

For the purposes of this section, “telemedicine” shall mean the use of audio, video or other electronic media for the purpose of diagnosis, consultation, and treatment of a patient's physical and mental health. Telemedicine shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.

SECTION 3. Section 118E of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting at the end thereof the following new section:

Section 78. Notwithstanding any general or special law or rule or regulation to the contrary, the division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third party administrators under contract to a Medicaid managed care organization or primary care clinician plan may provide coverage for health care services appropriately provided through telemedicine by a contracted provider.

For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation, and treatment of a patient's physical and mental health. Telemedicine shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.

The division may undertake utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that

the determinations shall be made in the same manner as those regarding the same service when it is delivered in person. A carrier is not required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider when the provider is not a contracted provider under the plan.

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

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

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

SECTION 4. Section 47BB of chapter 175 of the General Laws, as most recently added by Section 158 of Chapter 224 of the Acts of 2012, is hereby amended by striking subsections (a)-(d) and replacing it with the following: Notwithstanding any general or special law or rule or regulation to the contrary, an insurer may provide for coverage for health care services under an individual, group, or general policy of accident and sickness insurance to an insured appropriately provided through the use of telemedicine by a contracted health care provider. For

the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation, and treatment of a patient's physical and mental health. Telemedicine shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.

A carrier may undertake utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the determinations shall be made in the same manner as those regarding the same service when it is delivered in person. A carrier is not required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider when the provider is not a contracted provider under the plan.

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

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

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

SECTION 5. Chapter 176A of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting at the end thereof the following new section:

Section 38: Notwithstanding any general or special law or rule or regulation to the contrary, any contract between a subscriber and the corporation under an individual or group hospital service plan may provide for coverage for health care services to a subscriber appropriately provided through the use of telemedicine by a contracted health care provider. For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation, and treatment of a patient's physical and mental health. Telemedicine shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.

A carrier may undertake utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the determinations shall be made in the same manner as those regarding the same service when it is delivered in person. A carrier is not required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider when the provider is not a contracted provider under the plan.

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

A contract that provides coverage for telemedicine services may contain a provision for a deductible, copayment or coinsurance requirement for a health care service provided through telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible,

124 copayment or coinsurance applicable to an in-person consultation or in-person delivery of
125 services.

126 Health care services provided by telemedicine shall conform to the standards of care
127 applicable to the telemedicine provider's profession. Such services shall also conform to
128 applicable federal and state health information privacy and security standards as well as
129 standards for informed consent.

130 SECTION 6. Chapter 176B of the General Laws, as appearing in the 2014 Official
131 Edition, is hereby amended by inserting at the end thereof the following new section:

132 Section 25: Notwithstanding any general or special law or rule or regulation to the
133 contrary, any contract between a subscriber and the medical service corporation may provide for
134 coverage for health care services to a subscriber appropriately provided through the use of
135 telemedicine by a contracted health care provider. For the purposes of this section,
136 "telemedicine" shall mean the use of interactive audio, video or other electronic media for the
137 purpose of diagnosis, consultation, and treatment of a patient's physical and mental health.
138 Telemedicine shall not include audio-only telephone, facsimile machine, online questionnaires,
139 texting or text-only e-mail.

140 A carrier may undertake utilization review, including preauthorization, to determine the
141 appropriateness of telemedicine as a means of delivering a health care service, provided that the
142 determinations shall be made in the same manner as those regarding the same service when it is
143 delivered in person. A carrier is not required to reimburse a health care provider for a health care
144 service that is not a covered benefit under the plan nor reimburse a health care provider when the
145 provider is not a contracted provider under the plan.

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

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

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

SECTION 7. Chapter 176G of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting at the end thereof the following new section:

Section 33: Notwithstanding any general or special law or rule or regulation to the contrary, any contract between a member and a carrier shall provide for coverage for health services to a subscriber through the use of telemedicine by a contracted health care provider. For the purposes of this section, "telemedicine" shall mean the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation, and treatment of a patient's physical and mental health. Telemedicine shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.

A carrier may undertake utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the determinations shall be made in the same manner as those regarding the same service when it is delivered in person. A carrier is not required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider when the provider is not a contracted provider under the plan.

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

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

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

SECTION 8. Chapter 176I of the General Laws, as appearing in the 2014 Official Edition, is hereby amended by inserting at the end thereof the following new section:

Section 13: Notwithstanding any general or special law or rule or regulation to the contrary, any contract between a covered person and an organization may provide for coverage

for health care services to a subscriber appropriately provided through the use of telemedicine by a contracted health care provider. For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for the purpose of diagnosis, consultation, and treatment of a patient's physical and mental health. Telemedicine shall not include audio-only telephone, facsimile machine, online questionnaires, texting or text-only e-mail.

A carrier may undertake utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the determinations shall be made in the same manner as those regarding the same service when it is delivered in person. A carrier is not required to reimburse a health care provider for a health care service that is not a covered benefit under the plan nor reimburse a health care provider when the provider is not a contracted provider under the plan.

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

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

Health care services provided by telemedicine shall conform to the standards of care applicable to the telemedicine provider’s profession. Such services shall also conform to

211 applicable federal and state health information privacy and security standards as well as
212 standards for informed consent.

213 SECTION 9. Notwithstanding any general or special law or rule or regulation to the
214 contrary, the Division of Health Professions Licensure within the Department of Public Health
215 and the Division of Professional Licensure within the Office of Consumer Affairs and Business
216 Regulation shall allow licensees to obtain proxy credentialing and privileging for telemedicine
217 services with other healthcare providers as defined in section 1 of chapter 111 of the general laws
218 or facilities consistent with federal Medicare Conditions of Participation telemedicine standards.

219 For the purposes of this section, “telemedicine” shall mean the use of interactive audio,
220 video or other electronic media for the purpose of diagnosis, consultation, and treatment of a
221 patient's physical and mental health. Telemedicine shall not include audio-only telephone,
222 facsimile machine, online questionnaires, texting or text-only e-mail.