

SENATE No. 549

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act advancing and expanding access to telemedicine services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Jason M. Lewis</i>	<i>Fifth Middlesex</i>	
<i>Chris Walsh</i>	<i>6th Middlesex</i>	<i>1/24/2017</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/25/2017</i>
<i>John W. Scibak</i>	<i>2nd Hampshire</i>	<i>1/25/2017</i>
<i>Barbara A. L'Italien</i>	<i>Second Essex and Middlesex</i>	<i>1/25/2017</i>
<i>Danielle W. Gregoire</i>	<i>4th Middlesex</i>	<i>1/25/2017</i>
<i>Jack Lewis</i>	<i>7th Middlesex</i>	<i>1/26/2017</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>2/2/2017</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/30/2017</i>
<i>Mark C. Montigny</i>	<i>Second Bristol and Plymouth</i>	<i>1/30/2017</i>
<i>Michael D. Brady</i>	<i>Second Plymouth and Bristol</i>	<i>1/30/2017</i>
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>1/30/2017</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/30/2017</i>
<i>Thomas J. Calter</i>	<i>12th Plymouth</i>	<i>1/31/2017</i>
<i>Thomas M. McGee</i>	<i>Third Essex</i>	<i>1/31/2017</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/31/2017</i>
<i>Lori A. Ehrlich</i>	<i>8th Essex</i>	<i>1/31/2017</i>
<i>Paul R. Heroux</i>	<i>2nd Bristol</i>	<i>2/1/2017</i>

<i>William N. Brownsberger</i>	<i>Second Suffolk and Middlesex</i>	<i>2/1/2017</i>
<i>Mathew Muratore</i>	<i>1st Plymouth</i>	<i>2/1/2017</i>
<i>Jennifer L. Flanagan</i>	<i>Worcester and Middlesex</i>	<i>2/2/2017</i>
<i>Carmine L. Gentile</i>	<i>13th Middlesex</i>	<i>2/2/2017</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>2/2/2017</i>
<i>Daniel J. Ryan</i>	<i>2nd Suffolk</i>	<i>2/2/2017</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>2/2/2017</i>
<i>Sal N. DiDomenico</i>	<i>Middlesex and Suffolk</i>	<i>2/2/2017</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/2/2017</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>2/2/2017</i>
<i>Michael J. Barrett</i>	<i>Third Middlesex</i>	<i>2/2/2017</i>
<i>Kenneth J. Donnelly</i>	<i>Fourth Middlesex</i>	<i>2/2/2017</i>
<i>Juana B. Matias</i>	<i>16th Essex</i>	<i>2/2/2017</i>
<i>Viriato M. deMacedo</i>	<i>Plymouth and Barnstable</i>	<i>2/2/2017</i>
<i>Jay R. Kaufman</i>	<i>15th Middlesex</i>	<i>2/2/2017</i>
<i>Michael O. Moore</i>	<i>Second Worcester</i>	<i>2/2/2017</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>2/3/2017</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>2/3/2017</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>2/3/2017</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>2/15/2017</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>	<i>2/15/2017</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>3/8/2017</i>
<i>Cynthia Stone Creem</i>	<i>First Middlesex and Norfolk</i>	<i>3/8/2017</i>
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>	<i>4/11/2017</i>
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>	<i>10/3/2017</i>
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>	<i>10/3/2017</i>
<i>Cindy F. Friedman</i>	<i>Fourth Middlesex</i>	<i>10/4/2017</i>

SENATE No. 549

By Mr. Lewis, a petition (accompanied by bill, Senate, No. 549) of Jason M. Lewis, Chris Walsh, Jennifer E. Benson, John W. Scibak and other members of the General Court for legislation to advance and expand access to telemedicine services. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

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 is hereby amended by inserting after
2 section 27 the following 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, shall not decline to
7 provide coverage for health care services solely on the basis that those services were delivered
8 through the use of telemedicine by a contracted health care provider. Health care services
9 delivered by way of telemedicine shall be covered to the same extent as if they were provided via
10 in-person consultation or in-person delivery, nor shall the rates of payments for otherwise
11 covered services be reduced on the grounds that those services were delivered through
12 telemedicine. A contract that provides coverage for telemedicine services may contain a

13 provision for a deductible, copayment or coinsurance requirement for a health care service
14 provided through telemedicine as long as the deductible, copayment or coinsurance does not
15 exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-
16 person delivery of the same health care services. For health care services provided through
17 telemedicine, a health care provider shall not be required to document a barrier to an in-person
18 visit, nor shall the type of setting where such telemedicine is provided be limited. For the
19 purposes of this section, “telemedicine” shall mean the use of synchronous or asynchronous
20 audio, video or other electronic media for the purpose of diagnosis, consultation, prescribing, and
21 treatment of a patient's physical, oral and mental health care that meets applicable health
22 information privacy and security standards similar to those provided during an in- person visit.
23 Telemedicine shall not include audio-only telephone or facsimile machine communications, but
24 may include an online adaptive interview. Telemedicine may also include text only email when
25 it occurs for the purpose of patient management in the context of a pre-existing physician patient
26 relationship. Nothing in this paragraph shall be interpreted as changing the prevailing standard
27 of care for healthcare services whether delivered in person or through telemedicine.

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

30 Notwithstanding any other provision of this chapter, the board shall promulgate
31 regulations to allow licensees to obtain proxy credentialing and privileging for telemedicine
32 services with other healthcare providers as defined in section 1 of chapter 111 of the General
33 Laws or facilities consistent with federal Medicare Conditions of Participation telemedicine
34 standards. Said regulations shall ensure that licensees using telemedicine to provide services are
35 done within a provider to patient relationship which includes the provider agreeing to

36 affirmatively diagnose, treat and prescribe to the patient, or affirmatively agreeing to participate
37 in the patient’s diagnosis and treatment. Said regulations shall allow for the establishment of the
38 physician-patient relationship via telemedicine. Such regulations shall be promulgated 6 months
39 after the effective date of this act. For the purposes of this section, “telemedicine” shall mean the
40 use of synchronous or asynchronous audio, video or other electronic media for the purpose of
41 diagnosis, consultation, prescribing, and treatment of a patient's physical, oral and mental health
42 care that meets applicable health information privacy and security standards similar to those
43 provided during an in-person visit. Telemedicine shall not include audio-only telephone or
44 facsimile machine communications, but may include an online adaptive interview. Telemedicine
45 may also include text only email when it occurs for the purpose of patient management in the
46 context of a pre-existing physician patient relationship. For the purposes of this paragraph,
47 nothing herein shall modify any law or regulation related to the requirements for Massachusetts
48 licensure for individual providers delivering services through telemedicine services to consumers
49 in the Commonwealth; provided further, that this paragraph shall not change the prevailing
50 standard of care for healthcare services whether delivered in-person or through telemedicine.

51 SECTION 3. Chapter 118E of the General Laws, as so appearing, is hereby amended by
52 inserting after section 13C the following section:-

53 Section 13C1/2. Notwithstanding any general or special law or rule or regulation to the
54 contrary, the Executive Office of Health and Human Services shall provide coverage under its
55 Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral
56 health management firms and third party administrators under contract to a Medicaid managed
57 care organization, the Medicaid primary care clinician plan, or an accountable care organization
58 for health care services provided through telemedicine by a contracted provider. Health care

59 services delivered by way of telemedicine shall be covered to the same extent as if they were
60 provided via in-person consultation or in-person delivery, nor shall the rates of payments for
61 otherwise covered services be reduced on the grounds that those services were delivered through
62 telemedicine. A contract that provides coverage for telemedicine services may contain a
63 provision for a deductible, copayment or coinsurance requirement for a health care service
64 provided through telemedicine as long as the deductible, copayment or coinsurance does not
65 exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-
66 person delivery of the same health care services. For health care services provided through
67 telemedicine, a health care provider shall not be required to document a barrier to an in-person
68 visit, nor shall the type of setting where such telemedicine is provided be limited. For the
69 purposes of this section, “telemedicine” shall mean the use of synchronous or asynchronous
70 audio, video or other electronic media for the purpose of diagnosis, consultation, prescribing, and
71 treatment of a patient's physical, oral and mental health care that meets applicable health
72 information privacy and security standards similar to those provided during an in- person visit.
73 Telemedicine shall not include audio-only telephone or facsimile machine communications, but
74 may include an online adaptive interview. Telemedicine may also include text only email when
75 it occurs for the purpose of patient management in the context of a pre-existing physician patient
76 relationship. Nothing in this section shall be interpreted as changing the prevailing standard of
77 care for healthcare services whether delivered in person or through telemedicine.

78 SECTION 4. Section 47BB of chapter 175 of the General Laws, as so appearing, is
79 hereby amended by striking subsections (a) through (d) and adding at the end the following
80 paragraph:-

81 Notwithstanding any general or special law or rule or regulation to the contrary, an
82 insurer shall provide for coverage for health care services under an individual, group, or general
83 policy of accident and sickness insurance to an insured through the use of telemedicine by a
84 contracted health care provider. Health care services delivered by way of telemedicine shall be
85 covered to the same extent as if they were provided via in-person consultation or in-person
86 delivery, nor shall the rates of payments for otherwise covered services be reduced on the
87 grounds that those services were delivered through telemedicine. A contract that provides
88 coverage for telemedicine services may contain a provision for a deductible, copayment or
89 coinsurance requirement for a health care service provided through telemedicine as long as the
90 deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance
91 applicable to an in-person consultation or in- person delivery of the same health care services.
92 For health care services provided through telemedicine, a health care provider shall not be
93 required to document a barrier to an in-person visit, nor shall the type of setting where such
94 telemedicine is provided be limited. For the purposes of this section, “telemedicine” shall mean
95 the use of synchronous or asynchronous audio, video or other electronic media for the purpose of
96 diagnosis, consultation, prescribing, and treatment of a patient's physical, oral and mental health
97 care that meets applicable health information privacy and security standards similar to those
98 provided during an in- person visit. Telemedicine shall not include audio-only telephone or
99 facsimile machine communications, but may include an online adaptive interview. Telemedicine
100 may also include text only email when it occurs for the purpose of patient management in the
101 context of a pre-existing physician patient relationship. Nothing in this paragraph shall be
102 interpreted as changing the prevailing standard of care for healthcare services whether delivered
103 in person or through telemedicine.

104 SECTION 5. Chapter 176A of the General Laws, as so appearing, is hereby amended by
105 inserting after section 36 the following section:-

106 Section 38. Notwithstanding any general or special law or rule or regulation to the
107 contrary, any contract between a subscriber and the corporation under an individual or group
108 hospital service plan shall provide for coverage for health care services to a subscriber through
109 the use of telemedicine by a contracted health care provider. Health care services delivered by
110 way of telemedicine shall be covered to the same extent as if they were provided via in-person
111 consultation or in-person delivery, nor shall the rates of payments for otherwise covered services
112 be reduced on the grounds that those services were delivered through telemedicine. A contract
113 that provides coverage for telemedicine services may contain a provision for a deductible,
114 copayment or coinsurance requirement for a health care service provided through telemedicine as
115 long as the deductible, copayment or coinsurance does not exceed the deductible, copayment or
116 coinsurance applicable to an in-person consultation or in-person delivery of the same health care
117 services. For health care services provided through telemedicine, a health care provider shall not
118 be required to document a barrier to an in-person visit, nor shall the type of setting where such
119 telemedicine is provided be limited. For the purposes of this section, “telemedicine” shall mean
120 the use of synchronous or asynchronous audio, video or other electronic media for the purpose of
121 diagnosis, consultation, prescribing, and treatment of a patient's physical, oral and mental health
122 care that meets applicable health information privacy and security standards similar to those
123 provided during an in- person visit. Telemedicine shall not include audio-only telephone or
124 facsimile machine communications, but may include an online adaptive interview. Telemedicine
125 may also include text only email when it occurs for the purpose of patient management in the
126 context of a pre-existing physician patient relationship. Nothing in this paragraph shall be

127 interpreted as changing the prevailing standard of care for healthcare services whether delivered
128 in person or through telemedicine.

129 SECTION 6. Chapter 176B of the General Laws, as so appearing, is hereby amended by
130 inserting, after section 24, the following section:-Section 25. Notwithstanding any general or
131 special law or rule or regulation to the contrary, any contract between a subscriber and the
132 medical service corporation shall provide for coverage for health care services to a subscriber
133 through the use of telemedicine by a contracted health care provider. Health care services
134 delivered by way of telemedicine shall be covered to the same extent as if they were provided via
135 in-person consultation or in-person delivery, nor shall the rates of payments for otherwise
136 covered services be reduced on the grounds that those services were delivered through
137 telemedicine. A contract that provides coverage for telemedicine services may contain a
138 provision for a deductible, copayment or coinsurance requirement for a health care service
139 provided through telemedicine as long as the deductible, copayment or coinsurance does not
140 exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-
141 person delivery of the same health care services. For health care services provided through
142 telemedicine, a health care provider shall not be required to document a barrier to an in-person
143 visit, nor shall the type of setting where such telemedicine is provided be limited. For the
144 purposes of this section, “telemedicine” shall mean the use of synchronous or asynchronous
145 audio, video or other electronic media for the purpose of diagnosis, consultation, prescribing, and
146 treatment of a patient's physical, oral and mental health care that meets applicable health
147 information privacy and security standards similar to those provided during an in- person visit.
148 Telemedicine shall not include audio-only telephone or facsimile machine communications, but
149 may include an online adaptive interview. Telemedicine may also include text only email when

150 it occurs for the purpose of patient management in the context of a pre-existing physician patient
151 relationship. Nothing in this section shall be interpreted as changing the prevailing standard of
152 care for healthcare services whether delivered in person or through telemedicine.

153 SECTION 7. Chapter 176G of the General Laws, as so appearing, is hereby amended by
154 inserting after section 32 the following section:-

155 Section 33. Notwithstanding any general or special law or rule or regulation to the
156 contrary, any contract between a member and a carrier shall provide for coverage for health
157 services to a subscriber through the use of telemedicine by a contracted health care provider.
158 Health care services delivered by way of telemedicine shall be covered to the same extent as if
159 they were provided via in-person consultation or in-person delivery, nor shall the rates of
160 payments for otherwise covered services be reduced on the grounds that those services were
161 delivered through telemedicine. A contract that provides coverage for telemedicine services may
162 contain a provision for a deductible, copayment or coinsurance requirement for a health care
163 service provided through telemedicine as long as the deductible, copayment or coinsurance does
164 not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or
165 in-person delivery of the same health care services. For health care services provided through
166 telemedicine, a health care provider shall not be required to document a barrier to an in-person
167 visit, nor shall the type of setting where such telemedicine is provided be limited. For the
168 purposes of this section, “telemedicine” shall mean the use of synchronous or asynchronous
169 audio, video or other electronic media for the purpose of diagnosis, consultation, prescribing, and
170 treatment of a patient's physical, oral and mental health care that meets applicable health
171 information privacy and security standards similar to those provided during an in- person visit.
172 Telemedicine shall not include audio-only telephone or facsimile machine communications, but

173 may include an online adaptive interview. Telemedicine may also include text only email when
174 it occurs for the purpose of patient management in the context of a pre-existing physician patient
175 relationship. Nothing in this section shall be interpreted as changing the prevailing standard of
176 care for healthcare services whether delivered in person or through telemedicine.

177 SECTION 8. Chapter 176I of the General Laws, as so appearing, is hereby amended by
178 inserting after section 12 the following section:-

179 Section 13. Notwithstanding any general or special law or rule or regulation to the
180 contrary, any contract between a covered person and an organization shall provide for coverage
181 for health care services to a subscriber through the use of telemedicine by a contracted health
182 care provider. Health care services delivered by way of telemedicine shall be covered to the same
183 extent as if they were provided via in-person consultation or in-person delivery, nor shall the
184 rates of payments for otherwise covered services be reduced on the grounds that those services
185 were delivered through telemedicine. A contract that provides coverage for telemedicine services
186 may contain a provision for a deductible, copayment or coinsurance requirement for a health care
187 service provided through telemedicine as long as the deductible, copayment or coinsurance does
188 not exceed the deductible, copayment or coinsurance applicable to an in-person consultation or
189 in-person delivery of the same health care services. For health care services provided through
190 telemedicine, a health care provider shall not be required to document a barrier to an in-person
191 visit, nor shall the type of setting where such telemedicine is provided be limited. For the
192 purposes of this section, “telemedicine” shall mean the use of synchronous or asynchronous
193 audio, video or other electronic media for the purpose of diagnosis, consultation, prescribing, and
194 treatment of a patient's physical, oral and mental health care that meets applicable health
195 information privacy and security standards similar to those provided during an in- person visit.

196 Telemedicine shall not include audio-only telephone or facsimile machine communications, but
197 may include an online adaptive interview. Telemedicine may also include text only email when
198 it occurs for the purpose of patient management in the context of a pre-existing physician patient
199 relationship. Nothing in this section shall be interpreted as changing the prevailing standard of
200 care for healthcare services whether delivered in person or through telemedicine.

201 SECTION 9. Notwithstanding any general or special law or rule or regulation to the
202 contrary, the bureau of health professions licensure within the department of public health and
203 the division of professional licensure within the office of consumer affairs and business
204 regulation shall, respectively, promulgate regulations to allow licensees to obtain proxy
205 credentialing and privileging for telemedicine services with other healthcare providers as defined
206 in section 1 of chapter 111 of the General Laws, allied health professionals as defined in section
207 23A of chapter 112 of the General Laws, and allied mental health or human service professionals
208 as defined in section 163 of chapter 112 of the General Laws or facilities consistent with federal
209 Medicare Conditions of Participation telemedicine standards. Said regulations shall ensure that
210 providers using telemedicine to provide services are done within a provider to patient
211 relationship, which includes the provider agreeing to affirmatively diagnose and treat the patient,
212 including prescriptions when appropriate, or affirmatively agreeing to participate in the patient's
213 diagnosis and treatment. Said regulations shall also allow for the establishment of the provider-
214 patient relationship via telemedicine. Such regulations shall be promulgated 6 months after the
215 effective date of this act. For the purposes of this section, "telemedicine" shall mean the use of
216 synchronous or asynchronous audio, video or other electronic media for the purpose of
217 diagnosis, consultation, prescribing, and treatment of a patient's physical, oral and mental health
218 care that meets applicable health information privacy and security standards similar to those

219 provided during an in- person visit. Telemedicine shall not include audio-only telephone or
220 facsimile machine communications, but may include an online adaptive interview. Telemedicine
221 may also include text only email when it occurs for the purpose of patient management in the
222 context of a pre-existing physician patient relationship. For the purposes of this paragraph,
223 nothing herein shall modify any law or regulation related to the requirements for Massachusetts
224 licensure for individual providers delivering services through telemedicine services to consumers
225 in the commonwealth; provided further, that this paragraph shall not change the prevailing
226 standard of care for healthcare services whether delivered in-person or through telemedicine.

227 SECTION 10. The provisions this Act shall be effective for all contracts which are
228 entered into, renewed, or amended 1 year after its effective date.