

HOUSE No. 991

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas A. Golden, Jr.

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:	DATE ADDED:
<i>Thomas A. Golden, Jr.</i>	<i>16th Middlesex</i>	<i>1/17/2019</i>
<i>Gerard J. Cassidy</i>	<i>9th Plymouth</i>	<i>1/28/2019</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>1/28/2019</i>
<i>Diana DiZoglio</i>	<i>First Essex</i>	<i>1/28/2019</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>	<i>1/28/2019</i>
<i>Tram T. Nguyen</i>	<i>18th Essex</i>	<i>1/28/2019</i>
<i>Tricia Farley-Bouvier</i>	<i>3rd Berkshire</i>	<i>1/28/2019</i>
<i>Kenneth I. Gordon</i>	<i>21st Middlesex</i>	<i>1/28/2019</i>
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>1/28/2019</i>
<i>Mathew J. Muratore</i>	<i>1st Plymouth</i>	<i>1/28/2019</i>
<i>William M. Straus</i>	<i>10th Bristol</i>	<i>1/28/2019</i>
<i>Smitty Pignatelli</i>	<i>4th Berkshire</i>	<i>1/28/2019</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>	<i>1/28/2019</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>	<i>1/28/2019</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>1/28/2019</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>1/28/2019</i>
<i>Michael J. Soter</i>	<i>8th Worcester</i>	<i>1/28/2019</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>	<i>1/28/2019</i>

<i>Jonathan Hecht</i>	<i>29th Middlesex</i>	<i>1/28/2019</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>	<i>1/29/2019</i>
<i>Rady Mom</i>	<i>18th Middlesex</i>	<i>1/29/2019</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>1/29/2019</i>
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>1/29/2019</i>
<i>Carole A. Fiola</i>	<i>6th Bristol</i>	<i>1/29/2019</i>
<i>Marjorie C. Decker</i>	<i>25th Middlesex</i>	<i>1/29/2019</i>
<i>David M. Nangle</i>	<i>17th Middlesex</i>	<i>1/29/2019</i>
<i>Jennifer E. Benson</i>	<i>37th Middlesex</i>	<i>1/29/2019</i>
<i>Daniel M. Donahue</i>	<i>16th Worcester</i>	<i>1/29/2019</i>
<i>James J. O'Day</i>	<i>14th Worcester</i>	<i>1/29/2019</i>
<i>Sarah K. Peake</i>	<i>4th Barnstable</i>	<i>1/29/2019</i>
<i>Ruth B. Balsler</i>	<i>12th Middlesex</i>	<i>1/29/2019</i>
<i>David Paul Linsky</i>	<i>5th Middlesex</i>	<i>1/29/2019</i>
<i>Jay D. Livingstone</i>	<i>8th Suffolk</i>	<i>1/29/2019</i>
<i>Kay Khan</i>	<i>11th Middlesex</i>	<i>1/29/2019</i>
<i>Thomas P. Walsh</i>	<i>12th Essex</i>	<i>1/30/2019</i>
<i>Dean A. Tran</i>	<i>Worcester and Middlesex</i>	<i>1/30/2019</i>
<i>William L. Crocker, Jr.</i>	<i>2nd Barnstable</i>	<i>1/30/2019</i>
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	<i>1/30/2019</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>	<i>1/30/2019</i>
<i>Colleen M. Garry</i>	<i>36th Middlesex</i>	<i>1/30/2019</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>	<i>1/30/2019</i>
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>1/30/2019</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>1/30/2019</i>
<i>Paul McMurtry</i>	<i>11th Norfolk</i>	<i>1/30/2019</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>	<i>1/30/2019</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>	<i>1/30/2019</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>1/30/2019</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>	<i>1/30/2019</i>
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>1/30/2019</i>
<i>Carlos González</i>	<i>10th Hampden</i>	<i>1/30/2019</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>	<i>1/30/2019</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>1/30/2019</i>
<i>Paul F. Tucker</i>	<i>7th Essex</i>	<i>1/30/2019</i>
<i>Brendan P. Crighton</i>	<i>Third Essex</i>	<i>1/30/2019</i>
<i>Carmine Lawrence Gentile</i>	<i>13th Middlesex</i>	<i>1/30/2019</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>1/30/2019</i>
<i>Shaunna L. O'Connell</i>	<i>3rd Bristol</i>	<i>1/31/2019</i>

<i>David K. Muradian, Jr.</i>	<i>9th Worcester</i>	<i>1/31/2019</i>
<i>Brian M. Ashe</i>	<i>2nd Hampden</i>	<i>1/31/2019</i>
<i>Josh S. Cutler</i>	<i>6th Plymouth</i>	<i>1/31/2019</i>
<i>Patricia D. Jehlen</i>	<i>Second Middlesex</i>	<i>1/31/2019</i>
<i>Daniel R. Carey</i>	<i>2nd Hampshire</i>	<i>1/31/2019</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>	<i>1/31/2019</i>
<i>Jack Patrick Lewis</i>	<i>7th Middlesex</i>	<i>1/31/2019</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>	<i>1/31/2019</i>
<i>Andres X. Vargas</i>	<i>3rd Essex</i>	<i>1/31/2019</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>	<i>1/31/2019</i>
<i>Edward F. Coppinger</i>	<i>10th Suffolk</i>	<i>1/31/2019</i>
<i>Alice Hanlon Peisch</i>	<i>14th Norfolk</i>	<i>1/31/2019</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>1/31/2019</i>
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>1/31/2019</i>
<i>Mindy Domb</i>	<i>3rd Hampshire</i>	<i>1/31/2019</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>	<i>1/31/2019</i>
<i>Susannah M. Whipps</i>	<i>2nd Franklin</i>	<i>1/31/2019</i>
<i>Tami L. Gouveia</i>	<i>14th Middlesex</i>	<i>2/1/2019</i>
<i>Michael J. Moran</i>	<i>18th Suffolk</i>	<i>2/1/2019</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>	<i>2/1/2019</i>
<i>Claire D. Cronin</i>	<i>11th Plymouth</i>	<i>2/1/2019</i>
<i>Walter F. Timilty</i>	<i>Norfolk, Bristol and Plymouth</i>	<i>2/1/2019</i>
<i>Bruce J. Ayers</i>	<i>1st Norfolk</i>	<i>2/1/2019</i>
<i>David Biele</i>	<i>4th Suffolk</i>	<i>2/1/2019</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>	<i>2/1/2019</i>
<i>Brian W. Murray</i>	<i>10th Worcester</i>	<i>2/1/2019</i>
<i>Rebecca L. Rausch</i>	<i>Norfolk, Bristol and Middlesex</i>	<i>2/1/2019</i>
<i>Natalie M. Blais</i>	<i>1st Franklin</i>	<i>2/1/2019</i>
<i>Michael S. Day</i>	<i>31st Middlesex</i>	<i>2/1/2019</i>
<i>Lindsay N. Sabadosa</i>	<i>1st Hampshire</i>	<i>2/1/2019</i>
<i>Daniel R. Cullinane</i>	<i>12th Suffolk</i>	<i>2/1/2019</i>

HOUSE No. 991

By Mr. Golden of Lowell, a petition (accompanied by bill, House, No. 991) of Thomas A. Golden, Jr., and others relative to access to telemedicine services. Financial Services.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

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 2016 Official
2 Edition, 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, 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; provided, that a carrier shall
9 not meet network adequacy through significant reliance on telemedicine providers and shall not
10 be considered to have an adequate network if patients are not able to access appropriate in-
11 person services in a timely manner, upon request. Health care services delivered by way of
12 telemedicine shall be covered to the same extent as if they were provided via in-person
13 consultation or in-person delivery, nor shall the rates of payments for otherwise covered services

14 be reduced on the grounds that those services were delivered through telemedicine. A contract
15 that provides coverage for telemedicine may contain a provision for a deductible, copayment or
16 coinsurance requirement for a health care service provided through telemedicine as long as the
17 deductible, copayment or coinsurance does not exceed the deductible, copayment or coinsurance
18 applicable to an in-person consultation or in-person delivery of the same health care services. For
19 health care services provided through telemedicine, a health care provider shall not be required
20 to document a barrier to an in-person visit prior to utilizing telemedicine, nor shall the type of
21 setting where such telemedicine is provided be limited; provided further, a patient may decline
22 receiving services via telemedicine in order to receive in person services and shall not incur costs
23 that exceed the deductible, copayment or co-insurance applicable for the same services provided
24 via telemedicine. For the purposes of this section, “telemedicine” shall mean the use of
25 synchronous or asynchronous audio, video or other electronic media for the purpose of
26 evaluation, diagnosis, consultation, prescribing, and treatment of a patient's medical, oral, mental
27 health and substance use disorder condition that meets applicable health information privacy and
28 security standards similar to those provided during an in- person visit. Telemedicine shall not
29 include audio-only telephone or facsimile machine communications, but may include an online
30 adaptive interview. Telemedicine may also include text only email when it occurs for the
31 purpose of patient management in the context of a pre-existing physician patient relationship.
32 Nothing in this paragraph shall be interpreted as changing the prevailing standard of care for
33 healthcare services whether delivered in person or through telemedicine.

34 SECTION 2. Section 2 of Chapter 112 of the General Laws, as so appearing, is hereby
35 amended by inserting at the end thereof the following:

36 Notwithstanding any other provision of this chapter, the board shall promulgate
37 regulations to allow licensees to obtain proxy credentialing and privileging for telemedicine with
38 other healthcare providers as defined in section 1 of chapter 111 of the general laws or facilities
39 consistent with federal Medicare Conditions of Participation telemedicine standards. Said
40 regulations shall ensure that licensees using telemedicine to provide services are done within a
41 provider to patient relationship which includes the provider agreeing to affirmatively diagnose,
42 treat and prescribe to the patient, or affirmatively agreeing to participate in the patient's
43 diagnosis and treatment. Said regulations shall allow for the establishment of the physician-
44 patient relationship via telemedicine. Said regulations shall direct healthcare providers to provide
45 information to patients about follow-up health care services that are available to the patient; this
46 requirement may be fulfilled through the use of a website identifying available services in the
47 community. Such regulations shall be promulgated six months after the effective date of this act.
48 For the purposes of this section, "telemedicine" shall mean the use of synchronous or
49 asynchronous audio, video or other electronic media for the purpose of evaluation, diagnosis,
50 consultation, prescribing, and treatment of a patient's medical, oral, mental health, and substance
51 use disorder condition that meets applicable health information privacy and security standards
52 similar to those provided during an in-person visit. Telemedicine shall not include audio-only
53 telephone or facsimile machine communications, but may include an online adaptive interview.
54 Telemedicine may also include text only email when it occurs for the purpose of patient
55 management in the context of a pre-existing physician patient relationship. For the purposes of
56 this paragraph, nothing herein shall modify any law or regulation related to the requirements for
57 Massachusetts licensure for individual providers delivering services through telemedicine to
58 consumers in the Commonwealth; provided further, that this paragraph shall not change the

59 prevailing standard of care for healthcare services whether delivered in-person or through
60 telemedicine.

61 SECTION 3. Chapter 118E of the General Laws, as so appearing, is hereby amended by
62 inserting at the end thereof the following new section:

63 Section 13C1/2. Notwithstanding any general or special law or rule or regulation to the
64 contrary, the Executive Office of Health and Human Services shall provide coverage under its
65 Medicaid contracted health insurers, health plans, health maintenance organizations, behavioral
66 health management firms and third party administrators under contract to a Medicaid managed
67 care organization, the Medicaid primary care clinician plan, or an accountable care organization
68 for health care services provided through telemedicine by a contracted provider; provided,
69 however, that Medicaid contracted health insurers, health plans, health maintenance
70 organizations, behavioral health management firms and third party administrators under contract
71 to a Medicaid managed care organization, the Medicaid primary care clinician plan, or a
72 Medicaid accountable care organization shall not meet network adequacy through significant
73 reliance on telemedicine providers and shall not be considered to have an adequate network if
74 patients are not able to access appropriate in-person services in a timely manner, upon request.
75 Health care services delivered by way of telemedicine shall be covered to the same extent as if
76 they were provided via in-person consultation or in-person delivery, nor shall the rates of
77 payments for otherwise covered services be reduced on the grounds that those services were
78 delivered through telemedicine. A contract that provides coverage for telemedicine may contain
79 a provision for a deductible, copayment or coinsurance requirement for a health care service
80 provided through telemedicine as long as the deductible, copayment or coinsurance does not
81 exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-

82 person delivery of the same health care services. For health care services provided through
83 telemedicine, a health care provider shall not be required to document a barrier to an in-person
84 visit prior to utilizing telemedicine, nor shall the type of setting where such telemedicine is
85 provided be limited; provided further, a patient may decline receiving services via telemedicine
86 in order to receive in person services and shall not incur costs that exceed the deductible,
87 copayment or co-insurance applicable for the same services provided via telemedicine. For the
88 purposes of this section, “telemedicine” shall mean the use of synchronous or asynchronous
89 audio, video or other electronic media for the purpose of evaluation, diagnosis, consultation,
90 prescribing, and treatment of a patient's medical, oral, mental health, and substance use disorder
91 condition that meets applicable health information privacy and security standards similar to those
92 provided during an in- person visit. Telemedicine shall not include audio-only telephone or
93 facsimile machine communications, but may include an online adaptive interview. Telemedicine
94 may also include text only email when it occurs for the purpose of patient management in the
95 context of a pre-existing physician patient relationship. Nothing in this section shall be
96 interpreted as changing the prevailing standard of care for healthcare services whether delivered
97 in person or through telemedicine.

98 SECTION 4. Section 47BB of chapter 175 of the General Laws, is hereby amended by
99 striking subsections (a)-(d) and adding at the end of the existing paragraph the following new
100 paragraph:

101 Notwithstanding any general or special law or rule or regulation to the contrary, an
102 insurer shall provide for coverage for health care services under an individual, group, or general
103 policy of accident and sickness insurance to an insured through the use of telemedicine by a
104 contracted health care provider; provided however, that an insurer shall not meet network

105 adequacy through significant reliance on telemedicine providers and shall not be considered to
106 have an adequate network if patients are not able to access appropriate in-person services in a
107 timely manner, upon request. Health care services delivered by way of telemedicine shall be
108 covered to the same extent as if they were provided via in-person consultation or in-person
109 delivery, nor shall the rates of payments for otherwise covered services be reduced on the
110 grounds that those services were delivered through telemedicine. A contract that provides
111 coverage for telemedicine may contain a provision for a deductible, copayment or coinsurance
112 requirement for a health care service provided through telemedicine as long as the deductible,
113 copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable
114 to an in-person consultation or in- person delivery of the same health care services. For health
115 care services provided through telemedicine, a health care provider shall not be required to
116 document a barrier to an in-person visit prior to utilizing telemedicine, nor shall the type of
117 setting where such telemedicine is provided be limited; provided further, a patient may decline
118 receiving services via telemedicine in order to receive in person services and shall not incur costs
119 that exceed the deductible, copayment or co-insurance applicable for the same services provided
120 via telemedicine. For the purposes of this section, “telemedicine” shall mean the use of
121 synchronous or asynchronous audio, video or other electronic media for the purpose of
122 evaluation, diagnosis, consultation, prescribing, and treatment of a patient's medical, oral, mental
123 health, and substance use disorder condition that meets applicable health information privacy and
124 security standards similar to those provided during an in- person visit. Telemedicine shall not
125 include audio-only telephone or facsimile machine communications, but may include an online
126 adaptive interview. Telemedicine may also include text only email when it occurs for the
127 purpose of patient management in the context of a pre-existing physician patient relationship.

128 Nothing in this paragraph shall be interpreted as changing the prevailing standard of care for
129 healthcare services whether delivered in person or through telemedicine.

130 SECTION 5. Chapter 176A of the General Laws, as so appearing, is hereby amended by
131 inserting at the end thereof the following new section:

132 Section 38: Notwithstanding any general or special law or rule or regulation to the
133 contrary, any contract between a subscriber and the corporation under an individual or group
134 hospital service plan shall provide for coverage for health care services to a subscriber through
135 the use of telemedicine by a contracted health care provider; provided, however, that the
136 corporation shall not meet network adequacy through significant reliance on telemedicine
137 providers and shall not be considered to have an adequate network if patients are not able to
138 access appropriate in-person services in a timely manner, upon request. Health care services
139 delivered by way of telemedicine shall be covered to the same extent as if they were provided via
140 in-person consultation or in-person delivery, nor shall the rates of payments for otherwise
141 covered services be reduced on the grounds that those services were delivered through
142 telemedicine. A contract that provides coverage for telemedicine may contain a provision for a
143 deductible, copayment or coinsurance requirement for a health care service provided through
144 telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible,
145 copayment or coinsurance applicable to an in-person consultation or in-person delivery of the
146 same health care services. For health care services provided through telemedicine, a health care
147 provider shall not be required to document a barrier to an in-person visit prior to utilizing
148 telemedicine, nor shall the type of setting where such telemedicine is provided be limited;
149 provided further, a patient may decline receiving services via telemedicine in order to receive in
150 person services and shall not incur costs that exceed the deductible, copayment or co-insurance

151 applicable for the same services provided via telemedicine. For the purposes of this section,
152 “telemedicine” shall mean the use of synchronous or asynchronous audio, video or other
153 electronic media for the purpose of evaluation, diagnosis, consultation, prescribing, and
154 treatment of a patient's medical, oral, mental health and substance use disorder condition that
155 meets applicable health information privacy and security standards similar to those provided
156 during an in- person visit. Telemedicine shall not include audio-only telephone or facsimile
157 machine communications, but may include an online adaptive interview. Telemedicine may also
158 include text only email when it occurs for the purpose of patient management in the context of a
159 pre-existing physician patient relationship. Nothing in this paragraph shall be interpreted as
160 changing the prevailing standard of care for healthcare services whether delivered in person or
161 through telemedicine.

162 SECTION 6. Chapter 176B of the General Laws, as so appearing, is hereby amended by
163 inserting at the end thereof the following new section:

164 Section 25: Notwithstanding any general or special law or rule or regulation to the
165 contrary, any contract between a subscriber and the medical service corporation shall provide for
166 coverage for health care services to a subscriber through the use of telemedicine by a contracted
167 health care provider; provided, however, that the medical service corporation shall not meet
168 network adequacy through significant reliance on telemedicine providers and shall not be
169 considered to have an adequate network if patients are not able to access appropriate in-person
170 services in a timely manner, upon request. Health care services delivered by way of telemedicine
171 shall be covered to the same extent as if they were provided via in-person consultation or in-
172 person delivery, nor shall the rates of payments for otherwise covered services be reduced on the
173 grounds that those services were delivered through telemedicine. A contract that provides

174 coverage for telemedicine may contain a provision for a deductible, copayment or coinsurance
175 requirement for a health care service provided through telemedicine as long as the deductible,
176 copayment or coinsurance does not exceed the deductible, copayment or coinsurance applicable
177 to an in-person consultation or in- person delivery of the same health care services. For health
178 care services provided through telemedicine, a health care provider shall not be required to
179 document a barrier to an in-person visit prior to utilizing telemedicine, nor shall the type of
180 setting where such telemedicine is provided be limited; provided further, a patient may decline
181 receiving services via telemedicine in order to receive in person services and shall not incur costs
182 that exceed the deductible, copayment or co-insurance applicable for the same services provided
183 via telemedicine. For the purposes of this section, “telemedicine” shall mean the use of
184 synchronous or asynchronous audio, video or other electronic media for the purpose of
185 evaluation, diagnosis, consultation, prescribing, and treatment of a patient's medical, oral, mental
186 health and substance use disorder condition that meets applicable health information privacy and
187 security standards similar to those provided during an in- person visit. Telemedicine shall not
188 include audio-only telephone or facsimile machine communications, but may include an online
189 adaptive interview. Telemedicine may also include text only email when it occurs for the
190 purpose of patient management in the context of a pre-existing physician patient relationship.
191 Nothing in this section shall be interpreted as changing the prevailing standard of care for
192 healthcare services whether delivered in person or through telemedicine.

193 SECTION 7. Chapter 176G of the General Laws, as so appearing, is hereby amended by
194 inserting at the end thereof the following new section:

195 Section 33: Notwithstanding any general or special law or rule or regulation to the
196 contrary, any contract between a member and a carrier shall provide for coverage for health

197 services to a subscriber through the use of telemedicine by a contracted health care provider;
198 provided however, a carrier shall not meet network adequacy through significant reliance on
199 telemedicine providers and shall not be considered to have an adequate network if patients are
200 not able to access appropriate in-person services in a timely manner, upon request. Health care
201 services delivered by way of telemedicine shall be covered to the same extent as if they were
202 provided via in-person consultation or in-person delivery, nor shall the rates of payments for
203 otherwise covered services be reduced on the grounds that those services were delivered through
204 telemedicine. A contract that provides coverage for telemedicine may contain a provision for a
205 deductible, copayment or coinsurance requirement for a health care service provided through
206 telemedicine as long as the deductible, copayment or coinsurance does not exceed the deductible,
207 copayment or coinsurance applicable to an in-person consultation or in-person delivery of the
208 same health care services. For health care services provided through telemedicine, a health care
209 provider shall not be required to document a barrier to an in-person visit prior to utilizing
210 telemedicine, nor shall the type of setting where such telemedicine is provided be limited;
211 provided further, a patient may decline receiving services via telemedicine in order to receive in
212 person services and shall not incur costs that exceed the deductible, copayment or co-insurance
213 applicable for the same services provided via telemedicine. For the purposes of this section,
214 “telemedicine” shall mean the use of synchronous or asynchronous audio, video or other
215 electronic media for the purpose of diagnosis, evaluation, consultation, prescribing, and
216 treatment of a patient's medical, oral, mental health and substance use disorder condition that
217 meets applicable health information privacy and security standards similar to those provided
218 during an in- person visit. Telemedicine shall not include audio-only telephone or facsimile
219 machine communications, but may include an online adaptive interview. Telemedicine may also

220 include text only email when it occurs for the purpose of patient management in the context of a
221 pre-existing physician patient relationship. Nothing in this section shall be interpreted as
222 changing the prevailing standard of care for healthcare services whether delivered in person or
223 through telemedicine.

224 SECTION 8. Chapter 176I of the General Laws, as so appearing, is hereby amended by
225 inserting at the end thereof the following new section:

226 Section 13: Notwithstanding any general or special law or rule or regulation to the
227 contrary, any contract between a covered person and an organization shall provide for coverage
228 for health care services to a subscriber through the use of telemedicine by a contracted health
229 care provider; provided, however, an organization shall not meet network adequacy through
230 significant reliance on telemedicine providers and shall not be considered to have an adequate
231 network if patients are not able to access appropriate in-person services in a timely manner, upon
232 request.

233 Health care services delivered by way of telemedicine shall be covered to the same extent
234 as if they were provided via in-person consultation or in-person delivery, nor shall the rates of
235 payments for otherwise covered services be reduced on the grounds that those services were
236 delivered through telemedicine. A contract that provides coverage for telemedicine may contain
237 a provision for a deductible, copayment or coinsurance requirement for a health care service
238 provided through telemedicine as long as the deductible, copayment or coinsurance does not
239 exceed the deductible, copayment or coinsurance applicable to an in-person consultation or in-
240 person delivery of the same health care services. For health care services provided through
241 telemedicine, a health care provider shall not be required to document a barrier to an in-person

242 visit, nor shall the type of setting where such telemedicine is provided be limited; provided
243 further, a patient may decline receiving services via telemedicine in order to receive in person
244 services and shall not incur costs that exceed the deductible, copayment or co-insurance
245 applicable for the same services provided via telemedicine. For the purposes of this section,
246 “telemedicine” shall mean the use of synchronous or asynchronous audio, video or other
247 electronic media for the purpose of evaluation, diagnosis, consultation, prescribing, and
248 treatment of a patient's medical, oral, mental health and substance use disorder condition that
249 meets applicable health information privacy and security standards similar to those provided
250 during an in- person visit. Telemedicine shall not include audio-only telephone or facsimile
251 machine communications, but may include an online adaptive interview. Telemedicine may also
252 include text only email when it occurs for the purpose of patient management in the context of a
253 pre-existing physician patient relationship. Nothing in this section shall be interpreted as
254 changing the prevailing standard of care for healthcare services whether delivered in person or
255 through telemedicine.

256 SECTION 9. Notwithstanding any general or special law or rule or regulation to the
257 contrary, the Bureau of Health Professions Licensure within the Department of Public Health and
258 the Division of Professional Licensure within the Office of Consumer Affairs and Business
259 Regulation shall, respectively, promulgate regulations to allow licensees to obtain proxy
260 credentialing and privileging for telemedicine with other healthcare providers as defined in
261 section 1 of chapter 111 of the general laws, allied health professionals as defined in section 23A
262 of chapter 112 of the general laws, and allied mental health or human service professionals as
263 defined in section 163 of chapter 112 of the general laws or facilities consistent with federal
264 Medicare Conditions of Participation telemedicine standards. Said regulations shall ensure that

265 providers using telemedicine to provide services are done within a provider to patient
266 relationship, which includes the provider agreeing to affirmatively diagnose and treat the patient,
267 including prescriptions when appropriate, or affirmatively agreeing to participate in the patient's
268 diagnosis and treatment. Said regulations shall also allow for the establishment of the provider-
269 patient relationship via telemedicine. Said regulations shall direct healthcare providers to provide
270 information to patients about follow-up health care services that are available to the patient; this
271 requirement may be fulfilled through the use of a website identifying available services in the
272 community. Such regulations shall be promulgated six months after the effective date of this act.
273 For the purposes of this section, "telemedicine" shall mean the use of synchronous or
274 asynchronous audio, video or other electronic media for the purpose of evaluation, diagnosis,
275 consultation, prescribing, and treatment of a patient's medical, oral, mental health and substance
276 use disorder condition that meets applicable health information privacy and security standards
277 similar to those provided during an in- person visit. Telemedicine shall not include audio-only
278 telephone or facsimile machine communications, but may include an online adaptive interview.
279 Telemedicine may also include text only email when it occurs for the purpose of patient
280 management in the context of a pre-existing physician patient relationship. For the purposes of
281 this paragraph, nothing herein shall modify any law or regulation related to the requirements for
282 Massachusetts licensure for individual providers delivering services through telemedicine
283 services to consumers in the Commonwealth; provided further, that this paragraph shall not
284 change the prevailing standard of care for healthcare services whether delivered in-person or
285 through telemedicine.

286 SECTION 10. Notwithstanding any general or special law to the contrary, the Division of
287 Insurance and the Executive Office of Health and Human Services shall annually issue a joint

288 report with data collected from carriers as well as contracted health insurers, health plans, health
289 maintenance organizations, behavioral health management firms and third party administrators
290 under contract to a Medicaid managed care organization, the Medicaid primary care clinician
291 plan, or Medicaid accountable care organizations which indicates the percentage of services
292 provided through telemedicine to patients by: (1) modality, including in-person visits and
293 telemedicine visits; (2) provider specialty; and (3) patient age. Said report shall be publicly
294 available and delivered to the joint committee on health care financing, the joint committee on
295 mental health, substance use and recovery, the joint committee on public health, the clerk of the
296 house of representatives, and the clerk of the Senate not later than January 1, 2021, and annually
297 thereafter for the next 5 years.

298 SECTION 11. The provisions of this Act shall be effective for all contracts which are
299 entered into, renewed, or amended one year after its effective date.