SENATE DOCKET, NO. 1946 FILED ON: 1/18/2019

SENATE . . . . . No. 548

The Commonwealth of Massachusetts

PRESENTED BY:

Harriette L. Chandler

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 expanding access to affordable telemedicine services.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Harriette L. Chandler	*First Worcester*	
James T. Welch	*Hampden*	
Rebecca L. Rausch	*Norfolk, Bristol and Middlesex*	*1/24/2019*
Michael J. Barrett	*Third Middlesex*	*1/29/2019*
Marjorie C. Decker	*25th Middlesex*	*1/30/2019*
Sal N. DiDomenico	*Middlesex and Suffolk*	*1/31/2019*
Denise Provost	*27th Middlesex*	*2/1/2019*
Michael O. Moore	*Second Worcester*	*2/1/2019*
Sean Garballey	*23rd Middlesex*	*2/1/2019*
James K. Hawkins	*2nd Bristol*	*2/5/2019*

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SENATE . . . . . No. 548

By Ms. Chandler, a petition (accompanied by bill, Senate, No. 548) of Harriette L. Chandler, James T. Welch, Rebecca L. Rausch, Michael J. Barrett and other members of the General Court for legislation to expand access to affordable telemedicine services. Financial Services.

The Commonwealth of Massachusetts

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

An Act expanding access to affordable 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:

SECTION 1. Chapter 32A of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by adding at the end the following section:-

Section 28. (a) For the purposes of this section, "telemedicine" shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a patient's physical, oral or mental health; provided, however, that "telemedicine" shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

(b) Coverage offered by the commission to an active or retired employee of the commonwealth insured under the group insurance commission shall provide coverage for health care services through the use of telemedicine by a contracted health care provider if the health care services are covered by way of in-person consultation or delivery. Health care services delivered by way of telemedicine shall be covered to the same extent as if they were provided via in-person consultation or delivery.

(c) Coverage may include utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service, provided that the determination shall be made in the same manner as if the service was delivered in person. A carrier shall not be 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 not contracted under the plan.

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 for health care services provided through telemedicine.

Coverage for telemedicine services may include 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.

(d) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services to set the global payment amount.

(e) 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 so appearing, is hereby amended by adding, at the end, the following paragraphs:-

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

Notwithstanding any other provision of this chapter, the board shall allow a physician to obtain proxy credentialing and privileging for telemedicine services with other health care providers, as defined in section 1 of chapter 111, or facilities consistent with 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 provide for and include, but shall not be limited to: (i) prescribing medications; (ii) services that are not appropriate to provide through telemedicine; (iii) establishing a patient-provider relationship; (iv) consumer protections; and (v) ensuring that services comply with appropriate standards of care.

SECTION 3. Chapter 118E of the General Laws, as so appearing, is hereby amended by adding the following section:-

Section 78. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a patient’s physical, oral or mental health; provided, however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

(b) 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 shall provide coverage for health care services appropriately provided through telemedicine by a contracted provider.

(c) The division may undertake utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service; provided, however, that determinations shall be made in the same manner as if service was delivered in person. The division, a contracted health insurer, health plan, health maintenance organization, behavioral health management firm or third party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall not be 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 not contracted under the plan.

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 for health care services provided through telemedicine.

(d) A contract that provides coverage for telemedicine services may include 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. Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services in setting that global payment amount.

(e) 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. Chapter 175 of the General Laws, as so appearing, is hereby amended by inserting after section 47II the following section:-

Section 47JJ. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a patient's physical, oral or mental health; provided, however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

(b) An individual policy of accident and sickness insurance issued under section 108 that provides hospital expense and surgical expense insurance and any group blanket or general policy of accident and sickness insurance issued under section 110 that provides hospital expense and surgical expense insurance which is issued or renewed within or without the commonwealth, shall not decline to provide coverage for health care services solely on the basis that those services were delivered through the use of telemedicine by a contracted health care provider. Health care services delivered by way of telemedicine shall be covered to the same extent as if they were provided by way of in-person consultation or in-person delivery.

(c) Coverage may include utilization review, including preauthorization, to determine the appropriateness of telemedicine as a means of delivering a health care service; provided, however, that the determinations shall be made in the same manner as if the service was delivered in person. A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth, shall not be 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 not contracted under the plan.

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 for health care services provided through telemedicine.

A contract that provides coverage for telemedicine services may include 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.

(d) Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services in setting that global payment amount.

(e) 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 so appearing, is hereby amended by adding the following section:-

Section 38. (a) For purposes of this section, "telemedicine" shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a

patient's physical, oral or mental health; provided, however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

(b) A contract between a subscriber and a nonprofit hospital service corporation under an individual or group hospital service plan shall not decline to provide coverage for health care services solely on the basis that those services were delivered by way of telemedicine by a contracted health care provider. Health care services delivered by way of telemedicine shall be covered to the same extent as if they were provided by way of in-person consultation or in-person delivery.

(c) Coverage may include 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 as if the service was delivered in person. A carrier shall not be 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 not contracted under the plan.

Coverage for telemedicine services may include 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.

Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services in setting that global payment amount.

(d) 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 for health care services provided through telemedicine.

(e) 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 6. Chapter 176B of the General Laws, as so appearing, is hereby amended by adding the following section:-

Section 25. (a) For the purposes of this section, "telemedicine" shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a patient's physical, oral or mental health; provided, however, that "telemedicine" shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

(b) A contract between a subscriber and a medical service corporation shall not decline to provide coverage for health care services solely on the basis that those services were delivered by way e of telemedicine by a contracted health care provider. Health care services delivered by way of telemedicine shall be covered to the same extent as if they were provided by way of in-person consultation or in-person delivery.

(c) Coverage may include 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 as if the service was 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 not contracted under the plan. Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services in setting that global payment amount. 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.

(d) 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 for health care services provided through telemedicine.

(e) 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 so appearing, is hereby amended by adding the following section:-

Section 33. (a) For the purposes of this section, "telemedicine" shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a patient's physical, oral or mental health; provided, however, that "telemedicine" shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

(b) A contract between a member and a health maintenance organization shall not decline to provide coverage for health care services solely on the basis that those services were delivered

by way of telemedicine by a contracted health care provider. Health care services delivered by way of telemedicine shall be covered to the same extent as if they were provided by way of in-person consultation or in-person delivery.

(c) 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 as if the service was 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 not contracted under the plan. 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. Coverage that reimburses a provider with a global payment, as defined in section 1 of chapter 6D, shall account for the provision of telemedicine services in setting that global payment amount.

(d) 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 for health care services provided through telemedicine.

(e) 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 so appearing, is hereby amended by adding the following section:-

Section 13. (a) For the purposes of this section, “telemedicine” shall mean the use of interactive audio, video or other electronic media for a diagnosis, consultation or treatment of a patient's physical, oral or mental health; provided, however, that “telemedicine” shall not include audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.

(b) A preferred provider contract between a covered person and an organization shall not decline to provide coverage for health care services solely on the basis that those services were delivered by way of telemedicine by a contracted health care provider. Health care services delivered by way of telemedicine shall be covered to the same extent as if they were provided by way of in-person consultation or in-person delivery.

(c) An organization 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. An organization 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 not contracted under the plan.

A preferred provider 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. Coverage that reimburses a provider with a global payment, as

defined in section 1 of chapter 6D, shall account for the provision of telemedicine services in setting that global payment amount.

(d) 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 for health care services provided through telemedicine.

(e) 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 9. Notwithstanding any general or special law to the contrary, the department of public health and the office of consumer affairs and business regulation shall allow licensees to obtain proxy credentialing and privileging for telemedicine services with other health care providers as defined in section 1 of chapter 111 of the General Laws or facilities that comply with the Centers for Medicare & Medicaid Services' conditions of participation for telemedicine services.

For the purposes of this section, "telemedicine" shall mean the use of interactive audio, video or other electronic media for the purposes of a diagnosis, consultation or treatment of a patient's physical, oral or mental health; provided, however, that "telemedicine" shall not include an audio-only telephone, facsimile machine, online questionnaire, texting or text-only e-mail.