

SENATE No. 678

The Commonwealth of Massachusetts

PRESENTED BY:

Adam Gomez

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 relative to telehealth and digital equity for patients.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Adam Gomez</i>	<i>Hampden</i>	
<i>Angelo J. Puppolo, Jr.</i>	<i>12th Hampden</i>	<i>2/25/2021</i>

SENATE No. 678

By Mr. Gomez, a petition (accompanied by bill, Senate, No. 678) of Adam Gomez and Angelo J. Puppolo, Jr. for legislation relative to telehealth and digital equity for patients. Financial Services.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

An Act relative to telehealth and digital equity for patients.

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. Subsection (c) of Section 30 of Chapter 32A of the General Laws, as most
2 recently inserted by section 3 of Chapter 260 of the Acts of 2020, is hereby amended by striking
3 the words: “, including preauthorization,”; and by inserting at the end thereof the following
4 sentence: “Carriers shall not impose any prior authorization requirements to obtain
5 medically necessary health services via telehealth that would not apply to the receipt of those
6 same services on an in-person basis.”

7 SECTION 2. Section 30 of Chapter 32A of the General Laws, as most recently inserted
8 by Section 3 of Chapter 260 of the Acts of 2020 is hereby amended by adding at the end thereof
9 the following subsection:

10 Coverage for telehealth services shall not include a co-payment requirement for a health
11 care service provided via telehealth.

SECTION 3. Section 30 of Chapter 32A of the General Laws, as most recently inserted by Section 3 of Chapter 260 of the Acts of 2020 is hereby amended by adding at the end thereof the following subsection:

Coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing.

SECTION 4. Subsection (c) of Section 79 of Chapter 118E of the General Laws, as most recently amended by Section 40 of Chapter 260 of the Acts of 2020, is hereby amended by striking the words: “, including preauthorization,”; and by inserting at the end thereof the following sentence: “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 impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis.”

SECTION 5. Section 79 of Chapter 118E of the General Laws, as most recently inserted by Section 40 of Chapter 260 of the Acts of 2020 is hereby amended by adding at the end thereof the following subsection:

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, accountable care organization or primary care clinician plan shall not include a co-payment requirement for a health care service provided via telehealth.

SECTION 6. Section 79 of Chapter 118E of the General Laws, as most recently inserted by Section 40 of Chapter 260 of the Acts of 2020 is hereby amended by adding at the end thereof the following subsection:

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, accountable care organization or primary care clinician plan shall include in its coverage for reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing in its coverage for telehealth services.

SECTION 7. Subsection (c) of Section 47MM of Chapter 175 of the General Laws, as most recently amended by Section 47 of Chapter 260 of the Acts of 2020, is hereby amended by striking the words: “, including preauthorization,”; and by inserting at the end thereof the following sentence: “A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis.”

SECTION 8. Section 47MM of Chapter 175 of the General Laws, as most recently inserted by Section 47 of Chapter 260 of the Acts of 2020 is hereby amended by adding at the end thereof the following subsection:

A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth that provides coverage for telehealth services shall not include a co-payment requirement for a health care service provided via telehealth.

SECTION 9. Section 47MM of Chapter 175 of the General Laws, as most recently inserted by Section 47 of Chapter 260 of the Acts of 2020 is hereby amended by adding at the end thereof the following subsection:

A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth that provides coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing.

SECTION 10. Subsection (c) of section 38 of Chapter 176A of the General Laws, as most recently amended by Section 49 of Chapter 260 of the Acts of 2020, is hereby amended by striking the words: “, including preauthorization,”; and by inserting at the end thereof the following sentence: “Carriers shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis.”

SECTION 11. Section 38 of Chapter 176A of the General Laws, as most recently inserted by Section 49 of Chapter 260 of the Acts of 2020, is hereby amended by adding at the end thereof the following subsection:

Coverage for telehealth services shall not include a provision for a co-payment requirement for a health care service provided via telehealth.

SECTION 12. Section 38 of Chapter 176A of the General Laws, as most recently inserted by Section 49 of Chapter 260 of the Acts of 2020, is hereby amended by adding at the end thereof the following subsection:

Coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing.

SECTION 13. Subsection (c) of section 25 of Chapter 176B of the General Laws, as most recently amended by Section 51 of Chapter 260 of the Acts of 2020, is hereby amended by striking the words: “, including preauthorization,”; and by inserting at the end thereof the following sentence: “Carriers shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis.”

SECTION 14. Section 25 of Chapter 176B of the General Laws, as most recently inserted by Section 51 of Chapter 260 of the Acts of 2020, is hereby amended by adding at the end thereof the following subsection:

A contract that provides coverage for telehealth services shall not include a provision for a co-payment requirement for a health care service provided via telehealth.

SECTION 15. Section 25 of Chapter 176B of the General Laws, as most recently inserted by Section 51 of Chapter 260 of the Acts of 2020, is hereby amended by adding at the end thereof the following subsection:

A contract that provides coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing who require interpreter services.

SECTION 16. Subsection (c) of section 33 of Chapter 176G of the General Laws, as most recently amended by Section 53 of Chapter 260 of the Acts of 2020, is hereby amended by

striking the words: “, including preauthorization,”; and by inserting at the end thereof the following sentence: “Carriers shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis.”

SECTION 17. Section 33 of Chapter 176G of the General Laws, as most recently inserted by Section 53 of Chapter 260 of the Acts of 2020, is hereby amended by adding at the end thereof the following subsection:

A contract that provides coverage for telehealth services shall not include a provision for a co-payment requirement for a health care service provided via telehealth.

SECTION 18. Section 33 of Chapter 176G of the General Laws, as most recently inserted by Section 53 of Chapter 260 of the Acts of 2020, is hereby amended by adding at the end thereof the following subsection:

(j) A contract that provides coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing.

SECTION 19. Subsection (c) of section 13 of Chapter 176I of the General Laws, as most recently amended by section 54 of Chapter 260 of the Acts of 2020, is hereby amended by striking the words: “, including preauthorization,”; and by inserting at the end thereof the following sentence: “An organization shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis.”

SECTION 20. Section 13 of Chapter 176I of the General Laws, as most recently inserted by Section 54 of Chapter 260 of the Acts of 2020, is hereby amended by adding at the end thereof the following subsection:

A preferred provider contract that provides coverage for telehealth services shall not include a provision for a co-payment requirement for a health care service provided via telehealth.

SECTION 21. Section 13 of Chapter 176I of the General Laws, as most recently inserted by Section 54 of Chapter 260 of the Acts of 2020, is hereby amended by adding at the end thereof the following subsection:

A preferred provider contract that provides coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing.

SECTION 22. Section 1 of Chapter 176O of the General Laws, as most recently amended by Section 56 of Chapter 260 of the Acts of 2020, is hereby amended in the definition of “Chronic disease management”, by inserting after the word “cancer” the following: “COVID-19 and its long-term symptoms, serious, long-term physical diseases including, but not limited to, cerebral palsy, cystic fibrosis, HIV/AIDS, blood diseases, such as anemia or sickle cell disease, muscular dystrophy, spina bifida, epilepsy, ”.

SECTION 23. Section 26 of Chapter 176O of the General Laws is hereby amended by striking the current section and inserting in place thereof the following:

Section 26. The commissioner shall establish standardized processes and procedures applicable to all health care providers and payers for the determination of a patient's health benefit plan eligibility at or prior to the time of service, including telehealth services. As part of such processes and procedures, the commissioner shall (i) require payers to implement automated approval systems such as decision support software in place of telephone approvals for specific types of services specified by the commissioner and (ii) require establishment of an electronic data exchange to allow providers to determine eligibility at or prior to the point of care and determine the insured's cost share for a proposed telehealth service, including any copayment, deductible, coinsurance or other out of pocket amount for any covered telehealth services.

SECTION 24. Section 67 of Chapter 260 of the Acts of 2020 is hereby amended by striking the last sentence and inserting the following:

The report, along with a suggested plan to implement its recommendations in order to maximize access, quality of care and cost savings, shall be submitted to the joint committee on health care financing and the house and senate committees on ways and means not later than 2 years from the effective date of this act; provided, however, that not later than 1 year from the effective date of this act, the commission shall present a report on: i) the estimated impacts on costs and time spent by patients accessing healthcare services due to the use of telehealth; ii) the estimated impacts to access to healthcare services due to the use of telehealth including employment productivity, transportation costs and school attendance; iii) the estimated impacts on healthcare costs due to the impacts of telehealth on COVID-19 transmission and treatment; iv) the estimated impact on the costs of personal protective equipment for providers and healthcare facilities due to the use of telehealth; v) an estimate of the impact of health

outcomes to those communities that have not been able to access telehealth services due to language or accessibility issues; and vi) an interim estimate of the fiscal impact of telehealth use in the commonwealth that shall include public health outcomes, increased access to services, reduction in transportation services and reduction in hospitalizations. The report shall additionally include data regarding the number of telehealth visits utilizing an interpreter for those who are deaf and hard of hearing and for languages other than English and shall quantify the number of telehealth visits in each language.

SECTION 25. Notwithstanding any general or special law to the contrary, the health policy commission shall establish a Digital Bridge Pilot Program to support telehealth services and devices and to provide funding for healthcare and human service providers and their patients and clients to support the purchase of telecommunications, information services and connected devices necessary to provide telehealth services to patients and clients. Communities that have had the highest prevalence of and been disproportionately affected by COVID-19 shall be prioritized for funding under this program in addition to communities that experience barriers in accessing telehealth services due to language constraints, socioeconomic constraints or other accessibility issues. Eligible programs may include but not be limited to public private partnerships with telecommunication providers, municipalities, healthcare providers and other organizations.

Eligible services may include, but not be limited to: telecommunications services; broadband and internet connectivity services including the purchase of broadband subscriptions and the establishment of wireless hotspots, so-called; voice services; remote patient monitoring platforms and services; patient reported outcome platforms; store and forward services, including the asynchronous transfer of patient images and data for interpretation by a physician; platforms

and services to provide synchronous video consultation; tablets, smartphones, or connected devices to receive connected care services at home for patient or provider use; and telemedicine kiosks / carts for provider sites. Funding shall not be used for unconnected devices that patients utilize in the home and then manually report their results to providers.

SECTION 26. (a) Notwithstanding any general or special law to the contrary, the health policy commission shall establish a Digital Health Navigator Tech Literacy Pilot Program, herein referred to as the program, to complement and work in conjunction with the Digital Bridge Pilot Program. The program shall establish telehealth digital health navigators including community health workers, medical assistants and other healthcare professionals to assist patients with accessing telehealth services. The program and its funding shall prioritize populations who experience increased barriers in accessing healthcare and telehealth services, including those disproportionately affected by COVID-19, the elderly and those who may need assistance with telehealth services due to limited English proficiency or limited literacy with digital health tools. Entities receiving funding through this program will provide culturally and linguistically competent hands-on support to educate patients on how to access broadband and wireless services and subsequently utilize devices and online platforms to access telehealth services.

(b) The health policy commission shall publish a report, one year following the implementation of said Digital Bridge Health Navigator Tech Literacy Pilot Program, which shall include but not be limited to the following: (i) an identification of the program's telehealth navigators disaggregated by healthcare profession; (ii) the resources required to provide literacy with digital health tools, including, but not limited to, the cost of operating said pilot program and additional workforce training for the program's telehealth navigators; (iii) an identification of the populations served by the program disaggregated by demographics

including, but not limited to, race, ethnicity, age, gender identity and primary language spoken;
(iv) an identification of the regions served by the program across the commonwealth; and
(v) an evaluation of the efficacy of the program in increasing the utilization of telehealth
services disaggregated by patient demographics and including, but not limited to, the rate of
attendance at telehealth visits.

SECTION 27. a) Notwithstanding any general or special law to the contrary, the
executive office of health and human services shall establish a task force on an interstate medical
licensure compact and licensure reciprocity. The task force shall consist of: the secretary of the
executive office of health and human services or a designee who shall serve as chair; the
commissioner of the department of public health or a designee; the commissioner of the
department of mental health or a designee; the executive director of the board of registration in
medicine or a designee; the Undersecretary of the office of consumer affairs and business
regulation or a designee; a representative from the health policy commission; a
representative from the Massachusetts Medical Society; a representative from the Massachusetts
Health and Hospital Association; and a representative from the Massachusetts League of
Community Health Centers.

b) The task force shall conduct an analysis and issue a report evaluating the
commonwealth's options to facilitate appropriate interstate medical practice and the practice
of telemedicine including the potential entry into an interstate medical licensure compact or other
reciprocity agreement. The analysis and report shall include but not be limited to: (i) an analysis
of physician job vacancies in the commonwealth broken down by practice specialization and
projected vacancies based on the demographics of the commonwealth's physician workforce and
medical school graduate retention rates; (ii) an analysis of other states' entry into the interstate

medical licensure compact and any impact on quality of care resulting from entry; (iii) an analysis of the ability of physicians to provide follow-up care across state lines, including via telehealth; (iv) an analysis of registration models for providers who may provide care for patients via telehealth with the provider located in one state and the patient located in another state, provided that said analysis would include delineation of provider responsibilities for registration and reporting to state professional licensure boards; (v) an analysis of impacts to health care quality, cost and access resulting from other states' entry into a medical licensure compact, as well as anticipated impacts to health care quality, cost and access associated with entry into an interstate medical licensure compact; (vi) evaluations of barriers and solutions regarding prescribing across state lines; (vii) evaluations of the feasibility of a regional reciprocity agreement allowing telemedicine across state lines both for existing patient provider relationships and/or the establishment of new relationships; (viii) evaluations of the feasibility of the establishment of interstate proxy credentialing; and (ix) recommendations regarding the commonwealth's entry into an interstate physician licensure compact or other licensure reciprocity agreements.

(c) The task force shall submit its recommendations to the governor and the clerks of the house of representatives and the senate not later than October 1, 2021.

SECTION 28. (a) Notwithstanding any general or special law to the contrary, the executive office of health and human services shall establish a task force on interstate licensure reciprocity for advanced practice registered nurses, physician assistants, behavioral and allied health professions. The task force shall consist of: the secretary of the executive office of health and human services or a designee who shall serve as chair; the commissioner of the department of public health or a designee; the commissioner of the department of mental health

or a designee; the executive director of the board of registration in medicine or a designee; the Undersecretary of the office of consumer affairs and business regulation or a designee; and 12 persons to be appointed by the secretary of the executive office of health and human services representing organizations that represent advanced practice registered nurses, physician assistants, hospitals, patients, behavioral health professions, allied health professions, telehealth and other professional groups.

(b) The task force shall: i) investigate interstate license reciprocity models with other nearby states for advanced practice registered nurses, physician assistants, behavioral health, allied health and other professions and specialties to ensure that there is sufficient access for professionals throughout the region and ensure that continuity of care for patients is achieved for patients that access services in state's throughout the region; and ii) examine registration models for providers who may provide care for patients via telehealth with the provider located in one state and the patient located in another state. Such examination would include delineation of provider responsibilities for registration and reporting to state professional licensure boards.

(c) The task force shall submit its recommendations to the governor and the clerks of the house of representatives and the senate not later than February 1, 2022.

SECTION 29. Section 76 of Chapter 260 of the of the Acts of 2020 is hereby amended by striking the section in its entirety and inserting in place thereof the following:

Section 76. Section 63 is hereby repealed.

SECTION 30. Sections 77 and 79 of Chapter 260 of the Acts of 2020 are hereby repealed.

274 SECTION 31. Sections 2, 5, 8, 11, 14, 17, and 20 are hereby repealed.

275 SECTION 32. Section 31 shall take effect 90 days after termination of the governor's

276 March 10, 2020 declaration of a state of emergency.