

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1585 Session of
2023

INTRODUCED BY FRANKEL, MADDEN, SANCHEZ, HILL-EVANS, McNEILL,
GUENST, DELLOSO, TAKAC, KHAN, DONAHUE, BOROWSKI AND GREEN,
JULY 18, 2023

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES,
AS AMENDED, OCTOBER 18, 2023

AN ACT

1 Providing for teledentistry; authorizing the regulation of
2 teledentistry by the board; and providing for insurance
3 coverage of teledentistry.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Teledentistry
8 Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Audio-only medium." A prerecorded audio presentation or
14 recording.

15 "Board." The State Board of Dentistry.

16 "Children's Health Insurance Program." The children's health
17 insurance program under Article XXIII-A of the act of May 17,

1 1921 (P.L.682, No.284), known as The Insurance Company Law of
2 1921.

3 "Dental care provider." A dentist, dental hygienist, OR <--
4 public health dental hygiene practitioner ~~or certified school~~ <--
5 ~~dental hygienist~~ who holds a valid license OR CERTIFICATE under <--
6 the Dental Law.

7 "Dental insurance policy." ~~An individual or group health~~ <--
8 ~~insurance policy, contract or plan that provides coverage for~~
9 ~~dental services provided by a dental care provider that is~~
10 ~~offered by a health insurer.~~ AS FOLLOWS: <--

11 (1) AN INSURANCE POLICY THAT PAYS OR PROVIDES DENTAL
12 EXPENSE BENEFITS FOR COVERED DENTAL SERVICES AND IS DELIVERED
13 OR ISSUED FOR DELIVERY BY OR THROUGH A DENTAL INSURER.

14 (2) THE TERM INCLUDES COVERAGE FOR DENTAL BENEFITS
15 ISSUED, EITHER ON A STAND-ALONE BASIS OR INTEGRATED, OR
16 OTHERWISE INCORPORATED INTO THE TERMS AND COVERAGE OF A
17 HEALTH BENEFITS PLAN.

18 "Dental Law." The act of May 1, 1933 (P.L.216, No.76), known
19 as The Dental Law.

20 "Dental services." The general and usual services rendered
21 and care administered by a ~~person who engages in the practice of~~ <--
22 ~~dentistry, as specified in the Dental Law.~~ DENTAL CARE PROVIDER. <--

23 "Health Information Technology for Economic and Clinical
24 Health Act." The Health Information Technology for Economic and
25 Clinical Health Act (Public Law 111-5, 123 Stat. 226-279 and
26 467-496).

27 "Health Insurance Portability and Accountability Act of
28 1996." The Health Insurance Portability and Accountability Act
29 of 1996 (Public Law 104-191, 110 Stat. 1936).

30 "Health insurer." An entity that holds a valid license by

1 the Insurance Department to issue a dental insurance policy and
2 is governed under any of the following:

3 (1) The Insurance Company Law of 1921, including section
4 630 and Article XXIV of that act.

5 (2) The act of December 29, 1972 (P.L.1701, No.364),
6 known as the Health Maintenance Organization Act.

7 (3) 40 Pa.C.S. Ch. 61 (relating to hospital plan
8 corporations).

9 (4) 40 Pa.C.S. Ch. 63 (relating to professional health
10 services plan corporations).

11 "Interactive audio and video." Real-time two-way or
12 multiple-way communication between a dental care provider and a
13 patient.

14 "Medical assistance." Medical assistance as provided in
15 subarticle (f) of Article IV of the act of June 13, 1967
16 (P.L.31, No.21), known as the Human Services Code.

17 "On-call or cross-coverage services." The provision of
18 teledentistry by a dental care provider designated by another
19 dental care provider with a provider-patient relationship to
20 deliver dental services on a temporary basis so long as the
21 designated dental care provider:

22 (1) is in the same group or health system;

23 (2) has access to the patient's prior dental records;

24 (3) holds a valid license under the Dental Law; and

25 (4) is in a position to coordinate care.

26 "PARTICIPATING NETWORK PROVIDER." A DENTAL PROVIDER THAT HAS <--
27 ENTERED A CONTRACTUAL OR OPERATING RELATIONSHIP WITH A HEALTH
28 INSURER OR MEDICAL ASSISTANCE OR CHILDREN'S HEALTH INSURANCE
29 PROGRAM MANAGED CARE PLAN TO PARTICIPATE IN ONE OR MORE
30 DESIGNATED NETWORKS OF THE HEALTH INSURER OR MEDICAL ASSISTANCE

1 OR CHILDREN'S HEALTH INSURANCE PROGRAM MANAGED CARE PLAN TO
2 PROVIDE DENTAL SERVICES UNDER THE TERMS OF A HEALTH INSURANCE
3 POLICY OR AN AGREEMENT WITH THE DEPARTMENT OF HUMAN SERVICES.

4 "REMOTE PATIENT MONITORING." THE COLLECTION OF PHYSIOLOGICAL
5 DATA FROM A PATIENT IN ONE LOCATION, WHICH IS TRANSMITTED
6 THROUGH ELECTRONIC COMMUNICATION TECHNOLOGY TO A DENTAL CARE
7 PROVIDER IN A DIFFERENT LOCATION FOR USE IN CARE AND RELATED
8 SUPPORT OF THE PATIENT.

9 "Store-and-forward technology." As follows:

10 (1) Technology that stores and transmits or grants
11 access to a patient's ~~clinical~~ health information for review <--
12 by a dental care provider who is at a different location.
13 HEALTH INFORMATION STORED AND TRANSMITTED USING STORE-AND- <--
14 FORWARD TECHNOLOGY MAY INCLUDE RADIOGRAPHS, PHOTOGRAPHS,
15 VIDEO OR DIGITAL IMPRESSIONS.

16 (2) The term does not include the storage, transmission
17 or use of electronic dental records without the concurrent
18 transmission of additional ~~clinical~~ health information not <--
19 already present in the electronic dental records.

20 "Teledentistry." The delivery of dental ~~care~~ services, <--
21 INCLUDING PATIENT EDUCATION, provided through teledentistry
22 technologies to a patient by a dental care provider who is at a
23 different location.

24 "Teledentistry technologies." As follows:

25 (1) Electronic information and telecommunications
26 technology, including interactive audio and video, remote
27 patient monitoring or store-and-forward technology, that
28 meets the requirements of the following:

29 (i) The Health Insurance Portability and
30 Accountability Act of 1996.

1 (ii) The Health Information Technology for Economic
2 and Clinical Health Act.

3 (iii) Other applicable Federal or State law.

4 (2) The term does not include the use of:

5 (i) Audio-only medium, voicemail, facsimile, email,
6 instant messaging, text messaging or online questionnaire
7 or any combination thereof.

8 (ii) A telephone call, except as provided under
9 section 5(a)(3).

10 Section 3. Regulation of teledentistry by board.

11 (a) Requirements.--

12 (1) A dental care provider shall be authorized to
13 practice teledentistry in accordance with this act and the
14 corresponding regulations promulgated by the board.

15 (2) A dental care provider who engages in teledentistry
16 in a manner that does not comply with the standards of care
17 or rules of practice shall be subject to discipline by the
18 board under the Dental Law.

19 (b) Regulations.--Within 24 months of the effective date of
20 this subsection, the board shall promulgate final regulations
21 that are consistent with this act to provide for and regulate
22 teledentistry within the scope of practice and standard of care
23 regulated by the board. The following apply:

24 (1) The standard of care applicable to an in-person
25 encounter shall apply to a teledentistry encounter.

26 (2) The regulations shall:

27 (i) Consider model policies and clinical guidelines
28 for the appropriate use of teledentistry technologies,
29 including care coordination, preventive care and
30 emergency care.

(ii) Include patient privacy and data security standards that are in compliance with:

(A) The Health Insurance Portability and Accountability Act of 1996.

(B) The Health Information Technology for Economic and Clinical Health Act.

(C) Other applicable Federal or State law.

(c) Temporary regulations.--To facilitate the prompt implementation of this act, within ~~120~~ 270 days of the effective <-- date of this subsection, the board shall transmit notice of temporary regulations regarding implementation of this act to the Legislative Reference Bureau for publication in the next available issue of the Pennsylvania Bulletin. The following apply:

(1) The temporary regulations shall not be subject to:

(i) Section 612 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(ii) Sections 201, 202, 203, 204 and 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(iii) Sections 204(b) and 301(10) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

(iv) The act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(2) The temporary regulations shall expire no later than 24 months following publication of temporary regulations. Regulations adopted after this period shall be promulgated as provided by law.

(d) Construction.--The provisions of this act shall be in full force and effect even if the board has not yet published temporary regulations or implemented the regulations required under this section.

Section 4. Compliance.

A dental care provider providing teledentistry services to an individual located within this Commonwealth shall comply with all applicable Federal and State laws and regulations and shall hold a valid license by the board. Failure to hold a valid license shall subject the dental care provider to discipline by the board for unlicensed practice under the Dental Law.

Section 5. Evaluation and treatment.

(a) Requirements.--Except as provided under subsection ~~(e)~~ (B), a dental care provider who provides teledentistry to an individual located in this Commonwealth shall:

(1) ~~Except as provided in subsection (b), for~~ FOR a teledentistry encounter in which the dental care provider does not have an established provider-patient relationship:

(i) verify the STATE location and identity of the individual receiving dental care BY REQUESTING THAT THE PATIENT PROVIDE AT LEAST TWO PATIENT IDENTIFIERS, SUCH AS NAME AND DATE OF BIRTH; and

(ii) disclose the dental care provider's identity, geographic location, license number and dental specialty or applicable credentials.

(2) Obtain informed consent regarding the use of teledentistry technologies from the individual or other person acting in a dental care decision-making capacity for the individual. The individual or other person acting in a dental care decision-making capacity, including the parent or

1 legal guardian of a child in accordance with the act of
2 February 13, 1970 (P.L.19, No.10), entitled "An act enabling
3 certain minors to consent to medical, dental and health
4 services, declaring consent unnecessary under certain
5 circumstances," has the right to choose the form of service
6 delivery, which includes the right to refuse teledentistry
7 services without jeopardizing the individual's access to
8 other available services.

9 (3) ~~Provide~~ PERFORM an appropriate ~~problem-focused~~ <--
10 CLINICAL examination or assessment using teledentistry <--
11 technologies. The following apply:

12 (i) The dental care provider may utilize interactive
13 audio without the requirement of interactive video if it
14 is used in conjunction with store-and-forward technology
15 and, after access and review of the patient's medical
16 records, the dental care provider determines that the
17 dental care provider is able to meet the appropriate
18 LEGAL standard of care. <--

19 (ii) If the dental care provider utilizes
20 interactive audio without interactive video, the dental
21 care provider shall inform the patient that the patient
22 has the option to request interactive audio and video.

23 (4) Establish a diagnosis and treatment plan or execute
24 a treatment plan, including care coordination or referrals,
25 unless inconsistent with the LEGAL standard of care. <--

26 (5) Create and maintain an electronic dental record or
27 update an existing electronic dental record for the patient
28 within 24 hours. An electronic dental record shall be
29 maintained in accordance with electronic medical records
30 privacy rules under the Health Insurance Portability and

1 Accountability Act of 1996 and other applicable Federal or
2 State laws.

3 (6) Provide a visit summary to the individual ~~if~~ <--
4 ~~requested.~~

5 (7) Have an emergency action plan in place for dental
6 emergencies and referrals or care coordination.

7 ~~(b) Applicability. Subsection (a) (1) shall not apply to on~~ <--
8 ~~call or cross coverage services.~~

9 ~~(c) (B) Limitations on treatment.--Teledentistry services or~~ <--
10 ~~teledentistry technologies shall not be permitted to be utilized~~
11 ~~or employed for the delivery or administration of dental care~~
12 ~~services that are required to be delivered or administered in a~~
13 ~~dentist's office.~~ SHALL BE SUBJECT TO THE SAME LEGAL STANDARD OF <--
14 CARE APPLICABLE TO AN IN-PERSON ENCOUNTER.

15 Section 6. Insurance coverage of teledentistry.

16 (a) Insurance coverage and reimbursement.--

17 (1) A dental insurance policy UTILIZING A PROVIDER <--
18 NETWORK THAT IS issued, delivered, executed or renewed in
19 this Commonwealth after the effective date of this section
20 shall provide coverage for BOTH medically necessary and <--
21 preventive teledentistry delivered by a dental care provider
22 who provides a covered service via teledentistry consistent
23 with the health insurer's dental policies. A dental insurance
24 policy may not exclude a dental ~~care service for~~ SERVICE FROM <--
25 coverage solely because the service is provided through
26 teledentistry.

27 (2) Subject to paragraph (1), a health insurer shall
28 reimburse a ~~dental care~~ PARTICIPATING NETWORK provider for <--
29 ~~both in-person and teledentistry services~~ COVERED DENTAL <--
30 SERVICES DELIVERED THROUGH TELEDENTISTRY AND PURSUANT TO A

1 HEALTH INSURANCE POLICY in accordance with the terms and
2 conditions of the participation agreement as negotiated
3 between the health insurer and the dental care provider. The <--
4 following apply:

5 ~~(i) The form of the participation agreement shall be~~
6 ~~filed with and subject to review by the Department of~~
7 ~~Health.~~

8 ~~(ii) The PARTICIPATING NETWORK PROVIDER. A~~ <--
9 participation agreement THAT INCLUDES REIMBURSEMENT FOR <--
10 COVERED DENTAL SERVICES DELIVERED THROUGH TELEDENTISTRY
11 may not prohibit reimbursement solely because a dental
12 service is provided by teledentistry. <--

13 ~~(iii) Reimbursement shall~~ TELEDENTISTRY. <--
14 REIMBURSEMENT MAY not be conditioned upon the use of an
15 exclusive PROPRIETARY teledentistry platform TECHNOLOGY <--
16 or teledentistry vendor.

17 ~~(3) Payment for a covered service provided via~~ <--
18 ~~teledentistry by a dental care provider shall be negotiated~~
19 ~~between the dental care provider and health insurer.~~

20 (b) Applicability.--This section shall apply as follows: <--

21 ~~(1) Subsection (a)(1) and (2) shall not apply if the~~
22 ~~teledentistry service is facilitated via a dental device or~~
23 ~~other technology that provides clinical data or health~~
24 ~~information, excluding existing information in an electronic~~
25 ~~dental records system, other than that independently provided~~
26 ~~through interactive audio and video with, or store and~~
27 ~~forward technology imaging provided by, the patient.~~

28 (1) SUBSECTION (A) SHALL NOT APPLY IF THE TELEDENTISTRY- <--
29 ENABLING DEVICE, TECHNOLOGY OR SERVICE FAILS TO COMPLY WITH
30 APPLICABLE LAW OR REGULATORY GUIDANCE.

1 (2) For a dental insurance policy for which either rates
2 or forms are required to be filed with the Federal Government
3 or the Insurance Department, this section shall apply to a
4 policy for which a form or rate is first filed on or after
5 180 days after the effective date of this section.

6 (3) For a dental insurance policy for which neither
7 rates nor forms are required to be filed with the Federal
8 Government or the Insurance Department, this section shall
9 apply to a policy issued or renewed on or after 180 days
10 after the effective date of this section.

11 (c) Construction.--Nothing under this section shall be
12 construed to:

13 (1) Prohibit a health insurer from reimbursing other
14 dental providers for covered services provided via
15 teledentistry.

16 (2) Require a health insurer to reimburse an out-of-
17 network dental care provider for teledentistry.

18 (3) REQUIRE AN INSURER TO REIMBURSE A PARTICIPATING
19 NETWORK PROVIDER IF THE PROVISION OF THE DENTAL SERVICE
20 THROUGH TELEDENTISTRY WOULD BE INCONSISTENT WITH THE LEGAL
21 STANDARD OF CARE.

<--

22 Section 7. Medical assistance program reimbursement.

23 (a) Medical assistance payment.--Medical assistance payments
24 shall be made on behalf of eligible individuals for
25 teledentistry, consistent with Federal law, as specified under
26 this act, if the service would be covered through an in-person
27 encounter.

28 (b) Applicability.--

29 (1) To perform teledentistry services, a dental care
30 provider must use technology platforms that are compliant

1 with the Health Insurance Portability and Accountability Act
2 of 1996.

3 (2) Teledentistry services must be consistent with the
4 LEGAL standard of care. <--

5 Section 8. Children's Health Insurance Program reimbursement.

6 (a) Children's Health Insurance Program payment.--Children's
7 Health Insurance Program payments shall be made on behalf of
8 eligible individuals for teledentistry, consistent with Federal
9 law, as specified under this act if the service would be covered
10 through an in-person encounter.

11 (b) Applicability.--

12 (1) To perform teledentistry services, a dental care
13 provider must use technology platforms that are compliant
14 with the Health Insurance Portability and Accountability Act
15 of 1996.

16 (2) Teledentistry services must be consistent with the
17 LEGAL standard of care. <--

18 Section 9. Effective date.

19 This act shall take effect as follows:

20 (1) Section 6 shall take effect upon publication in the
21 Pennsylvania Bulletin of the temporary regulations required
22 in section 3(c).

23 (2) Section 7 shall take effect in 90 days.

24 (3) The remainder of this act shall take effect
25 immediately.