

2021 -- S 0004 SUBSTITUTE B

LC000597/SUB B

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO INSURANCE -- THE TELEMEDICINE COVERAGE ACT

Introduced By: Senators Miller, Goldin, Valverde, Goodwin, Felag, Coyne, Burke, Cano, Seveney, and Lawson

Date Introduced: January 11, 2021

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 27-81-3 and 27-81-4 of the General Laws in Chapter 27-81 entitled
2 "The Telemedicine Coverage Act" are hereby amended to read as follows:

3 **27-81-3. Definitions.**

4 As used in this chapter:

5 (1) "Clinically appropriate" means care that is delivered in the appropriate medical setting.

6 ~~(1)~~(2) "Distant site" means a site at which a healthcare provider is located while providing
7 healthcare services by means of telemedicine.

8 ~~(2)~~(3) "Healthcare facility" means an institution providing healthcare services or a
9 healthcare setting, including, but not limited to: hospitals and other licensed, inpatient centers;
10 ambulatory surgical or treatment centers; skilled nursing centers; residential treatment centers;
11 diagnostic, laboratory and imaging centers; and rehabilitation and other therapeutic-health settings.

12 ~~(3)~~(4) "Healthcare professional" means a physician or other healthcare practitioner
13 licensed, accredited, or certified to perform specified healthcare services consistent with state law.

14 ~~(4)~~(5) "Healthcare provider" means a healthcare professional or a healthcare facility.

15 ~~(5)~~(6) "Healthcare services" means any services included in the furnishing to any individual
16 of medical, podiatric, or dental care, or hospitalization, or incident to the furnishing of that care or
17 hospitalization, and the furnishing to any person of any and all other services for the purpose of
18 preventing, alleviating, curing, or healing human illness, injury, or physical disability.

19 ~~(6)~~(7) "Health insurer" means any person, firm, or corporation offering and/or insuring

1 healthcare services on a prepaid basis, including, but not limited to, a nonprofit service corporation,
2 a health maintenance organization, or an entity offering a policy of accident and sickness insurance.

3 ~~(7)~~(8) "Health maintenance organization" means a health maintenance organization as
4 defined in chapter 41 of this title.

5 (9) "Medically necessary" means medical, surgical, or other services required for the
6 prevention, diagnosis, cure, or treatment of a health related condition, including such services
7 necessary to prevent a decremental change in either medical or mental health status.

8 ~~(8)~~(10) "Nonprofit service corporation" means a nonprofit hospital-service corporation as
9 defined in chapter 19 of this title, or a nonprofit medical-service corporation as defined in chapter
10 20 of this title.

11 ~~(9)~~(11) "Originating site" means a site at which a patient is located at the time healthcare
12 services are provided to them by means of telemedicine, which can ~~be~~ include a patient's home
13 where medically ~~appropriate~~ necessary and clinically appropriate ; ~~provided, however,~~
14 ~~notwithstanding any other provision of law, health insurers and healthcare providers may agree to~~
15 ~~alternative siting arrangements deemed appropriate by the parties.~~

16 ~~(10)~~(12) "Policy of accident and sickness insurance" means a policy of accident and
17 sickness insurance as defined in chapter 18 of this title.

18 ~~(11)~~(13) "Store-and-forward technology" means the technology used to enable the
19 transmission of a patient's medical information from an originating site to the healthcare provider
20 at the distant site without the patient being present.

21 ~~(12)~~(14) "Telemedicine" means the delivery of clinical healthcare services by ~~means~~ use
22 of real time, two-way synchronous audio, video, telephone-audio-only communications or
23 electronic media or other telecommunications technology including, but not limited to: online
24 adaptive interviews, remote patient monitoring devices, audiovisual communications, including the
25 application of secure video conferencing or store-and-forward technology to provide or support
26 healthcare delivery, which facilitate the assessment, diagnosis, counseling and prescribing
27 treatment, and care management of a patient's health care while such patient is at an originating site
28 and the healthcare provider is at a distant site, consistent with applicable federal laws and
29 regulations. "Telemedicine" does not include an ~~audio-only telephone conversation,~~ email message,
30 or facsimile transmission between the provider and patient, or an automated computer program
31 used to diagnose and/or treat ocular or refractive conditions.

32 **27-81-4. Coverage of telemedicine services.**

33 (a) Each health insurer that issues individual or group accident and sickness insurance
34 policies for healthcare services and/or provides a healthcare plan for healthcare services shall

1 provide coverage for the cost of such covered healthcare services provided through telemedicine
2 services, as provided in this section.

3 (b)(1) A health insurer shall not exclude a healthcare service for coverage solely because
4 the healthcare service is provided through telemedicine and is not provided through in-person
5 consultation or contact, so long as such healthcare services are medically ~~appropriate~~ necessary and
6 clinically appropriate to be provided through telemedicine services ~~and, as such, may be subject to~~
7 ~~the terms and conditions of a telemedicine agreement between the insurer and the participating~~
8 ~~healthcare provider or provider group.~~

9 (2) All such medically necessary and clinically appropriate telemedicine services delivered
10 by in-network primary care providers, registered dietitian nutritionists, and behavioral health
11 providers shall be reimbursed at rates not lower than services delivered by the same provider
12 through in-person methods.

13 (c) Benefit plans offered by a health insurer ~~may impose a deductible, copayment, or~~
14 ~~coinsurance requirement for a healthcare service provided through telemedicine~~ shall not impose a
15 deductible, copayment, or coinsurance requirement for a healthcare service delivered through
16 telemedicine in excess of what would normally be charged for the same healthcare service when
17 performed in person.

18 (d) Prior authorization requirements for medically necessary and clinically appropriate
19 telemedicine services shall not be more stringent than prior authorization requirements for in-
20 person care. No more stringent medical or benefit determination and utilization review
21 requirements shall be imposed on any telemedicine service than is imposed upon the same service
22 when performed in person.

23 (e) Except for requiring compliance with applicable state and federal laws, regulations
24 and/or guidance, no health insurer shall impose any specific requirements as to the technologies
25 used to deliver medically necessary and clinically appropriate telemedicine services.

26 (d)(f) The requirements of this section shall apply to all policies and health plans issued,
27 reissued, or delivered in the state of Rhode Island on and after January 1, 2018.

28 (e)(g) This chapter shall not apply to: short-term travel, accident-only, limited or specified
29 disease; or individual conversion policies or health plans; nor to policies or health plans designed
30 for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known
31 as Medicare; or any other similar coverage under state or federal governmental plans.

32 SECTION 2. Chapter 27-81 of the General Laws entitled "The Telemedicine Coverage
33 Act" is hereby amended by adding thereto the following sections:

34 **27-81-6. Rules and regulations.**

1 The health insurance commissioner may promulgate such rules and regulations as are
2 necessary and proper to effectuate the purpose and for the efficient administration and enforcement
3 of this chapter.

4 **27-81-7. Telemedicine data reporting and telemedicine advisory committee.**

5 Each health insurer shall collect and provide to the office of the health insurance
6 commissioner (OHIC), in a form and frequency acceptable to OHIC, information and data
7 reflecting its telemedicine policies, practices, and experience. OHIC shall provide this information
8 and data to the general assembly on or before January 1, 2022, and on or before each January 1
9 thereafter.

10 SECTION 3. Section 5-31.1-1 of the General Laws in Chapter 5-31.1 entitled "Dentists
11 and Dental Hygienists" is hereby amended to read as follows:

12 **5-31.1-1. Definitions.**

13 As used in this chapter:

14 (1) "Board" means the Rhode Island board of examiners in dentistry or any committee or
15 subcommittee of the board.

16 (2) "Chief of the division of oral health" means the chief of the division of oral health of
17 the Rhode Island department of health who is a licensed dentist possessing a masters degree in
18 public health or a certificate in public health from an accredited program.

19 (3) "Dental administrator" means the administrator of the Rhode Island board of examiners
20 in dentistry.

21 (4) "Dental hygienist" means a person with a license to practice dental hygiene in this state
22 under the provisions of this chapter.

23 (5) "Dentist" means a person with a license to practice dentistry in this state under the
24 provisions of this chapter.

25 (6) "Dentistry" is defined as the evaluation, diagnosis, prevention, and/or treatment
26 (nonsurgical, surgical, or related procedures) of diseases, disorders, and/or conditions of the oral
27 cavity, cranio-maxillofacial area, and/or the adjacent and associated structures and their impact on
28 the human body, provided by a dentist, within the scope of his or her education, training, and
29 experience, in accordance with the ethics of the profession and applicable law.

30 (7) "Department" means the Rhode Island department of health.

31 (8) "Direct visual supervision" means supervision by an oral and maxillofacial surgeon
32 (with a permit to administer deep sedation and general anesthesia) by verbal command and under
33 direct line of sight.

34 (9) "Director" means the director of the Rhode Island department of health.

1 (10) "Healthcare facility" means any institutional health service provider licensed pursuant
2 to the provisions of chapter 17 of title 23.

3 (11) "Health-maintenance organization" means a public or private organization licensed
4 pursuant to the provisions of chapter 17 of title 23 or chapter 41 of title 27.

5 (12) "Limited registrant" means a person holding a limited registration certificate pursuant
6 to the provisions of this chapter.

7 (13) "Nonprofit medical services corporation" or "nonprofit hospital service corporation"
8 or "nonprofit dental service corporation" means any corporation organized pursuant to chapter 19
9 or 20 of title 27 for the purpose of establishing, maintaining, and operating a nonprofit medical,
10 hospital, or dental service plan.

11 (14) "Peer-review board" means any committee of a state, local, dental or dental hygiene
12 association or society, or a committee of any licensed healthcare facility, or the dental staff of the
13 committee, or any committee of a dental care foundation or health-maintenance organization, or
14 any staff committee or consultant of a hospital, medical, or dental service corporation, the function
15 of which, or one of the functions of which, is to evaluate and improve the quality of dental care
16 rendered by providers of dental care service or to determine that dental care services rendered were
17 professionally indicated or were performed in compliance with the applicable standard of care or
18 that the cost for dental care rendered was considered reasonable by the providers of professional
19 dental care services in the area and includes a committee functioning as a utilization review
20 committee under the provisions of P.L. 89-97, 42 U.S.C. § 1395 et seq. (Medicare law), or as a
21 professional standards-review organization or statewide professional standards-review council
22 under the provisions of P.L. 92-603, 42 U.S.C. § 1301 et seq. (professional standards-review
23 organizations), or a similar committee or a committee of similar purpose, to evaluate or review the
24 diagnosis or treatment of the performance or rendition of dental services performed under public
25 dental programs of either state or federal design.

26 (15) "Person" means any individual, partnership, firm, corporation, association, trust or
27 estate, state or political subdivision, or instrumentality of a state.

28 (16) "Practice of dental hygiene." Any person is practicing dental hygiene within the
29 meaning of this chapter who performs those services and procedures that a dental hygienist has
30 been educated to perform and which services and procedures are, from time to time, specifically
31 authorized by rules and regulations adopted by the board of examiners in dentistry. Nothing in this
32 section is construed to authorize a licensed dental hygienist to perform the following: diagnosis and
33 treatment planning, surgical procedures on hard or soft tissue, prescribe medication, or administer
34 general anesthesia or injectables other than oral local anesthesia. A dental hygienist is only

1 permitted to practice dental hygiene under the general supervision of a dentist licensed and
2 registered in this state under the provisions of this chapter.

3 (A) Provided, that in order to administer local injectable anesthesia to dental patients,
4 dental hygienists must be under the supervision of a dentist and meet the requirements established
5 by regulation of the board of examiners in dentistry including payment of a permit fee.

6 (17)(i)(A) "Practice of dentistry." Any person is practicing dentistry within the meaning of
7 this chapter who:

8 (I) Uses or permits to be used, directly or indirectly, for profit or otherwise, for himself,
9 herself, or for any other person, in connection with his or her name, the word "dentist" or "dental
10 surgeon," or the title "D.D.S." or "D.M.D.," or any other words, letters, titles, or descriptive matter,
11 personal or not, that directly or indirectly implies the practice of dentistry;

12 (II) Owns, leases, maintains, operates a dental business in any office or other room or rooms
13 where dental operations are performed, or directly or indirectly is manager, proprietor, or conductor
14 of this business;

15 (III) Directly or indirectly informs the public in any language, orally, in writing, or in
16 printing, or by drawings, demonstrations, specimens, signs, or pictures that he or she can perform
17 or will attempt to perform, dental operations of any kind;

18 (IV) Undertakes, by any means or method, gratuitously, or for a salary, fee, money, or other
19 reward paid or granted directly or indirectly to himself or herself, or to any other person, to diagnose
20 or profess to diagnose, or to treat or profess to treat, or to prescribe for, or profess to prescribe for,
21 any of the lesions, diseases, disorders, or deficiencies of the human oral cavity, teeth, gums,
22 maxilla, or mandible, and/or adjacent associated structures;

23 (V) Extracts human teeth, corrects malpositions of the teeth or of the jaws;

24 (VI) Except on the written prescription of a licensed dentist and by the use of impressions
25 or casts made by a licensed and practicing dentist, directly or indirectly by mail, carrier, personal
26 agent, or by any other method, furnishes, supplies, constructs, reproduces, or repairs prosthetic
27 dentures, bridges, appliances, or other structures to be used and worn as substitutes for natural teeth;

28 (VII) Places those substitutes in the mouth and/or adjusts them;

29 (VIII) Administers an anesthetic, either general or local, in the course of any of the
30 previously stated dental procedures; or

31 (IX) Engages in any of the practices included in the curricula of recognized dental colleges;

32 (B) Provided, that in order to administer any form of anesthesia, other than local, dentists
33 must meet the requirements established by regulation of the board of examiners in dentistry,
34 including training in advanced cardiac life support and pediatric advanced life support, and

1 payment of a permit fee.

2 (ii) The board shall promulgate regulations relating to anesthesia. Those regulations shall
3 be consistent with the American Dental Association guidelines for the use of conscious sedation,
4 deep sedation, and general anesthesia in dentistry. Neither the board, nor any regulation
5 promulgated by the board, shall require additional licensing fees for the use of nitrous oxide by
6 dentists. Prior to the adoption of those regulations, dentists shall be permitted to administer
7 anesthesia without restriction. From the proceeds of any fees collected pursuant to the provisions
8 of this chapter, there is created a restricted receipts account that is used solely to pay for the
9 administrative expenses incurred for expenses of administrating this chapter.

10 (iii) No non-dentist who operates a dental facility in the form of a licensed outpatient
11 healthcare center or management service organization may interfere with the professional judgment
12 of a dentist in the practice.

13 [\(18\) "Telemedicine" has the same meaning as provided in § 27-81-3.](#)

14 SECTION 4. Chapter 5-31.1 of the General Laws entitled "Dentists and Dental Hygienists"
15 is hereby amended by adding thereto the following section:

16 **5-31.1-40. Telemedicine in the practice of dentistry.**

17 [\(a\) Professionals licensed under this chapter utilizing telemedicine in the practice of](#)
18 [dentistry are subject to the same standard of care that would apply to the provision of the same](#)
19 [dental care service or procedure in an in-person setting.](#)

20 [\(b\) The board may not adopt rules pertaining to telemedicine in the practice of dentistry](#)
21 [that would impose a different standard of care than the standard described in subsection \(a\) of this](#)
22 [section or be more restrictive than rules for the delivery of dental care services in person.](#)

23 SECTION 5. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE -- THE TELEMEDICINE COVERAGE ACT

1 This act would amend the provisions of the telemedicine coverage act and provide coverage
2 for telemedicine for medically necessary and clinically appropriate telemedicine services. This act
3 would further provide that dentists practicing telemedicine are subject to the same standard of care
4 as dental services provided in person.

5 This act would take effect upon passage.

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