

# S.50 An act relating to insurance coverage for telemedicine services delivered in or outside a health care facility

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House Health Care Committee

April 11, 2017

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# Informed Consent - S.50 Language (Sec. 2(c))

(1) A health care provider delivering health care services through telemedicine shall obtain and document a patient's oral or written informed consent prior to delivering services to the patient. The provider shall include the written consent in the patient's medical record or document the patient's oral consent in the patient's medical record.

(2) Informed consent for telemedicine services shall include, in language that patients can easily understand:

(A) an explanation of the differences between telemedicine and in-person delivery of health care services, including:

(i) that the patient may experience a qualitative difference in care based on potential differences in a patient's ability to establish a therapeutic rapport with the provider in-person and through telemedicine; and

(ii) that telemedicine provides different opportunities and challenges for provider-patient interaction than in-person consultation, including the potential for differences in the degree and manner of the provider's visual observations of the patient;

(B) informing the patient of the patient's right to exclude any individual from participating in or observing the patient's consultation with the provider at both the originating site and the distant site;

(C) that the patient may stop telemedicine services at any time and may request to receive a referral for in-person services instead; and

(D) assurance that all services the health care provider delivers to the patient through telemedicine will be delivered over a secure connection that complies with the requirements of the Health Insurance Portability and 1 Accountability Act of 1996, Public Law 104-191.

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# Informed Consent - American Well Language

## **INFORMED CONSENT FOR SERVICES PERFORMED BY ONLINE CARE NETWORK (OCN) (dba “American Well”)**

We are providing this information on behalf of OCN:

Telemedicine involves the use of electronic communications to enable health care providers at sites remote from patients to provide consultative services. Providers may include primary care practitioners, specialists, and/or subspecialists. The information may be used for diagnosis, therapy, follow-up and/or education, and may include live two-way audio and video and other materials (e.g. medical records, data from medical devices).

The communications systems used will incorporate network and software security protocols to protect the confidentiality of patient information and will include reasonable measures to safeguard the data and to ensure its integrity against intentional or unintentional corruption.

An encounter summary will be provided to the patient at the end of each encounter which may be kept for the patient's records and may be shared with the patient's local primary care or other provider, as appropriate.

Anticipated Benefits of Telemedicine:

- Improved access to medical care by enabling a patient to remain at his or her home or office while consulting a clinician.
- More efficient medical evaluation and management.

Possible Risks of Telemedicine:

As with any medical procedure, there are potential risks associated with the use of telemedicine. OCN believes that the likelihood of these risks materializing is very low. These risks may include, without limitation, the following:

- Delays in medical evaluation and consultation or treatment may occur due to deficiencies or failures of the equipment.
- Security protocols could fail, causing a breach of privacy of personal medical information.
- Lack of access to complete medical records may result in adverse drug interactions or allergic reactions or other negative outcomes.

By accepting these Terms of Use, you acknowledge that you understand and agree with the following:

1. I understand that the laws that protect privacy and the confidentiality of medical information also apply to telemedicine; I have received the OCN Notice of Privacy Practices which explains these issues in greater detail.
2. I understand that telemedicine may involve electronic communication of my personal medical information to medical practitioners who may be located in other areas, including out of state.
3. I understand that I may expect the anticipated benefits from the use of telemedicine in my care, but that no results can be guaranteed or assured.

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# American Well's Two Options

## ■ Standard Service

- BCBSVT has contracted for AmWell's standard service
- No administrative fee
- Service fee per consultation
- No customization allowed to the product including the informed consent language

## ■ Enterprise Solution Service

- \$100,000 initial investment for servers and 3<sup>rd</sup> party licenses
- \$300,000 annual payment for maintenance, software license and technical support
- Allows for customization
- BCBSVT does not have the budget for this investment

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# BCBSVT Position

- BCBSVT supports informed consent
- BCBSVT would like to work with Legislative Council to ensure S.50's language accepts American Well's language
- Without a language change, it is not possible for BCBSVT to comply with the law without a large financial investment

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# Questions

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