

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Health Care to which was referred Senate Bill No. 50
3 entitled “An act relating to insurance coverage for telemedicine services
4 delivered in or outside a health care facility” respectfully reports that it has
5 considered the same and recommends that the House propose to the Senate that
6 the bill be amended by striking out all after the enacting clause and inserting in
7 lieu thereof the following:

8 Sec. 1. 8 V.S.A. § 4100k is amended to read:

9 § 4100k. COVERAGE OF **HEALTH CARE SERVICES DELIVERED**
10 **THROUGH** TELEMEDICINE **SERVICES**

11 (a) All health insurance plans in this State shall provide coverage for
12 telemedicine services delivered by a health care provider at a distant site to a
13 patient ~~in a health care facility~~ at an originating site to the same extent that the
14 services would be covered if they were provided through in-person
15 consultation.

16 (b) A health insurance plan may charge a deductible, co-payment, or
17 coinsurance for a health care service provided through telemedicine so long as
18 it does not exceed the deductible, co-payment, or coinsurance applicable to an
19 in-person consultation.

20 (c) A health insurance plan may limit coverage to health care providers in
21 the plan’s network ~~and may require originating site health care providers~~

1 ~~to document the reason the services are being provided by telemedicine~~
2 ~~rather than in person.~~ A health insurance plan shall not impose limitations
3 on the number of telemedicine consultations a covered person may receive that
4 exceed limitations otherwise placed on in-person covered services.

5 (d) Nothing in this section shall be construed to prohibit a health insurance
6 plan from providing coverage for only those services that are medically
7 necessary, subject to the terms and conditions of the covered person's policy.

8 (e) A health insurance plan may reimburse for teleophthalmology or
9 teledermatology provided by store and forward means and may require the
10 distant site health care provider to document the reason the services are being
11 provided by store and forward means.

12 (f) Nothing in this section shall be construed to require a health insurance
13 plan to reimburse the distant site health care provider if the distant site health
14 care provider has insufficient information to render an opinion.

15 (g) In order to facilitate the use of telemedicine in treating substance use
16 disorder, when the originating site is a health care facility, health insurers
17 and the Department of Vermont Health Access shall ensure that ~~both the~~
18 ~~treating clinician and the hosting facility~~ the health care provider at the
19 distant site and the health care facility at the originating site are both
20 reimbursed for the services rendered, unless the health care providers at both

1 the **host and service distant and originating** sites are employed by the same
2 entity.

3 (h) As used in this subchapter:

4 (1) “Distant site” means the location of the health care provider
5 delivering services through telemedicine at the time the services are provided.

6 (2) “Health insurance plan” means any health insurance policy or health
7 benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well
8 as Medicaid and any other public health care assistance program offered or
9 administered by the State or by any subdivision or instrumentality of the State.

10 The term **includes vision care plans and stand-alone dental plans but** does
11 not include policies or plans providing coverage for specified disease or other
12 limited benefit coverage.

13 ~~(2)~~(3) “Health care facility” shall have the same meaning as in
14 18 V.S.A. § 9402.

15 ~~(3)~~(4) “Health care provider” means:

16 (A) a physician licensed pursuant to 26 V.S.A. chapter 23 or 33;

17 (B) a naturopathic physician licensed pursuant to 26 V.S.A.
18 chapter 81;

19 (C) an advanced practice registered nurse licensed pursuant to
20 26 V.S.A. chapter 28, subchapter 3;

21 (D) a physician assistant licensed pursuant to 26 V.S.A. chapter 31;

1 (E) a psychologist licensed pursuant to 26 V.S.A. chapter 55;

2 (F) a social worker licensed pursuant to 26 V.S.A. chapter 61;

3 (G) an alcohol and drug abuse counselor licensed pursuant to
4 26 V.S.A. chapter 62;

5 (H) a clinical mental health counselor licensed pursuant to 26 V.S.A.
6 chapter 65;

7 (I) a marriage and family therapist licensed pursuant to 26 V.S.A.
8 chapter 76;

9 (J) a psychoanalyst licensed pursuant to 26 V.S.A. chapter 77;

10 (K) a physical therapist licensed pursuant to 26 V.S.A. chapter 38;

11 (L) an occupational therapist licensed pursuant to 26 V.S.A.
12 chapter 71;

13 (M) a speech-language pathologist licensed pursuant to 26 V.S.A.
14 chapter 87; **and**

15 (N) a dietician certified pursuant to 26 V.S.A. chapter 73;

16 **(O) a dentist, dental therapist, or dental hygienist licensed**
17 **pursuant to 26 V.S.A. chapter 12; and**

18 **(P) an optometrist licensed pursuant to 26 V.S.A. chapter 30.**

19 (5) “Originating site” means the location of the patient, whether or not
20 accompanied by a health care provider, at the time services are provided by a
21 health care provider through telemedicine, including a health care provider’s

1 office, a hospital, or a health care facility, or the patient’s home or another
2 nonmedical environment such as a school-based health center, a university-
3 based health center, or the patient’s workplace.

4 (6) “Store and forward” means an asynchronous transmission of medical
5 information to be reviewed at a later date by a health care provider at a distant
6 site who is trained in the relevant specialty and by which the health care
7 provider at the distant site reviews the medical information without the patient
8 present in real time.

9 ~~(4)~~(7) “Telemedicine” means the delivery of health care services such as
10 diagnosis, consultation, or treatment through the use of live interactive audio
11 and video over a secure connection that complies with the requirements of the
12 Health Insurance Portability and Accountability Act of 1996, Public Law 104-
13 191. Telemedicine does not include the use of audio-only telephone, e-mail, or
14 facsimile.

15 **Sec. 2. 18 V.S.A. § 9361 is amended to read:**

16 § 9361. HEALTH CARE PROVIDERS PROVIDING TELEMEDICINE OR
17 STORE AND FORWARD SERVICES

18 (a) **As used in this section, “distant site,” “health care provider,”**
19 **“originating site,” “store and forward,” and “telemedicine” shall have the**
20 **same meanings as in 8 V.S.A. § 4100k.**

1 **(b)** Subject to the limitations of the license under which the individual is
2 practicing, a health care provider licensed in this state may prescribe, dispense,
3 or administer drugs or medical supplies, or otherwise provide treatment
4 recommendations to a patient after having performed an appropriate
5 examination of the patient either in person or by the use of instrumentation and
6 diagnostic equipment through which images and medical records may be
7 transmitted electronically. Treatment recommendations made via electronic
8 means, including issuing a prescription via electronic means, shall be held to
9 the same standards of appropriate practice as those in traditional provider-
10 patient settings. **For purposes of this subchapter, “telemedicine” shall have**

11 **the same meaning as in 8 V.S.A. § 4100k.**

12 **(c)(1) A health care provider delivering health care services through**
13 **telemedicine shall obtain and document a patient’s oral or written**
14 **informed consent prior to delivering services to the patient. The provider**
15 **shall include the written consent in the patient’s medical record or**
16 **document the patient’s oral consent in the patient’s medical record.**

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

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

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

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

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

11 **(C) that the patient may stop telemedicine services at any time**
12 **and may request to receive in-person services instead; and**

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

17 **(3) For services delivered through telemedicine on an ongoing basis,**
18 **the health care provider shall be required to obtain consent only at the**
19 **first episode of care.**

20 **(d)(1) In the event that a health care provider elects to create a**
21 **recording of the provider’s telemedicine consultation with a patient, the**

1 **provider shall obtain the patient's specific informed consent to create the**
2 **recording. The informed consent may be obtained in writing, which shall**
3 **be included in the patient's medical record, or at the beginning of the**
4 **recording. A health care provider shall not record a telemedicine**
5 **consultation over a patient's objection or without the patient's consent.**

6 **(2) The informed consent to record a telemedicine consultation shall**
7 **include:**

8 **(A) the reasons for recording the telemedicine consultation,**
9 **which may be at the patient's request or at the health care provider's**
10 **suggestion with the patient's consent;**

11 **(B) the method of recording;**

12 **(C) the manner in which the provider will store the recording;**

13 **(D) who will have access to the recording; and**

14 **(E) the patient's rights to request a copy of the recording and to**
15 **request the destruction of the recording at any time.**

16 ~~(b)~~(d) A patient receiving teleophthalmology or teledermatology by store
17 and forward means shall be informed of the right to receive a consultation with
18 the distant site health care provider and shall receive a consultation with the
19 distant site health care provider upon request. If requested, the consultation
20 with the distant site health care provider may occur either at the time of the
21 initial consultation or within a reasonable **period of** time **of following** the

1 patient's notification of the results of the initial consultation. Receiving
2 tele dermatology or teleophthalmology by store and forward means shall not
3 preclude a patient from receiving real time telemedicine or face-to-face
4 services with the distant site health care provider at a future date. Originating
5 site health care providers involved in the store and forward process shall
6 **ensure obtain** informed consent from the patient **as described in subsection**
7 **(b) of this section. For purposes of this subchapter, "store and forward"**
8 **shall have the same meaning as in 8 V.S.A. § 4100k.**

9 **Sec. 3. REIMBURSEMENT FOR IN-HOME FACILITATION OF**

10 **TELEMEDICINE; REPORT**

11 **The Department of Vermont Health Access, in consultation with home**
12 **health agencies, health insurers, health care providers, the Blueprint for**
13 **Health, accountable care organizations, and other interested stakeholders**
14 **shall consider whether and under what circumstances Medicaid and**
15 **health insurance plans should reimburse home health agencies for**
16 **facilitating and supporting telemedicine visits for individuals in their own**
17 **homes. The parties' assessment shall include a review of available**
18 **literature on this topic. On or before December 15, 2017, the Department**
19 **shall report its findings and recommendations to the House Committees**
20 **on Health Care and on Human Services and to the Senate Committees on**
21 **Health and Welfare and on Finance.**

1 Sec. **4**. REPEAL

2 33 V.S.A. § 1901i (Medicaid coverage for primary care telemedicine) is
3 repealed.

4 Sec. **5**. EFFECTIVE DATES

5 **(a) This act Secs. 1 (health insurance coverage) and 4 (repeal)** shall take
6 effect on October 1, 2017 and shall apply to Medicaid on that date and to all
7 other health insurance plans on or after October 1, 2017 on the date a health
8 insurer issues, offers, or renews the health insurance plan, but in no event later
9 than October 1, 2018.

10 **(b) Secs. 2 (health care providers providing telemedicine) and 3 (in-**
11 **home facilitation study) and this section shall take effect on passage.**

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19 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE