

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 health care services delivered through telemedicine by a health
13 care provider at a distant site to a patient ~~in a health care facility~~ at an
14 originating site to the same extent that the ~~services would be covered~~ plan
15 would cover the services if they were provided through in-person
16 consultation.

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

1 (c) A health insurance plan may limit coverage to health care providers in
2 the plan's network ~~and may require originating site health care providers to~~
3 ~~document the reason the services are being provided by telemedicine rather~~
4 ~~than in person.~~ A health insurance plan shall not impose limitations on the
5 number of telemedicine consultations a covered person may receive that
6 exceed limitations otherwise placed on in-person covered services.

7 (d) Nothing in this section shall be construed to prohibit a health insurance
8 plan from providing coverage for only those services that are medically
9 necessary **and are clinically appropriate for delivery through telemedicine,**
10 subject to the terms and conditions of the covered person's policy.

11 (e) A health insurance plan may reimburse for teleophthalmology or
12 tele dermatology provided by store and forward means and may require the
13 distant site health care provider to document the reason the services are being
14 provided by store and forward means.

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

18 (g) In order to facilitate the use of telemedicine in treating substance use
19 disorder, when the originating site is a health care facility, health insurers and
20 the Department of Vermont Health Access shall ensure that ~~both the treating~~
21 ~~clinician and the hosting facility~~ the health care provider at the distant site and

1 the health care facility at the originating site are both reimbursed for the
2 services rendered, unless the health care providers at both the ~~host and service~~
3 distant and originating sites are employed by the same entity.

4 (h) As used in this subchapter:

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

7 (2) “Health insurance plan” means any health insurance policy or health
8 benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, as well
9 as Medicaid and any other public health care assistance program offered or
10 administered by the State or by any subdivision or instrumentality of the State.
11 The term does not include policies or plans providing coverage for specified
12 disease or other 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;~~

1 ~~(D) a physician assistant licensed pursuant to 26 V.S.A. chapter~~
2 ~~31;~~
3 ~~(E) a psychologist licensed pursuant to 26 V.S.A. chapter 55;~~
4 ~~(F) a social worker licensed pursuant to 26 V.S.A. chapter 61;~~
5 ~~(G) an alcohol and drug abuse counselor licensed pursuant to~~
6 ~~26 V.S.A. chapter 62;~~
7 ~~(H) a clinical mental health counselor licensed pursuant to 26~~
8 ~~V.S.A. chapter 65;~~
9 ~~(I) a marriage and family therapist licensed pursuant to 26~~
10 ~~V.S.A. chapter 76;~~
11 ~~(J) a psychoanalyst licensed pursuant to 26 V.S.A. chapter 77;~~
12 ~~(K) a physical therapist licensed pursuant to 26 V.S.A.~~
13 ~~chapter 38;~~
14 ~~(L) an occupational therapist licensed pursuant to 26 V.S.A.~~
15 ~~chapter 71;~~
16 ~~(M) a speech language pathologist licensed pursuant to 26 V.S.A.~~
17 ~~chapter 87; and~~
18 ~~(N) a dietician certified pursuant to 26 V.S.A. chapter 73 a~~
19 ~~person, partnership, or corporation, other than a facility or institution,~~
20 ~~licensed, certified, or otherwise authorized by law to provide professional~~

1 **health care service in this State to an individual during that individual's**
2 **medical care, treatment, or confinement.**

3 (5) “Originating site” means the location of the patient, whether or not
4 accompanied by a health care provider, at the time services are provided by a
5 health care provider through telemedicine, including a health care provider’s
6 office, a hospital, or a health care facility, or the patient’s home or another
7 nonmedical environment such as a school-based health center, a university-
8 based health center, or the patient’s workplace.

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

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

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

1 § 9361. HEALTH CARE PROVIDERS **PROVIDING HEALTH CARE**
2 **SERVICES THROUGH** TELEMEDICINE OR **BY** STORE AND
3 FORWARD **SERVICES MEANS**

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

7 (b) Subject to the limitations of the license under which the individual is
8 practicing, a health care provider licensed in this state may prescribe, dispense,
9 or administer drugs or medical supplies, or otherwise provide treatment
10 recommendations to a patient after having performed an appropriate
11 examination of the patient **either** in person, **through telemedicine,** or by the
12 use of instrumentation and diagnostic equipment through which images and
13 medical records may be transmitted electronically. Treatment
14 recommendations made via electronic means, including issuing a prescription
15 via electronic means, shall be held to the same standards of appropriate
16 practice as those in traditional provider-patient settings. ~~For purposes of this~~
17 ~~subchapter, “telemedicine” shall have the same meaning as in 8 V.S.A. §~~
18 ~~4100k.~~

19 (c)(1) A health care provider delivering health care services through
20 telemedicine shall obtain and document a patient’s oral or written informed
21 consent prior to delivering services to the patient. The provider shall include

1 the written consent in the patient’s medical record or document the patient’s
2 oral consent in the patient’s medical record.

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

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

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

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

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

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

19 (D) assurance that all services the health care provider delivers to the
20 patient through telemedicine will be delivered over a secure connection that

1 complies with the requirements of the Health Insurance Portability and
2 Accountability Act of 1996, Public Law 104-191.

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

6 (d)(1) In the event that a health care provider **elects and patient mutually**
7 **agree** to create a recording of the provider's telemedicine consultation with **a**
8 **the** patient, the provider shall obtain the patient's specific informed consent to
9 create the recording. The informed consent may be obtained in writing, which
10 shall be included in the patient's medical record, or **orally** at the beginning of
11 the recording. A health care provider shall not record a telemedicine
12 consultation over a patient's objection or without the patient's consent.

13 (2) The informed consent **to record for recording** a telemedicine
14 consultation shall include:

15 (A) the reasons for recording the telemedicine consultation, which
16 may be at the patient's request or at the health care provider's suggestion with
17 the patient's consent;

18 (B) **that the recording will become part of the patient's medical**
19 **record;**

20 (C) the method of recording;

21 (D) the manner in which the provider will store the recording;

1 (E) who will have access to the recording; and

2 (F) the patient’s rights to request a copy of the recording **and to**
3 **request the destruction of the recording** at any time.

4 ~~(b)~~(d) A patient receiving teleophthalmology or teledermatology by store
5 and forward means shall be informed of the right to receive a consultation with
6 the distant site health care provider and shall receive a consultation with the
7 distant site health care provider upon request. If requested, the consultation
8 with the distant site health care provider may occur either at the time of the
9 initial consultation or within a reasonable period of time ~~of following~~ the
10 patient’s notification of the results of the initial consultation. Receiving
11 teledermatology or teleophthalmology by store and forward means shall not
12 preclude a patient from receiving real time telemedicine or face-to-face
13 services with the distant site health care provider at a future date. Originating
14 site health care providers involved in the store and forward process shall
15 ensure obtain informed consent from the patient as described in subsection (b)
16 of this section. ~~For purposes of this subchapter, “store and forward” shall have~~
17 ~~the same meaning as in 8 V.S.A. § 4100k.~~

18 Sec. 3. REPEAL

19 33 V.S.A. § 1901i (Medicaid coverage for primary care telemedicine) is
20 repealed.

1 Sec. **4**. EFFECTIVE DATES

2 (a) Secs. 1 (health insurance coverage) and **3** (repeal) shall take effect on
3 October 1, 2017 and shall apply to Medicaid on that date and to all other health
4 insurance plans on or after October 1, 2017 on the date a health insurer issues,
5 offers, or renews the health insurance plan, but in no event later than
6 October 1, 2018.

7 (b) Sec. 2 (health care providers providing telemedicine) and this section
8 shall take effect on passage.

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(Committee vote: _____)

Representative _____

FOR THE COMMITTEE