

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 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 to

1 document the reason the services are being provided by telemedicine rather  
2 than in person. A health insurance plan shall not impose limitations on the  
3 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 and are clinically appropriate for delivery through telemedicine,  
8 subject to the terms and conditions of the covered person's policy.

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

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

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

1 services rendered, unless the health care providers at both the ~~host and service~~  
2 distant and originating sites are employed by the same 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 does not include policies or plans providing coverage for specified  
11 disease or other limited benefit coverage.

12 (2)(3) "Health care facility" shall have the same meaning as in  
13 18 V.S.A. § 9402.

14 (3)(4) "Health care provider" means a person, partnership, or  
15 corporation, other than a facility or institution, that is licensed, certified, or  
16 otherwise authorized by law to provide professional health care service in this  
17 State to an individual during that individual's medical care, treatment, or  
18 confinement.

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 DELIVERING  
17           HEALTH CARE SERVICES THROUGH TELEMEDICINE OR BY  
18           STORE AND FORWARD SERVICES MEANS

19           (a) As used in this section, "distant site," "health care provider,"  
20          "originating site," "store and forward," and "telemedicine" shall have the same  
21          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, through telemedicine,~~ or by the use  
6 of instrumentation and diagnostic equipment through which images and  
7 medical records may be transmitted electronically. Treatment  
8 recommendations made via electronic means, including issuing a prescription  
9 via electronic means, shall be held to the same standards of appropriate  
10 practice as those in traditional provider-patient settings. ~~For purposes of this~~  
11 ~~subchapter, “telemedicine” shall have the same meaning as in 8 V.S.A.~~  
12 ~~§ 4100k.~~

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

18           (2)(A) Informed consent for telemedicine services shall include, in  
19 language that patients can easily understand:  
20           (i) an explanation of the differences between telemedicine and in-  
21 person delivery of health care services, including:

1                   (I) that the patient may experience a qualitative difference in  
2                   care based on potential differences in a patient's ability to establish a  
3                   therapeutic 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                   (ii) informing the patient of the patient's right to exclude any  
9                   individual from participating in or observing the patient's consultation with the  
10                  provider at both the originating site and the distant site;  
11                  (iii) informing the patient that the patient may stop telemedicine  
12                  services at any time and may request a referral for in-person services; and  
13                  (iv) assurance that all services the health care provider delivers to  
14                  the patient through telemedicine will be delivered over a secure connection that  
15                  complies with the requirements of the Health Insurance Portability and  
16                  Accountability Act of 1996, Public Law 104-191.  
17                  (B) For services delivered through telemedicine on an ongoing basis,  
18                  the health care provider shall be required to obtain consent only at the first  
19                  episode of care.  
20                  (3) A health care provider delivering telemedicine services through a  
21                  contract with a third-party vendor shall comply with the provisions of

1       subdivision (2) of this subsection (c) to the extent permissible under the terms  
2       of the contract. If the contract requires the health care provider to use the  
3       vendor's own informed consent provisions instead of those set forth in  
4       subdivision (2) of this subsection (c), the health care provider shall be deemed  
5       to be in compliance with the requirements of this subsection (c) if he or she  
6       adheres to the terms of the vendor's informed consent policies.

7           (4) Notwithstanding any provision of this subsection (c) to the contrary,  
8       a health care provider shall not be required to obtain a patient's informed  
9       consent for the use of telemedicine in the following circumstances:

10              (A) for the second certification of an emergency examination  
11       determining whether an individual is a person in need of treatment pursuant to  
12       section 7508 of this title; or  
13              (B) for a psychiatrist's examination to determine whether an  
14       individual is in need of inpatient hospitalization pursuant to 13 V.S.A.  
15       § 4815(g)(3).

16           (d) Neither a health care provider nor a patient shall create or cause to be  
17       created a recording of a provider's telemedicine consultation with a patient.  
18           **(e)** A patient receiving teleophthalmology or teledermatology by store  
19       and forward means shall be informed of the right to receive a consultation with  
20       the distant site health care provider and shall receive a consultation with the  
21       distant site health care provider upon request. If requested, the consultation

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

11 Sec. 3. REPEAL

12 33 V.S.A. § 1901i (Medicaid coverage for primary care telemedicine) is  
13 repealed.

14 Sec. 4. EFFECTIVE DATES

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

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

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5                   (Committee vote: \_\_\_\_\_)

6                   \_\_\_\_\_

7                   Representative \_\_\_\_\_

8                   **FOR THE COMMITTEE**

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