

House Health Care Committee - Telehealth work group proposal for H.723

* * * Telemedicine * * *

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

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

(a)(1) All health insurance plans in this State shall provide coverage for health care services **and dental services** delivered through telemedicine by a health care provider at a distant site to a patient at an originating site to the same extent that the plan would cover the services if they were provided through in-person consultation.

(2)(A) A health insurance plan shall provide the same reimbursement rate for services billed using equivalent procedure codes and modifiers, subject to the terms of the health insurance plan and provider contract, regardless of whether the service was provided through an in-person visit with the health care provider or through telemedicine.

(B) The provisions of subdivision (A) of this subdivision (2) shall not apply in the following circumstances:

(i) the services are provided pursuant to the health insurance plan's contract with a third-party telemedicine vendor to provide health care or dental services; or

(ii) the health insurance plan, originating site health care provider, or originating site health care facility contracts with a third-party telemedicine vendor to provide support for services delivered through telemedicine.

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

(c) A health insurance plan may limit coverage to health care providers in the plan's network. A health insurance plan shall not impose limitations on the number of telemedicine consultations a covered person may receive that exceed limitations otherwise placed on in-person covered services.

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

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

(1) A health insurance plan shall reimburse for health care services **and dental services** delivered by store-and-forward means.

(2) A health insurance plan shall not impose more than one cost-sharing requirement on a patient for receipt of health care services or dental services delivered by store-and-forward means. If the services would require cost-sharing under the terms of the patient's health insurance plan, the plan may impose the cost-sharing requirement on the services of the originating site health care provider or of the distant site health care provider, but not both.

(3) A health insurance plan shall not construe a patient’s receipt of services delivered by store-and-forward means as limiting in any way the patient’s ability to receive additional covered services from the same or a different health care provider in person or through telemedicine for diagnosis or treatment of the same condition.

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(h) As used in this subchapter:

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(2) “Health insurance plan” means any health insurance policy or health benefit plan offered by a health insurer, as defined in 18 V.S.A. § 9402, **or a stand-alone dental plan or policy or other dental insurance plan offered** by a dental insurer, **as well as** **and** Medicaid and any other public health care assistance program offered or administered by the State or by any subdivision or instrumentality of the State. The term does not include policies or plans providing coverage for a specified disease or other limited benefit coverage.

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(4) “Health care provider” means a person, partnership, or corporation, other than a facility or institution, that is licensed, certified, or otherwise authorized by law to provide professional health care services, **including dental services**, in this State to an individual during that individual’s medical care, treatment, or confinement.

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(6) “Store and forward” means an asynchronous transmission of medical information, such as one or more video clips, audio clips, still images, x-rays, magnetic resonance imaging scans, electrocardiograms, electroencephalograms, laboratory results,

or textual materials, sent over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104–191 to be reviewed at a later date by a health care provider at a distant site who is trained in the relevant specialty and by which. In store and forward, the health care provider at the distant site reviews the medical information without the patient present in real time and communicates a care plan or treatment recommendation back to the patient or referring provider, or both.

(7) “Telemedicine” means the delivery of health care services, **including dental services,** such as diagnosis, consultation, or treatment through the use of live interactive audio and video over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191.

Telemedicine does not include the use of audio-only telephone, e-mail, or facsimile.

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

§ 9361. HEALTH CARE PROVIDERS DELIVERING HEALTH CARE
SERVICES THROUGH TELEMEDICINE ~~OR BY STORE AND
FORWARD MEANS~~

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(c)(1) A health care provider delivering health care services **or dental services** through telemedicine shall obtain and document a patient’s oral or written informed consent for the use of telemedicine technology prior to delivering services to the patient.

(A) The informed consent for telemedicine services shall be provided in accordance with Vermont and national policies and guidelines on the appropriate use of

telemedicine within the provider's profession and shall include, in language that patients can easily understand:

- (i) an explanation of the opportunities and limitations of delivering health care services **or dental services** through telemedicine;
- (ii) informing the patient of the presence of any other individual who will be participating in or observing the patient's consultation with the provider at the distant site and obtaining the patient's permission for the participation or observation; and
- (iii) 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 Accountability Act of 1996, Pub. L. No. 104-191.

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~~(e) A patient receiving teleophthalmology or teledermatology by store and forward means shall be informed of the right to receive a consultation with the distant site health care provider and shall receive a consultation with the distant site health care provider upon request. If requested, the consultation with the distant site health care provider may occur either at the time of the initial consultation or within a reasonable period of time following the patient's notification of the results of the initial consultation. Receiving teledermatology or teleophthalmology by store and forward means~~

(1) A patient receiving health care services **or dental services** by store-and-forward means shall be informed of the patient's right to refuse to receive services in this manner and to request services in an alternative format, such as through real-time telemedicine or an in-person visit.

(2) Receipt of services by store-and-forward means shall not preclude a patient from receiving ~~real-time~~ real-time telemedicine ~~or face-to-face~~ services or an in-person visit with the distant site health care provider at a future date.

(3) Originating site health care providers involved in the ~~store-and-forward~~ store-and-forward process shall obtain informed consent from the patient as described in subsection (c) of this section.

* * * Prior Authorization; Provider Exemptions * * *

Sec. 3. 18 V.S.A. § 9418b is amended to read: **(NEW)**

§ 9418b. PRIOR AUTHORIZATION

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(h)(1) Not later than July 1, 2020, each health plan shall implement a program that automatically exempts from future prior authorization requirements for medical procedures and medical tests, including imaging, all health care providers whose approval rate for prior authorization requests from the plan during a recent 12-month period was 90 percent or greater.

(2) Each health plan shall make available electronically, including on a publicly available website, details about its prior authorization exemption program, including:

(A) the manner in which health care providers will be informed that they are eligible for the program;

(B) the medical procedures and tests that are exempt from prior authorization requirements for providers who qualify for the program;

(C) the number of health care providers eligible for the program and their specialties; and

(D) how to appeal a plan’s determination of a provider’s eligibility for the program.

Sec. 4. 33 V.S.A. § 1901c is added to read: **(NEW)**

§ 1901c. PRIOR AUTHORIZATION; PROVIDER EXEMPTIONS

Not later than July 1, 2020, the Department of Vermont Health Access shall implement a program that automatically exempts from future prior authorization requirements for medical procedures and medical tests, including imaging, all health care providers whose approval rate for prior authorization requests from the Vermont Medicaid program during a recent 12-month period was 90 percent or greater.

* * * Telemedicine Reimbursement; Sunset * * *

Sec. 5. TELEMEDICINE REIMBURSEMENT; SUNSET **(NEW)**

8 V.S.A. § 4100k(a)(2) (telemedicine reimbursement) is repealed on January 1, 2026.

Sec. 6. EFFECTIVE DATES **S**

(a) This act Secs. 1 (8 V.S.A. § 4100k) and 2 (18 V.S.A. § 9361) shall take effect on January 1, 2021.

(b) The remaining sections shall take effect on passage.

and that after passage the title of the bill be amended to read: “An act relating to

telehealth telemedicine and to prior authorization exemptions”