

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Health Care to which was referred House Bill No. 723
3 entitled “An act relating to health insurance coverage for store-and-forward
4 telemedicine” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. **TELEHEALTH EXPANSION; LEGISLATIVE INTENT**

8 **It is the intent of the General Assembly to increase Vermonters’ access**
9 **to health care services through an expansion of telehealth services without**
10 **increasing social isolation or supplanting the role of local, community-**
11 **based health care providers throughout rural Vermont.**

12 Sec. 2. 8 V.S.A. § 4100k is amended to read:

13 § 4100k. COVERAGE OF HEALTH CARE SERVICES DELIVERED
14 THROUGH TELEMEDICINE **AND BY STORE-AND-**
15 **FORWARD MEANS**

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

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

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

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

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

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

19 (c) A health insurance plan may limit coverage to health care providers in
20 the plan’s network. A health insurance plan shall not impose limitations on the

1 number of telemedicine consultations a covered person may receive that
2 exceed limitations otherwise placed on in-person covered services.

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

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

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

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

19 ~~(f)(3)~~ A health insurer shall not construe a patient's receipt of services
20 delivered **through telemedicine or** by store-and-forward means as limiting in
21 any way the patient's ability to receive additional covered **in-person** services

1 from the same or a different health care provider ~~in person or through~~
2 telemedicine for diagnosis or treatment of the same condition.

3 **(g)** Nothing in this section shall be construed to require a health insurance
4 plan to reimburse the distant site health care provider if the distant site health
5 care provider has insufficient information to render an opinion.

6 ~~(g)~~**(h)** In order to facilitate the use of telemedicine in treating substance use
7 disorder, when the originating site is a health care facility, health insurers and
8 the Department of Vermont Health Access shall ensure that the health care
9 provider at the distant site and the health care facility at the originating site are
10 both reimbursed for the services rendered, unless the health care providers at
11 both the distant and originating sites are employed by the same entity.

12 ~~(h)~~**(i)** As used in this subchapter:

13 * * *

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

21 * * *

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

6 * * *

7 (6) “Store and forward” means an asynchronous transmission of medical
8 information, such as one or more video clips, audio clips, still images, x-rays,
9 magnetic resonance imaging scans, electrocardiograms,
10 electroencephalograms, ~~or~~ laboratory results, ~~or textual materials~~, sent over a
11 secure connection that complies with the requirements of the Health Insurance
12 Portability and Accountability Act of 1996, Public Law 104–191 to be
13 reviewed at a later date by a health care provider at a distant site who is trained
14 in the relevant specialty ~~and by which~~. In store and forward, the health care
15 provider at the distant site reviews the medical information without the patient
16 present in real time and communicates a care plan or treatment
17 recommendation back to the patient or referring provider, or both.

18 (7) “Telemedicine” means the delivery of health care services, including
19 dental services, such as diagnosis, consultation, or treatment through the use of
20 live interactive audio and video over a secure connection that complies with
21 the requirements of the Health Insurance Portability and Accountability Act of

1 1996, Public Law 104-191. ~~Telemedicine does not include the use of audio-~~
2 ~~only telephone, e-mail, or facsimile.~~

3 Sec. 3. 18 V.S.A. § 9361 is amended to read:

4 § 9361. HEALTH CARE PROVIDERS DELIVERING HEALTH CARE
5 SERVICES THROUGH TELEMEDICINE ~~OR BY STORE-AND-~~
6 ~~FORWARD STORE-AND-FORWARD MEANS~~

7 * * *

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

12 (A) The informed consent for telemedicine services shall be provided
13 in accordance with Vermont and national policies and guidelines on the
14 appropriate use of telemedicine within the provider's profession and shall
15 include, in language that patients can easily understand:

16 (i) an explanation of the opportunities and limitations of delivering
17 health care services or dental services through telemedicine;

18 (ii) informing the patient of the presence of any other individual
19 who will be participating in or observing the patient's consultation with the
20 provider at the distant site and obtaining the patient's permission for the
21 participation or observation; and

1 (iii) assurance that all services the health care provider delivers to
2 the patient through telemedicine will be delivered over a secure connection that
3 complies with the requirements of the Health Insurance Portability and
4 Accountability Act of 1996, Pub. L. No. 104-191.

5 * * *

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

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

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

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

4 Sec. 4. TELEMEDICINE REIMBURSEMENT; SUNSET

5 8 V.S.A. § 4100k(a)(2) (telemedicine reimbursement) is repealed on
6 January 1, 2026.

7 Sec. 5. EFFECTIVE DATE

8 This act shall take effect on January 1, 2021.

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

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17 (Committee vote: _____)

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Representative _____

FOR THE COMMITTEE