

ASSEMBLY, No. 3860

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MARCH 16, 2020

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District 15 (Hunterdon and Mercer)

Co-Sponsored by:

Assemblywomen Reynolds-Jackson, Lopez, McKnight, Chaparro, Downey, Assemblyman Chiaravalloti, Assemblywoman Timberlake, Assemblyman Giblin, Assemblywomen Jasey, Carter, Jimenez, Assemblyman Freiman and Senator Stack

SYNOPSIS

Establishes certain requirements to use telemedicine and telehealth to respond to coronavirus disease 2019 (COVID-19).

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 3/19/2020)

1 AN ACT concerning the use of telemedicine and telehealth to
2 respond to coronavirus disease 2019.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. a. For the duration of the public health emergency declared
8 pursuant to P.L.2005, c.222 (C.26:13-1 et seq.) in response to
9 coronavirus disease 2019 (COVID-19), any health care practitioner
10 shall be authorized to provide and bill for services using
11 telemedicine and telehealth, which may include all services
12 included in the definitions of telemedicine and telehealth set forth
13 in section 1 of P.L.2017, c.117 (C.45:1-61) to the extent appropriate
14 under the standard of care, which services may be provided
15 regardless of whether rules and regulations concerning the practice
16 of telemedicine and telehealth have been adopted pursuant to the
17 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
18 seq.). A health care practitioner who is not licensed or certified to
19 provide health care services pursuant to Title 45 of the Revised
20 Statutes may provide telemedicine and telehealth services pursuant
21 to this section, provided that:

22 (1) the health care practitioner is validly licensed or certified to
23 provide health care services in another state or territory of the
24 United States or in the District of Columbia, and is in good standing
25 in the jurisdiction that issued the license or certification;

26 (2) the health care services provided by the health care
27 practitioner using telemedicine and telehealth are within the
28 practitioner’s authorized scope of practice in the jurisdiction that
29 issued the license or certification;

30 (3) unless the health care practitioner has a preexisting provider-
31 patient relationship with the patient that is unrelated to COVID-19,
32 the health care services provided are limited to services related to
33 screening for, diagnosing, or treating COVID-19; and

34 (4) in the event that the health care practitioner determines
35 during a telemedicine or telehealth encounter with a patient located
36 in New Jersey that the encounter will not involve services related to
37 screening for, diagnosing, or treating COVID-19, and the
38 practitioner does not have a preexisting provider-patient
39 relationship with the patient that is unrelated to COVID-19, the
40 practitioner shall advise the patient that the practitioner is not
41 authorized to provide services to the patient, recommend that the
42 patient initiate a new telemedicine or telehealth encounter with a
43 health care practitioner licensed or certified to practice in New
44 Jersey, and terminate the telemedicine or telehealth encounter.

45 b. The amount charged by a health care practitioner for
46 services provided using telemedicine or telehealth pursuant to this
47 section shall be reasonable and consistent with the ordinary fees
48 typically charged for that service, provided that a health care

1 practitioner who is required to terminate a telemedicine or
2 telehealth encounter pursuant to paragraph (4) of subsection a. of
3 this section shall not issue a bill for any services provided during
4 the encounter.

5 c. The Commissioner of Health and the Director of the
6 Division of Consumer Affairs in the Department of Law and Public
7 Safety shall waive any requirement of State law or regulation as
8 may be necessary to facilitate the provision of health care services
9 using telemedicine and telehealth during the state of public health
10 emergency declared in response to COVID-19, including any
11 privacy requirements established by State law or regulation that
12 would limit the use of electronic or technological means that are not
13 typically used in the provision of telemedicine and telehealth,
14 provided that nothing in this subsection shall be construed to
15 authorize the waiver of any State laws or regulations restricting the
16 collection, exchange, transmission, or use of confidential patient
17 health information.

18 d. Nothing in this section shall be construed to abrogate any
19 authority granted to the Commissioner of Health during a state of
20 public health emergency pursuant to P.L.2005, c.222 (C.26:13-1 et
21 seq.).

22

23 2. This act shall take effect immediately.

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STATEMENT

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28 This bill provides that, for the duration of the public health
29 emergency declared in response to the coronavirus disease 2019
30 (COVID-19), any health care practitioner will be authorized to
31 provide and bill for services using telemedicine and telehealth,
32 regardless of whether rules and regulations concerning the practice
33 of telemedicine and telehealth have been adopted pursuant to the
34 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
35 seq.). The services authorized under the bill will include the full
36 range of services set forth in the definitions of telemedicine and
37 telehealth in section 1 of P.L.2017, c.117 (C.45:1-61) that are
38 appropriate under the standard of care.

39 A practitioner who is not licensed or certified to practice in New
40 Jersey may provide health care services under the bill using
41 telemedicine and telehealth, provided that: (1) the practitioner is
42 licensed or certified to practice in another state or territory of the
43 United States or in the District of Columbia, and is in good standing
44 in that jurisdiction; (2) the services provided by that practitioner
45 are consistent with the practitioner’s authorized scope of practice in
46 the jurisdiction that issued the practitioner’s license or certification;
47 (3) unless the practitioner has a preexisting provider-patient
48 relationship with the patient that is unrelated to COVID-19, the

1 services provided are limited to services related to screening for,
2 diagnosing, or treating COVID-19; and (4) in the event that the
3 practitioner determines that a telemedicine or telehealth encounter
4 with a patient located in New Jersey will not involve screening for,
5 diagnosing, or treating COVID-19, and the practitioner does not
6 have a preexisting provider-patient relationship with the patient that
7 is unrelated to COVID-19, the practitioner advises the patient that
8 the practitioner is not authorized to provide services to the patient,
9 recommends that the patient initiate a new telemedicine or
10 telehealth encounter with a health care practitioner licensed or
11 certified to practice in New Jersey, and terminates the telemedicine
12 or telehealth encounter.

13 The bill requires that any amount charged for services provided
14 under the bill be reasonable and consistent with the ordinary fees
15 typically charged for that service. In the event that a health care
16 practitioner who is not licensed to practice in New Jersey is
17 required to terminate a telemedicine or telehealth encounter because
18 the encounter does not involve the provision of services related to
19 screening, diagnosing, or treating COVID-19, the practitioner will
20 be prohibited from billing for any services provided during the
21 encounter.

22 The bill requires the Commissioner of Health and the Director of
23 the Division of Consumer Affairs in the Department of Law and
24 Public Safety to waive any requirement of State law or regulation as
25 may be necessary to facilitate the provision of health care services
26 using telemedicine and telehealth during the COVID-19 public
27 health emergency, including any privacy requirements that would
28 limit the use of electronic or technological means that are not
29 typically used in the provision of telemedicine and telehealth,
30 provided that nothing in the bill will authorize the waiver of any
31 State laws or regulations restricting the collection, exchange,
32 transmission, or use of confidential patient health information..

33 Nothing in the bill is to be construed to abrogate any authority
34 granted to the Commissioner of Health under the "Emergency
35 Health Powers Act," P.L.2005, c.222 (C.26:13-1 et seq.).