



General Assembly

Amendment

February Session, 2018

LCO No. 4938



Offered by:

SEN. GERRATANA, 6th Dist.
SEN. SOMERS, 18th Dist.
SEN. KENNEDY, 12th Dist.
REP. STEINBERG, 136th Dist.
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To: Subst. Senate Bill No. 302

File No. 420

Cal. No. 245

"AN ACT CONCERNING TELEHEALTH SERVICES."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 19a-906 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2018*):

5 (a) As used in this section:

6 (1) "Asynchronous" means any transmission to another site for
7 review at a later time that uses a camera or other technology to capture
8 images or data to be recorded.

9 (2) "Facility fee" has the same meaning as in section 19a-508c.

10 [(2)] (3) "Health record" means the record of individual, health-
11 related information that may include, but need not be limited to,

12 continuity of care documents, discharge summaries and other
13 information or data relating to a patient's demographics, medical
14 history, medication, allergies, immunizations, laboratory test results,
15 radiology or other diagnostic images, vital signs and statistics.

16 [(3) "Facility fee" has the same meaning as in section 19a-508c.]

17 (4) "Medical history" means information, including, but not limited
18 to, a patient's past illnesses, medications, hospitalizations, family
19 history of illness if known, the name and address of the patient's
20 primary care provider if known and other matters relating to the
21 health condition of the patient at the time of a telehealth interaction.

22 (5) "Medication-assisted treatment" means the use of medications
23 approved by the federal Food and Drug Administration, in
24 combination with counseling and behavioral therapies, to provide a
25 whole-patient approach to the treatment of substance use disorders.

26 [(5)] (6) "Originating site" means a site at which a patient is located
27 at the time health care services are provided to the patient by means of
28 telehealth.

29 [(6)] (7) "Peripheral devices" means the instruments a telehealth
30 provider uses to perform a patient exam, including, but not limited to,
31 stethoscope, otoscope, ophthalmoscope, sphygmomanometer,
32 thermometer, tongue depressor and reflex hammer.

33 [(7)] (8) "Remote patient monitoring" means the personal health and
34 medical data collection from a patient in one location via electronic
35 communication technologies that is then transmitted to a telehealth
36 provider located at a distant site for the purpose of health care
37 monitoring to assist the effective management of the patient's
38 treatment, care and related support.

39 [(8)] (9) "Store and forward transfer" means the asynchronous
40 transmission of a patient's medical information from an originating site
41 to the telehealth provider at a distant site.

42 [(9)] (10) "Synchronous" means real-time interactive technology.

43 [(10)] (11) "Telehealth" means the mode of delivering health care or
44 other health services via information and communication technologies
45 to facilitate the diagnosis, consultation and treatment, education, care
46 management and self-management of a patient's physical and mental
47 health, and includes (A) interaction between the patient at the
48 originating site and the telehealth provider at a distant site, and (B)
49 synchronous interactions, asynchronous store and forward transfers or
50 remote patient monitoring. Telehealth does not include the use of
51 facsimile, audio-only telephone, texting or electronic mail.

52 [(11)] (12) "Telehealth provider" means any physician licensed under
53 chapter 370, physical therapist licensed under chapter 376,
54 chiropractor licensed under chapter 372, naturopath licensed under
55 chapter 373, podiatrist licensed under chapter 375, occupational
56 therapist licensed under chapter 376a, optometrist licensed under
57 chapter 380, registered nurse or advanced practice registered nurse
58 licensed under chapter 378, physician assistant licensed under chapter
59 370, psychologist licensed under chapter 383, marital and family
60 therapist licensed under chapter 383a, clinical social worker or master
61 social worker licensed under chapter 383b, alcohol and drug counselor
62 licensed under chapter 376b, professional counselor licensed under
63 chapter 383c, dietitian-nutritionist certified under chapter 384b, speech
64 and language pathologist licensed under chapter 399, respiratory care
65 practitioner licensed under chapter 381a, [or] audiologist licensed
66 under chapter 397a or pharmacist licensed under chapter 400j, who is
67 providing health care or other health services through the use of
68 telehealth within such person's scope of practice and in accordance
69 with the standard of care applicable to the profession.

70 (b) (1) A telehealth provider shall only provide telehealth services to
71 a patient when the telehealth provider: (A) Is communicating through
72 real-time, interactive, two-way communication technology or store and
73 forward technologies; (B) has access to, or knowledge of, the patient's
74 medical history, as provided by the patient, and the patient's health

75 record, including the name and address of the patient's primary care
76 provider, if any; (C) conforms to the standard of care applicable to the
77 telehealth provider's profession and expected for in-person care as
78 appropriate to the patient's age and presenting condition, except when
79 the standard of care requires the use of diagnostic testing and
80 performance of a physical examination, such testing or examination
81 may be carried out through the use of peripheral devices appropriate
82 to the patient's condition; and (D) provides the patient with the
83 telehealth's provider license number and contact information.

84 (2) At the time of the telehealth provider's first telehealth interaction
85 with a patient, the telehealth provider shall inform the patient
86 concerning the treatment methods and limitations of treatment using a
87 telehealth platform and, after providing the patient with such
88 information, obtain the patient's consent to provide telehealth services.
89 The telehealth provider shall document such notice and consent in the
90 patient's health record. If a patient later revokes such consent, the
91 telehealth provider shall document the revocation in the patient's
92 health record.

93 (c) Notwithstanding the provisions of this section or title 20, no
94 telehealth provider shall prescribe any schedule I, II or III controlled
95 [substances] substance through the use of telehealth, except a schedule
96 II or III controlled substance other than an opioid drug, as defined in
97 section 20-14o, in a manner fully consistent with the Ryan Haight
98 Online Pharmacy Consumer Protection Act, 21 USC 829(e), as
99 amended from time to time, for the treatment of a person with a
100 psychiatric disability or substance use disorder, as defined in section
101 17a-458, including, but not limited to, medication-assisted treatment. A
102 telehealth provider using telehealth to prescribe a schedule II or III
103 controlled substance pursuant to this subsection shall electronically
104 submit the prescription pursuant to section 21a-249, as amended by
105 this act.

106 (d) Each telehealth provider shall, at the time of [each] the initial
107 telehealth interaction, ask the patient whether the patient consents to

108 the [telehealth's provider] telehealth provider's disclosure of records
109 concerning the telehealth interaction to the patient's primary care
110 provider. If the patient consents to such disclosure, the telehealth
111 provider shall provide [such] records of all telehealth interactions to
112 the patient's primary care provider, in a timely manner, in accordance
113 with the provisions of sections 20-7b to 20-7e, inclusive.

114 (e) Any consent required under this section shall be obtained from
115 the patient, or the patient's legal guardian, conservator or other
116 authorized representative, as applicable.

117 [(e)] (f) The provision of telehealth services and health records
118 maintained and disclosed as part of a telehealth interaction shall
119 comply with the provisions of the Health Insurance Portability and
120 Accountability Act of 1996 P.L. 104-191, as amended from time to time.

121 [(f)] (g) Nothing in this section shall prohibit: (1) A health care
122 provider from providing on-call coverage pursuant to an agreement
123 with another health care provider or such health care provider's
124 professional entity or employer; (2) a health care provider from
125 consulting with another health care provider concerning a patient's
126 care; [or] (3) orders of health care providers for hospital outpatients or
127 inpatients; or (4) the use of telehealth for a hospital inpatient, including
128 for the purpose of ordering any medication or treatment for such
129 patient in accordance with Ryan Haight Online Pharmacy Consumer
130 Protection Act, 21 USC 829(e), as amended from time to time. For
131 purposes of this subsection, "health care provider" means a person or
132 entity licensed or certified pursuant to chapter 370, 372, 373, 375, 376 to
133 376b, inclusive, 378, 379, 380, 381a, 383 to 383c, inclusive, 384b, 397a,
134 [or] 399 or 400, or licensed or certified pursuant to chapter 368d or
135 384d.

136 [(g)] (h) No telehealth provider shall charge a facility fee for
137 telehealth services.

138 Sec. 2. Subdivision (5) of subsection (c) of section 21a-249 of the 2018
139 supplement to the general statutes is repealed and the following is

140 substituted in lieu thereof (*Effective July 1, 2018*):

141 (5) The practitioner demonstrates, in a form and manner prescribed
 142 by the commissioner, that such practitioner does not have the
 143 technological capacity to issue electronically transmitted prescriptions.
 144 For the purposes of this subsection, "technological capacity" means
 145 possession of a computer system, hardware or device that can be used
 146 to electronically transmit controlled substance prescriptions consistent
 147 with the requirements of the federal Controlled Substances Act, 21
 148 USC 801, as amended from time to time. The provisions of this
 149 subdivision shall not apply to a practitioner when such practitioner is
 150 prescribing as a telehealth provider, as defined in section 19a-906, as
 151 amended by this act, pursuant to subdivision (2) of subsection (c) of
 152 said section."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2018</i>	19a-906
Sec. 2	<i>July 1, 2018</i>	21a-249(c)(5)