



Senate

General Assembly

File No. 366

January Session, 2021

Senate Bill No. 1022

Senate, April 8, 2021

The Committee on Insurance and Real Estate reported through SEN. LESSER of the 9th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING TELEHEALTH.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 19a-906 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) As used in this section:

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

7 (2) "Connecticut medical assistance program" means the state's
8 Medicaid program and the Children's Health Insurance Program
9 administered by the Department of Social Services.

10 [(2)] (3) "Facility fee" has the same meaning as in section 19a-508c.

11 [(3)] (4) "Health record" means the record of individual, health-
12 related information that may include, but need not be limited to,

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

17 [(4)] (5) "Medical history" means information, including, but not
18 limited to, a patient's past illnesses, medications, hospitalizations,
19 family 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 health
21 condition of the patient at the time of a telehealth interaction.

22 [(5)] (6) "Medication-assisted treatment" means the use of
23 medications 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 [(6)] (7) "Originating site" means a site at which a patient is located at
27 the time health care services are provided to the patient by means of
28 telehealth.

29 [(7) "Peripheral devices"] (8) "Peripheral device" means [the
30 instruments] an instrument a telehealth provider uses to perform a
31 patient exam, including, but not limited to, a stethoscope, otoscope,
32 ophthalmoscope, sphygmomanometer, thermometer, tongue depressor
33 [and] or reflex hammer.

34 [(8)] (9) "Remote patient monitoring" means the personal health and
35 medical data collection from a patient in one location via electronic
36 communication technologies that is then transmitted to a telehealth
37 provider located at a distant site for the purpose of health care
38 monitoring to assist the effective management of the patient's treatment,
39 care and related support.

40 [(9)] (10) "Store and forward transfer" means the asynchronous
41 transmission of a patient's medical information from an originating site
42 to the telehealth provider at a distant site.

43 [(10)] (11) "Synchronous" means real-time interactive technology.

44 [(11)] (12) (A) "Telehealth" means the mode of delivering health care
45 or other health services via information and communication
46 technologies to facilitate the diagnosis, consultation and treatment,
47 education, care management and self-management of a patient's
48 physical, oral and mental health, and includes [(A)] (i) interaction
49 between the patient at the originating site and the telehealth provider at
50 a distant site, and [(B)] (ii) synchronous interactions, asynchronous store
51 and forward transfers or remote patient monitoring.

52 [Telehealth] (B) "Telehealth" does not [include the use of] mean
53 interaction through (i) facsimile, [audio-only telephone,] texting or
54 electronic mail, or (ii) audio-only telephone unless the telehealth
55 provider is (I) in-network, or (II) a provider enrolled in the Connecticut
56 medical assistance program providing health care or other health
57 services to a Connecticut medical assistance program recipient.

58 [(12)] (13) "Telehealth provider" means any person who is (A) an in-
59 network provider or a provider enrolled in the Connecticut medical
60 assistance program providing health care or other health services to a
61 Connecticut medical assistance program recipient through the use of
62 telehealth within such person's scope of practice and in accordance with
63 the standard of care applicable to such person's profession, and (B) (i) a
64 physician or physician assistant licensed under chapter 370, physical
65 therapist or physical therapist assistant licensed under chapter 376,
66 chiropractor licensed under chapter 372, naturopath licensed under
67 chapter 373, podiatrist licensed under chapter 375, occupational
68 therapist or occupational therapy assistant licensed under chapter 376a,
69 optometrist licensed under chapter 380, registered nurse or advanced
70 practice registered nurse licensed under chapter 378, [physician
71 assistant licensed under chapter 370,] psychologist licensed under
72 chapter 383, marital and family therapist licensed under chapter 383a,
73 clinical social worker or master social worker licensed under chapter
74 383b, alcohol and drug counselor licensed under chapter 376b,
75 professional counselor licensed under chapter 383c, dietitian-
76 nutritionist certified under chapter 384b, speech and language
77 pathologist licensed under chapter 399, respiratory care practitioner

78 licensed under chapter 381a, audiologist licensed under chapter 397a,
79 pharmacist licensed under chapter 400j, [or] paramedic licensed
80 pursuant to chapter 384d, [who is providing health care or other health
81 services through the use of telehealth within such person's scope of
82 practice and in accordance with the standard of care applicable to the
83 profession] nurse-midwife licensed under chapter 377, dentist licensed
84 under chapter 379, behavior analyst licensed under chapter 382a,
85 genetic counselor licensed under chapter 383d, music therapist certified
86 in the manner described in chapter 383f, art therapist certified in the
87 manner described in chapter 383g or athletic trainer licensed under
88 chapter 375a, or (ii) an appropriately licensed, certified or registered
89 physician, physician assistant, physical therapist, physical therapist
90 assistant, chiropractor, naturopath, podiatrist, occupational therapist,
91 occupational therapy assistant, optometrist, registered nurse, advanced
92 practice registered nurse, psychologist, marital and family therapist,
93 clinical social worker, master social worker, alcohol and drug counselor,
94 professional counselor, dietitian-nutritionist, speech and language
95 pathologist, respiratory care practitioner, audiologist, pharmacist,
96 paramedic, nurse-midwife, dentist, behavior analyst, genetic counselor,
97 music therapist, art therapist or athletic trainer, in another state or
98 territory of the United States or the District of Columbia, that provides
99 telehealth services pursuant to his or her authority under any relevant
100 order issued by the commissioner and maintains professional liability
101 insurance or other indemnity against liability for professional
102 malpractice in an amount that is not less than the amount that is
103 required for a similarly licensed, certified or registered Connecticut
104 health care provider.

105 (b) (1) A telehealth provider [shall] may only provide a telehealth
106 [services] service to a patient when the telehealth provider: (A) Is
107 communicating through real-time, interactive, two-way communication
108 technology or store and forward [technologies; (B)] transfer technology;
109 (B) has determined whether the patient has health coverage that is fully
110 insured, not fully insured or provided through Medicaid or the
111 Children's Health Insurance Program, and whether the patient's health
112 coverage, if any, provides coverage for the telehealth service; (C) has

113 access to, or knowledge of, the patient's medical history, as provided by
114 the patient, and the patient's health record, including the name and
115 address of the patient's primary care provider, if any; [(C)] (D) conforms
116 to the standard of care applicable to the telehealth provider's profession
117 and expected for in-person care as appropriate to the patient's age and
118 presenting condition, except when the standard of care requires the use
119 of diagnostic testing and performance of a physical examination, such
120 testing or examination may be carried out through the use of peripheral
121 devices appropriate to the patient's condition; and [(D)] (E) provides the
122 patient with the [telehealth's provider] telehealth provider's license
123 number, if any, and contact information.

124 (2) At the time of the telehealth provider's first telehealth interaction
125 with a patient, the telehealth provider shall inform the patient
126 concerning the treatment methods and limitations of treatment using a
127 telehealth platform and, after providing the patient with such
128 information, obtain the patient's consent to provide telehealth services.
129 The telehealth provider shall document such notice and consent in the
130 patient's health record. If a patient later revokes such consent, the
131 telehealth provider shall document the revocation in the patient's health
132 record.

133 (c) Notwithstanding the provisions of this section or title 20, no
134 telehealth provider shall prescribe any schedule I, II or III controlled
135 substance through the use of telehealth, except a schedule II or III
136 controlled substance other than an opioid drug, as defined in section 20-
137 14o, in a manner fully consistent with the Ryan Haight Online Pharmacy
138 Consumer Protection Act, 21 USC 829(e), as amended from time to time,
139 for the treatment of a person with a psychiatric disability or substance
140 use disorder, as defined in section 17a-458, including, but not limited to,
141 medication-assisted treatment. A telehealth provider using telehealth to
142 prescribe a schedule II or III controlled substance pursuant to this
143 subsection shall electronically submit the prescription pursuant to
144 section 21a-249.

145 (d) Each telehealth provider shall, at the time of the initial telehealth

146 interaction, ask the patient whether the patient consents to the telehealth
147 provider's disclosure of records concerning the telehealth interaction to
148 the patient's primary care provider. If the patient consents to such
149 disclosure, the telehealth provider shall provide records of all telehealth
150 interactions to the patient's primary care provider, in a timely manner,
151 in accordance with the provisions of sections 20-7b to 20-7e, inclusive.

152 (e) Any consent [required] or revocation of consent under this section
153 shall be obtained from or communicated by the patient, or the patient's
154 legal guardian, conservator or other authorized representative, as
155 applicable.

156 (f) (1) The provision of telehealth services and health records
157 maintained and disclosed as part of a telehealth interaction shall comply
158 with [the] all provisions of the Health Insurance Portability and
159 Accountability Act of 1996 P.L. 104-191, as amended from time to time,
160 and the rules and regulations adopted thereunder, that are applicable to
161 such provision, maintenance or disclosure.

162 (2) Notwithstanding the provisions of this section, a telehealth
163 provider who is an in-network provider, or a provider enrolled in the
164 Connecticut medical assistance program that provides telehealth
165 services to a Connecticut medical assistance program recipient, may use
166 any information or communication technology in accordance with the
167 directions, modifications or revisions, if any, made by the Office for
168 Civil Rights of the United States Department of Health and Human
169 Services to the provisions of the Health Insurance Portability and
170 Accountability Act of 1996 P.L. 104-191, as amended from time to time,
171 or the rules and regulations adopted thereunder.

172 (g) Nothing in this section shall prohibit a health care provider from:
173 (1) [A health care provider from providing] Providing on-call coverage
174 pursuant to an agreement with another health care provider or such
175 health care provider's professional entity or employer; (2) [a health care
176 provider from] consulting with another health care provider concerning
177 a patient's care; (3) [orders of health care providers] ordering care for
178 hospital outpatients or inpatients; or (4) [the use of] using telehealth for

179 a hospital inpatient, including for the purpose of ordering [any]
180 medication or treatment for such patient in accordance with the Ryan
181 Haight Online Pharmacy Consumer Protection Act, 21 USC 829(e), as
182 amended from time to time. For purposes of this subsection, "health care
183 provider" means a person or entity licensed or certified pursuant to
184 chapter 370, 372, 373, 375, 376 to 376b, inclusive, 378, 379, 380, 381a, 383
185 to 383c, inclusive, 384b, 397a, 399 or 400j, or licensed or certified
186 pursuant to chapter 368d or 384d.

187 (h) No telehealth provider shall charge a facility fee for a telehealth
188 [services] service.

189 (i) (1) Notwithstanding any provision of the general statutes, a
190 telehealth provider who provides health care or health services to a
191 patient through telehealth shall accept as full payment for such health
192 care or health services:

193 (A) An amount that is equal to the amount that Medicare reimburses
194 for such health care or health services if the telehealth provider
195 determines that the patient does not have health coverage for such
196 health care or health services; or

197 (B) The amount that the patient's health coverage reimburses, and
198 any coinsurance, copayment, deductible or other out-of-pocket expense
199 imposed by the patient's health coverage, for such health care or health
200 services if the telehealth provider determines that the patient has health
201 coverage for such health care or health services.

202 (2) If a telehealth provider determines that a patient is unable to pay
203 for any health care or health services described in subdivision (1) of this
204 subsection that the provider provided to the patient through telehealth,
205 the provider shall offer to the patient financial assistance, if such
206 provider is otherwise required to offer to the patient such financial
207 assistance, under any applicable state or federal law.

208 (j) Notwithstanding any provision of the general statutes or any
209 regulation adopted thereunder, a telehealth provider may provide

210 telehealth services pursuant to the provisions of this section from any
211 location.

212 (k) Notwithstanding any provision of this section, any Connecticut
213 entity or institution that, or health care provider who, engages or
214 contracts with a telehealth provider who is licensed, certified or
215 registered in another state or territory of the United States or the District
216 of Columbia to provide health care or other health services shall verify
217 the credentials of such provider in the jurisdiction in which such
218 provider is licensed, certified or registered, ensure that such provider is
219 in good standing in such jurisdiction, and confirm that such provider
220 maintains professional liability insurance or other indemnity against
221 liability for professional malpractice in an amount that is equal to or
222 greater than that required for similarly licensed, certified or registered
223 Connecticut health care providers.

224 (l) Notwithstanding sections 4-168 to 4-174, inclusive, the
225 commissioner may temporarily waive, modify or suspend any
226 regulatory requirements adopted by the commissioner or any boards or
227 commissions under chapters 368a, 368d, 368v, 369 to 381a, inclusive,
228 382a, 383 to 388, inclusive, 397a, 398, 399, 400a, 400c, 400j and 474 as the
229 commissioner deems necessary to reduce the spread of COVID-19 and
230 protect the public health for the purpose of providing residents of this
231 state with telehealth services from out-of-state practitioners.

232 Sec. 2. Section 38a-499a of the general statutes is repealed and the
233 following is substituted in lieu thereof (*Effective from passage*):

234 (a) [As used in this section, "telehealth" has the same meaning as
235 provided in section 19a-906.] For the purposes of this section:

236 (1) "Asynchronous" has the same meaning as provided in section 19a-
237 906, as amended by this act.

238 (2) "Originating site" has the same meaning as provided in section
239 19a-906, as amended by this act.

240 (3) "Remote patient monitoring" has the same meaning as provided

241 in section 19a-906, as amended by this act.

242 (4) "Store and forward transfer" has the same meaning as provided in
243 section 19a-906, as amended by this act.

244 (5) "Synchronous" has the same meaning as provided in section 19a-
245 906, as amended by this act.

246 (6) (A) "Telehealth" means the mode of delivering health care or other
247 health services via information and communication technologies to
248 facilitate the diagnosis, consultation and treatment, education, care
249 management and self-management of an insured's physical, oral and
250 mental health, and includes interaction between the insured at the
251 originating site and the telehealth provider at a distant site, synchronous
252 interactions, asynchronous store and forward transfers or remote
253 patient monitoring.

254 (B) "Telehealth" does not mean interaction through (i) facsimile,
255 texting or electronic mail, or (ii) audio-only telephone if the telehealth
256 provider is out-of-network.

257 (7) "Telehealth provider" means any person who (A) provides health
258 care or other health services through the use of telehealth within such
259 person's scope of practice and in accordance with the standard of care
260 applicable to such person's profession, and (B) is (i) a physician or
261 physician assistant licensed under chapter 370, physical therapist or
262 physical therapist assistant licensed under chapter 376, chiropractor
263 licensed under chapter 372, naturopath licensed under chapter 373,
264 podiatrist licensed under chapter 375, occupational therapist or
265 occupational therapy assistant licensed under chapter 376a, optometrist
266 licensed under chapter 380, registered nurse or advanced practice
267 registered nurse licensed under chapter 378, psychologist licensed
268 under chapter 383, marital and family therapist licensed under chapter
269 383a, clinical social worker or master social worker licensed under
270 chapter 383b, alcohol and drug counselor licensed under chapter 376b,
271 professional counselor licensed under chapter 383c, dietitian-
272 nutritionist certified under chapter 384b, speech and language

273 pathologist licensed under chapter 399, respiratory care practitioner
274 licensed under chapter 381a, audiologist licensed under chapter 397a,
275 pharmacist licensed under chapter 400j, paramedic licensed pursuant to
276 chapter 384d, nurse-midwife licensed under chapter 377, dentist
277 licensed under chapter 379, behavior analyst licensed under chapter
278 382a, genetic counselor licensed under chapter 383d, music therapist
279 certified in the manner described in chapter 383f, art therapist certified
280 in the manner described in chapter 383g or athletic trainer licensed
281 under chapter 375a, or (ii) an in-network and appropriately licensed,
282 certified or registered physician, physician assistant, physical therapist,
283 physical therapist assistant, chiropractor, naturopath, podiatrist,
284 occupational therapist, occupational therapy assistant, optometrist,
285 registered nurse, advanced practice registered nurse, psychologist,
286 marital and family therapist, clinical social worker, master social
287 worker, alcohol and drug counselor, professional counselor, dietitian-
288 nutritionist, speech and language pathologist, respiratory care
289 practitioner, audiologist, pharmacist, paramedic, nurse-midwife,
290 dentist, behavior analyst, genetic counselor, music therapist, art
291 therapist or athletic trainer, in another state or territory of the United
292 States or the District of Columbia, that provides telehealth services
293 pursuant to his or her authority under any relevant order issued by the
294 Commissioner of Public Health and maintains professional liability
295 insurance or other indemnity against liability for professional
296 malpractice in an amount that is not less than the amount required for
297 similarly licensed, certified or registered Connecticut health care
298 providers.

299 (b) Each individual health insurance policy providing coverage of the
300 type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469
301 of the general statutes delivered, issued for delivery, renewed, amended
302 or continued in this state shall provide coverage for medical advice,
303 diagnosis, care or treatment provided to an insured through telehealth
304 [.] to the same extent coverage is provided for such advice, diagnosis,
305 care or treatment when provided [through] to an insured in-person.
306 [consultation between the insured and a health care provider. Such
307 coverage shall be subject to the same terms and conditions applicable to

308 all other benefits under such policy.] No such policy shall exclude
309 coverage for any medical advice, diagnosis, care or treatment that is
310 appropriately provided through telehealth because such advice,
311 diagnosis, care or treatment is provided to an insured through telehealth
312 or a telehealth platform selected by an in-network telehealth provider.

313 [(c) No such policy shall: (1) Exclude a service for coverage solely
314 because such service is provided only through telehealth and not
315 through in-person consultation between the insured and a health care
316 provider, provided telehealth is appropriate for the provision of such
317 service; or (2) be required to reimburse a treating or consulting health
318 care provider for the technical fees or technical costs for the provision of
319 telehealth services.]

320 (c) Notwithstanding any provision of the general statutes, no
321 telehealth provider who receives reimbursement for any covered
322 medical advice, diagnosis, care or treatment that such telehealth
323 provider provided to an insured through telehealth in accordance with
324 subsection (b) of this section shall seek any payment for such advice,
325 diagnosis, care or treatment from the insured, except for any
326 coinsurance, copayment, deductible or other out-of-pocket expense set
327 forth in the insured's policy. Such amount shall be deemed by the
328 telehealth provider to be payment in full.

329 (d) Nothing in this section shall prohibit or limit a health insurer,
330 health care center, hospital service corporation, medical service
331 corporation or other entity from conducting utilization review for
332 telehealth services, provided such utilization review is conducted in the
333 same manner and uses the same clinical review criteria as a utilization
334 review for an in-person consultation for the same service. Except as
335 provided in subsection (b) or (c) of this section, the coverage required
336 under subsection (b) of this section shall be subject to the same terms
337 and conditions applicable to all other benefits under the policy
338 providing such coverage.

339 Sec. 3. Section 38a-526a of the general statutes is repealed and the
340 following is substituted in lieu thereof (*Effective from passage*):

341 (a) [As used in this section, "telehealth" has the same meaning as
342 provided in section 19a-906.] For the purposes of this section:

343 (1) "Asynchronous" has the same meaning as provided in section 19a-
344 906, as amended by this act.

345 (2) "Originating site" has the same meaning as provided in section
346 19a-906, as amended by this act.

347 (3) "Remote patient monitoring" has the same meaning as provided
348 in section 19a-906, as amended by this act.

349 (4) "Store and forward transfer" has the same meaning as provided in
350 section 19a-906, as amended by this act.

351 (5) "Synchronous" has the same meaning as provided in section 19a-
352 906, as amended by this act.

353 (6) (A) "Telehealth" means the mode of delivering health care or other
354 health services via information and communication technologies to
355 facilitate the diagnosis, consultation and treatment, education, care
356 management and self-management of an insured's physical, oral and
357 mental health, and includes interaction between the insured at the
358 originating site and the telehealth provider at a distant site, synchronous
359 interactions, asynchronous store and forward transfers or remote
360 patient monitoring.

361 (B) "Telehealth" does not mean interaction through (i) facsimile,
362 texting or electronic mail, or (ii) audio-only telephone if the telehealth
363 provider is out-of-network.

364 (7) "Telehealth provider" means any person who (A) provides health
365 care or other health services through the use of telehealth within such
366 person's scope of practice and in accordance with the standard of care
367 applicable to such person's profession, and (B) is (i) a physician or
368 physician assistant licensed under chapter 370, physical therapist or
369 physical therapist assistant licensed under chapter 376, chiropractor
370 licensed under chapter 372, naturopath licensed under chapter 373,

371 podiatrist licensed under chapter 375, occupational therapist or
372 occupational therapy assistant licensed under chapter 376a, optometrist
373 licensed under chapter 380, registered nurse or advanced practice
374 registered nurse licensed under chapter 378, psychologist licensed
375 under chapter 383, marital and family therapist licensed under chapter
376 383a, clinical social worker or master social worker licensed under
377 chapter 383b, alcohol and drug counselor licensed under chapter 376b,
378 professional counselor licensed under chapter 383c, dietitian-
379 nutritionist certified under chapter 384b, speech and language
380 pathologist licensed under chapter 399, respiratory care practitioner
381 licensed under chapter 381a, audiologist licensed under chapter 397a,
382 pharmacist licensed under chapter 400j, paramedic licensed pursuant to
383 chapter 384d, nurse-midwife licensed under chapter 377, dentist
384 licensed under chapter 379, behavior analyst licensed under chapter
385 382a, genetic counselor licensed under chapter 383d, music therapist
386 certified in the manner described in chapter 383f, art therapist certified
387 in the manner described in chapter 383g or athletic trainer licensed
388 under chapter 375a, or (ii) an in-network and appropriately licensed,
389 certified or registered physician, physician assistant, physical therapist,
390 physical therapist assistant, chiropractor, naturopath, podiatrist,
391 occupational therapist, occupational therapy assistant, optometrist,
392 registered nurse, advanced practice registered nurse, psychologist,
393 marital and family therapist, clinical social worker, master social
394 worker, alcohol and drug counselor, professional counselor, dietitian-
395 nutritionist, speech and language pathologist, respiratory care
396 practitioner, audiologist, pharmacist, paramedic, nurse-midwife,
397 dentist, behavior analyst, genetic counselor, music therapist, art
398 therapist or athletic trainer, in another state or territory of the United
399 States or the District of Columbia, that provides telehealth services
400 pursuant to his or her authority under any relevant order issued by the
401 Commissioner of Public Health and maintains professional liability
402 insurance or other indemnity against liability for professional
403 malpractice in an amount that is not less than the amount required for
404 similarly licensed, certified or registered Connecticut health care
405 providers.

406 (b) Each group health insurance policy providing coverage of the
407 type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469
408 of the general statutes delivered, issued for delivery, renewed, amended
409 or continued in this state shall provide coverage for medical advice,
410 diagnosis, care or treatment provided to an insured through telehealth
411 [] to the same extent coverage is provided for such advice, diagnosis,
412 care or treatment when provided [through] to an insured in-person.
413 [consultation between the insured and a health care provider. Such
414 coverage shall be subject to the same terms and conditions applicable to
415 all other benefits under such policy.] No such policy shall exclude
416 coverage for any medical advice, diagnosis, care or treatment that is
417 appropriately provided through telehealth because such advice,
418 diagnosis, care or treatment is provided to an insured through telehealth
419 or a telehealth platform selected by an in-network telehealth provider.

420 [(c) No such policy shall: (1) Exclude a service for coverage solely
421 because such service is provided only through telehealth and not
422 through in-person consultation between the insured and a health care
423 provider, provided telehealth is appropriate for the provision of such
424 service; or (2) be required to reimburse a treating or consulting health
425 care provider for the technical fees or technical costs for the provision of
426 telehealth services.]

427 (c) Notwithstanding any provision of the general statutes, no
428 telehealth provider who receives reimbursement for any covered
429 medical advice, diagnosis, care or treatment that such telehealth
430 provider provided to an insured through telehealth in accordance with
431 subsection (b) of this section shall seek any payment for such advice,
432 diagnosis, care or treatment from the insured, except for any
433 coinsurance, copayment, deductible or other out-of-pocket expense set
434 forth in the insured's policy. Such amount shall be deemed by the
435 telehealth provider to be payment in full.

436 (d) Nothing in this section shall prohibit or limit a health insurer,
437 health care center, hospital service corporation, medical service
438 corporation or other entity from conducting utilization review for

439 telehealth services, provided such utilization review is conducted in the
440 same manner and uses the same clinical review criteria as a utilization
441 review for an in-person consultation for the same service. Except as
442 provided in subsection (b) or (c) of this section, the coverage required
443 under subsection (b) of this section shall be subject to the same terms
444 and conditions applicable to all other benefits under the policy
445 providing such coverage.

446 Sec. 4. Section 38a-1 of the general statutes is repealed and the
447 following is substituted in lieu thereof (*Effective from passage*):

448 Terms used in this title and section 5 of this act, unless it appears from
449 the context to the contrary, shall have a scope and meaning as set forth
450 in this section.

451 (1) "Affiliate" or "affiliated" means a person that directly, or indirectly
452 through one or more intermediaries, controls, is controlled by or is
453 under common control with another person.

454 (2) "Alien insurer" means any insurer that has been chartered by or
455 organized or constituted within or under the laws of any jurisdiction or
456 country without the United States.

457 (3) "Annuities" means all agreements to make periodical payments
458 where the making or continuance of all or some of the series of the
459 payments, or the amount of the payment, is dependent upon the
460 continuance of human life or is for a specified term of years. This
461 definition does not apply to payments made under a policy of life
462 insurance.

463 (4) "Commissioner" means the Insurance Commissioner.

464 (5) "Control", "controlled by" or "under common control with" means
465 the possession, direct or indirect, of the power to direct or cause the
466 direction of the management and policies of a person, whether through
467 the ownership of voting securities, by contract other than a commercial
468 contract for goods or nonmanagement services, or otherwise, unless the
469 power is the result of an official position with the person.

470 (6) "Domestic insurer" means any insurer that has been chartered by,
471 incorporated, organized or constituted within or under the laws of this
472 state.

473 (7) "Domestic surplus lines insurer" means any domestic insurer that
474 has been authorized by the commissioner to write surplus lines
475 insurance.

476 (8) "Foreign country" means any jurisdiction not in any state, district
477 or territory of the United States.

478 (9) "Foreign insurer" means any insurer that has been chartered by or
479 organized or constituted within or under the laws of another state or a
480 territory of the United States.

481 (10) "Insolvency" or "insolvent" means, for any insurer, that it is
482 unable to pay its obligations when they are due, or when its admitted
483 assets do not exceed its liabilities plus the greater of: (A) Capital and
484 surplus required by law for its organization and continued operation;
485 or (B) the total par or stated value of its authorized and issued capital
486 stock. For purposes of this subdivision "liabilities" shall include but not
487 be limited to reserves required by statute or by regulations adopted by
488 the commissioner in accordance with the provisions of chapter 54 or
489 specific requirements imposed by the commissioner upon a subject
490 company at the time of admission or subsequent thereto.

491 (11) "Insurance" means any agreement to pay a sum of money,
492 provide services or any other thing of value on the happening of a
493 particular event or contingency or to provide indemnity for loss in
494 respect to a specified subject by specified perils in return for a
495 consideration. In any contract of insurance, an insured shall have an
496 interest which is subject to a risk of loss through destruction or
497 impairment of that interest, which risk is assumed by the insurer and
498 such assumption shall be part of a general scheme to distribute losses
499 among a large group of persons bearing similar risks in return for a
500 ratable contribution or other consideration.

501 (12) "Insurer" or "insurance company" includes any person or
502 combination of persons doing any kind or form of insurance business
503 other than a fraternal benefit society, and shall include a receiver of any
504 insurer when the context reasonably permits.

505 (13) "Insured" means a person to whom or for whose benefit an
506 insurer makes a promise in an insurance policy. The term includes
507 policyholders, subscribers, members and beneficiaries. This definition
508 applies only to the provisions of this title and does not define the
509 meaning of this word as used in insurance policies or certificates.

510 (14) "Life insurance" means insurance on human lives and insurances
511 pertaining to or connected with human life. The business of life
512 insurance includes granting endowment benefits, granting additional
513 benefits in the event of death by accident or accidental means, granting
514 additional benefits in the event of the total and permanent disability of
515 the insured, and providing optional methods of settlement of proceeds.
516 Life insurance includes burial contracts to the extent provided by
517 section 38a-464.

518 (15) "Mutual insurer" means any insurer without capital stock, the
519 managing directors or officers of which are elected by its members.

520 (16) "Person" means an individual, a corporation, a partnership, a
521 limited liability company, an association, a joint stock company, a
522 business trust, an unincorporated organization or other legal entity.

523 (17) "Policy" means any document, including attached endorsements
524 and riders, purporting to be an enforceable contract, which
525 memorializes in writing some or all of the terms of an insurance
526 contract.

527 (18) "State" means any state, district, or territory of the United States.

528 (19) "Subsidiary" of a specified person means an affiliate controlled
529 by the person directly, or indirectly through one or more intermediaries.

530 (20) "Unauthorized insurer" or "nonadmitted insurer" means an

531 insurer that has not been granted a certificate of authority by the
532 commissioner to transact the business of insurance in this state or an
533 insurer transacting business not authorized by a valid certificate.

534 (21) "United States" means the United States of America, its territories
535 and possessions, the Commonwealth of Puerto Rico and the District of
536 Columbia.

537 Sec. 5. (NEW) (*Effective from passage*) (a) For the purposes of this
538 section:

539 (1) "Health carrier" has the same meaning as provided in section 38a-
540 1080 of the general statutes;

541 (2) "Telehealth" has the same meaning as provided in section 38a-499a
542 of the general statutes, as amended by this act, and section 38a-526a of
543 the general statutes, as amended by this act; and

544 (3) "Telehealth provider" has the same meaning as provided in
545 section 38a-499a of the general statutes, as amended by this act, and
546 section 38a-526a of the general statutes, as amended by this act.

547 (b) Notwithstanding any provision of the general statutes, no health
548 carrier shall reduce the amount of a reimbursement paid to a telehealth
549 provider for covered health care or health services that the telehealth
550 provider appropriately provided to an insured through telehealth
551 because the telehealth provider provided such health care or health
552 services to the insured through telehealth and not in person.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	19a-906
Sec. 2	<i>from passage</i>	38a-499a
Sec. 3	<i>from passage</i>	38a-526a
Sec. 4	<i>from passage</i>	38a-1
Sec. 5	<i>from passage</i>	New section

INS *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
UConn Health Ctr.	Other Fund - Revenue Gain	See Below	See Below

Municipal Impact:

Municipalities	Effect	FY 22 \$	FY 23 \$
Various Municipalities	STATE MANDATE ¹ - Potential	See Below	See Below

Explanation

The bill codifies temporarily established provisions related to the availability of telehealth services, including the requirement that health insurance policies maintain coverage for services provided via telehealth to the same extent services are covered when provided in-person. The bill also prohibits reduced reimbursement levels for services provided via telehealth, and not in person.

The bill results in additional patient care revenues to UConn Health Center. This revenue gain occurs to the extent that: (1) patients who would otherwise forego in-person care instead choose to use telehealth services, (2) the bill provides more favorable telehealth reimbursement

¹ State mandate is defined in Sec. 2-32b(2) of the Connecticut General Statutes, "state mandate" means any state initiated constitutional, statutory or executive action that requires a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

terms for providers than exist in current contracts between UConn Health and health carriers, and (3) patients seek out more health care due to the relative ease of telehealth, for some. UConn Health has experienced a substantial increase in telehealth usage and revenues beginning in March 2020, with revenues for FY 21 to date (\$1.8 million) equal to 1,212 times the total telehealth revenues for the calendar year 2019 (\$1,500).

The bill could also preclude future savings to fully-insured municipalities to the extent their plans' coverage would otherwise differ from the coverage required by the bill. The impact would be reflected in premium costs when policies are renewed in FY 22.

Pursuant to federal law self-insured plans are exempt from state health mandates.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**SB 1022*****AN ACT CONCERNING TELEHEALTH.*****SUMMARY**

This bill modifies requirements for the delivery of telehealth services and insurance coverage of these services, codifying provisions temporarily enacted by PA 20-2, July Special Session. Among other things, it:

1. expands the types of health providers authorized to provide telehealth services;
2. allows certain telehealth providers to provide services using audio-only telephone, which current law prohibits;
3. allows certain telehealth providers to use additional information and communication technologies in accordance with federal requirements (e.g., certain third-party video communication applications);
4. authorizes the Department of Public Health (DPH) commissioner to temporarily modify, waive, or suspend certain regulatory requirements to reduce the spread of COVID-19 and protect the public health;
5. establishes requirements for telehealth providers seeking payment from uninsured and underinsured patients;
6. requires insurance coverage for telehealth services and prohibits providers reimbursed for services from seeking payment from an insured patient beyond cost sharing; and
7. prohibits (a) insurance policies from excluding coverage for a

telehealth platform selected by an in-network provider and (b) carriers from reducing reimbursement to a provider because services are provided through telehealth instead of in-person.

The bill also makes minor, technical, and conforming changes related to, among other things, patient consent for telehealth services.

EFFECTIVE DATE: Upon passage

§ 1 — TELEHEALTH

Telehealth Providers

The bill modifies the definition of “telehealth provider” to include providers who are (1) in-network providers for fully insured health plans or (2) Connecticut Medical Assistance Program (“CMAP,” i.e., Medicaid and HUSKY B) providers providing care or services to established CMAP patients, including:

1. telehealth providers authorized under current law (see BACKGROUND);
2. certified, licensed, or registered art therapists, athletic trainers, behavior analysts, dentists, genetic counselors, music therapists, nurse mid-wives, and occupational or physical therapist assistants; and
3. any of the above listed providers who (a) are appropriately licensed, certified, or registered in another U.S. state or territory, or the District of Columbia; (b) are authorized to practice telehealth under a relevant order issued by the DPH commissioner; and (c) maintain professional liability insurance or other indemnity against professional malpractice liability in an amount at least equal to that required for Connecticut health providers.

(The bill does not appear to address the provision of telehealth services by in-network providers in self-insured health plans.)

The bill also requires any Connecticut entity, institution, or provider

who engages or contracts with an out-of-state telehealth provider to:

1. verify the provider's credentials to ensure he or she is certified, licensed, or registered in good standing in his or her home jurisdiction and
2. confirm that the provider maintains professional liability insurance or other indemnity against professional malpractice liability in an amount at least equal to that required for Connecticut health providers.

Audio-Only Telephone

Unlike current law, the bill allows in-network and CMAP telehealth providers to provide telehealth services via audio-only telephone.

Under the bill and existing law, "telehealth" excludes fax, texting, and email. It includes:

1. interaction between a patient at an originating site and the telehealth provider at a distant site and
2. synchronous (real-time) interactions, asynchronous store and forward transfers (transmitting medical information from the patient to the telehealth provider for review later on), or remote patient monitoring.

Service Delivery

Under existing law, a telehealth provider can provide services to a patient only when he or she meets certain requirements, such as (1) having access to, or knowledge of, the patient's medical history and health record and (2) conforming to his or her professional standard of care for in-person care appropriate for the patient's age and presenting condition.

The bill requires the provider to also determine if the (1) patient has health coverage that is fully insured, not fully insured, or provided through CMAP and (2) coverage includes telehealth services.

Additionally, the bill allows telehealth providers to provide telehealth services from any location.

Additional Communication Technologies

The bill modifies the requirement that telehealth services and health records comply with the federal Health Insurance Portability and Accountability Act (HIPAA) by allowing telehealth providers to use additional information and communication technologies in accordance with HIPAA requirements for remote communication as directed by the federal Department of Health and Human Services' Office of Civil Rights (e.g., certain third-party video communication applications, such as Apple FaceTime, Skype, or Facebook Messenger).

Payment for Uninsured and Underinsured Patients

The bill requires a telehealth provider to accept the following as payment in full for services:

1. for patients who do not have health insurance coverage for telehealth, an amount equal to the Medicare reimbursement rate for telehealth services or
2. for patients with health insurance coverage, the amount the carrier reimburses for telehealth services and any cost sharing (e.g., copay, coinsurance, deductible) or other out-of-pocket expense the health plan imposes.

Under the bill, a telehealth provider who determines that a patient cannot pay for telehealth services must offer the patient financial assistance to the extent required by federal or state law.

DPH Regulatory Requirements

Notwithstanding existing law on regulatory action, the bill authorizes the DPH commissioner to waive, modify, or suspend regulatory requirements adopted by DPH or state licensing boards and commissions regarding health care professions, health care facilities, emergency medical services, and other specified topics. She may take these actions to provide residents with telehealth services from out-of-

state providers, as she deems necessary to reduce the spread of COVID-19 and protect the public health.

§§ 2-5 — INSURANCE COVERAGE FOR TELEHEALTH SERVICES

Coverage Required

Current law generally establishes requirements and restrictions for health insurance coverage of telehealth services. The bill replaces these requirements with similar, but more expansive requirements.

As with current law, the bill requires certain commercial health insurance policies to cover medical advice, diagnosis, care, or treatment provided through telehealth to the extent that they cover those services when provided in person. It generally subjects telehealth coverage to the same terms and conditions that apply to other benefits under the policy.

Under the bill and existing law, insurers, HMOs, and related entities may conduct utilization review for telehealth services in the same manner they conduct it for in-person services, including using the same clinical review criteria.

Prohibitions

Under the bill and existing law, health insurance policies cannot exclude coverage solely because a service is provided through telehealth, as long as telehealth is appropriate. The bill further prohibits policies from excluding coverage through a telehealth platform that a telehealth provider selects.

The bill also prohibits a telehealth provider who is reimbursed for providing a telehealth service from seeking payment from the insured patient, except for cost sharing (e.g., copay, coinsurance, deductible). The provider must accept the amount as payment in full.

Lastly, the bill prohibits health carriers (e.g., insurers and HMOs) from reducing the reimbursement amount they pay to telehealth providers for covered services appropriately provided through telehealth instead of in person.

Applicability

The bill applies to individual and group health insurance policies that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including those provided under an HMO plan. (Because of the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.)

BACKGROUND**Authorized Telehealth Providers**

Current law allows the following licensed health care providers to provide health care services using telehealth: advanced practice registered nurses, alcohol and drug counselors, audiologists, certified dietician-nutritionists, chiropractors, clinical and master social workers, marital and family therapists, naturopaths, occupational or physical therapists, optometrists, paramedics, pharmacists, physicians, physician assistants, podiatrists, professional counselors, psychologists, registered nurses, respiratory care practitioners, and speech and language pathologists. By law, authorized telehealth providers must provide telehealth services within their profession's scope of practice and standard of care.

Related Bill

sHB 6470, favorably reported by the Human Services Committee, removes the prohibition on audio-only telehealth services and adds licensed nurse-midwives and behavior analysts to the list of authorized telehealth providers.

COMMITTEE ACTION

Insurance and Real Estate Committee

Joint Favorable

Yea 18 Nay 0 (03/22/2021)