

New Legislation Expands the Scope of Telemedicine in New Jersey

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In July of 2017, Governor Christie signed legislation that will expand the scope of telemedicine practice in New Jersey.^[1] Some of the highlights of the legislation include the following:

- The law provides that unless specifically prohibited or limited by federal or state law, a health care provider who establishes a proper provider-patient relationship may remotely provide health care services to a patient through the use of telemedicine and may also engage in telehealth as may be necessary to support or facilitate the provision of health care services.
- The term “telemedicine” is defined as the delivery of a health care service using electronic communications, information technology, or other electronic or technological means to bridge the gap between a health care provider who is located at a distant site and a patient that is located at an originating site, either with or without the assistance of an intervening health care provider.
- The term “telemedicine” does not include the use, in isolation, of audio-only telephone conversations, email, instant messaging, phone text or fax transmission.
- The term “telehealth” is defined as the use of information and communications technologies, including phones, remote patient monitoring devices, or other electronic means, to support clinical health care, provider consultation, patient and professional health-related education, public health, health administration and other services.
- The law covers numerous categories of health care providers, an individual who provides health care service including, but is not limited to, physicians, nurses, nurse practitioners, psychologists, psychiatrists, psychoanalysts, clinical social workers, physician assistants, professional counselors, respiratory therapists, speech pathologists, audiologists, optometrists, or any other health care professional acting within the scope of a valid license or certification pursuant to Title 45 of the Revised Statutes.
- Health care providers who use telemedicine or engage in telehealth must be: (1) validly licensed, certified or registered to practice in the State of New Jersey; (2) remain subject to regulation by the appropriate New Jersey state licensing board or other New Jersey professional regulatory entity; (3) act in compliance with existing requirements regarding the maintenance of liability insurance for their practice area; and (4) remain subject to New Jersey jurisdiction if either the patient or the provider is located in New Jersey at the time that the services are provided.
- Health care providers engaging in telemedicine and telehealth may use asynchronous store-and-forward technology to allow for the electronic transmission of images, diagnostics, data and medical information. Health care providers may use interactive real-time two-way audio in combination with asynchronous store-and-forward technology, without video capabilities, if, after accessing and reviewing the patient’s medical records, the provider determines that they are able to meet the same standard of care as if the health care services were being provided in person.
- The term “asynchronous store-and-forward” means the acquisition and transmission of images,



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diagnostics, data, and medical information either to, or from, an originating site or to, or from the healthcare provider at a distant site which allows the patient to be evaluated without being physically present.

- Any health care provider who provides health care services using telemedicine or telehealth will be held to the same standard of care or practice standards applicable to in-person settings. Persons should be directed to seek in-person care if telemedicine or telehealth services would not be consistent with the standard of care.
- The legislation directs each of the state professional boards to (as well as other entities that regulate health care providers) to adopt rules and regulations that are necessary to implement the provisions of the telemedicine law and facilitate the provision of telemedicine and telehealth services.
- The regulations referenced above are required to include best practices for professional engagement in telemedicine and telehealth. In addition, they must ensure that the services patients receive using telemedicine or telehealth are appropriate, medically necessary and meet current quality of care standards and include measures to prevent fraud and abuse. The regulations also must provide substantially similar metrics for evaluating quality of care and patient outcomes in connection with telemedicine and telehealth services as currently applied to services provided in person.
- The legislation also provides that “in no case shall the rules and regulations adopted by the professional boards or other licensing entities require a provider to conduct an initial in-person visit with the patient as a condition of providing services using telemedicine or telehealth.” This was one of the prior impediments to practitioners utilizing telemedicine services, as an in-person visit was previously required in many instances.
- In addition, the statute expressly provides that the failure of any licensing board to adopt rules and regulations regarding telemedicine and telehealth will not delay the implementation of the telemedicine statute, and cannot prevent health care providers engaging in telemedicine or telehealth in accordance with the law and the practice act applicable to the provider’s professional licensure, certification and registration. The legislation also includes standards for the establishment of a proper provider- patient relationship, as well as cross-coverage obligations.
- Telemedicine or telehealth organizations operating in the state are required to annually register with the Department of Health and meet certain reporting requirements.
- The legislation also establishes the Telemedicine and Telehealth Review Commission in the Department of Health.
- Finally, the legislation requires coverage of telemedicine and telehealth services by third party payors (including government payors).

[1] N.J.S.A. 45:1-61-66 (general); N.J.S.A. 30:4D-6k (Medicaid/NJ Fam Care coverage); N.J.S.A. 26:2S-29 (private coverage); N.J.S.A. 52:14-17.29 (SHBP coverage); N.J.S.A. 52:14-17.46.6h (SEHBP/SHBP coverage).

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