

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 400

FINAL READING

Introduced by Arch, 14.

Read first time January 14, 2021

Committee: Health and Human Services

- 1 A BILL FOR AN ACT relating to telehealth; to amend sections 71-8503 and
- 2 71-8505, Reissue Revised Statutes of Nebraska, and sections 44-312
- 3 and 44-7,107, Revised Statutes Cumulative Supplement, 2020; to
- 4 redefine a term; to change requirements for insurers and telehealth
- 5 consultations under the medical assistance program; and to repeal
- 6 the original sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-312, Revised Statutes Cumulative Supplement,
2 2020, is amended to read:

3 44-312 (1) For purposes of this section:

4 (a)(i) ~~(a)~~ Telehealth means the use of medical information
5 electronically exchanged from one site to another, whether synchronously
6 or asynchronously, to aid a health care provider in the diagnosis or
7 treatment of a patient.

8 (ii) Telehealth includes (A) services originating from a patient's
9 home or any other location where such patient is located, (B)
10 asynchronous services involving the acquisition and storage of medical
11 information at one site that is then forwarded to or retrieved by a
12 health care provider at another site for medical evaluation, and (C)
13 telemonitoring. ~~;~~ ~~and~~

14 (iii) Telehealth also includes audio-only services for the delivery
15 of individual behavioral health services for an established patient, when
16 appropriate, or crisis management and intervention for an established
17 patient as allowed by federal law; and

18 (b) Telemonitoring means the remote monitoring of a patient's vital
19 signs, biometric data, or subjective data by a monitoring device which
20 transmits such data electronically to a health care provider for analysis
21 and storage.

22 (2) Any insurer offering (a) any individual or group sickness and
23 accident insurance policy, certificate, or subscriber contract delivered,
24 issued for delivery, or renewed in this state, (b) any hospital, medical,
25 or surgical expense-incurred policy, except for policies that provide
26 coverage for a specified disease or other limited-benefit coverage, or
27 (c) any self-funded employee benefit plan to the extent not preempted by
28 federal law, shall provide upon request to a policyholder, certificate
29 holder, or health care provider a description of the telehealth and
30 telemonitoring services covered under the relevant policy, certificate,
31 contract, or plan.

1 (3) The description shall include:

2 (a) A description of services included in telehealth and
3 telemonitoring coverage, including, but not limited to, any coverage for
4 transmission costs;

5 (b) Exclusions or limitations for telehealth and telemonitoring
6 coverage, including, but not limited to, any limitation on coverage for
7 transmission costs; and

8 (c) Requirements for the licensing status of health care providers
9 providing telehealth and telemonitoring services. ~~;~~ and

10 ~~(d) Requirements for demonstrating compliance with the signed~~
11 ~~written statement requirement in section 71-8505.~~

12 Sec. 2. Section 44-7,107, Revised Statutes Cumulative Supplement,
13 2020, is amended to read:

14 44-7,107 (1) For purposes of this section:

15 (a) Asynchronous review means the acquisition and storage of medical
16 information at one site that is then forwarded to or retrieved by a
17 health care provider at another site for medical evaluation;

18 (b) Dermatologist means a board-certified physician who is trained
19 to evaluate and treat individuals with benign and malignant disorders of
20 the skin, hair, nails, and adjacent mucous membranes with a
21 specialization in the diagnosis and treatment of skin cancers, melanomas,
22 moles, and other tumors of the skin along with surgical techniques used
23 in dermatology and interpretation of skin biopsies; and

24 (c) Telehealth has the same meaning as in section 44-312.

25 (2) Any insurer offering (a) any individual or group sickness and
26 accident insurance policy, certificate, or subscriber contract delivered,
27 issued for delivery, or renewed in this state, (b) any hospital, medical,
28 or surgical expense-incurred policy, or (c) any self-funded employee
29 benefit plan to the extent not preempted by federal law, shall not
30 exclude, in any policy, certificate, contract, or plan offered or renewed
31 on or after August 24, 2017, a service from coverage solely because the

1 service is delivered through telehealth, including services originating
2 from any location where the patient is located, and is not provided
3 through in-person consultation or contact between a licensed health care
4 provider and a patient.

5 (3)(a) Any insurer offering any policy, certificate, contract, or
6 plan described in subsection (2) of this section for which coverage of
7 benefits begins on or after January 1, 2021, shall not exclude from
8 coverage telehealth services provided by a dermatologist solely because
9 the service is delivered asynchronously.

10 (b) An insurer shall reimburse a health care provider for
11 asynchronous review by a dermatologist delivered through telehealth at a
12 rate negotiated between the provider and the insurer.

13 (c) It is not a violation of this subsection for an insurer to
14 include a deductible, copayment, or coinsurance requirement for a health
15 care service provided through telehealth if such costs do not exceed
16 those included for the same services provided through in-person contact.

17 (4) Nothing in this section shall be construed to require an insurer
18 to provide coverage for services that are not medically necessary.

19 (5) This section does not apply to any policy, certificate,
20 contract, or plan that provides coverage for a specified disease or other
21 limited-benefit coverage.

22 Sec. 3. Section 71-8503, Reissue Revised Statutes of Nebraska, is
23 amended to read:

24 71-8503 For purposes of the Nebraska Telehealth Act:

25 (1) Department means the Department of Health and Human Services;

26 (2) Health care practitioner means a Nebraska medicaid-enrolled
27 provider who is licensed, registered, or certified to practice in this
28 state by the department;

29 (3)(a) ~~(3)~~ Telehealth means the use of medical information
30 electronically exchanged from one site to another, whether synchronously
31 or asynchronously, to aid a health care practitioner in the diagnosis or

1 treatment of a patient.

2 (b) Telehealth includes (i) services originating from a patient's
3 home or any other location where such patient is located, (ii)
4 asynchronous services involving the acquisition and storage of medical
5 information at one site that is then forwarded to or retrieved by a
6 health care practitioner at another site for medical evaluation, and
7 (iii) telemonitoring. ÷

8 (c) Telehealth also includes audio-only services for the delivery of
9 individual behavioral health services for an established patient, when
10 appropriate, or crisis management and intervention for an established
11 patient as allowed by federal law;

12 (4) Telehealth consultation means any contact between a patient and
13 a health care practitioner relating to the health care diagnosis or
14 treatment of such patient through telehealth; and

15 (5) Telemonitoring means the remote monitoring of a patient's vital
16 signs, biometric data, or subjective data by a monitoring device which
17 transmits such data electronically to a health care practitioner for
18 analysis and storage.

19 Sec. 4. Section 71-8505, Reissue Revised Statutes of Nebraska, is
20 amended to read:

21 71-8505 (1) Prior to an initial telehealth consultation under
22 section 71-8506, a health care practitioner who delivers a health care
23 service to a patient through telehealth shall ensure that the following
24 written information is provided to the patient:

25 (a) A statement that the patient retains the option to refuse the
26 telehealth consultation at any time without affecting the patient's right
27 to future care or treatment and without risking the loss or withdrawal of
28 any program benefits to which the patient would otherwise be entitled;

29 (b) A statement that all existing confidentiality protections shall
30 apply to the telehealth consultation;

31 (c) A statement that the patient shall have access to all medical

1 information resulting from the telehealth consultation as provided by law
2 for patient access to his or her medical records; and

3 (d) A statement that dissemination of any patient identifiable
4 images or information from the telehealth consultation to researchers or
5 other entities shall not occur without the written consent of the
6 patient.

7 (2) The patient shall sign a ~~written~~ statement prior to or during an
8 initial telehealth consultation, or give verbal consent during the
9 telehealth consultation, indicating that the patient understands the
10 written information provided pursuant to subsection (1) of this section
11 and that this information has been discussed with the health care
12 practitioner or the practitioner's his or her designee. ~~The Such~~ signed
13 statement may be collected by paper or electronic signature and shall
14 become a part of the patient's medical record. If the patient gives
15 verbal consent during the initial telehealth consultation, the signed
16 statement shall be collected within ten days after such telehealth
17 consultation.

18 (3) If the patient is a minor or is incapacitated or mentally
19 incompetent such that he or she is unable to sign the ~~written~~ statement
20 or give verbal consent as required by subsection (2) of this section,
21 such statement shall be signed, or such verbal consent given, by the
22 patient's legally authorized representative.

23 (4) This section shall not apply in an emergency situation in which
24 the patient is unable to sign the ~~written~~ statement or give verbal
25 consent as required by subsection (2) of this section and the patient's
26 legally authorized representative is unavailable.

27 Sec. 5. Original sections 71-8503 and 71-8505, Reissue Revised
28 Statutes of Nebraska, and sections 44-312 and 44-7,107, Revised Statutes
29 Cumulative Supplement, 2020, are repealed.