

[Third Reprint]

SENATE, No. 2559

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED JUNE 8, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

Senator NIA H. GILL

District 34 (Essex and Passaic)

Co-Sponsored by:

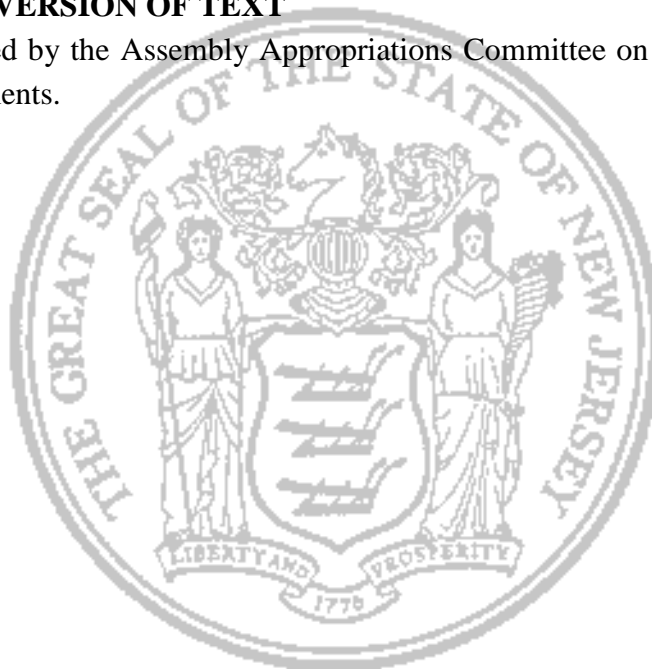
**Senators Corrado, Diegnan, Brown, T.Kean, Singer, Turner, O'Scanlon,
Addiego, Greenstein and Lagana**

SYNOPSIS

Revises requirements for health insurance providers and Medicaid to cover services provided using telemedicine and telehealth; appropriates \$5 million.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on June 16, 2021, with amendments.



(Sponsorship Updated As Of: 3/25/2021)

1 AN ACT concerning telemedicine and telehealth ¹**[and]** ¹ amending
 2 P.L.2017, c.117 ³, repealing P.L.2020, c.3 and P.L.2020, c.7^{3 1},
 3 and making an appropriation¹ .
 4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
 6 of New Jersey:
 7

8 1. Section 8 of P.L.2017, c.117 (C.26:2S-29) is amended to
 9 read as follows:

10 8. a. ³(1)³ A carrier that offers a health benefits plan in this
 11 State shall provide coverage and payment for ²**[¹all forms of]²**
 12 physical and behavioral¹ health care services delivered to a covered
 13 person through telemedicine or telehealth, on the same basis as, and
 14 at a provider reimbursement rate that **[does not exceed]** equals the
 15 provider reimbursement rate that is applicable, when the services
 16 are delivered through in-person contact and consultation in New
 17 Jersey², provided the services are otherwise covered under the plan
 18 when delivered through in-person contact and consultation in New
 19 Jersey² . Reimbursement payments under this section may be
 20 provided either to the individual practitioner who delivered the
 21 reimbursable services, or to the agency, facility, or organization that
 22 employs the individual practitioner who delivered the reimbursable
 23 services, as appropriate ³**[²**; provided that, if a telemedicine or
 24 telehealth organization does not provide a given service on an in-
 25 person basis in New Jersey, the telemedicine or telehealth
 26 organization shall not be subject to this requirement²] .

27 (2) The requirements of paragraph (1) of this subsection shall
 28 not apply to:

29 (a) a health care service provided by a telemedicine or telehealth
 30 organization that does not provide the health care service on an in-
 31 person basis in New Jersey; or

32 (b) a physical health care service provided using telemedicine or
 33 telehealth utilizing real-time, two way audio without a video
 34 component, whether or not utilized in combination with
 35 asynchronous store-and-forward technology, the reimbursement rate
 36 for which physical health care service shall be determined under the
 37 plan when delivered through in-person contact and consultation in
 38 New Jersey.

39 (3) The provisions of subparagraph (b) of paragraph (2) of this
 40 subsection shall not apply to behavioral health services provided
 41 using telemedicine or telehealth utilizing real-time, two way audio
 42 without a video component, whether or not utilized in combination
 43 with asynchronous store-and-forward technology, which behavioral
 44 health care service shall be reimbursed at a rate that equals the

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SHH committee amendments adopted January 14, 2021.

²Senate SBA committee amendments adopted March 22, 2021.

³Assembly AAP committee amendments adopted June 16, 2021.

1 provider reimbursement rate for the service when provided in
2 person³ .

3 b. A carrier may limit coverage to services that are delivered
4 by health care providers in the health benefits plan's network, but
5 may not charge any deductible, copayment, or coinsurance for a
6 health care service, delivered through telemedicine or telehealth, in
7 an amount that exceeds the deductible, copayment, or coinsurance
8 amount that is applicable to an in-person consultation. In no case
9 shall a carrier:

10 (1) impose any restrictions on the location or setting of the
11 distant site used by a health care provider to provide services using
12 telemedicine and telehealth ¹or on the location or setting of the
13 originating site where the patient is located when receiving services
14 using telemedicine and telehealth¹ ; ¹**[or]**¹

15 (2) restrict the ability of a provider to use any electronic or
16 technological platform ²**[**, including interactive, real-time, two-way
17 audio in combination with asynchronous store-and-forward
18 technology without video capabilities, ³**[**that the federal Centers
19 for Medicare and Medicaid Services has authorized for use in
20 connection with the federal Medicare program²³ **]** ³ to provide
21 services using telemedicine or telehealth ³, including, but not
22 limited to, interactive, real-time, two-way audio, which may be used
23 in combination with asynchronous store-and-forward technology
24 without video capabilities, to provide services using telemedicine or
25 telehealth^{3 2}, provided² that ²**[**:

26 (a) ^{2 3}**]** the platform ^{2 3}used :

27 (a)³ allows the provider to meet the same standard of care as
28 would be provided if the services were provided in person ²**[**; and

29 (b) is compliant with the requirements of the federal health
30 privacy rule set forth at 45 CFR Parts 160 and 164^{2 1}; ³**[or]** and

31 (b) is compliant with the requirements of the federal health
32 privacy rule set forth at 45 CFR Parts 160 and 164;³

33 (3) deny coverage for or refuse to provide reimbursement for
34 routine patient monitoring performed using telemedicine and
35 telehealth, including remote monitoring of a patient's vital signs
36 and routine check-ins with the patient to monitor the patient's status
37 and condition, if coverage and reimbursement would be provided if
38 those services are provided in person ³;

39 (4) use telemedicine or telehealth to satisfy network adequacy
40 requirements with regard to a health care service; or

41 (5) limit coverage only to services delivered by select third
42 party telemedicine or telehealth organizations^{3 1} .¹

43 c. Nothing in this section shall be construed to:

44 (1) prohibit a carrier from providing coverage for only those
45 services that are medically necessary, subject to the terms and
46 conditions of the covered person's health benefits plan; or

1 (2) allow a carrier to require a covered person to use
2 telemedicine or telehealth in lieu of receiving an in-person service
3 from an in-network provider ³**[²or]** ;

4 (3)³ allow a carrier to impose more stringent utilization
5 management requirements on the provision of services using
6 telemedicine and telehealth than apply when those services are
7 provided in person^{2 3}; or

8 (4) allow a carrier to impose any other requirements for the use
9 of telemedicine or telehealth to provide a health care service that
10 are more restrictive than the requirements that apply when the
11 service is provided in person³.

12 d. The Commissioner of Banking and Insurance shall adopt
13 rules and regulations, pursuant to the "Administrative Procedure
14 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the
15 provisions of this section.

16 e. As used in this section:

17 "Asynchronous store-and-forward" means the same as that term
18 is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

19 "Carrier" means the same as that term is defined by section 2 of
20 P.L.1997, c.192 (C.26:2S-2).

21 "Covered person" means the same as that term is defined by
22 section 2 of P.L.1997, c.192 (C.26:2S-2).

23 "Distant site" means the same as that term is defined by section 1
24 of P.L.2017, c.117 (C.45:1-61).

25 "Health benefits plan" means the same as that term is defined by
26 section 2 of P.L.1997, c.192 (C.26:2S-2).

27 ¹"Originating site" means the same as that term is defined by
28 section 1 of P.L.2017, c.117 (C.45:1-61).¹

29 "Telehealth" means the same as that term is defined by section 1
30 of P.L.2017, c.117 (C.45:1-61).

31 "Telemedicine" means the same as that term is defined by
32 section 1 of P.L.2017, c.117 (C.45:1-61).

33 ²"Telemedicine or telehealth organization" means the same as
34 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).²
35 (cf: P.L.2017, c.117, s.8)

36
37 2. Section 7 of P.L.2017, c.117 (C.30:4D-6k) is amended to
38 read as follows:

39 7. a. ³(1)³ The State Medicaid and NJ FamilyCare programs
40 shall provide coverage and payment for ²**[¹all forms of]² physical**
41 and behavioral¹ health care services delivered to a benefits recipient
42 through telemedicine or telehealth, on the same basis as, and at a
43 provider reimbursement rate that **[does not exceed]** equals the
44 provider reimbursement rate that is applicable, when the services
45 are delivered through in-person contact and consultation in New
46 Jersey ², provided the services are otherwise covered when
47 delivered through in-person contact and consultation in New

1 Jersey². Reimbursement payments under this section may be
2 provided either to the individual practitioner who delivered the
3 reimbursable services, or to the agency, facility, or organization that
4 employs the individual practitioner who delivered the reimbursable
5 services, as appropriate ³2; provided that, if a telemedicine or
6 telehealth organization does not provide a given service on an in-
7 person basis in New Jersey, the telemedicine or telehealth
8 organization shall not be subject to this requirement² .

9 (2) The requirements of paragraph (1) of this subsection shall
10 not apply to:

11 (a) a health care service provided by a telemedicine or telehealth
12 organization that does not provide the health care service on an in-
13 person basis in New Jersey; or

14 (b) a physical health care service provided using telemedicine or
15 telehealth utilizing real-time, two way audio without a video
16 component, whether or not utilized in combination with
17 asynchronous store-and-forward technology, the reimbursement rate
18 for which physical health care service shall be determined under the
19 plan when delivered through in-person contact and consultation in
20 New Jersey.

21 (3) The provisions of subparagraph (b) of paragraph (2) of this
22 subsection shall not apply to behavioral health services provided
23 using telemedicine or telehealth utilizing real-time, two way audio
24 without a video component, whether or not utilized in combination
25 with asynchronous store-and-forward technology, which behavioral
26 health care service shall be reimbursed at a rate that equals the
27 provider reimbursement rate for the service when provided in
28 person³ .

29 b. The State Medicaid and NJ FamilyCare programs may limit
30 coverage to services that are delivered by participating health care
31 providers, but may not charge any deductible, copayment, or
32 coinsurance for a health care service, delivered through
33 telemedicine or telehealth, in an amount that exceeds the deductible,
34 copayment, or coinsurance amount that is applicable to an in-person
35 consultation. In no case shall the State Medicaid and NJ
36 FamilyCare programs:

37 (1) impose any restrictions on the location or setting of the
38 distant site used by a health care provider to provide services using
39 telemedicine and telehealth¹ or on the location or setting of the
40 originating site where the patient is located when receiving services
41 using telemedicine and telehealth¹ ; ¹or¹

42 (2) restrict the ability of a provider to use any electronic or
43 technological platform ², including interactive, real-time, two-way
44 audio in combination with asynchronous store-and-forward
45 technology without video capabilities. ³[that the federal Centers
46 for Medicare and Medicaid Services has authorized for use in
47 connection with the federal Medicare program²]³ to provide
48 services using telemedicine or telehealth³, including, but not

- 1 limited to, interactive, real-time, two-way audio, which may be used
 2 in combination with asynchronous store-and-forward technology
 3 without video capabilities, to provide services using telemedicine or
 4 telehealth^{3 2}, provided² that² [
 5 (a)] the platform^{2 3} used :
 6 (a)³ allows the provider to meet the same standard of care as
 7 would be provided if the services were provided in person² [; and
 8 (b) is compliant with the requirements of the federal health
 9 privacy rule set forth at 45 CFR Parts 160 and 164]^{2 1}; ³[or] and
 10 (b) is compliant with the requirements of the federal health
 11 privacy rule set forth at 45 CFR Parts 160 and 164;³
 12 (3) deny coverage for or refuse to provide reimbursement for
 13 routine patient monitoring performed using telemedicine and
 14 telehealth, including remote monitoring of a patient's vital signs
 15 and routine check-ins with the patient to monitor the patient's status
 16 and condition, if coverage and reimbursement would be provided if
 17 those services are provided in person^{1 3}; or
 18 (4) limit coverage only to services delivered by select third
 19 party telemedicine or telehealth organizations³ .
 20 c. Nothing in this section shall be construed to:
 21 (1) prohibit the State Medicaid or NJ FamilyCare programs
 22 from providing coverage for only those services that are medically
 23 necessary, subject to the terms and conditions of the recipient's
 24 benefits plan; or
 25 (2) allow the State Medicaid or NJ FamilyCare programs to
 26 require a benefits recipient to use telemedicine or telehealth in lieu
 27 of obtaining an in-person service from a participating health care
 28 provider ³[²or] ;
 29 (3)³ allow the State Medicaid or NJ FamilyCare programs to
 30 impose more stringent utilization management requirements on the
 31 provision of services using telemedicine and telehealth than apply
 32 when those services are provided in person^{2 3}; or
 33 (4) allow the State Medicaid or NJ FamilyCare programs to
 34 impose any other requirements for the use of telemedicine or
 35 telehealth to provide a health care service that are more restrictive
 36 than the requirements that apply when the service is provided in
 37 person³ .
 38 d. The Commissioner of Human Services, in consultation with
 39 the Commissioner of Children and Families, shall apply for such
 40 State plan amendments or waivers as may be necessary to
 41 implement the provisions of this section and to secure federal
 42 financial participation for State expenditures under the federal
 43 Medicaid program and Children's Health Insurance Program.
 44 e. As used in this section:
 45 "Asynchronous store-and-forward" means the same as that term
 46 is defined by section 1 of P.L.2017, c.117 (C.45:1-61).
 47 "Benefits recipient" or "recipient" means a person who is eligible
 48 for, and who is receiving, hospital or medical benefits under the

1 State Medicaid program established pursuant to P.L.1968, c.413
2 (C.30:4D-1 et seq.), or under the NJ FamilyCare program
3 established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), as
4 appropriate.

5 "Distant site" means the same as that term is defined by section 1
6 of P.L.2017, c.117 (C.45:1-61).

7 ¹"Originating site" means the same as that term is defined by
8 section 1 of P.L.2017, c.117 (C.45:1-61).¹

9 "Participating health care provider" means a licensed or certified
10 health care provider who is registered to provide health care
11 services to benefits recipients under the State Medicaid or NJ
12 FamilyCare programs, as appropriate.

13 "Telehealth" means the same as that term is defined by section 1
14 of P.L.2017, c.117 (C.45:1-61).

15 "Telemedicine" means the same as that term is defined by
16 section 1 of P.L.2017, c.117 (C.45:1-61).

17 ²"Telemedicine or telehealth organization" means the same as
18 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).²
19 (cf: P.L.2017, c.117, s.7)

20
21 3. Section 2 of P.L.2017, c.117 (C.45:1-62) is amended to read
22 as follows:

23 2. a. Unless specifically prohibited or limited by federal or
24 State law, a health care provider who establishes a proper provider-
25 patient relationship with a patient may remotely provide health care
26 services to a patient through the use of telemedicine ¹["regardless
27 of whether the health care provider is located in New Jersey at the
28 time the remote health care services are provided]¹. A health care
29 provider may also engage in telehealth as may be necessary to
30 support and facilitate the provision of health care services to
31 patients. ³Nothing in P.L.2017, c.117 (C.45:1-61 et al.) shall be
32 construed to restrict the right of a patient to receive health care
33 services on an in-person basis upon request, and no patient shall be
34 required to engage in a telemedicine or telehealth encounter to
35 receive health care services if those same services are available, in
36 person, from a provider that is reasonably accessible to the patient.³

37 b. Any health care provider who uses telemedicine or engages
38 in telehealth while providing health care services to a patient, shall:
39 (1) be validly licensed, certified, or registered, pursuant to Title 45
40 of the Revised Statutes, to provide such services in the State of New
41 Jersey; (2) remain subject to regulation by the appropriate New
42 Jersey State licensing board or other New Jersey State professional
43 regulatory entity; (3) act in compliance with existing requirements
44 regarding the maintenance of liability insurance; and (4) remain
45 subject to New Jersey jurisdiction if either the patient or the
46 provider is located in New Jersey at the time services are provided.

47 c. (1) Telemedicine services ¹["shall"] may¹ be provided using
48 interactive, real-time, two-way communication technologies ¹or,

1 subject to the requirements of paragraph (2) of this paragraph,
2 asynchronous store-and-forward technology¹ .

3 (2) A health care provider engaging in telemedicine or
4 telehealth may use asynchronous store-and-forward technology ¹【to
5 allow for the electronic transmission of images, diagnostics, data,
6 and medical information; except that the health care provider may
7 use interactive, real-time, two-way audio in combination with
8 asynchronous store-and-forward technology, without video
9 capabilities,】 to provide services¹ ²with or without the use of
10 interactive, real-time, two-way audio² if, after accessing and
11 reviewing the patient's medical records, the provider determines
12 that the provider is able to meet the same standard of care as if the
13 health care services were being provided in person ¹and ²informs²
14 the patient ²【concurs, in writing, in the provider's assessment that
15 the provider will be able to meet in-person standard of care
16 requirements when using asynchronous store-and forward
17 technology¹】 of this determination at the outset of the telemedicine
18 or telehealth encounter.²

19 (3) ³(a) At the time the patient requests health care services to
20 be provided using telemedicine or telehealth, the patient shall be
21 clearly advised that the telemedicine or telehealth encounter may be
22 with a health care provider who is not a physician, and that the
23 patient may specifically request that the telemedicine or telehealth
24 encounter be scheduled with a physician. If the patient requests that
25 the telemedicine or telehealth encounter be with a physician, the
26 encounter shall be scheduled with a physician.

27 (b)³ The identity, professional credentials, and contact
28 information of a health care provider providing telemedicine or
29 telehealth services shall be made available to the patient ²at the time
30 the patient schedules services to be provided using telemedicine or
31 telehealth, ³【except that, if the identity of the provider is not known
32 at the time the services are scheduled, this information】 if available,
33 or upon confirmation of the scheduled telemedicine or telehealth
34 encounter, and³ shall be made available to the patient² during and
35 after the provision of services ³【², and, at the time the services are
36 scheduled, the patient shall be advised that the health care provider
37 who provides services may not be a physician²】³ . The contact
38 information shall enable the patient to contact the health care
39 provider, or a substitute health care provider authorized to act on
40 behalf of the provider who provided services, for at least 72 hours
41 following the provision of services. ¹If the health care provider is
42 not a physician, ²【the health care provider shall request from the
43 patient, prior to the start of the telemedicine or telehealth encounter,
44 an affirmative written acknowledgement that the patient
45 understands the provider is not a physician and would still like to
46 proceed with the encounter】 and the patient requests that the
47 services be provided by a physician, the health care provider shall

1 assist the patient with scheduling a telemedicine or telehealth
2 encounter with a physician² .¹

3 (4) A health care provider engaging in telemedicine or
4 telehealth shall review the medical history and any medical records
5 provided by the patient. For an initial encounter with the patient,
6 the provider shall review the patient's medical history and medical
7 records prior to initiating contact with the patient, as required
8 pursuant to paragraph (3) of subsection a. of section 3 of P.L.2017,
9 c.117 (C.45:1-63). In the case of a subsequent telemedicine or
10 telehealth encounter conducted pursuant to an ongoing provider-
11 patient relationship, the provider may review the information prior
12 to initiating contact with the patient or contemporaneously with the
13 telemedicine or telehealth encounter.

14 (5) Following the provision of services using telemedicine or
15 telehealth, the patient's medical information shall be ²made
16 available to the patient upon the patient's request, and, with the
17 patient's affirmative consent, ¹ entered into the patient's ³medical
18 record, whether the medical record is a physical record, an³
19 electronic health record ³, or both,³ and, if so requested to by the
20 patient² ³,³ forwarded directly to the patient's primary care provider
21 ²or ², ² health care provider of record ²or, upon request by the
22 patient, to ² or any² other health care providers ²as may be specified
23 by the patient² . For patients without a primary care provider or
24 other health care provider of record, the health care provider
25 engaging in telemedicine or telehealth may advise the patient to
26 contact a primary care provider, and, upon request by the patient,
27 ²shall² assist the patient with locating a primary care provider or
28 other in-person medical assistance that, to the extent possible, is
29 located within reasonable proximity to the patient. The health care
30 provider engaging in telemedicine or telehealth shall also refer the
31 patient to appropriate follow up care where necessary, including
32 making appropriate referrals for ²in-person care or² emergency or
33 ³complimentary ³complementary³ care, if needed. Consent may
34 be oral, written, or digital in nature, provided that the chosen
35 method of consent is deemed appropriate under the standard of care.

36 d. (1) Any health care provider providing health care services
37 using telemedicine or telehealth shall be subject to the same
38 standard of care or practice standards as are applicable to in-person
39 settings. If telemedicine or telehealth services would not be
40 consistent with this standard of care, the health care provider shall
41 direct the patient to seek in-person care.

42 (2) Diagnosis, treatment, and consultation recommendations,
43 including discussions regarding the risk and benefits of the patient's
44 treatment options, which are made through the use of telemedicine
45 or telehealth, including the issuance of a prescription based on a
46 telemedicine or telehealth encounter, shall be held to the same
47 standard of care or practice standards as are applicable to in-person
48 settings. Unless the provider has established a proper provider-

1 patient relationship with the patient, a provider shall not issue a
2 prescription to a patient based solely on the responses provided in
3 an online ¹static¹ questionnaire.

4 ¹(3) In the event that a mental health screener, screening service,
5 or screening psychiatrist subject to the provisions of P.L.1987,
6 c.116 (C.30:4-27.1 et seq.) determines that an in-person psychiatric
7 evaluation is necessary to meet standard of care requirements, or in
8 the event that a patient requests an in-person psychiatric evaluation
9 in lieu of a psychiatric evaluation performed using telemedicine or
10 telehealth, the mental health screener, screening service, or
11 screening psychiatrist may nevertheless perform a psychiatric
12 evaluation using telemedicine and telehealth if it is determined that
13 the patient cannot be scheduled for an in-person psychiatric
14 evaluation within the next 24 hours. Nothing in this paragraph shall
15 be construed to prevent a patient who receives a psychiatric
16 evaluation using telemedicine and telehealth as provided in this
17 paragraph from receiving a subsequent, in-person psychiatric
18 evaluation in connection with the same treatment event, provided
19 that the subsequent in-person psychiatric evaluation is necessary to
20 meet standard of care requirements for that patient.¹

21 e. The prescription of Schedule II controlled dangerous
22 substances through the use of telemedicine or telehealth shall be
23 authorized only after an initial in-person examination of the patient,
24 as provided by regulation, and a subsequent in-person visit with the
25 patient shall be required every three months for the duration of time
26 that the patient is being prescribed the Schedule II controlled
27 dangerous substance. However, the provisions of this subsection
28 shall not apply, and the in-person examination or review of a patient
29 shall not be required, when a health care provider is prescribing a
30 stimulant which is a Schedule II controlled dangerous substance for
31 use by a minor patient under the age of 18, provided that the health
32 care provider is using interactive, real-time, two-way audio and
33 video technologies when treating the patient and the health care
34 provider has first obtained written consent for the waiver of these
35 in-person examination requirements from the minor patient's parent
36 or guardian.

37 f. A mental health screener, screening service, or screening
38 psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-
39 27.1 et seq.):

40 (1) shall not be required to obtain a separate authorization in
41 order to engage in telemedicine or telehealth for mental health
42 screening purposes; and

43 (2) shall not be required to request and obtain a waiver from
44 existing regulations, prior to engaging in telemedicine or telehealth.

45 g. A health care provider who engages in telemedicine or
46 telehealth, as authorized by P.L.2017, c.117 (C.45:1-61 et al.), shall
47 maintain a complete record of the patient's care, and shall comply
48 with all applicable State and federal statutes and regulations for

1 recordkeeping, confidentiality, and disclosure of the patient's
2 medical record.

3 h. A health care provider shall not be subject to any
4 professional disciplinary action under Title 45 of the Revised
5 Statutes solely on the basis that the provider engaged in
6 telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-
7 61 et al.).

8 i. (1) In accordance with the "Administrative Procedure Act,"
9 P.L.1968, c.410 (C.52:14B-1 et seq.), the State boards or other
10 entities that, pursuant to Title 45 of the Revised Statutes, are
11 responsible for the licensure, certification, or registration of health
12 care providers in the State, shall each adopt rules and regulations
13 that are applicable to the health care providers under their
14 respective jurisdictions, as may be necessary to implement the
15 provisions of this section and facilitate the provision of
16 telemedicine and telehealth services. Such rules and regulations
17 shall, at a minimum:

18 (a) include best practices for the professional engagement in
19 telemedicine and telehealth;

20 (b) ensure that the services patients receive using telemedicine
21 or telehealth are appropriate, medically necessary, and meet current
22 quality of care standards;

23 (c) include measures to prevent fraud and abuse in connection
24 with the use of telemedicine and telehealth, including requirements
25 concerning the filing of claims and maintaining appropriate records
26 of services provided; and

27 (d) provide substantially similar metrics for evaluating quality
28 of care and patient outcomes in connection with services provided
29 using telemedicine and telehealth as currently apply to services
30 provided in person.

31 (2) In no case shall the rules and regulations adopted pursuant to
32 paragraph (1) of this subsection require a provider to conduct an
33 initial in-person visit with the patient as a condition of providing
34 services using telemedicine or telehealth.

35 (3) The failure of any licensing board to adopt rules and
36 regulations pursuant to this subsection shall not have the effect of
37 delaying the implementation of this act, and shall not prevent health
38 care providers from engaging in telemedicine or telehealth in
39 accordance with the provisions of this act and the practice act
40 applicable to the provider's professional licensure, certification, or
41 registration.

42 (cf: P.L.2017, c.117, s.2)

43

44 4. Section 9 of P.L.2017, c.117 (C.52:14-17.29w) is amended
45 to read as follows:

46 9. a. ³(1)³ The State Health Benefits Commission shall ensure
47 that every contract purchased thereby, which provides hospital and
48 medical expense benefits, additionally provides coverage and
49 payment for ²all forms of² physical and behavioral¹ health care

1 services delivered to a covered person through telemedicine or
2 telehealth, on the same basis as, and at a provider reimbursement
3 rate that **【does not exceed】** equals the provider reimbursement rate
4 that is applicable, when the services are delivered through in-person
5 contact and consultation in New Jersey ², provided the services are
6 otherwise covered under the contract when delivered through in-
7 person contact and consultation in New Jersey² . Reimbursement
8 payments under this section may be provided either to the
9 individual practitioner who delivered the reimbursable services, or
10 to the agency, facility, or organization that employs the individual
11 practitioner who delivered the reimbursable services, as appropriate
12 ³**【²;** provided that, if a telemedicine or telehealth organization does
13 not provide a given service on an in-person basis in New Jersey, the
14 telemedicine or telehealth organization shall not be subject to this
15 requirement²】 .

16 (2) The requirements of paragraph (1) of this subsection shall
17 not apply to:

18 (a) a health care service provided by a telemedicine or telehealth
19 organization that does not provide the health care service on an in-
20 person basis in New Jersey; or

21 (b) a physical health care service provided using telemedicine or
22 telehealth utilizing real-time, two way audio without a video
23 component, whether or not utilized in combination with
24 asynchronous store-and-forward technology, the reimbursement rate
25 for which physical health care service shall be determined under the
26 plan when delivered through in-person contact and consultation in
27 New Jersey.

28 (3) The provisions of subparagraph (b) of paragraph (2) of this
29 subsection shall not apply to behavioral health services provided
30 using telemedicine or telehealth utilizing real-time, two way audio
31 without a video component, whether or not utilized in combination
32 with asynchronous store-and-forward technology, which behavioral
33 health care service shall be reimbursed at a rate that equals the
34 provider reimbursement rate for the service when provided in
35 person³ .

36 b. A health benefits contract purchased by the State Health
37 Benefits Commission may limit coverage to services that are
38 delivered by health care providers in the health benefits plan's
39 network, but may not charge any deductible, copayment, or
40 coinsurance for a health care service, delivered through
41 telemedicine or telehealth, in an amount that exceeds the deductible,
42 copayment, or coinsurance amount that is applicable to an in-person
43 consultation. In no case shall a health benefits contract purchased
44 by the State Health Benefits Commission:

45 (1) impose any restrictions on the location or setting of the
46 distant site used by a health care provider to provide services using
47 telemedicine and telehealth ¹or on the location or setting of the

- 1 originating site where the patient is located when receiving services
 2 using telemedicine and telehealth¹ ; ¹[or]¹
- 3 (2) restrict the ability of a provider to use any electronic or
 4 technological platform ²[, including interactive, real-time, two-way
 5 audio in combination with asynchronous store-and-forward
 6 technology without video capabilities.] ³[that the federal Centers
 7 for Medicare and Medicaid Services has authorized for use in
 8 connection with the federal Medicare program²]³ to provide
 9 services using telemedicine or telehealth ³, including, but not
 10 limited to, interactive, real-time, two-way audio, which may be used
 11 in combination with asynchronous store-and-forward technology
 12 without video capabilities, to provide services using telemedicine or
 13 telehealth^{3 2}, provided² that ²[:
 14 (a)] the platform^{2 3} used :
- 15 (a)³ allows the provider to meet the same standard of care as
 16 would be provided if the services were provided in person ²[: and
 17 (b) is compliant with the requirements of the federal health
 18 privacy rule set forth at 45 CFR Parts 160 and 164]^{2 1}; ³[or] and
 19 (b) is compliant with the requirements of the federal health
 20 privacy rule set forth at 45 CFR Parts 160 and 164;³
- 21 (3) deny coverage for or refuse to provide reimbursement for
 22 routine patient monitoring performed using telemedicine and
 23 telehealth, including remote monitoring of a patient's vital signs
 24 and routine check-ins with the patient to monitor the patient's status
 25 and condition, if coverage and reimbursement would be provided if
 26 those services are provided in person^{1 3};
- 27 (4) use telemedicine or telehealth to satisfy network adequacy
 28 requirements with regard to a health care service; or
- 29 (5) limit coverage only to services delivered by select third
 30 party telemedicine or telehealth organizations³ .
- 31 c. Nothing in this section shall be construed to:
- 32 (1) prohibit a health benefits contract from providing coverage
 33 for only those services that are medically necessary, subject to the
 34 terms and conditions of the covered person's health benefits plan; or
- 35 (2) allow the State Health Benefits Commission, or a contract
 36 purchased thereby, to require a covered person to use telemedicine
 37 or telehealth in lieu of receiving an in-person service from an in-
 38 network provider ³[²or] ;
- 39 (3)³ allow the State Health Benefits Commission, or a contract
 40 purchased thereby, to impose more stringent utilization
 41 management requirements on the provision of services using
 42 telemedicine and telehealth than apply when those services are
 43 provided in person^{2 3}; or
- 44 (4) allow State Health Benefits Commission, or a contract
 45 purchased thereby, to impose any other requirements for the use of
 46 telemedicine or telehealth to provide a health care service that are

1 more restrictive than the requirements that apply when the service is
2 provided in person³ .

3 d. The State Health Benefits Commission shall adopt rules and
4 regulations, pursuant to the "Administrative Procedure Act,"
5 P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions
6 of this section.

7 e. As used in this section:

8 "Asynchronous store-and-forward" means the same as that term
9 is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

10 "Distant site" means the same as that term is defined by section 1
11 of P.L.2017, c.117 (C.45:1-61).

12 ¹"Originating site" means the same as that term is defined by
13 section 1 of P.L.2017, c.117 (C.45:1-61).¹

14 "Telehealth" means the same as that term is defined by section 1
15 of P.L.2017, c.117 (C.45:1-61).

16 "Telemedicine" means the same as that term is defined by
17 section 1 of P.L.2017, c.117 (C.45:1-61).

18 ²"Telemedicine or telehealth organization" means the same as
19 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).²
20 (cf: P.L.2017, c.117, s.9)

21

22 5. Section 10 of P.L.2017, c.117 (C.52:14-17.46.6h) is
23 amended to read as follows:

24 10. a. ³(1)³ The School Employees' Health Benefits
25 Commission shall ensure that every contract purchased thereby,
26 which provides hospital and medical expense benefits, additionally
27 provides coverage and payment for ²["all forms of"]² physical and
28 behavioral¹ health care services delivered to a covered person
29 through telemedicine or telehealth, on the same basis as, and at a
30 provider reimbursement rate that **【does not exceed】** equals the
31 provider reimbursement rate that is applicable, when the services
32 are delivered through in-person contact and consultation in New
33 Jersey ², provided the services are otherwise covered under the
34 contract when delivered through in-person contact and consultation
35 in New Jersey² . Reimbursement payments under this section may
36 be provided either to the individual practitioner who delivered the
37 reimbursable services, or to the agency, facility, or organization that
38 employs the individual practitioner who delivered the reimbursable
39 services, as appropriate ³["²]; provided that, if a telemedicine or
40 telehealth organization does not provide a given service on an in-
41 person basis in New Jersey, the telemedicine or telehealth
42 organization shall not be subject to this requirement² **】** .

43 (2) The requirements of paragraph (1) of this subsection shall
44 not apply to:

45 (a) a health care service provided by a telemedicine or telehealth
46 organization that does not provide the health care service on an in-
47 person basis in New Jersey; or

1 **(b) a physical health care service provided using telemedicine or**
 2 **telehealth utilizing real-time, two way audio without a video**
 3 **component, whether or not utilized in combination with**
 4 **asynchronous store-and-forward technology, the reimbursement rate**
 5 **for which physical health care service shall be determined under the**
 6 **plan when delivered through in-person contact and consultation in**
 7 **New Jersey.**

8 **(3) The provisions of subparagraph (b) of paragraph (2) of this**
 9 **subsection shall not apply to behavioral health services provided**
 10 **using telemedicine or telehealth utilizing real-time, two way audio**
 11 **without a video component, whether or not utilized in combination**
 12 **with asynchronous store-and-forward technology, which behavioral**
 13 **health care service shall be reimbursed at a rate that equals the**
 14 **provider reimbursement rate for the service when provided in**
 15 **person**³.

16 b. A health benefits contract purchased by the School
 17 Employees' Health Benefits Commission may limit coverage to
 18 services that are delivered by health care providers in the health
 19 benefits plan's network, but may not charge any deductible,
 20 copayment, or coinsurance for a health care service, delivered
 21 through telemedicine or telehealth, in an amount that exceeds the
 22 deductible, copayment, or coinsurance amount that is applicable to
 23 an in-person consultation. **In no case shall a health benefits**
 24 **contract purchased by the School Employees' Health Benefits**
 25 **Commission:**

26 **(1) impose any restrictions on the location or setting of the**
 27 **distant site used by a health care provider to provide services using**
 28 **telemedicine and telehealth**¹ **or on the location or setting of the**
 29 **originating site where the patient is located when receiving services**
 30 **using telemedicine and telehealth**¹ ; ¹**or**¹

31 **(2) restrict the ability of a provider to use any electronic or**
 32 **technological platform**² **, including interactive, real-time, two-way**
 33 **audio in combination with asynchronous store-and-forward**
 34 **technology without video capabilities,**³ **that the federal Centers**
 35 **for Medicare and Medicaid Services has authorized for use in**
 36 **connection with the federal Medicare program**² ³ **to provide**
 37 **services using telemedicine or telehealth**³ , including, but not
 38 **limited to, interactive, real-time, two-way audio, which may be used**
 39 **in combination with asynchronous store-and-forward technology**
 40 **without video capabilities, to provide services using telemedicine or**
 41 **telehealth**³ ² , **provided**² **that**² **:**

42 **(a)**³ **the platform**² ³ **used :**

43 **(a)**³ **allows the provider to meet the same standard of care as**
 44 **would be provided if the services were provided in person**² **;** and

45 **(b) is compliant with the requirements of the federal health**
 46 **privacy rule set forth at 45 CFR Parts 160 and 164**² ¹ ; ³**or** and

1 (b) is compliant with the requirements of the federal health
2 privacy rule set forth at 45 CFR Parts 160 and 164;³

3 (3) deny coverage for or refuse to provide reimbursement for
4 routine patient monitoring performed using telemedicine and
5 telehealth, including remote monitoring of a patient's vital signs
6 and routine check-ins with the patient to monitor the patient's status
7 and condition, if coverage and reimbursement would be provided if
8 those services are provided in person^{1 3};

9 (4) use telemedicine or telehealth to satisfy network adequacy
10 requirements with regard to a health care service; or

11 (5) limit coverage only to services delivered by select third
12 party telemedicine or telehealth organizations³ .

13 c. Nothing in this section shall be construed to:

14 (1) prohibit a health benefits contract from providing coverage
15 for only those services that are medically necessary, subject to the
16 terms and conditions of the covered person's health benefits plan; or

17 (2) allow the School Employees' Health Benefits Commission,
18 or a contract purchased thereby, to require a covered person to use
19 telemedicine or telehealth in lieu of receiving an in-person service
20 from an in-network provider ³**[²or]** ;

21 (3)³ allow the School Employees' Health Benefits Commission,
22 or a contract purchased thereby, to impose more stringent utilization
23 management requirements on the provision of services using
24 telemedicine and telehealth than apply when those services are
25 provided in person^{2 3} ; or

26 (4) allow the School Employees' Health Benefits Commission,
27 or a contract purchased thereby, to impose any other requirements
28 for the use of telemedicine or telehealth to provide a health care
29 service that are more restrictive than the requirements that apply
30 when the service is provided in person³ .

31 d. The School Employees' Health Benefits Commission shall
32 adopt rules and regulations, pursuant to the "Administrative
33 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement
34 the provisions of this section.

35 e. As used in this section:

36 "Asynchronous store-and-forward" means the same as that term
37 is defined by section 1 of P.L.2017, c.117 (C.45:1-61).

38 "Distant site" means the same as that term is defined by section 1
39 of P.L.2017, c.117 (C.45:1-61).

40 ¹"Originating site" means the same as that term is defined by
41 section 1 of P.L.2017, c.117 (C.45:1-61).¹

42 "Telehealth" means the same as that term is defined by section 1
43 of P.L.2017, c.117 (C.45:1-61).

44 "Telemedicine" means the same as that term is defined by
45 section 1 of P.L.2017, c.117 (C.45:1-61).

46 ²"Telemedicine or telehealth organization" means the same as
47 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).²
48 (cf: P.L.2017, c.117, s.10)

1 ³[²6. (New section) The Commissioner of Banking and
 2 Insurance shall conduct a study to determine whether telemedicine
 3 and telehealth may be appropriately used to satisfy network
 4 adequacy requirements applicable to health benefits plans in New
 5 Jersey. The commissioner shall prepare and submit a report to the
 6 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
 7 19.1), to the Legislature, no later than one year after the effective
 8 date of this act outlining the commissioner's findings and any
 9 recommendations for legislation, administrative action, or other
 10 actions as the commissioner deems appropriate.²]³

11

12 ³6. (New section) a. A carrier that offers a health benefits plan
 13 in this State shall provide coverage, without the imposition of any
 14 cost sharing requirements, including deductibles, copayments, or
 15 coinsurance, prior authorization requirements, or other medical
 16 management requirements, for the following items and services
 17 furnished during any portion of the federal state of emergency
 18 declared in response to the coronavirus disease 2019 (COVID-19)
 19 pandemic:

20 (1) testing for COVID-19, provided that a health care
 21 practitioner has issued a medical order for the testing; and

22 (2) items and services furnished or provided to an individual
 23 during health care provider office visits, including in-person visits
 24 and telemedicine and telehealth encounters, urgency care center
 25 visits, and emergency department visits, that result in an order for
 26 administration of a test for COVID-19.

27 b. As used in this section, "carrier," means an insurance
 28 company, health service corporation, hospital service corporation,
 29 medical service corporation, or health maintenance organization
 30 authorized to issue health benefits plans in this State, and shall
 31 include the State Health Benefits Program and the School
 32 Employees' Health Benefits Program.³

33

34 ²[^{6.}] ^{7.}² The Commissioner of Human Services shall apply for
 35 such State plan amendments or waivers as may be necessary to
 36 implement the provisions of this act and to secure federal financial
 37 participation for State Medicaid expenditures under the federal
 38 Medicaid program.

39

40 ²[^{17.}] ^{8.}² There is appropriated from the General Fund to the
 41 Department of Human Services the sum of \$5,000,000 to establish a
 42 program under which health care providers that provide
 43 telemedicine or telehealth services to patients who are enrolled in
 44 the State Medicaid program can be reimbursed for the costs of
 45 ²[making telemedicine and telehealth technologies available to]
 46 providing² those patients ²with access, on a temporary or permanent
 47 basis, to appropriate devices, programs, and technologies necessary
 48 to enable patients who do not ordinarily have access to those

1 devices, programs, or technologies to engage in a telemedicine or
2 telehealth encounter² . The Commissioner of Human Services shall
3 establish standards and protocols for health care providers to apply
4 for reimbursement under the program established pursuant to this
5 section.¹ ²The funds appropriated pursuant to this section may only
6 be expended on acquiring electronic communication and
7 information devices, programs, and technologies for use by patients,
8 and in no case shall the funds be used to provide any form of direct
9 reimbursement to an individual provider for physical or behavioral
10 health care services provided to a patient using telemedicine or
11 telehealth, or to provide reimbursement for any electronic
12 communication or information device, program, or technology for
13 which payment may be made or covered or for which
14 reimbursement is provided by a health benefits plan or any other
15 State or federal program. Nothing in this section shall be construed
16 to require a health benefits plan, Medicaid or NJ FamilyCare, the
17 State Health Benefits Plan, or the School Employees' Health
18 Benefits plan to provide reimbursement for acquiring or providing
19 access to any electronic communication or information device,
20 program, or technology for which coverage would not ordinarily be
21 provided under the plan or contract.²

22

23 ³9. P.L.2020, c.3 and P.L.2020, c.7 are repealed.³

24

25 ¹[7.] ²[8.1] ³[9.2] 10.³ This act shall take effect immediately
26 ³[², except that sections 1, 2, 4, and 5 of this act shall take effect
27 January 1, 2022]³ and shall apply to all health benefits plans or
28 contracts issued or renewed on or after that date² . ³Section 6 of
29 this act shall expire upon the end of the federal state of emergency
30 declared in response to the coronavirus disease 2019 pandemic.³