

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, Nos. 4179 and 4200**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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ADOPTED JUNE 22, 2020

**Sponsored by:**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Assemblyman HERB CONAWAY, JR.**

**District 7 (Burlington)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

**Co-Sponsored by:**

**Assemblywoman Vainieri Huttie, Assemblymen Freiman, Giblin,  
Assemblywomen Reynolds-Jackson, Speight, Murphy, Assemblymen  
Spearman, Johnson, Assemblywoman Timberlake, Assemblyman DiMaio,  
Assemblywoman Stanfield, Assemblyman Zwicker, Assemblywoman Dunn  
and Assemblyman Verrelli**

**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: 6/21/2021)**

1 AN ACT concerning telemedicine and telehealth <sup>1</sup>**[and]**, <sup>1</sup> amending  
2 P.L.2017, c.117 <sup>1</sup>, repealing P.L.2020, c.3 and P.L.2020, c.7, and  
3 making an appropriation<sup>1</sup> .  
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. <sup>1</sup>(1)<sup>1</sup> A carrier that offers a health benefits plan in this  
11 State shall provide coverage and payment for <sup>1</sup>physical and  
12 behavioral<sup>1</sup> health care services delivered to a covered person  
13 through telemedicine or telehealth, on the same basis as, and at a  
14 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 Jersey <sup>1</sup>, provided the services are otherwise covered under the plan  
18 when delivered through in-person contact and consultation in New  
19 Jersey<sup>1</sup> . 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.

24 <sup>1</sup>(2) The requirements of paragraph (1) of this subsection shall  
25 not apply to:

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

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

36 (3) The provisions of subparagraph (b) of paragraph (2) of this  
37 subsection shall not apply to behavioral health services provided  
38 using telemedicine or telehealth utilizing real-time, two way audio  
39 without a video component, whether or not utilized in combination  
40 with asynchronous store-and-forward technology, which behavioral  
41 health care service shall be reimbursed at a rate that equals the  
42 provider reimbursement rate for the service when provided in  
43 person.<sup>1</sup>

**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:

<sup>1</sup>Assembly AAP committee amendments adopted June 16, 2021.

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

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth<sup>1</sup> or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth<sup>1</sup> ;<sup>1</sup> [or]<sup>1</sup>

(2) restrict the ability of a provider to use any electronic or technological platform<sup>1</sup> to provide services using telemedicine or telehealth<sup>1</sup> , including<sup>1</sup> , but not limited to,<sup>1</sup> interactive, real-time, two-way audio<sup>1</sup> , which may be used<sup>1</sup> in combination with asynchronous store-and-forward technology without video capabilities, to provide services using telemedicine or telehealth<sup>1</sup> , provided<sup>1</sup> that<sup>1</sup> the platform used<sup>1</sup> :

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

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

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

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

(5) limit coverage only to services delivered by select third party telemedicine or telehealth organizations<sup>1</sup> .

c. Nothing in this section shall be construed to:

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

(2) allow a carrier to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider<sup>1</sup>;

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

(4) allow a carrier to impose any other requirements for the use of telemedicine or telehealth to provide a health care service that

1 are more restrictive than the requirements that apply when the  
2 service is provided in person<sup>1</sup> .

3 d. The Commissioner of Banking and Insurance shall adopt  
4 rules and regulations, pursuant to the "Administrative Procedure  
5 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the  
6 provisions 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 "Carrier" means the same as that term is defined by section 2 of  
11 P.L.1997, c.192 (C.26:2S-2).

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

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

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

18 <sup>1</sup>"Originating site" means the same as that term is defined by  
19 section 1 of P.L.2017, c.117 (C.45:1-61).<sup>1</sup>

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

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

24 <sup>1</sup>"Telemedicine or telehealth organization" means the same as  
25 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).<sup>1</sup>  
26 (cf: P.L.2017, c.117, s.8)

27  
28 2. Section 7 of P.L.2017, c.117 (C.30:4D-6k) is amended to  
29 read as follows:

30 7. a. <sup>1</sup>(1)<sup>1</sup> The State Medicaid and NJ FamilyCare programs  
31 shall provide coverage and payment for <sup>1</sup>physical and behavioral<sup>1</sup>  
32 health care services delivered to a benefits recipient through  
33 telemedicine or telehealth, on the same basis as, and at a provider  
34 reimbursement rate that **【does not exceed】** equals the provider  
35 reimbursement rate that is applicable, when the services are  
36 delivered through in-person contact and consultation in New  
37 Jersey<sup>1</sup>, provided the services are otherwise covered when  
38 delivered through in-person contact and consultation in New  
39 Jersey<sup>1</sup> . Reimbursement payments under this section may be  
40 provided either to the individual practitioner who delivered the  
41 reimbursable services, or to the agency, facility, or organization that  
42 employs the individual practitioner who delivered the reimbursable  
43 services, as appropriate.

44 <sup>1</sup>(2) The requirements of paragraph (1) of this subsection shall  
45 not apply to:

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

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

11       (3) The provisions of subparagraph (b) of paragraph (2) of this  
12 subsection shall not apply to behavioral health services provided  
13 using telemedicine or telehealth utilizing real-time, two way audio  
14 without a video component, whether or not utilized in combination  
15 with asynchronous store-and-forward technology, which behavioral  
16 health care service shall be reimbursed at a rate that equals the  
17 provider reimbursement rate for the service when provided in  
18 person.<sup>1</sup>

19       b. The State Medicaid and NJ FamilyCare programs may limit  
20 coverage to services that are delivered by participating health care  
21 providers, but may not charge any deductible, copayment, or  
22 coinsurance for a health care service, delivered through  
23 telemedicine or telehealth, in an amount that exceeds the deductible,  
24 copayment, or coinsurance amount that is applicable to an in-person  
25 consultation. In no case shall the State Medicaid and NJ  
26 FamilyCare programs:

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

32       (2) restrict the ability of a provider to use any electronic or  
33 technological platform<sup>1</sup> to provide services using telemedicine or  
34 telehealth<sup>1</sup> , including<sup>1</sup> , but not limited to,<sup>1</sup> interactive, real-time,  
35 two-way audio<sup>1</sup> , which may be used<sup>1</sup> in combination with  
36 asynchronous store-and-forward technology without video  
37 capabilities, to provide services using telemedicine or telehealth<sup>1</sup> ,  
38 provided<sup>1</sup> that<sup>1</sup> the platform used<sup>1</sup> ;

39       (a) allows the provider to meet the same standard of care as  
40 would be provided if the services were provided in person; and

41       (b) is compliant with the requirements of the federal health  
42 privacy rule set forth at 45 CFR Parts 160 and 164<sup>1</sup> ;

43       (3) deny coverage for or refuse to provide reimbursement for  
44 routine patient monitoring performed using telemedicine and  
45 telehealth, including remote monitoring of a patient's vital signs  
46 and routine check-ins with the patient to monitor the patient's status

1 and condition, if coverage and reimbursement would be provided if  
2 those services are provided in person; or

3 (4) limit coverage only to services delivered by select third  
4 party telemedicine or telehealth organizations<sup>1</sup> .

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

6 (1) prohibit the State Medicaid or NJ FamilyCare programs  
7 from providing coverage for only those services that are medically  
8 necessary, subject to the terms and conditions of the recipient's  
9 benefits plan; or

10 (2) allow the State Medicaid or NJ FamilyCare programs to  
11 require a benefits recipient to use telemedicine or telehealth in lieu  
12 of obtaining an in-person service from a participating health care  
13 provider<sup>1</sup>;

14 (3) allow the State Medicaid or NJ FamilyCare programs to  
15 impose more stringent utilization management requirements on the  
16 provision of services using telemedicine and telehealth than apply  
17 when those services are provided in person; or

18 (4) allow the State Medicaid or NJ FamilyCare programs to  
19 impose any other requirements for the use of telemedicine or  
20 telehealth to provide a health care service that are more restrictive  
21 than the requirements that apply when the service is provided in  
22 person<sup>1</sup> .

23 d. The Commissioner of Human Services, in consultation with  
24 the Commissioner of Children and Families, shall apply for such  
25 State plan amendments or waivers as may be necessary to  
26 implement the provisions of this section and to secure federal  
27 financial participation for State expenditures under the federal  
28 Medicaid program and Children's Health Insurance Program.

29 e. As used in this section:

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

32 "Benefits recipient" or "recipient" means a person who is eligible  
33 for, and who is receiving, hospital or medical benefits under the  
34 State Medicaid program established pursuant to P.L.1968, c.413  
35 (C.30:4D-1 et seq.), or under the NJ FamilyCare program  
36 established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), as  
37 appropriate.

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

42 "Participating health care provider" means a licensed or certified  
43 health care provider who is registered to provide health care  
44 services to benefits recipients under the State Medicaid or NJ  
45 FamilyCare programs, as appropriate.

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

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

3 <sup>1</sup>"Telemedicine or telehealth organization" means the same as  
4 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).<sup>1</sup>  
5 (cf: P.L.2017, c.117, s.7)

6  
7 <sup>1</sup>3. Section 2 of P.L.2017, c.117 (C.45:1-62) is amended to read  
8 as follows:

9 2. a. Unless specifically prohibited or limited by federal or  
10 State law, a health care provider who establishes a proper provider-  
11 patient relationship with a patient may remotely provide health care  
12 services to a patient through the use of telemedicine. A health care  
13 provider may also engage in telehealth as may be necessary to  
14 support and facilitate the provision of health care services to  
15 patients. Nothing in P.L.2017, c.117 (C.45:1-61 et al.) shall be  
16 construed to restrict the right of a patient to receive health care  
17 services on an in-person basis upon request, and no patient shall be  
18 required to engage in a telemedicine or telehealth encounter to  
19 receive health care services if those same services are available, in  
20 person, from a provider that is reasonably accessible to the patient.

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

31 c. (1) Telemedicine services **[shall]** may be provided using  
32 interactive, real-time, two-way communication technologies or,  
33 subject to the requirements of paragraph (2) of this paragraph,  
34 asynchronous store-and-forward technology.

35 (2) A health care provider engaging in telemedicine or  
36 telehealth may use asynchronous store-and-forward technology **[to**  
37 **allow for the electronic transmission of images, diagnostics, data,**  
38 **and medical information; except that the health care provider may**  
39 **use interactive, real-time, two-way audio in combination with**  
40 **asynchronous store-and-forward technology, without video**  
41 **capabilities,]** to provide services with or without the use of  
42 interactive, real-time, two-way audio if, after accessing and  
43 reviewing the patient's medical records, the provider determines  
44 that the provider is able to meet the same standard of care as if the  
45 health care services were being provided in person and informs the  
46 patient of this determination at the outset of the telemedicine or  
47 telehealth encounter.

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

(b) The identity, professional credentials, and contact information of a health care provider providing telemedicine or telehealth services shall be made available to the patient at the time the patient schedules services to be provided using telemedicine or telehealth if available, or upon confirmation of the scheduled telemedicine or telehealth encounter, and shall be made available to the patient during and after the provision of services. The contact information shall enable the patient to contact the health care provider, or a substitute health care provider authorized to act on behalf of the provider who provided services, for at least 72 hours following the provision of services. If the health care provider is not a physician, and the patient requests that the services be provided by a physician, the health care provider shall assist the patient with scheduling a telemedicine or telehealth encounter with a physician.

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

(5) Following the provision of services using telemedicine or telehealth, the patient's medical information shall be **【made** available to the patient upon the patient's request, and, with the patient's affirmative consent,**】** entered into the patient's medical record, whether the medical record is a physical record, an electronic health record, or both, and, if so requested to by the patient, forwarded directly to the patient's primary care provider **【or】** , health care provider of record **【,** or, upon request by the patient, to**】** or any other health care providers as may be specified by the patient. For patients without a primary care provider or other health care provider of record, the health care provider engaging in telemedicine or telehealth may advise the patient to contact a primary care provider, and, upon request by the patient, shall assist the patient with locating a primary care provider or other in-person

1 medical assistance that, to the extent possible, is located within  
 2 reasonable proximity to the patient. The health care provider  
 3 engaging in telemedicine or telehealth shall also refer the patient to  
 4 appropriate follow up care where necessary, including making  
 5 appropriate referrals for in-person care or emergency or  
 6 **【complimentary】** complementary care, if needed. Consent may be  
 7 oral, written, or digital in nature, provided that the chosen method  
 8 of consent is deemed appropriate under the standard of care.

9 d. (1) Any health care provider providing health care services  
 10 using telemedicine or telehealth shall be subject to the same  
 11 standard of care or practice standards as are applicable to in-person  
 12 settings. If telemedicine or telehealth services would not be  
 13 consistent with this standard of care, the health care provider shall  
 14 direct the patient to seek in-person care.

15 (2) Diagnosis, treatment, and consultation recommendations,  
 16 including discussions regarding the risk and benefits of the patient's  
 17 treatment options, which are made through the use of telemedicine  
 18 or telehealth, including the issuance of a prescription based on a  
 19 telemedicine or telehealth encounter, shall be held to the same  
 20 standard of care or practice standards as are applicable to in-person  
 21 settings. Unless the provider has established a proper provider-  
 22 patient relationship with the patient, a provider shall not issue a  
 23 prescription to a patient based solely on the responses provided in  
 24 an online static questionnaire.

25 (3) In the event that a mental health screener, screening service,  
 26 or screening psychiatrist subject to the provisions of P.L.1987,  
 27 c.116 (C.30:4-27.1 et seq.) determines that an in-person psychiatric  
 28 evaluation is necessary to meet standard of care requirements, or in  
 29 the event that a patient requests an in-person psychiatric evaluation  
 30 in lieu of a psychiatric evaluation performed using telemedicine or  
 31 telehealth, the mental health screener, screening service, or  
 32 screening psychiatrist may nevertheless perform a psychiatric  
 33 evaluation using telemedicine and telehealth if it is determined that  
 34 the patient cannot be scheduled for an in-person psychiatric  
 35 evaluation within the next 24 hours. Nothing in this paragraph shall  
 36 be construed to prevent a patient who receives a psychiatric  
 37 evaluation using telemedicine and telehealth as provided in this  
 38 paragraph from receiving a subsequent, in-person psychiatric  
 39 evaluation in connection with the same treatment event, provided  
 40 that the subsequent in-person psychiatric evaluation is necessary to  
 41 meet standard of care requirements for that patient.

42 e. The prescription of Schedule II controlled dangerous  
 43 substances through the use of telemedicine or telehealth shall be  
 44 authorized only after an initial in-person examination of the patient,  
 45 as provided by regulation, and a subsequent in-person visit with the  
 46 patient shall be required every three months for the duration of time  
 47 that the patient is being prescribed the Schedule II controlled  
 48 dangerous substance. However, the provisions of this subsection

1 shall not apply, and the in-person examination or review of a patient  
2 shall not be required, when a health care provider is prescribing a  
3 stimulant which is a Schedule II controlled dangerous substance for  
4 use by a minor patient under the age of 18, provided that the health  
5 care provider is using interactive, real-time, two-way audio and  
6 video technologies when treating the patient and the health care  
7 provider has first obtained written consent for the waiver of these  
8 in-person examination requirements from the minor patient's parent  
9 or guardian.

10 f. A mental health screener, screening service, or screening  
11 psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-  
12 27.1 et seq.):

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

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

18 g. A health care provider who engages in telemedicine or  
19 telehealth, as authorized by P.L.2017, c.117 (C.45:1-61 et al.), shall  
20 maintain a complete record of the patient's care, and shall comply  
21 with all applicable State and federal statutes and regulations for  
22 recordkeeping, confidentiality, and disclosure of the patient's  
23 medical record.

24 h. A health care provider shall not be subject to any  
25 professional disciplinary action under Title 45 of the Revised  
26 Statutes solely on the basis that the provider engaged in  
27 telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-  
28 61 et al.).

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

39 (a) include best practices for the professional engagement in  
40 telemedicine and telehealth;

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

44 (c) include measures to prevent fraud and abuse in connection  
45 with the use of telemedicine and telehealth, including requirements  
46 concerning the filing of claims and maintaining appropriate records  
47 of services provided; and

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

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

(3) The failure of any licensing board to adopt rules and regulations pursuant to this subsection shall not have the effect of delaying the implementation of this act, and shall not prevent health care providers from engaging in telemedicine or telehealth in accordance with the provisions of this act and the practice act applicable to the provider's professional licensure, certification, or registration.<sup>1</sup>

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

<sup>1</sup>[3.] 4.<sup>1</sup> Section 9 of P.L.2017, c.117 (C.52:14-17.29w) is amended to read as follows:

9. a. <sup>1</sup>(1)<sup>1</sup> The State Health Benefits Commission shall ensure that every contract purchased thereby, which provides hospital and medical expense benefits, additionally provides coverage and payment for <sup>1</sup>physical and behavioral<sup>1</sup> health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that **[does not exceed]** equals the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey <sup>1</sup>, provided the services are otherwise covered under the contract when delivered through in-person contact and consultation in New Jersey<sup>1</sup>. Reimbursement payments under this section may be provided either to the individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate.

<sup>1</sup>(2) The requirements of paragraph (1) of this subsection shall not apply to:

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

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

1     (3) The provisions of subparagraph (b) of paragraph (2) of this  
2     subsection shall not apply to behavioral health services provided  
3     using telemedicine or telehealth utilizing real-time, two way audio  
4     without a video component, whether or not utilized in combination  
5     with asynchronous store-and-forward technology, which behavioral  
6     health care service shall be reimbursed at a rate that equals the  
7     provider reimbursement rate for the service when provided in  
8     person.<sup>1</sup>

9     b. A health benefits contract purchased by the State Health  
10    Benefits Commission may limit coverage to services that are  
11    delivered by health care providers in the health benefits plan's  
12    network, but may not charge any deductible, copayment, or  
13    coinsurance for a health care service, delivered through  
14    telemedicine or telehealth, in an amount that exceeds the deductible,  
15    copayment, or coinsurance amount that is applicable to an in-person  
16    consultation. In no case shall a health benefits contract purchased  
17   by the State Health Benefits Commission:

18    (1) impose any restrictions on the location or setting of the  
19    distant site used by a health care provider to provide services using  
20    telemedicine and telehealth<sup>1</sup> or on the location or setting of the  
21    originating site where the patient is located when receiving services  
22    using telemedicine and telehealth<sup>1</sup> ; **or**<sup>1</sup>

23    (2) restrict the ability of a provider to use any electronic or  
24    technological platform<sup>1</sup> to provide services using telemedicine or  
25    telehealth<sup>1</sup> , including<sup>1</sup> , but not limited to,<sup>1</sup> interactive, real-time,  
26    two-way audio<sup>1</sup> , which may be used<sup>1</sup> in combination with  
27    asynchronous store-and-forward technology without video  
28    capabilities, to provide services using telemedicine or telehealth<sup>1</sup> ,  
29    provided<sup>1</sup> that<sup>1</sup> the platform used<sup>1</sup> ;

30    (a) allows the provider to meet the same standard of care as  
31    would be provided if the services were provided in person; and

32    (b) is compliant with the requirements of the federal health  
33    privacy rule set forth at 45 CFR Parts 160 and 164<sup>1</sup> ;

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

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

42    (5) limit coverage only to services delivered by select third  
43    party telemedicine or telehealth organizations<sup>1</sup> .

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

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

(2) allow the State Health Benefits Commission, or a contract purchased thereby, to require a covered person to use telemedicine or telehealth in lieu of receiving an in-person service from an in-network provider <sup>1</sup>;

(3) allow the State Health Benefits Commission, or a contract purchased thereby, to impose more stringent utilization management requirements on the provision of services using telemedicine and telehealth than apply when those services are provided in person; or

(4) allow State Health Benefits Commission, or a contract purchased thereby, to impose any other requirements for the use of telemedicine or telehealth to provide a health care service that are more restrictive than the requirements that apply when the service is provided in person<sup>1</sup>.

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

e. As used in this section:

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

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

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

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

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

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

<sup>1</sup>**[4.] 5.<sup>1</sup>** Section 10 of P.L.2017, c.117 (C.52:14-17.46.6h) is amended to read as follows:

10. a. <sup>1</sup>(1)<sup>1</sup> The School Employees' Health Benefits Commission shall ensure that every contract purchased thereby, which provides hospital and medical expense benefits, additionally provides coverage and payment for <sup>1</sup>physical and behavioral<sup>1</sup> health care services delivered to a covered person through telemedicine or telehealth, on the same basis as, and at a provider reimbursement rate that **[does not exceed]** equals the provider reimbursement rate that is applicable, when the services are delivered through in-person contact and consultation in New Jersey <sup>1</sup>, provided the services are otherwise covered under the contract when delivered through in-person contact and consultation in New Jersey<sup>1</sup>. Reimbursement payments under this section may be provided either to the

individual practitioner who delivered the reimbursable services, or to the agency, facility, or organization that employs the individual practitioner who delivered the reimbursable services, as appropriate

<sup>1</sup>(2) The requirements of paragraph (1) of this subsection shall not apply to:

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

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

(3) The provisions of subparagraph (b) of paragraph (2) of this subsection shall not apply to behavioral health services provided using telemedicine or telehealth utilizing real-time, two way audio without a video component, whether or not utilized in combination with asynchronous store-and-forward technology, which behavioral health care service shall be reimbursed at a rate that equals the provider reimbursement rate for the service when provided in person.<sup>1</sup>

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

(1) impose any restrictions on the location or setting of the distant site used by a health care provider to provide services using telemedicine and telehealth<sup>1</sup> or on the location or setting of the originating site where the patient is located when receiving services using telemedicine and telehealth<sup>1</sup> ; <sup>1</sup>[or]<sup>1</sup>

(2) restrict the ability of a provider to use any electronic or technological platform<sup>1</sup> to provide services using telemedicine or telehealth<sup>1</sup> , including<sup>1</sup> , but not limited to,<sup>1</sup> interactive, real-time, two-way audio<sup>1</sup> , which may be used<sup>1</sup> in combination with asynchronous store-and-forward technology without video capabilities, to provide services using telemedicine or telehealth<sup>1</sup> , provided<sup>1</sup> that<sup>1</sup> the platform used<sup>1</sup> ;

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

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

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;

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 organizations <sup>1</sup> .

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 <sup>1</sup>;

21    (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; 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 person <sup>1</sup> .

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

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    <sup>1</sup>"Telemedicine or telehealth organization" means the same as

1 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).<sup>1</sup>  
2 (cf: P.L.2017, c.117, s.10)

3  
4 <sup>1</sup>6. (New section) a. A carrier that offers a health benefits plan  
5 in this State shall provide coverage, without the imposition of any  
6 cost sharing requirements, including deductibles, copayments, or  
7 coinsurance, prior authorization requirements, or other medical  
8 management requirements, for the following items and services  
9 furnished during any portion of the federal state of emergency  
10 declared in response to the coronavirus disease 2019 (COVID-19)  
11 pandemic:

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

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

19 b. As used in this section, “carrier,” means an insurance  
20 company, health service corporation, hospital service corporation,  
21 medical service corporation, or health maintenance organization  
22 authorized to issue health benefits plans in this State, and shall  
23 include the State Health Benefits Program and the School  
24 Employees' Health Benefits Program.<sup>1</sup>

25  
26 <sup>1</sup>[5.] 7.<sup>1</sup> The Commissioner of Human Services shall apply for  
27 such State plan amendments or waivers as may be necessary to  
28 implement the provisions of this act and to secure federal financial  
29 participation for State Medicaid expenditures under the federal  
30 Medicaid program.

31  
32 <sup>1</sup>8. There is appropriated from the General Fund to the  
33 Department of Human Services the sum of \$5,000,000 to establish a  
34 program under which health care providers that provide  
35 telemedicine or telehealth services to patients who are enrolled in  
36 the State Medicaid program can be reimbursed for the costs of  
37 providing those patients with access, on a temporary or permanent  
38 basis, to appropriate devices, programs, and technologies necessary  
39 to enable patients who do not ordinarily have access to those  
40 devices, programs, or technologies to engage in a telemedicine or  
41 telehealth encounter. The Commissioner of Human Services shall  
42 establish standards and protocols for health care providers to apply  
43 for reimbursement under the program established pursuant to this  
44 section. The funds appropriated pursuant to this section may only  
45 be expended on acquiring electronic communication and  
46 information devices, programs, and technologies for use by patients,  
47 and in no case shall the funds be used to provide any form of direct

1 reimbursement to an individual provider for physical or behavioral  
2 health care services provided to a patient using telemedicine or  
3 telehealth, or to provide reimbursement for any electronic  
4 communication or information device, program, or technology for  
5 which payment may be made or covered or for which  
6 reimbursement is provided by a health benefits plan or any other  
7 State or federal program. Nothing in this section shall be construed  
8 to require a health benefits plan, Medicaid or NJ FamilyCare, the  
9 State Health Benefits Plan, or the School Employees' Health  
10 Benefits plan to provide reimbursement for acquiring or providing  
11 access to any electronic communication or information device,  
12 program, or technology for which coverage would not ordinarily be  
13 provided under the plan or contract.<sup>1</sup>

14

15 <sup>1</sup>9. P.L.2020, c.3 and P.L.2020, c.7 are repealed.<sup>1</sup>

16

17 <sup>1</sup>**[6.]** 10.<sup>1</sup> This act shall take effect immediately <sup>1</sup>and shall  
18 apply to all health benefits plans or contracts issued or renewed on  
19 or after that effective date. Section 6 of this act shall expire upon  
20 the end of the federal state of emergency declared in response to the  
21 coronavirus disease 2019 pandemic<sup>1</sup> .