

ASSEMBLY, No. 5362

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED FEBRUARY 23, 2021

Sponsored by:

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

SYNOPSIS

Expressly allows health care professionals located outside New Jersey to provide services using telemedicine and telehealth to patients in New Jersey.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning telemedicine and telehealth and amending
2 P.L.2017, c.117.

3
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6
7 1. 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, regardless of
13 whether the health care provider is located in New Jersey at the
14 time the remote health care services are provided. A health care
15 provider may also engage in telehealth as may be necessary to
16 support and facilitate the provision of health care services to
17 patients.

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

28 c. (1) Telemedicine services shall be provided using interactive,
29 real-time, two-way communication technologies.

30 (2) A health care provider engaging in telemedicine or
31 telehealth may use asynchronous store-and-forward technology to
32 allow for the electronic transmission of images, diagnostics, data,
33 and medical information; except that the health care provider may
34 use interactive, real-time, two-way audio in combination with
35 asynchronous store-and-forward technology, without video
36 capabilities, if, after accessing and reviewing the patient's medical
37 records, the provider determines that the provider is able to meet the
38 same standard of care as if the health care services were being
39 provided in person.

40 (3) The identity, professional credentials, and contact
41 information of a health care provider providing telemedicine or
42 telehealth services shall be made available to the patient during and
43 after the provision of services. The contact information shall enable
44 the patient to contact the health care provider, or a substitute health
45 care provider authorized to act on behalf of the provider who

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.

1 provided services, for at least 72 hours following the provision of
2 services.

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
9 P.L.2017, c.117 (C.45:1-63). In the case of a subsequent
10 telemedicine or telehealth encounter conducted pursuant to an
11 ongoing provider-patient relationship, the provider may review the
12 information prior to initiating contact with the patient or
13 contemporaneously with the telemedicine or telehealth encounter.

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

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

38 (2) Diagnosis, treatment, and consultation recommendations,
39 including discussions regarding the risk and benefits of the patient's
40 treatment options, which are made through the use of telemedicine
41 or telehealth, including the issuance of a prescription based on a
42 telemedicine or telehealth encounter, shall be held to the same
43 standard of care or practice standards as are applicable to in-person
44 settings. Unless the provider has established a proper provider-
45 patient relationship with the patient, a provider shall not issue a
46 prescription to a patient based solely on the responses provided in
47 an online questionnaire.

1 e. The prescription of Schedule II controlled dangerous
2 substances through the use of telemedicine or telehealth shall be
3 authorized only after an initial in-person examination of the patient,
4 as provided by regulation, and a subsequent in-person visit with the
5 patient shall be required every three months for the duration of time
6 that the patient is being prescribed the Schedule II controlled
7 dangerous substance. However, the provisions of this subsection
8 shall not apply, and the in-person examination or review of a patient
9 shall not be required, when a health care provider is prescribing a
10 stimulant which is a Schedule II controlled dangerous substance for
11 use by a minor patient under the age of 18, provided that the health
12 care provider is using interactive, real-time, two-way audio and
13 video technologies when treating the patient and the health care
14 provider has first obtained written consent for the waiver of these
15 in-person examination requirements from the minor patient's parent
16 or guardian.

17 f. A mental health screener, screening service, or screening
18 psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-
19 27.1 et seq.):

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

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

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

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

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

46 (a) include best practices for the professional engagement in
47 telemedicine and telehealth;

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

4 (c) include measures to prevent fraud and abuse in connection
5 with the use of telemedicine and telehealth, including requirements
6 concerning the filing of claims and maintaining appropriate records
7 of services provided; and

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

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

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

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

24
25 2. This act shall take effect immediately.
26
27

28 STATEMENT

29
30 This bill expressly allows health care providers located outside
31 New Jersey to provide health care services to New Jersey residents
32 using telemedicine and telehealth. The health care provider will
33 still need to be licensed or certified as a health care professional in
34 New Jersey as a condition of providing health care services using
35 telemedicine and telehealth, as is required under current law.