

[Fifth Reprint]  
**SENATE, No. 2559**

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

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INTRODUCED JUNE 8, 2020

**Sponsored by:**

**Senator VIN GOPAL**

**District 11 (Monmouth)**

**Senator NIA H. GILL**

**District 34 (Essex and Passaic)**

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**District 14 (Mercer and Middlesex)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**Assemblyman ROBERT J. KARABINCHAK**

**District 18 (Middlesex)**

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**SYNOPSIS**

Revises requirements for health insurance providers and Medicaid to cover services provided using telemedicine and telehealth; appropriates \$500,000.

**CURRENT VERSION OF TEXT**

As amended by the Senate on December 2, 2021.

**(Sponsorship Updated As Of: 12/2/2021)**

1 AN ACT concerning telemedicine and telehealth <sup>1</sup>**[and]** <sup>1</sup> amending  
 2 P.L.2017, c.117 <sup>3</sup>, repealing P.L.2020, c.3 and P.L.2020, c.7<sup>3 1</sup>,  
 3 and 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>5</sup>**[<sup>3</sup>(1)<sup>3</sup>]<sup>5</sup>** A carrier that offers a health benefits plan in  
 11 this State shall provide coverage and payment for <sup>2</sup>**[<sup>1</sup>all forms of]<sup>2</sup>**  
 12 <sup>5</sup>**[physical and behavioral]<sup>5</sup>** health care services delivered to a  
 13 covered person through telemedicine or telehealth, on the same  
 14 basis as, and at a provider reimbursement rate that **[does not**  
 15 **exceed]** <sup>5</sup>**[equals]** does not exceed<sup>5</sup> the provider reimbursement  
 16 rate that is applicable, when the services are delivered through in-  
 17 person contact and consultation in New Jersey <sup>2</sup>, provided the  
 18 services are otherwise covered under the plan when delivered  
 19 through in-person contact and consultation in New Jersey<sup>2</sup> .  
 20 Reimbursement payments under this section may be provided either  
 21 to the individual practitioner who delivered the reimbursable  
 22 services, or to the agency, facility, or organization that employs the  
 23 individual practitioner who delivered the reimbursable services, as  
 24 appropriate <sup>3</sup>**[<sup>2</sup>;** provided that, if a telemedicine or telehealth  
 25 organization does not provide a given service on an in-person basis  
 26 in New Jersey, the telemedicine or telehealth organization shall not  
 27 be subject to this requirement<sup>2</sup>] <sup>5</sup>**[.**  
 28

29 (2) The requirements of paragraph (1) of this subsection shall  
 30 not apply to:

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

34 (b) a physical health care service <sup>4</sup>that was<sup>4</sup> provided <sup>4</sup>[using  
 35 telemedicine or telehealth utilizing] through<sup>4</sup> real-time, two way  
 36 audio without a video component, whether or not utilized in  
 37 combination with asynchronous store-and-forward technology,  
 38 <sup>4</sup>**[the]** including through audio-only telephone conversation. The<sup>4</sup>  
 39 reimbursement rate for <sup>4</sup>[which] a<sup>4</sup> physical health care service  
 40 <sup>4</sup>that is subject to this subparagraph<sup>4</sup> shall be determined under the  
 41 <sup>4</sup>[plan when delivered through in-person contact and consultation in  
 42 New Jersey] contract between the carrier and the provider;  
provided that the reimbursement rate for a physical health care

**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>Senate SHH committee amendments adopted January 14, 2021.

<sup>2</sup>Senate SBA committee amendments adopted March 22, 2021.

<sup>3</sup>Assembly AAP committee amendments adopted June 16, 2021.

<sup>4</sup>Assembly floor amendments adopted June 21, 2021.

<sup>5</sup>Senate floor amendments adopted December 2, 2021.

1 service when provided through audio-only telephone conversation  
 2 shall be at least 50 percent of the reimbursement rate for the service  
 3 when provided in person<sup>4</sup> .

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

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

21 (1) impose any restrictions on the location or setting of the  
 22 distant site used by a health care provider to provide services using  
 23 telemedicine and telehealth <sup>1</sup>or on the location or setting of the  
 24 originating site where the patient is located when receiving services  
 25 using telemedicine and telehealth<sup>1</sup> <sup>5</sup>, except to ensure that the  
 26 services provided using telemedicine and telehealth meet the same  
 27 standard of care as would be provided if the services were provided  
 28 in person<sup>5</sup> ; <sup>1</sup>【or】<sup>1</sup>

29 (2) restrict the ability of a provider to use any electronic or  
 30 technological platform <sup>2</sup>【, including interactive, real-time, two-way  
 31 audio in combination with asynchronous store-and-forward  
 32 technology without video capabilities,】 <sup>3</sup>【that the federal Centers  
 33 for Medicare and Medicaid Services has authorized for use in  
 34 connection with the federal Medicare program<sup>2</sup>】<sup>3</sup> to provide  
 35 services using telemedicine or telehealth <sup>3</sup>, including, but not  
 36 limited to, interactive, real-time, two-way audio, which may be used  
 37 in combination with asynchronous store-and-forward technology  
 38 without video capabilities, <sup>4</sup>including audio-only telephone  
 39 conversations,<sup>4</sup> to provide services using telemedicine or telehealth<sup>3</sup>  
 40 <sup>2</sup>, provided<sup>2</sup> that <sup>2</sup>【:

41 (a) 】 the platform<sup>2</sup> <sup>3</sup>used :

42 (a)<sup>3</sup> allows the provider to meet the same standard of care as  
 43 would be provided if the services were provided in person <sup>2</sup>【; and

44 (b) is compliant with the requirements of the federal health  
 45 privacy rule set forth at 45 CFR Parts 160 and 164】<sup>2</sup> <sup>1</sup>; <sup>3</sup>【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;<sup>3</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<sup>5</sup>, and the provider is able to  
9 meet the same standard of care as would be provided if the services  
10 were provided in person<sup>5</sup> <sup>3</sup>; <sup>5</sup> or<sup>5</sup>

11 (4)<sup>5</sup> use telemedicine or telehealth to satisfy network adequacy  
12 requirements with regard to a health care service; or

13 (5)<sup>5</sup> limit coverage only to services delivered by select third  
14 party telemedicine or telehealth organizations<sup>3</sup> .<sup>1</sup>

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

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

19 (2) allow a carrier to require a covered person to use  
20 telemedicine or telehealth in lieu of receiving an in-person service  
21 from an in-network provider <sup>3</sup>[<sup>2</sup>or] <sup>5</sup>;

22 (3)<sup>3</sup> allow a carrier 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<sup>2</sup> <sup>3</sup>; or

26 (4) allow a carrier to impose any other requirements for the use  
27 of telemedicine or telehealth to provide a health care service that  
28 are more restrictive than the requirements that apply when the  
29 service is provided in person<sup>3</sup> <sup>5</sup> .

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

34 e. As used in this section:

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

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

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

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

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

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

47 "Telehealth" means the same as that term is defined by section 1  
48 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>2</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>2</sup>  
5 (cf: P.L.2017, c.117, s.8)

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

9 7. a. <sup>5</sup><sup>3</sup>(1)<sup>3</sup><sup>5</sup> The State Medicaid and NJ FamilyCare  
10 programs shall provide coverage and payment for <sup>2</sup><sup>1</sup>all forms of<sup>2</sup>  
11 <sup>5</sup>physical and behavioral<sup>1</sup><sup>5</sup> health care services delivered to a  
12 benefits recipient through telemedicine or telehealth, on the same  
13 basis as, and at a provider reimbursement rate that does not  
14 exceed <sup>5</sup>equals does not exceed<sup>5</sup> the provider reimbursement  
15 rate that is applicable, when the services are delivered through in-  
16 person contact and consultation in New Jersey <sup>2</sup>. provided the  
17 services are otherwise covered when delivered through in-person  
18 contact and consultation in New Jersey<sup>2</sup>. Reimbursement payments  
19 under this section may be provided either to the individual  
20 practitioner who delivered the reimbursable services, or to the  
21 agency, facility, or organization that employs the individual  
22 practitioner who delivered the reimbursable services, as appropriate  
23 <sup>3</sup><sup>2</sup>; provided that, if a telemedicine or telehealth organization does  
24 not provide a given service on an in-person basis in New Jersey, the  
25 telemedicine or telehealth organization shall not be subject to this  
26 requirement<sup>2</sup> <sup>5</sup>.

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 <sup>4</sup>that was<sup>4</sup> provided <sup>4</sup>using  
33 telemedicine or telehealth utilizing through<sup>4</sup> real-time, two way  
34 audio without a video component, whether or not utilized in  
35 combination with asynchronous store-and-forward technology,  
36 <sup>4</sup>the including through audio-only telephone conversation. The<sup>4</sup>  
37 reimbursement rate for <sup>4</sup>which a<sup>4</sup> physical health care service  
38 that is subject to this subparagraph<sup>4</sup> shall be determined under the  
39 <sup>4</sup>plan when delivered through in-person contact and consultation in  
40 New Jersey contract between the State Medicaid or NJ FamilyCare  
41 program and the provider; provided that the reimbursement rate for  
42 a physical health care service when provided through audio-only  
43 telephone conversation shall be at least 50 percent of the  
44 reimbursement rate for the service when provided in person<sup>4</sup> .

45 (3) The provisions of subparagraph (b) of paragraph (2) of this  
46 subsection shall not apply to <sup>4</sup>a<sup>4</sup> behavioral health <sup>4</sup>services  
47 service that was<sup>4</sup> provided <sup>4</sup>using telemedicine or telehealth

1 utilizing] through<sup>4</sup> real-time, two way audio without a video  
 2 component, whether or not utilized in combination with  
 3 asynchronous store-and-forward technology, <sup>4</sup>[which] including  
 4 audio-only telephone conversation. A<sup>4</sup> behavioral health care  
 5 service <sup>4</sup>described in this paragraph<sup>4</sup> shall be reimbursed at a rate  
 6 that equals the provider reimbursement rate for the service when  
 7 provided in person<sup>3</sup>]<sup>5</sup> .

8 b. The State Medicaid and NJ FamilyCare programs may limit  
 9 coverage to services that are delivered by participating health care  
 10 providers, but may not charge any deductible, copayment, or  
 11 coinsurance for a health care service, delivered through  
 12 telemedicine or telehealth, in an amount that exceeds the deductible,  
 13 copayment, or coinsurance amount that is applicable to an in-person  
 14 consultation. In no case shall the State Medicaid and NJ  
 15 FamilyCare programs:

16 (1) impose any restrictions on the location or setting of the  
 17 distant site used by a health care provider to provide services using  
 18 telemedicine and telehealth <sup>1</sup>or on the location or setting of the  
 19 originating site where the patient is located when receiving services  
 20 using telemedicine and telehealth<sup>1</sup> <sup>5</sup>, except to ensure that the  
 21 services provided using telemedicine and telehealth meet the same  
 22 standard of care as would be provided if the services were provided  
 23 in person<sup>5</sup> ; <sup>1</sup>[or]<sup>1</sup>

24 (2) restrict the ability of a provider to use any electronic or  
 25 technological platform <sup>2</sup>[, including interactive, real-time, two-way  
 26 audio in combination with asynchronous store-and-forward  
 27 technology without video capabilities,]<sup>3</sup>[that the federal Centers  
 28 for Medicare and Medicaid Services has authorized for use in  
 29 connection with the federal Medicare program<sup>2</sup>]<sup>3</sup> to provide  
 30 services using telemedicine or telehealth <sup>3</sup>, including, but not  
 31 limited to, interactive, real-time, two-way audio, which may be used  
 32 in combination with asynchronous store-and-forward technology  
 33 without video capabilities, <sup>4</sup>including audio-only telephone  
 34 conversations,<sup>4</sup> to provide services using telemedicine or  
 35 telehealth<sup>3</sup> <sup>2</sup>, provided<sup>2</sup> that <sup>2</sup>[:

36 (a)] the platform<sup>2</sup> <sup>3</sup>used :

37 (a)<sup>3</sup> allows the provider to meet the same standard of care as  
 38 would be provided if the services were provided in person <sup>2</sup>[: and

39 (b) is compliant with the requirements of the federal health  
 40 privacy rule set forth at 45 CFR Parts 160 and 164]<sup>2</sup> <sup>1</sup>; <sup>3</sup>[or] 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>3</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  
 47 and condition, if coverage and reimbursement would be provided if

1 those services are provided in person<sup>1 5</sup>, and the provider is able to  
2 meet the same standard of care as would be provided if the services  
3 were provided in person<sup>5 3</sup>; or  
4 (4) limit coverage only to services delivered by select third  
5 party telemedicine or telehealth organizations<sup>3</sup>.  
6 c. Nothing in this section shall be construed to:  
7 (1) prohibit the State Medicaid or NJ FamilyCare programs  
8 from providing coverage for only those services that are medically  
9 necessary, subject to the terms and conditions of the recipient's  
10 benefits plan; or  
11 (2) allow the State Medicaid or NJ FamilyCare programs to  
12 require a benefits recipient to use telemedicine or telehealth in lieu  
13 of obtaining an in-person service from a participating health care  
14 provider <sup>3</sup>[<sup>2</sup>or] <sup>5</sup>[:  
15 (3)<sup>3</sup> allow the State Medicaid or NJ FamilyCare programs to  
16 impose more stringent utilization management requirements on the  
17 provision of services using telemedicine and telehealth than apply  
18 when those services are provided in person<sup>2 3</sup>; or  
19 (4) allow the State Medicaid or NJ FamilyCare programs to  
20 impose any other requirements for the use of telemedicine or  
21 telehealth to provide a health care service that are more restrictive  
22 than the requirements that apply when the service is provided in  
23 person<sup>3</sup>]<sup>5</sup>.  
24 d. The Commissioner of Human Services, in consultation with  
25 the Commissioner of Children and Families, shall apply for such  
26 State plan amendments or waivers as may be necessary to  
27 implement the provisions of this section and to secure federal  
28 financial participation for State expenditures under the federal  
29 Medicaid program and Children's Health Insurance Program.  
30 e. As used in this section:  
31 "Asynchronous store-and-forward" means the same as that term  
32 is defined by section 1 of P.L.2017, c.117 (C.45:1-61).  
33 "Benefits recipient" or "recipient" means a person who is eligible  
34 for, and who is receiving, hospital or medical benefits under the  
35 State Medicaid program established pursuant to P.L.1968, c.413  
36 (C.30:4D-1 et seq.), or under the NJ FamilyCare program  
37 established pursuant to P.L.2005, c.156 (C.30:4J-8 et al.), as  
38 appropriate.  
39 "Distant site" means the same as that term is defined by section 1  
40 of P.L.2017, c.117 (C.45:1-61).  
41 <sup>1</sup>"Originating site" means the same as that term is defined by  
42 section 1 of P.L.2017, c.117 (C.45:1-61).<sup>1</sup>  
43 "Participating health care provider" means a licensed or certified  
44 health care provider who is registered to provide health care  
45 services to benefits recipients under the State Medicaid or NJ  
46 FamilyCare programs, as appropriate.  
47 "Telehealth" means the same as that term is defined by section 1  
48 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>2</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>2</sup>  
5 (cf: P.L.2017, c.117, s.7)

6  
7 <sup>4</sup>3. Section 1 of P.L.2017, c.117 (C. 45:1-61) is amended to read  
8 as follows:

9 1. As used in P.L.2017, c.117 (C.45:1-61 et al.):

10 "Asynchronous store-and-forward" means the acquisition and  
11 transmission of images, diagnostics, data, and medical information  
12 either to, or from, an originating site or to, or from, the health care  
13 provider at a distant site, which allows for the patient to be  
14 evaluated without being physically present.

15 "Cross-coverage service provider" means a health care provider,  
16 acting within the scope of a valid license or certification issued  
17 pursuant to Title 45 of the Revised Statutes, who engages in a  
18 remote medical evaluation of a patient, without in-person contact, at  
19 the request of another health care provider who has established a  
20 proper provider-patient relationship with the patient.

21 "Distant site" means a site at which a health care provider, acting  
22 within the scope of a valid license or certification issued pursuant to  
23 Title 45 of the Revised Statutes, is located while providing health  
24 care services by means of telemedicine or telehealth.

25 "Health care provider" means an individual who provides a  
26 health care service to a patient, and includes, but is not limited to, a  
27 licensed physician, nurse, nurse practitioner, psychologist,  
28 psychiatrist, psychoanalyst, clinical social worker, physician  
29 assistant, professional counselor, respiratory therapist, speech  
30 pathologist, audiologist, optometrist, or any other health care  
31 professional acting within the scope of a valid license or  
32 certification issued pursuant to Title 45 of the Revised Statutes.

33 "On-call provider" means a licensed or certified health care  
34 provider who is available, where necessary, to physically attend to  
35 the urgent and follow-up needs of a patient for whom the provider  
36 has temporarily assumed responsibility, as designated by the  
37 patient's primary care provider or other health care provider of  
38 record.

39 "Originating site" means a site at which a patient is located at the  
40 time that health care services are provided to the patient by means  
41 of telemedicine or telehealth.

42 "Telehealth" means the use of information and communications  
43 technologies, including telephones, remote patient monitoring  
44 devices, or other electronic means, to support clinical health care,  
45 provider consultation, patient and professional health-related  
46 education, public health, health administration, and other services in  
47 accordance with the provisions of P.L.2017, c.117 (C.45:1-  
48 61 et al.).



1 "Telemedicine" means the delivery of a health care service using  
2 electronic communications, information technology, or other  
3 electronic or technological means to bridge the gap between a  
4 health care provider who is located at a distant site and a patient  
5 who is located at an originating site, either with or without the  
6 assistance of an intervening health care provider, and in accordance  
7 with the provisions of P.L.2017, c.117 (C.45:1-61 et al.).  
8 **["Telemedicine" does not include the use, in isolation, of audio-  
9 only telephone conversation, electronic mail, instant messaging,  
10 phone text, or facsimile transmission.]** <sup>5</sup>"Telemedicine" does not  
11 include the use, in isolation, of electronic mail, instant messaging,  
12 phone text, or facsimile transmission.<sup>5</sup>

13 "Telemedicine or telehealth organization" means a corporation,  
14 sole proprietorship, partnership, or limited liability company that is  
15 organized for the primary purpose of administering services in the  
16 furtherance of telemedicine or telehealth.<sup>4</sup>  
17 (cf: P.L.2017, c.117, s.1)

18  
19 <sup>4</sup>**[3.]** <sup>4</sup> Section 2 of P.L.2017, c.117 (C.45:1-62) is amended  
20 to read as follows:

21 2. a. Unless specifically prohibited or limited by federal or  
22 State law, a health care provider who establishes a proper provider-  
23 patient relationship with a patient may remotely provide health care  
24 services to a patient through the use of telemedicine <sup>1</sup>**[, regardless  
25 of whether the health care provider is located in New Jersey at the  
26 time the remote health care services are provided]**<sup>1</sup>. A health care  
27 provider may also engage in telehealth as may be necessary to  
28 support and facilitate the provision of health care services to  
29 patients. <sup>3</sup>Nothing in P.L.2017, c.117 (C.45:1-61 et al.) shall be  
30 construed to <sup>4</sup>**[restrict the right of a patient to receive health care  
31 services on an in-person basis upon request, and no patient shall be  
32 required to engage in a telemedicine or telehealth encounter to  
33 receive health care services if those same services are available, in  
34 person, from a provider that is reasonably accessible to the patient]**  
35 allow a provider to require a patient to use telemedicine or  
36 telehealth in lieu of receiving services from an in-network  
37 provider<sup>4</sup> <sup>3</sup>

38 b. Any health care provider who uses telemedicine or engages  
39 in telehealth while providing health care services to a patient, shall:  
40 (1) be validly licensed, certified, or registered, pursuant to Title 45  
41 of the Revised Statutes, to provide such services in the State of New  
42 Jersey; (2) remain subject to regulation by the appropriate New  
43 Jersey State licensing board or other New Jersey State professional  
44 regulatory entity; (3) act in compliance with existing requirements  
45 regarding the maintenance of liability insurance; and (4) remain  
46 subject to New Jersey jurisdiction <sup>5</sup>**[if either the patient or the**

1 provider is located in New Jersey at the time services are  
2 provided<sup>5</sup> .

3 c. (1) Telemedicine services <sup>1</sup>~~shall~~ may<sup>1</sup> be provided using  
4 interactive, real-time, two-way communication technologies <sup>1</sup>or,  
5 subject to the requirements of paragraph (2) of this paragraph,  
6 asynchronous store-and-forward technology<sup>1</sup> .

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

23 (3) <sup>3</sup>(a) At the time the patient requests health care services to  
24 be provided using telemedicine or telehealth, the patient shall be  
25 clearly advised that the telemedicine or telehealth encounter may be  
26 with a health care provider who is not a physician, and that the  
27 patient may specifically request that the telemedicine or telehealth  
28 encounter be scheduled with a physician. If the patient requests that  
29 the telemedicine or telehealth encounter be with a physician, the  
30 encounter shall be scheduled with a physician.

31 (b)<sup>3</sup> The identity, professional credentials, and contact  
32 information of a health care provider providing telemedicine or  
33 telehealth services shall be made available to the patient <sup>2</sup>at the time  
34 the patient schedules services to be provided using telemedicine or  
35 telehealth, <sup>3</sup>except that, if the identity of the provider is not known  
36 at the time the services are scheduled, this information <sup>1</sup> if available,  
37 or upon confirmation of the scheduled telemedicine or telehealth  
38 encounter, and<sup>3</sup> shall be made available to the patient<sup>2</sup> during and  
39 after the provision of services <sup>3</sup>[<sup>2</sup> and, at the time the services are  
40 scheduled, the patient shall be advised that the health care provider  
41 who provides services may not be a physician<sup>2</sup> <sup>3</sup> ]. The contact  
42 information shall enable the patient to contact the health care  
43 provider, or a substitute health care provider authorized to act on  
44 behalf of the provider who provided services, for at least 72 hours  
45 following the provision of services. <sup>1</sup>If the health care provider is  
46 not a physician, <sup>2</sup>the health care provider shall request from the  
47 patient, prior to the start of the telemedicine or telehealth encounter,

1 an affirmative written acknowledgement that the patient  
2 understands the provider is not a physician and would still like to  
3 proceed with the encounter] and the patient requests that the  
4 services be provided by a physician, the health care provider shall  
5 assist the patient with scheduling a telemedicine or telehealth  
6 encounter with a physician<sup>2</sup> .<sup>1</sup>

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

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

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

46 (2) Diagnosis, treatment, and consultation recommendations,  
47 including discussions regarding the risk and benefits of the patient's

1 treatment options, which are made through the use of telemedicine  
2 or telehealth, including the issuance of a prescription based on a  
3 telemedicine or telehealth encounter, shall be held to the same  
4 standard of care or practice standards as are applicable to in-person  
5 settings. Unless the provider has established a proper provider-  
6 patient relationship with the patient, a provider shall not issue a  
7 prescription to a patient based solely on the responses provided in  
8 an online <sup>1</sup>static<sup>1</sup> questionnaire.

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

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

42 f. A mental health screener, screening service, or screening  
43 psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-  
44 27.1 et seq.):

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

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

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

9 h. A health care provider shall not be subject to any  
10 professional disciplinary action under Title 45 of the Revised  
11 Statutes solely on the basis that the provider engaged in  
12 telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-  
13 61 et al.).

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

24 (a) include best practices for the professional engagement in  
25 telemedicine and telehealth;

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

29 (c) include measures to prevent fraud and abuse in connection  
30 with the use of telemedicine and telehealth, including requirements  
31 concerning the filing of claims and maintaining appropriate records  
32 of services provided; and

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

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

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

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

1       <sup>4</sup>[4.] 5.<sup>4</sup> Section 9 of P.L.2017, c.117 (C.52:14-17.29w) is  
2 amended to read as follows:

3       9. a. <sup>5</sup>[<sup>3</sup>(1)<sup>3</sup>]<sup>5</sup> The State Health Benefits Commission shall  
4 ensure that every contract purchased thereby, which provides  
5 hospital and medical expense benefits, additionally provides  
6 coverage and payment for <sup>2</sup>[<sup>1</sup>all forms of]<sup>2</sup> <sup>5</sup>[physical and  
7 behavioral]<sup>1</sup><sup>5</sup> health care services delivered to a covered person  
8 through telemedicine or telehealth, on the same basis as, and at a  
9 provider reimbursement rate that **[does not exceed]** <sup>5</sup>[**equals**] does  
10 not exceed<sup>5</sup> the provider reimbursement rate that is applicable,  
11 when the services are delivered through in-person contact and  
12 consultation in New Jersey <sup>2</sup>, provided the services are otherwise  
13 covered under the contract when delivered through in-person  
14 contact and consultation in New Jersey<sup>2</sup> . Reimbursement  
15 payments under this section may be provided either to the  
16 individual practitioner who delivered the reimbursable services, or  
17 to the agency, facility, or organization that employs the individual  
18 practitioner who delivered the reimbursable services, as appropriate  
19 <sup>3</sup>[<sup>2</sup>; provided that, if a telemedicine or telehealth organization does  
20 not provide a given service on an in-person basis in New Jersey, the  
21 telemedicine or telehealth organization shall not be subject to this  
22 requirement]<sup>2</sup> <sup>5</sup>[.].

23       (2) The requirements of paragraph (1) of this subsection shall  
24 not apply to:

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

28       (b) a physical health care service <sup>4</sup>that was<sup>4</sup> provided <sup>4</sup>[using  
29 telemedicine or telehealth utilizing] through<sup>4</sup> real-time, two way  
30 audio without a video component, whether or not utilized in  
31 combination with asynchronous store-and-forward technology,  
32 <sup>4</sup>[the] including audio-only telephone conversation. The<sup>4</sup>  
33 reimbursement rate for <sup>4</sup>[which] a<sup>4</sup> physical health care service  
34 that is subject to this subparagraph<sup>4</sup> shall be determined under the  
35 <sup>4</sup>[plan when delivered through in-person contact and consultation in  
36 New Jersey] contract purchased by the State Health Benefits  
37 Commission with the provider; provided that the reimbursement  
38 rate for a physical health care service when provided through audio-  
39 only telephone conversation shall be at least 50 percent of the  
40 reimbursement rate for the service when provided in person<sup>4</sup> .

41       (3) The provisions of subparagraph (b) of paragraph (2) of this  
42 subsection shall not apply to <sup>4</sup>a<sup>4</sup> behavioral health <sup>4</sup>[services]  
43 service that was<sup>4</sup> provided <sup>4</sup>[using telemedicine or telehealth  
44 utilizing] through<sup>4</sup> real-time, two way audio without a video  
45 component, whether or not utilized in combination with  
46 asynchronous store-and-forward technology, <sup>4</sup>[which] including

1 audio-only telephone conversation. A<sup>4</sup> behavioral health care  
 2 service<sup>4</sup> described in this paragraph<sup>4</sup> shall be reimbursed at a rate  
 3 that equals the provider reimbursement rate for the service when  
 4 provided in person<sup>3</sup>]<sup>5</sup>.

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

14 (1) impose any restrictions on the location or setting of the  
 15 distant site used by a health care provider to provide services using  
 16 telemedicine and telehealth<sup>1</sup> or on the location or setting of the  
 17 originating site where the patient is located when receiving services  
 18 using telemedicine and telehealth<sup>1</sup> <sup>5</sup>, except to ensure that the  
 19 services provided using telemedicine and telehealth meet the same  
 20 standard of care as would be provided if the services were provided  
 21 in person<sup>5</sup> ; <sup>1</sup>[or]<sup>1</sup>

22 (2) restrict the ability of a provider to use any electronic or  
 23 technological platform<sup>2</sup> [, including interactive, real-time, two-way  
 24 audio in combination with asynchronous store-and-forward  
 25 technology without video capabilities,]<sup>3</sup> [that the federal Centers  
 26 for Medicare and Medicaid Services has authorized for use in  
 27 connection with the federal Medicare program<sup>2</sup>]<sup>3</sup> to provide  
 28 services using telemedicine or telehealth<sup>3</sup>, including, but not  
 29 limited to, interactive, real-time, two-way audio, which may be used  
 30 in combination with asynchronous store-and-forward technology  
 31 without video capabilities, <sup>4</sup>including audio-only telephone  
 32 conversations,<sup>4</sup> to provide services using telemedicine or telehealth<sup>3</sup>  
 33 <sup>2</sup>, provided<sup>2</sup> that <sup>2</sup>[:

34 (a) the platform<sup>2</sup> <sup>3</sup>used :

35 (a)<sup>3</sup> allows the provider to meet the same standard of care as  
 36 would be provided if the services were provided in person<sup>2</sup>[: and

37 (b) is compliant with the requirements of the federal health  
 38 privacy rule set forth at 45 CFR Parts 160 and 164]<sup>2</sup> <sup>1</sup>; <sup>3</sup>[or] and

39 (b) is compliant with the requirements of the federal health  
 40 privacy rule set forth at 45 CFR Parts 160 and 164;<sup>3</sup>

41 (3) deny coverage for or refuse to provide reimbursement for  
 42 routine patient monitoring performed using telemedicine and  
 43 telehealth, including remote monitoring of a patient's vital signs  
 44 and routine check-ins with the patient to monitor the patient's status  
 45 and condition, if coverage and reimbursement would be provided if  
 46 those services are provided in person<sup>1</sup> <sup>5</sup>, and the provider is able to

1 meet the same standard of care as would be provided if the services  
 2 were provided in person<sup>5 3; 5</sup> or<sup>5</sup>

3 (4) <sup>5</sup>use telemedicine or telehealth to satisfy network adequacy  
 4 requirements with regard to a health care service<sup>4</sup> for plans or  
 5 contracts entered into on or after the effective date of P.L. , c.  
 6 (pending before the Legislature as this bill)<sup>4</sup> ; or

7 (5)<sup>5</sup> limit coverage only to services delivered by select third  
 8 party telemedicine or telehealth organizations<sup>3</sup> .

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

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

13 (2) allow the State Health Benefits Commission, or a contract  
 14 purchased thereby, to require a covered person to use telemedicine  
 15 or telehealth in lieu of receiving an in-person service from an in-  
 16 network provider <sup>3</sup>[<sup>2</sup>or] <sup>5</sup>;

17 (3)<sup>3</sup> allow the State Health Benefits Commission, or a contract  
 18 purchased thereby, to impose more stringent utilization  
 19 management requirements on the provision of services using  
 20 telemedicine and telehealth than apply when those services are  
 21 provided in person<sup>2 3</sup>; or

22 (4) allow State Health Benefits Commission, or a contract  
 23 purchased thereby, to impose any other requirements for the use of  
 24 telemedicine or telehealth to provide a health care service that are  
 25 more restrictive than the requirements that apply when the service is  
 26 provided in person<sup>3</sup> <sup>5</sup> .

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

31 e. As used in this section:

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

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

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

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

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

42 <sup>2</sup>"Telemedicine or telehealth organization" means the same as  
 43 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).<sup>2</sup>  
 44 (cf: P.L.2017, c.117, s.9)

45

46 <sup>4</sup>[5.] 6.<sup>4</sup> Section 10 of P.L.2017, c.117 (C.52:14-17.46.6h) is  
 47 amended to read as follows:



1       10. a. <sup>5</sup>~~[(1)]<sup>3</sup>~~<sup>5</sup> The School Employees' Health Benefits  
2 Commission shall ensure that every contract purchased thereby,  
3 which provides hospital and medical expense benefits, additionally  
4 provides coverage and payment for <sup>2</sup>~~['all forms of']<sup>2</sup>~~ <sup>5</sup>~~physical and~~  
5 ~~behavioral<sup>1</sup>']<sup>5</sup> health care services delivered to a covered person  
6 through telemedicine or telehealth, on the same basis as, and at a  
7 provider reimbursement rate that ~~does not exceed~~ <sup>5</sup>~~equals~~ ~~does~~  
8 ~~not exceed~~<sup>5</sup> the provider reimbursement rate that is applicable,  
9 when the services are delivered through in-person contact and  
10 consultation in New Jersey <sup>2</sup>, provided the services are otherwise  
11 covered under the contract when delivered through in-person  
12 contact and consultation in New Jersey<sup>2</sup> . Reimbursement  
13 payments under this section may be provided either to the  
14 individual practitioner who delivered the reimbursable services, or  
15 to the agency, facility, or organization that employs the individual  
16 practitioner who delivered the reimbursable services, as appropriate  
17 <sup>3</sup>~~['<sup>2</sup>: provided that, if a telemedicine or telehealth organization does~~  
18 ~~not provide a given service on an in-person basis in New Jersey, the~~  
19 ~~telemedicine or telehealth organization shall not be subject to this~~  
20 ~~requirement<sup>2</sup>']<sup>5</sup> .~~~~

21       (2) The requirements of paragraph (1) of this subsection shall  
22 not apply to:

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

26       (b) a physical health care service <sup>4</sup>that was<sup>4</sup> provided <sup>4</sup>[using  
27 telemedicine or telehealth utilizing] through<sup>4</sup> real-time, two way  
28 audio without a video component, whether or not utilized in  
29 combination with asynchronous store-and-forward technology,  
30 <sup>4</sup>~~the] including audio-only telephone conversations. The<sup>4</sup>~~  
31 reimbursement rate for <sup>4</sup>[which] a<sup>4</sup> physical health care service  
32 <sup>4</sup>that is subject to this subparagraph<sup>4</sup> shall be determined under the  
33 <sup>4</sup>[plan when delivered through in-person contact and consultation in  
34 New Jersey] contract purchased by the School Employees' Health  
35 Benefits Commission with the provider; provided that the  
36 reimbursement rate for a physical health care service when provided  
37 through audio-only telephone conversation shall be at least 50  
38 percent of the reimbursement rate for the service when provided in  
39 person<sup>4</sup> .

40       (3) The provisions of subparagraph (b) of paragraph (2) of this  
41 subsection shall not apply to <sup>4</sup>a<sup>4</sup> behavioral health <sup>4</sup>[services]  
42 service that was<sup>4</sup> provided <sup>4</sup>[using telemedicine or telehealth  
43 utilizing] through<sup>4</sup> real-time, two way audio without a video  
44 component, whether or not utilized in combination with  
45 asynchronous store-and-forward technology, <sup>4</sup>[which] including  
46 audio-only telephone conversation. A<sup>4</sup> behavioral health care

1 service<sup>4</sup> described in this paragraph<sup>4</sup> shall be reimbursed at a rate  
2 that equals the provider reimbursement rate for the service when  
3 provided in person<sup>3</sup>]<sup>5</sup>.

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

14 (1) impose any restrictions on the location or setting of the  
15 distant site used by a health care provider to provide services using  
16 telemedicine and telehealth<sup>1</sup> or on the location or setting of the  
17 originating site where the patient is located when receiving services  
18 using telemedicine and telehealth<sup>1</sup> <sup>5</sup>, except to ensure that the  
19 services provided using telemedicine and telehealth meet the same  
20 standard of care as would be provided if the services were provided  
21 in person<sup>5</sup> ; <sup>1</sup>[or]<sup>1</sup>

22 (2) restrict the ability of a provider to use any electronic or  
23 technological platform<sup>2</sup> [, including interactive, real-time, two-way  
24 audio in combination with asynchronous store-and-forward  
25 technology without video capabilities,] <sup>3</sup>[that the federal Centers  
26 for Medicare and Medicaid Services has authorized for use in  
27 connection with the federal Medicare program<sup>2</sup>]<sup>3</sup> to provide  
28 services using telemedicine or telehealth<sup>3</sup>, including, but not  
29 limited to, interactive, real-time, two-way audio, which may be used  
30 in combination with asynchronous store-and-forward technology  
31 without video capabilities, <sup>4</sup>including audio-only telephone  
32 conversations,<sup>4</sup> to provide services using telemedicine or  
33 telehealth<sup>3</sup> <sup>2</sup>, provided<sup>2</sup> that <sup>2</sup>[:

34 (a) the platform<sup>2</sup> <sup>3</sup>used :

35 (a)<sup>3</sup> allows the provider to meet the same standard of care as  
36 would be provided if the services were provided in person<sup>2</sup>]; and

37 (b) is compliant with the requirements of the federal health  
38 privacy rule set forth at 45 CFR Parts 160 and 164]<sup>2</sup> <sup>1</sup>; <sup>3</sup>[or] and

39 (b) is compliant with the requirements of the federal health  
40 privacy rule set forth at 45 CFR Parts 160 and 164;<sup>3</sup>

41 (3) deny coverage for or refuse to provide reimbursement for  
42 routine patient monitoring performed using telemedicine and  
43 telehealth, including remote monitoring of a patient's vital signs  
44 and routine check-ins with the patient to monitor the patient's status  
45 and condition, if coverage and reimbursement would be provided if  
46 those services are provided in person<sup>1</sup> <sup>5</sup>, and the provider is able to

1 meet the same standard of care as would be provided if the services  
 2 were provided in person<sup>5 3; 5</sup> or<sup>5</sup>

3 (4) <sup>5</sup>use telemedicine or telehealth to satisfy network adequacy  
 4 requirements with regard to a health care service<sup>4</sup> for plans or  
 5 contracts entered into on or after the effective date of P.L. \_\_\_\_\_,  
 6 c. (pending before the Legislature as this bill)<sup>4</sup> ; or

7 (5)<sup>5</sup> limit coverage only to services delivered by select third  
 8 party telemedicine or telehealth organizations<sup>3</sup> .

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

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

13 (2) allow the School Employees' Health Benefits Commission,  
 14 or a contract purchased thereby, to require a covered person to use  
 15 telemedicine or telehealth in lieu of receiving an in-person service  
 16 from an in-network provider <sup>3</sup>[<sup>2</sup>or] <sup>5</sup>;

17 (3)<sup>3</sup> allow the School Employees' Health Benefits Commission,  
 18 or a contract purchased thereby, to impose more stringent utilization  
 19 management requirements on the provision of services using  
 20 telemedicine and telehealth than apply when those services are  
 21 provided in person<sup>2 3; or</sup>

22 (4) allow the School Employees' Health Benefits Commission,  
 23 or a contract purchased thereby, to impose any other requirements  
 24 for the use of telemedicine or telehealth to provide a health care  
 25 service that are more restrictive than the requirements that apply  
 26 when the service is provided in person<sup>3</sup><sup>5</sup> .

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

31 e. As used in this section:

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

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

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

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

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

42 <sup>2</sup>"Telemedicine or telehealth organization" means the same as  
 43 that term is defined by section 1 of P.L.2017, c.117 (C.45:1-61).<sup>2</sup>  
 44 (cf: P.L.2017, c.117, s.10)

45  
 46 <sup>3</sup><sup>2</sup>6. (New section) The Commissioner of Banking and  
 47 Insurance shall conduct a study to determine whether telemedicine

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

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

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

20 (2) items and services furnished or provided to an individual  
 21 during health care provider office visits, including in-person visits  
 22 and telemedicine and telehealth encounters, urgency care center  
 23 visits, and emergency department visits, that result in an order for  
 24 administration of a test for COVID-19<sup>5</sup>, but only to the extent that  
 25 the items and services relate to the furnishing or administration of  
 26 the test for COVID-19 or to the evaluation of the individual for  
 27 purposes of determining the need of the individual for that test<sup>5</sup>.

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

34  
 35 <sup>2</sup><sup>[6.]</sup> <sup>4</sup><sup>[7.]</sup> <sup>8.</sup><sup>4</sup> The Commissioner of Human Services shall  
 36 apply for such State plan amendments or waivers as may be  
 37 necessary to implement the provisions of this act and to secure  
 38 federal financial participation for State Medicaid expenditures  
 39 under the federal Medicaid program.

40  
 41 <sup>2</sup><sup>[17.]</sup> <sup>4</sup><sup>[8.]</sup> <sup>5</sup><sup>[9.]</sup> <sup>4</sup> There is appropriated from the General Fund  
 42 to the Department of Human Services the sum of \$5,000,000 to  
 43 establish a program under which health care providers that provide  
 44 telemedicine or telehealth services to patients who are enrolled in  
 45 the State Medicaid program can be reimbursed for the costs of  
 46 <sup>2</sup><sup>[making telemedicine and telehealth technologies available to]</sup>  
 47 <sup>2</sup>providing<sup>2</sup> those patients <sup>2</sup>with access, on a temporary or permanent  
 48 basis, to appropriate devices, programs, and technologies necessary

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

23  
24 <sup>59.</sup> (New section) a. The Commissioner of Health shall conduct  
25 a study to assess whether or to what extent coverage and payment  
26 for health care services delivered to a covered person through  
27 telemedicine or telehealth should be reimbursed at a provider  
28 reimbursement rate that equals the provider reimbursement rate that  
29 is applicable, when the services are delivered through in-person  
30 contact and consultation in New Jersey, as well as to assess whether  
31 telemedicine and telehealth may be appropriately used to satisfy  
32 network adequacy requirements applicable to health benefits plans  
33 in New Jersey. In conducting the study, the commissioner shall  
34 consider the effect of the availability and provision of health care  
35 services delivered through telemedicine or telehealth upon  
36 utilization, access to care, patient outcomes, and patient  
37 satisfaction; whether the delivery of services through telemedicine  
38 or telehealth affects the standard, quality, or cost of care; whether  
39 different or more stringent utilization management requirements  
40 should be adopted for coverage and payment for health care  
41 services delivered through telehealth or telemedicine; how the  
42 incentivization of the provision of telehealth and telemedicine  
43 services impacts underserved populations; and any consideration  
44 the commissioner deems relevant. As part of the study, the  
45 commissioner may also consider the adoption and impact of  
46 reimbursement requirements for telehealth and telemedicine in  
47 other jurisdictions. Nothing herein shall preclude the  
48 commissioner, in the commissioner's discretion, from engaging,

1 contracting, or entering into an agreement with one or more third-  
2 party vendors to conduct all or part of the study required by the  
3 subsection. Such vendor may consider or analyze any additional  
4 factors or information the vendor deems relevant to the study, as  
5 approved by the commissioner. The commissioner or such vendor  
6 shall consult with the Commissioner of Banking and Insurance, the  
7 State Treasurer, and the Commissioner of Human Services in  
8 conducting the study.

9 b. The commissioner shall prepare and submit a report to the  
10 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-  
11 19.1), to the Legislature, no later than the first day of the eighteenth  
12 month next following the effective date of P.L. , c. (pending  
13 before the Legislature as this bill) outlining the commissioner's  
14 findings and any recommendations for legislation, administrative  
15 action, or other actions as the commissioner deems appropriate.  
16 Such recommendations shall not on their own be binding on any  
17 health benefits plan in New Jersey, State Medicaid and NJ  
18 FamilyCare, the State Health Benefits Plan, or the School  
19 Employees' Health benefits Plan. Nothing herein shall preclude the  
20 commissioner, in the commissioner's discretion, from engaging,  
21 contracting, or entering into an agreement with one or more third-  
22 party vendors to prepare the report required by this subsection.

23 c. There is appropriated from the General Fund to the  
24 Department of Health the sum of \$500,000 to effectuate the  
25 provisions of this section.<sup>5</sup>

26  
27 <sup>4</sup>~~9.~~ <sup>10.</sup> P.L.2020, c.3 and P.L.2020, c.7 are repealed.<sup>3</sup>

28  
29 <sup>5</sup>11. (New section) a. For the period beginning on the effective  
30 date of P.L. , c. (pending before the Legislature as this bill) and  
31 ending on December 31, 2023, a health benefits plan in this State  
32 shall provide coverage and payment for health care services  
33 delivered to a covered person through telemedicine or telehealth at  
34 a provider reimbursement rate that equals the provider  
35 reimbursement rate that is applicable, when the services are  
36 delivered through in-person contact and consultation in New Jersey,  
37 provided the services are otherwise covered by the health benefits  
38 plan when delivered through in-person contact and consultation in  
39 New Jersey. The requirements of this subsection shall not apply to:

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

43 (2) a physical health care service that was provided through  
44 real-time, two-way audio without a video component, whether or  
45 not utilized in combination with asynchronous store-and-forward  
46 technology, including through audio-only telephone conversation.  
47 The reimbursement rate for a physical health care service that is  
48 subject to this paragraph shall be determined under the contract

1 with the provider; provided that the reimbursement rate for a  
 2 physical health care service when provided through audio-only  
 3 telephone conversation shall be at least 50 percent of the  
 4 reimbursement rate for the service when provided in person.

5 (3) The provisions of paragraph (2) of this subsection shall not  
 6 apply to a behavioral health service that was provided through real-  
 7 time, two-way audio without a video component, whether or not  
 8 utilized in combination with asynchronous store-and-forward  
 9 technology, including audio-only telephone conversation. A  
 10 behavioral health care service described in this paragraph shall be  
 11 reimbursed at a rate that equals the provider reimbursement rate for  
 12 the service when provided in person.

13 b. For the purposes of this section:

14 “Carrier” means an insurance company, health service  
 15 corporation, hospital service corporation, medical service  
 16 corporation, or health maintenance organization authorized to issue  
 17 health benefits plans in this State.

18 “Covered person” means the same as that term is defined in  
 19 section 2 of P.L.1997, c.192 (C.26:2S-2); a “benefits recipient” as  
 20 that term is defined under section 7 of P.L.2017, c.117 (C.30:4D-  
 21 6k); and a person covered under a contract purchased by the State  
 22 Health Benefits Commission or the School Employees’ Health  
 23 Benefits Commission.

24 “Health benefits plan” means a benefits plan which pays hospital  
 25 or medical expense benefits for covered services, and is delivered or  
 26 issued for delivery in this State by or through a carrier or a contract  
 27 purchased by the State Health Benefits Commission or the School  
 28 Employees’ Health Benefits Commission. The term shall include  
 29 the State Medicaid program established pursuant to P.L.1968, c.410  
 30 (C.30:4D-1 et seq.) and the NJ FamilyCare program established  
 31 pursuant to P.L.2005, c.156 (C.30:4J-8 et al.).<sup>5</sup>

32

33 <sup>1</sup>[7.] <sup>2</sup>[8. <sup>1</sup>] <sup>3</sup>[9. <sup>2</sup>] <sup>4</sup>[10. <sup>3</sup>] <sup>5</sup>[11. <sup>4</sup>] <sup>12.</sup><sup>5</sup> This act shall take  
 34 effect immediately <sup>3</sup>[<sup>2</sup>, except that sections 1, 2, 4, and 5 of this act  
 35 shall take effect January 1, 2022]<sup>3</sup> and shall apply to all health  
 36 benefits plans or contracts issued or renewed on or after that date<sup>2</sup> .  
 37 <sup>3</sup>Section <sup>5</sup>[<sup>6</sup>] <sup>7</sup><sup>5</sup> of this act shall expire upon the end of the federal  
 38 state of emergency declared in response to the coronavirus disease  
 39 2019 pandemic.<sup>3</sup>