

**ASSEMBLY, No. 2193**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED FEBRUARY 7, 2022

**Sponsored by:**

**Assemblywoman NANCY F. MUNOZ**

**District 21 (Morris, Somerset and Union)**

**Assemblyman CLINTON CALABRESE**

**District 36 (Bergen and Passaic)**

**Assemblywoman DEANNE C. DEFUCCIO**

**District 39 (Bergen and Passaic)**

**Co-Sponsored by:**

**Assemblymen DePhillips, Rooney, Catalano and McGuckin**

**SYNOPSIS**

Revises emergency care services referral standards for providers of telemedicine and telehealth.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 10/4/2022)**

1 AN ACT concerning telemedicine, telehealth, and emergency care  
2 services and amending 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. 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.

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

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

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

38 (3) The identity, professional credentials, and contact  
39 information of a health care provider providing telemedicine or  
40 telehealth services shall be made available to the patient during and  
41 after the provision of services. The contact information shall enable  
42 the patient to contact the health care provider, or a substitute health  
43 care provider authorized to act on behalf of the provider who  
44 provided services, for at least 72 hours following the provision of  
45 services.

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

12 (5) Following the provision of services using telemedicine or  
13 telehealth, the patient's medical information shall be made available  
14 to the patient upon the patient's request, and, with the patient's  
15 affirmative consent, forwarded directly to the patient's primary care  
16 provider or health care provider of record, or, upon request by the  
17 patient, to other health care providers. For patients without a  
18 primary care provider or other health care provider of record, the  
19 health care provider engaging in telemedicine or telehealth may  
20 advise the patient to contact a primary care provider, and, upon  
21 request by the patient, assist the patient with locating a primary care  
22 provider or other in-person medical assistance that, to the extent  
23 possible, is located within reasonable proximity to the patient. The  
24 health care provider engaging in telemedicine or telehealth shall  
25 also refer the patient to appropriate follow up or complimentary  
26 care where necessary, [including making appropriate referrals for  
27 emergency or complimentary care, if needed] and shall make a  
28 good faith effort to directly contact and coordinate with emergency  
29 services in accordance with the standard of care and the written  
30 emergency care plan that is appropriate to the situation and to the  
31 services rendered through the telemedicine or telehealth visit. The  
32 emergency care plan shall pertain to areas where patients are  
33 located during a telemedicine or telehealth visit. A healthcare  
34 provider engaging in telemedicine or telehealth shall make a good  
35 faith effort to: provide the name and location of the patient to  
36 emergency services in oral and written form; determine the location  
37 of a patient if a patient is unaware of his or her location; and  
38 provide his or her contact information to emergency services. A  
39 healthcare provider engaging in telemedicine or telehealth shall  
40 report suicide attempts of patient during a telehealth or telemedicine  
41 visit to the Department of Health in a manner that is consistent with  
42 federal and State privacy laws emergency and document  
43 emergencies which occur during a telehealth or telemedicine visit.  
44 Consent may be implied, oral, written, or digital in nature, provided  
45 that the chosen method of consent is deemed appropriate under the  
46 standard of care.

47 d. (1) Any health care provider providing health care services  
48 using telemedicine or telehealth shall be subject to the same

1 standard of care or practice standards as are applicable to in-person  
2 settings. If telemedicine or telehealth services would not be  
3 consistent with this standard of care, the health care provider shall  
4 direct the patient to seek in-person care.

5 (2) Diagnosis, treatment, and consultation recommendations,  
6 including discussions regarding the risk and benefits of the patient's  
7 treatment options, which are made through the use of telemedicine  
8 or telehealth, including the issuance of a prescription based on a  
9 telemedicine or telehealth encounter, shall be held to the same  
10 standard of care or practice standards as are applicable to in-person  
11 settings. Unless the provider has established a proper provider-  
12 patient relationship with the patient, a provider shall not issue a  
13 prescription to a patient based solely on the responses provided in  
14 an online questionnaire.

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

31 f. A mental health screener, screening service, or screening  
32 psychiatrist subject to the provisions of P.L.1987, c.116 (C.30:4-  
33 27.1 et seq.):

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

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

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

45 h. A health care provider shall not be subject to any  
46 professional disciplinary action under Title 45 of the Revised  
47 Statutes solely on the basis that the provider engaged in

1 telemedicine or telehealth pursuant to P.L.2017, c.117 (C.45:1-  
2 61 et al.).

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

13 (a) include best practices for the professional engagement in  
14 telemedicine and telehealth;

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

18 (c) include measures to prevent fraud and abuse in connection  
19 with the use of telemedicine and telehealth, including requirements  
20 concerning the filing of claims and maintaining appropriate records  
21 of services provided; **[and]**

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

26 (e) establish requirements for emergency care plans to be used  
27 by providers who determine that a patient who is receiving services  
28 using telemedicine or telehealth is in need of emergency care  
29 services, which emergency care plans shall include standards and  
30 protocols for activating and coordinating with emergency care  
31 services providers serving the area in which the patient is located at  
32 the time of the telemedicine or telehealth encounter.

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

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

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

45

46 2. This act shall take effect immediately.

STATEMENT

This bill amends current law regarding telemedicine and telehealth to revise emergency care services referral standards.

Under current law, there is a provision under which a health care provider engaging in telemedicine or telehealth is to make appropriate referrals for emergency care, if needed. The bill revises this provision to require a health care provider engaged in telemedicine or telehealth to make a good faith effort to directly activate and coordinate with emergency care services in accordance with the standard of care upon determining the patient is in need of emergency services.

The bill provides that an emergency care plan is to pertain to areas where patients are located during a telemedicine or telehealth visit. A healthcare provider engaging in telemedicine or telehealth is to make a good faith effort to: provide the name and location of the patient to emergency services in oral and written form; determine the location of a patient if a patient is unaware of his or her location; and provide his or her contact information to emergency services. A healthcare provider engaging in telemedicine or telehealth is to report suicide attempts of patient during a telehealth or telemedicine visit to the Department of Health in a manner that is consistent with federal and State privacy laws emergency and document emergencies which occur during a telehealth or telemedicine visit.

The bill requires professional licensing boards to include in their rules and regulations implementing the telemedicine and telehealth law requirements for emergency care plans that include standards and protocols for activating and coordinating with emergency care service providers serving the area in which the patient is located at the time of the telemedicine or telehealth encounter.