

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1078

Introduced by Nordquist, 7; Campbell, 25; Dubas, 34; McGill, 26.
Read first time January 22, 2014

Committee:

A BILL

1 FOR AN ACT relating to telehealth; to amend sections 71-8503 and
2 71-8508, Reissue Revised Statutes of Nebraska, sections
3 38-2001, 38-2301, and 38-2801, Revised Statutes
4 Cumulative Supplement, 2012, and section 71-8506, Revised
5 Statutes Supplement, 2013; to provide for the
6 establishment of a patient relationship through video
7 conferencing as prescribed; to require insurance coverage
8 for telehealth services as prescribed; to define and
9 redefine terms; to change provisions relating to
10 reimbursement rates and rules and regulations under the
11 Nebraska Telehealth Act; to harmonize provisions; and to
12 repeal the original sections.
13 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 38-2001, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 38-2001 Sections 38-2001 to 38-2062 and section 2 of this
4 act shall be known and may be cited as the Medicine and Surgery
5 Practice Act.

6 Sec. 2. A properly licensed physician or physician
7 assistant may establish a physician-patient relationship for the
8 purpose of prescribing medication either through an in-person meeting
9 or by seeing the patient through the use of a real-time, two-way
10 electronic video conference.

11 Sec. 3. Section 38-2301, Revised Statutes Cumulative
12 Supplement, 2012, is amended to read:

13 38-2301 Sections 38-2301 to 38-2324 and section 4 of this
14 act shall be known and may be cited as the Nurse Practitioner
15 Practice Act.

16 Sec. 4. A nurse practitioner may establish a nurse
17 practitioner-patient relationship for the purpose of prescribing
18 medication either through an in-person meeting or by seeing the
19 patient through the use of a real-time, two-way electronic video
20 conference.

21 Sec. 5. Section 38-2801, Revised Statutes Cumulative
22 Supplement, 2012, is amended to read:

23 38-2801 Sections 38-2801 to 38-28,103 and section 6 of
24 this act shall be known and may be cited as the Pharmacy Practice
25 Act.

1 Sec. 6. A pharmacist may establish a pharmacist-patient
2 relationship either through an in-person meeting or by seeing the
3 patient through the use of a real-time, two-way electronic video
4 conference.

5 Sec. 7. (1) Notwithstanding section 44-3,131, any
6 individual or group sickness and accident insurance policy or
7 subscriber contract delivered, issued for delivery, or renewed in
8 this state and any hospital, medical, or surgical expense-incurred
9 policy, except for policies that provide coverage for a specified
10 disease or other limited-benefit coverage, and any self-funded
11 employee benefit plan to the extent not preempted by federal law
12 shall include coverage for treatment provided using telehealth if the
13 health care provider has determined the use of telehealth is
14 appropriate and if such treatment is covered when provided in person.

15 (2) The coverage provided by this section shall not be
16 less favorable than for similar treatment provided in person.

17 (3) This section does not prevent application of
18 deductible or copayment provisions contained in the policy, contract,
19 or plan.

20 (4) This section shall not be construed to require
21 coverage for services that are not medically necessary.

22 (5) This section shall apply to any policy, contract, or
23 plan that is delivered, issued for delivery, or renewed in this state
24 on or after October 1, 2014.

25 (6) For purposes of this section:

1 (a) Telehealth means the use of medical information
2 electronically exchanged from one site to another, whether
3 synchronously or asynchronously, to aid a health care provider in the
4 diagnosis or treatment of a patient. Telehealth includes services
5 originating from a patient's home or any other location where such
6 patient is located, asynchronous services involving the acquisition
7 and storage of medical information at one site that is then forwarded
8 to or retrieved by a health care provider at another site for medical
9 evaluation, and telemonitoring; and

10 (b) Telemonitoring means the remote monitoring of a
11 patient's vital signs, biometric data, or subjective data by a
12 monitoring device which transmits such data electronically to a
13 health care provider for analysis and storage.

14 Sec. 8. Section 71-8503, Reissue Revised Statutes of
15 Nebraska, is amended to read:

16 71-8503 For purposes of the Nebraska Telehealth Act:

17 (1) Department means the Department of Health and Human
18 Services;

19 (2) Health care practitioner means a Nebraska medicaid-
20 enrolled provider who is licensed, registered, or certified to
21 practice in this state by the department;

22 (3) ~~Telehealth means the use of telecommunications~~
23 ~~technology by a health care practitioner to deliver health care~~
24 ~~services within his or her scope of practice at a site other than the~~
25 ~~site where the patient is located; and medical information~~

1 electronically exchanged from one site to another, whether
2 synchronously or asynchronously, to aid a health care practitioner in
3 the diagnosis or treatment of a patient. Telehealth includes services
4 originating from a patient's home or any other location where such
5 patient is located, asynchronous services involving the acquisition
6 and storage of medical information at one site that is then forwarded
7 to or retrieved by a health care practitioner at another site for
8 medical evaluation, and telemonitoring;

9 (4) Telehealth consultation means any contact between a
10 patient and a health care practitioner relating to the health care
11 diagnosis or treatment of such patient through telehealth; and ~~but~~
12 ~~does not include a telephone conversation, electronic mail message,~~
13 ~~or facsimile transmission between a health care practitioner and a~~
14 ~~patient or a consultation between two health care practitioners.~~

15 (5) Telemonitoring means the remote monitoring of a
16 patient's vital signs, biometric data, or subjective data by a
17 monitoring device which transmits such data electronically to a
18 health care practitioner for analysis and storage.

19 Sec. 9. Section 71-8506, Revised Statutes Supplement,
20 2013, is amended to read:

21 71-8506 (1) In-person contact between a health care
22 practitioner and a patient shall not be required under the medical
23 assistance program established pursuant to the Medical Assistance Act
24 and Title XXI of the federal Social Security Act, as amended, for
25 health care services delivered through telehealth that are otherwise

1 eligible for reimbursement under such program and federal act. Such
2 services shall be subject to reimbursement policies developed
3 pursuant to such program and federal act. This section also applies
4 to managed care plans which contract with the department pursuant to
5 the Medical Assistance Act only to the extent that:

6 (a) Health care services delivered through telehealth are
7 covered by and reimbursed under the medicaid fee-for-service program;
8 and

9 (b) Managed care contracts with managed care plans are
10 amended to add coverage of health care services delivered through
11 telehealth and any appropriate capitation rate adjustments are
12 incorporated.

13 (2) The reimbursement rate for a telehealth consultation
14 shall, as a minimum, be set at the same rate as the medical
15 assistance program rate for a comparable in-person consultation, and
16 the rate shall not depend on the distance between the health care
17 practitioner and the patient.

18 (3) The department shall establish rates for transmission
19 cost reimbursement for telehealth consultations, considering, to the
20 extent applicable, reductions in travel costs by health care
21 practitioners and patients to deliver or to access health care
22 services and such other factors as the department deems relevant.
23 Such rates shall include reimbursement for all two-way, real-time,
24 interactive communications, unless provided by an Internet service
25 provider, between the patient and the physician or health care

1 practitioner at the distant site which comply with the federal Health
2 Insurance Portability and Accountability Act of 1996 and rules and
3 regulations adopted thereunder and with regulations relating to
4 encryption adopted by the federal Centers for Medicare and Medicaid
5 Services and which satisfy federal requirements relating to
6 efficiency, economy, and quality of care.

7 Sec. 10. Section 71-8508, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 71-8508 ~~By July 1, 2000, the~~ The department shall adopt
10 and promulgate rules and regulations to carry out the Nebraska
11 Telehealth Act, including, but not limited to, rules and regulations
12 to: (1) Ensure the provision of appropriate care to patients; (2)
13 prevent fraud and abuse; and (3) establish necessary methods and
14 procedures. ~~necessary to safeguard against unnecessary utilization of~~
15 ~~telehealth consultations.~~

16 Sec. 11. Original sections 71-8503 and 71-8508, Reissue
17 Revised Statutes of Nebraska, sections 38-2001, 38-2301, and 38-2801,
18 Revised Statutes Cumulative Supplement, 2012, and section 71-8506,
19 Revised Statutes Supplement, 2013, are repealed.