

ENROLLED SENATE
BILL NO. 48

By: Robinson of the Senate

and

Askins, Deutschendorf,
Glover and Pope (Clay) and
Perry of the House

An Act relating to telemedicine; providing short title; creating the Oklahoma Telemedicine Act; defining term; prohibiting certain health care requirement; providing certain exception; establishing certain consent procedures and compliance with certain commitments; making exceptions thereto; describing certain failure to comply as unprofessional conduct; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6801 of Title 36, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Telemedicine Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6802 of Title 36, unless there is created a duplication in numbering, reads as follows:

As used in this act, "telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, transfer of medical data, or exchange of medical education information by means of audio, video, or data communications. Telemedicine is not a consultation provided by telephone or facsimile machine.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6803 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. For services that a health care practitioner determines to be appropriately provided by means of telemedicine, health care service plans, disability insurer programs, workers' compensation programs, or state Medicaid managed care program contracts issued, amended, or renewed on or after January 1, 1998, shall not require person-to-person contact between a health care practitioner and a patient.

B. Subsection A of this section shall apply to health care service plan contracts with the state Medicaid managed care program only to the extent that both of the following apply:

1. Telemedicine services are covered by, and reimbursed under, the fee-for-service provisions of the state Medicaid managed care program; and

2. State Medicaid managed care program contracts with health care service plans are amended to add coverage of telemedicine services and make any appropriate capitation rate adjustments.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6804 of Title 36, unless there is created a duplication in numbering, reads as follows:

A. Prior to the delivery of health care via telemedicine, the health care practitioner who is in physical contact with the patient shall have the ultimate authority over the care of the patient and shall obtain informed consent from the patient. The informed consent procedure shall ensure that, at least, all the following information is given to the patient:

1. A statement that the individual retains the option to withhold or withdraw consent at any time without affecting the right to future care or treatment or risking the loss or withdrawal of any program benefits to which the individual would otherwise be entitled;

2. A description of the potential risks, consequences, and benefits of telemedicine;

3. A statement that all existing confidentiality protections apply;

4. A statement that patient access to all medical information transmitted during a telemedicine interaction is guaranteed, and that copies of this information are available at stated costs, which shall not exceed the direct cost of providing the copies; and

5. A statement that dissemination to researchers or other entities or persons external to the patient-practitioner relationship of any patient-identifiable images or other patient-identifiable information from the telemedicine interaction shall not occur without the written consent of the patient.

B. The patient shall sign a written statement prior to the delivery of health care via telemedicine indicating that the patient understands the written information provided pursuant to subsection A of this section and that this information has been discussed with the health care practitioner or the practitioner's designee.

C. If the patient is a minor or is incapacitated or mentally incompetent such that the patient is unable to give informed consent, the consent provisions of this section shall apply to the patient's representative. The consent provisions of this section shall not apply in an emergency situation in which a patient is unable to give informed consent and the patient's representative is unavailable.

D. The failure of a health care practitioner to comply with the provisions of this section shall constitute unprofessional conduct.

E. The written consent statement signed by the patient shall become part of the patient's medical record.

F. The consent provisions of this section shall not apply to consultations among or between health care practitioners or to other telemedicine interactions in which the patient is not directly involved.

G. The consent provisions of this section shall not apply to consultations among or between health care practitioners and inmates in the custody of the Department of Corrections.

SECTION 5. This act shall become effective July 1, 1997.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.