

SHORT TITLE: Telemedicine; creating Oklahoma Telemedicine Act;
codification; effective date; emergency.

STATE OF OKLAHOMA

1st Session of the 46th Legislature (1997)

SENATE BILL NO. 48

By: Robinson

AS INTRODUCED

An Act relating to telemedicine; providing short title; creating the Oklahoma Telemedicine Act; defining term; prohibiting certain health care requirement; providing certain exception; excluding certain actions from certain payment requirements; establishing certain consent procedures and compliance with certain commitments; making exceptions thereto; describing certain failure to comply as unprofessional conduct; requiring certain evaluation; 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 interactive audio, video, or data communications.

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, 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 state Medicaid managed care program fee-for-service 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.

C. Health care service plans shall not be required to pay for consultation provided by the health care provider by telephone or facsimile machines.

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 has ultimate authority over the care or primary diagnosis of the patient shall obtain verbal and written informed consent from the patient. The informed consent procedure shall ensure that, at least, all the following information is given to the patient verbally and in writing:

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.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 6805 of Title 36, unless there is created a duplication in numbering, reads as follows:

The state Medicaid managed care program shall conduct an evaluation of the cost effectiveness and quality of health care provided through telemedicine by those providers who are reimbursed for telemedicine services by the program.

SECTION 6. This act shall become effective July 1, 1997.

SECTION 7. 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.

46-1-0251

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