

HOUSE BILL No. 2512

By Committee on Health and Human Services

1-22

1 AN ACT concerning health and healthcare; relating to the practice of
2 telemedicine; certain state licensing agencies; establishing coverage
3 parity between in-person and telemedicine-delivered healthcare
4 services and providers; enacting the Kansas telemedicine act;
5 definitions; rules and regulations; amending K.S.A. 2017 Supp. 40-
6 2,103 and 40-19c09 and repealing the existing sections.

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8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. Sections 1 through 6, and amendments thereto, shall be
10 known and may be cited as the Kansas telemedicine act.

11 Sec. 2. For purposes of Kansas telemedicine act:

12 (a) "BSRB" means the behavioral sciences regulatory board.

13 (b) "BOHA" means the state board of healing arts.

14 (c) "Distant site" means a site at which a healthcare provider is
15 located while providing healthcare services by means of telemedicine.

16 (d) "Healthcare provider" means a licensed mental healthcare
17 professional or a physician.

18 (e) "Licensed mental healthcare professional" means an individual
19 licensed by the BSRB and who is acting within the scope of the
20 individual's professional licensure act and held to the standards of
21 professional conduct as set forth by the BSRB.

22 (f) "Originating site" means a site at which a patient is located at the
23 time healthcare services are provided by means of telemedicine.

24 (g) "Physician" means a person licensed to practice medicine and
25 surgery by the BOHA and who is acting within the scope of the healing
26 arts act and held to the standards of professional conduct as set forth by the
27 BOHA.

28 (h) "Telemedicine," including "telehealth," means the delivery of
29 healthcare services or consultations while the patient is at an originating
30 site and the physician or licensed mental healthcare professional is at a
31 distant site. Telemedicine shall be provided by means of real-time two-way
32 interactive audio, visual, or audio-visual communications, including the
33 application of secure video conferencing or store-and-forward technology
34 to provide or support healthcare delivery, that facilitate the assessment,
35 diagnosis, consultation, treatment, education and care management of a
36 patient's healthcare. "Telemedicine" does not include communication

1 between:

2 (1) Licensed healthcare providers that consist solely of a telephone
3 conversation, email or facsimile transmission; or

4 (2) a physician and a patient that consists solely of an email or
5 facsimile transmission.

6 Sec. 3. (a) The same requirements for patient privacy and
7 confidentiality under the health insurance portability and accountability act
8 of 1996 that apply to healthcare services delivered via in-person visits
9 shall also apply to healthcare services delivered via telemedicine.

10 (b) Telemedicine may be used to establish a valid provider-patient
11 relationship.

12 (c) Any healthcare provider delivering healthcare services via
13 telemedicine in this state shall be held to the same standards of practice
14 and conduct as are required for the delivery of healthcare services via in-
15 person contact, as determined by the BOHA and the BSRB for their
16 respective licensees.

17 (d) A healthcare provider who provides telemedicine services to a
18 patient shall provide the patient with guidance on appropriate follow-up
19 care. Additionally, if the patient consents and the patient has a primary care
20 or other treating physician, the provider shall provide, within 72 hours, a
21 report to such primary care or other treating physician of the treatment and
22 services rendered to the patient in the telemedicine encounter.

23 Sec. 4. (a) The provisions of this section shall apply to any individual
24 or group health insurance policy, medical service plan, contract, hospital
25 service corporation contract, hospital and medical service corporation
26 contract, fraternal benefit society or health maintenance organization that
27 provides coverage for accident and health services and that is delivered,
28 issued for delivery, amended or renewed on or after January 1, 2019. The
29 provisions of this section shall also apply to the Kansas program of
30 medical assistance.

31 (b) No individual or group health insurance policy, medical service
32 plan, contract, hospital service corporation contract, hospital and medical
33 service corporation contract, fraternal benefit society, health maintenance
34 organization or the Kansas program for medical assistance shall exclude an
35 otherwise covered healthcare service from coverage solely because such
36 service is provided through telemedicine, rather than in-person contact or
37 based upon the lack of a commercial office for the practice of medicine,
38 when such service is delivered:

39 (1) By a healthcare provider; or

40 (2) under the supervision of a physician.

41 (c) The insured's medical record shall serve to satisfy all
42 documentation for the reimbursement of all telemedicine healthcare
43 services, and no additional documentation outside of the medical record

1 shall be required.

2 (d) Payment or reimbursement of covered healthcare services
3 delivered through telemedicine may be established by an insurance
4 company, nonprofit health service corporation, nonprofit medical and
5 hospital service corporation or health maintenance organization in the
6 same manner as payment or reimbursement for covered services that are
7 delivered via in-person contact are established.

8 (e) Nothing in this section shall be construed to:

9 (1) Prohibit an individual or group health insurance policy, medical
10 service plan, contract, hospital service corporation contract, hospital and
11 medical service corporation contract, fraternal benefit society or health
12 maintenance organization that provides coverage for telemedicine or the
13 Kansas program of medical assistance from providing coverage for only
14 those services that are medically necessary, subject to the terms and
15 conditions of the covered individual's health benefits plan;

16 (2) mandate coverage for a healthcare service delivered via
17 telemedicine if such healthcare service is not already a covered healthcare
18 service, when delivered:

19 (A) By a healthcare provider; or

20 (B) under the supervision of a physician and subject to the terms and
21 conditions of the covered individual's health benefits plan; or

22 (3) allow an individual or group health insurance policy, medical
23 service plan, contract, hospital service corporation contract, hospital and
24 medical service corporation contract, fraternal benefit society or health
25 maintenance organization that provides coverage for telemedicine or the
26 Kansas program of medical assistance to require a covered individual to
27 use telemedicine or in lieu of receiving an in-person healthcare service or
28 consultation from an in-network provider.

29 (f) The provisions of K.S.A. 40-2248 and 40-2249a, and amendments
30 thereto, shall not apply to this section.

31 Sec. 5. (a) The BOHA, following consultation with the state board of
32 pharmacy and the board of nursing, shall adopt rules and regulations
33 relating to the prescribing of drugs, including controlled substances via
34 telemedicine. Such rules and regulations shall be adopted by December 31,
35 2018.

36 (b) The BOHA shall adopt such rules and regulations as may be
37 necessary to effectuate the provisions of Kansas telemedicine act. Such
38 rules and regulation shall be adopted by December 31, 2018.

39 (c) The BSRB shall adopt such rules and regulations as may be
40 necessary to effectuate the provisions of Kansas telemedicine act. Such
41 rules and regulations shall be adopted by December 31, 2018.

42 Sec. 6. Nothing in this act shall be construed to authorize the
43 prescription of any abortifacient, nor shall anything in Kansas

1 telemedicine act be construed to authorize the delivery of any abortion
2 procedure via telemedicine.

3 Sec. 7. K.S.A. 2017 Supp. 40-2,103 is hereby amended to read as
4 follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-
5 2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170,
6 ~~inclusive~~, 40-2250, K.S.A. 2017 Supp. 40-2,105a, 40-2,105b, 40-2,184,
7 40-2,190 ~~and~~, 40-2,194, *and section 4*, and amendments thereto, shall
8 apply to all insurance policies, subscriber contracts or certificates of
9 insurance delivered, renewed or issued for delivery within or outside of
10 this state or used within this state by or for an individual who resides or is
11 employed in this state.

12 Sec. 8. K.S.A. 2017 Supp. 40-19c09 is hereby amended to read as
13 follows: 40-19c09. (a) Corporations organized under the nonprofit medical
14 and hospital service corporation act shall be subject to the provisions of
15 the Kansas general corporation code, articles ~~60 to through 74, inclusive~~,
16 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto,
17 applicable to nonprofit corporations, to the provisions of K.S.A. 40-214,
18 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-229,
19 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250,
20 40-251, 40-252, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-
21 2,105, 40-2,116, 40-2,117, 40-2,125, 40-2,153, 40-2,154, 40-2,160, 40-
22 2,161, 40-2,163 through 40-2,170, ~~inclusive~~, 40-2a01 et seq., 40-2111 ~~to~~
23 *through* 40-2116, ~~inclusive~~, 40-2215 ~~to through~~ 40-2220, ~~inclusive~~, 40-
24 2221a, 40-2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254,
25 40-2401 ~~to through~~ 40-2421, ~~inclusive~~, and 40-3301 ~~to through~~ 40-3313,
26 ~~inclusive~~, K.S.A. 2017 Supp. 40-2,105a, 40-2,105b, 40-2,184, 40-2,190
27 ~~and~~, 40-2,194, *and section 4*, and amendments thereto, except as the
28 context otherwise requires, and shall not be subject to any other provisions
29 of the insurance code except as expressly provided in this act.

30 (b) No policy, agreement, contract or certificate issued by a
31 corporation to which this section applies shall contain a provision which
32 excludes, limits or otherwise restricts coverage because medicaid benefits
33 as permitted by title XIX of the social security act of 1965 are or may be
34 available for the same accident or illness.

35 (c) Violation of subsection (b) shall be subject to the penalties
36 prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

37 Sec. 9. K.S.A. 2017 Supp. 40-2,103 and 40-19c09 are hereby
38 repealed.

39 Sec. 10. This act shall take effect and be in force from and after
40 January 1, 2019, and its publication in the statute book.