

# **WEST VIRGINIA LEGISLATURE**

**2020 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 4003**

BY DELEGATES MAYNARD, TONEY, LINVILLE,  
PORTERFIELD, HOUSEHOLDER, SYPOLT, WESTFALL AND  
BATES

[Passed March 7, 2020; in effect ninety days from  
passage.]



1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §5-16-7b, to amend said code by adding thereto a new section, designated  
3 §30-1-25, and to amend said code by adding thereto a new section, designated §33-53-  
4 3, all relating to telehealth requirements; providing rulemaking authority; requiring boards  
5 to regulate telehealth practice; defining terms; requiring insurance coverage of certain  
6 telehealth services; providing an effective date; and providing limitation of applicability.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 16. WEST VIRGINIA PUBLIC EMPLOYEES INSURANCE ACT.**

**§5-16-7b. Coverage for telehealth services.**

1 (a) The following terms are defined:

2 (1) "Distant site" means the telehealth site where the health care practitioner is seeing the  
3 patient at a distance or consulting with a patient's health care practitioner.

4 (2) "Health care practitioner" means a person licensed under §30-1-1 *et seq.* of this code  
5 who provides health care services.

6 (3) "Originating site" means the location where the patient is located, whether or not  
7 accompanied by a health care practitioner, at the time services are provided by a health care  
8 practitioner through telehealth, including, but not limited to, a health care practitioner's office,  
9 hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's  
10 home, and other nonmedical environments such as school-based health centers, university-  
11 based health centers, or the work location of a patient.

12 (4) "Remote patient monitoring services" means the delivery of home health services  
13 using telecommunications technology to enhance the delivery of home health care, including  
14 monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood  
15 glucose, and other condition-specific data; medication adherence monitoring; and interactive  
16 video conferencing with or without digital image upload.

17           (5) “Telehealth services” means the use of synchronous or asynchronous  
18 telecommunications technology by a health care practitioner to provide health care services,  
19 including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a  
20 patient; transfer of medical data; patient and professional health-related education; public health  
21 services; and health administration. The term does not include audio-only telephone calls, e-mail  
22 messages, or facsimile transmissions.

23           (b) After July 1, 2020, the plan shall provide coverage of health care services provided  
24 through telehealth services if those same services are covered through face-to-face consultation  
25 by the policy.

26           (c) After July 1, 2020, the plan may not exclude a service for coverage solely because the  
27 service is provided through telehealth services.

28           (d) The plan shall provide reimbursement for a telehealth service at a rate negotiated  
29 between the provider and the insurance company.

30           (e) The plan may not impose any annual or lifetime dollar maximum on coverage for  
31 telehealth services other than an annual or lifetime dollar maximum that applies in the aggregate  
32 to all items and services covered under the policy, or impose upon any person receiving benefits  
33 pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year,  
34 calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services,  
35 that is not equally imposed upon all terms and services covered under the policy, contract, or  
36 plan.

37           (f) An originating site may charge the plan a site fee.

38           (g) The coverage required by this section shall include the use of telehealth technologies  
39 as it pertains to medically necessary remote patient monitoring services to the full extent that  
40 those services are available.

## CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

### ARTICLE 1. GENERAL PROVISIONS APPLICABLE TO ALL STATE BOARDS OF EXAMINATION OR REGISTRATION REFERRED TO IN CHAPTER.

#### §30-1-25. Telehealth practice.

1 (a) For the purposes of this section:

2 "Health care practitioner" means a person licensed under §30-1-1 *et seq.* who provides  
3 health care services.

4 "Telehealth services" means the use of synchronous or asynchronous  
5 telecommunications technology by a health care practitioner to provide health care services,  
6 including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a  
7 patient; transfer of medical data; patient and professional health-related education; public health  
8 services; and health administration. The term does not include audio-only telephone calls, e-mail  
9 messages, or facsimile transmissions.

10 (b) Unless already provided for by statute or legislative rule, a health care board, referred  
11 to in this chapter, shall propose a rule for legislative approval in accordance with the provisions  
12 of §29A-3-1 *et seq.* to regulate telehealth practice by a telehealth practitioner. The proposed rule  
13 shall consist of the following:

14 (1) The practice of the health care service occurs where the patient is located at the time  
15 the telehealth technologies are used;

16 (2) The health care practitioner who practices telehealth must be licensed as provided in  
17 this chapter;

18 (3) When the health care practitioner patient relationship is established;

19 (4) The standard of care;

20 (5) A prohibition of prescribing schedule II drugs, unless authorized by another section;

21 and

22 (6) Implement the provisions of this section while ensuring competency, protecting the  
23 citizens of this state from harm, and addressing issues specific to each profession.

## **CHAPTER 33. INSURANCE.**

### **ARTICLE 53. REQUIRED COVERAGE FOR HEALTH INSURANCE.**

#### **§33-53-1. Coverage of telehealth services.**

1 (a) The following terms are defined:

2 (1) "Distant site" means the telehealth site where the health care practitioner is seeing the  
3 patient at a distance or consulting with a patient's health care practitioner.

4 (2) "Health care practitioner" means a person licensed under §30-1-1 *et seq.* of this code  
5 who provides health care services.

6 (3) "Originating site" means the location where the patient is located, whether or not  
7 accompanied by a health care practitioner, at the time services are provided by a health care  
8 practitioner through telehealth, including, but not limited to, a health care practitioner's office,  
9 hospital, critical access hospital, rural health clinic, federally qualified health center, a patient's  
10 home, and other nonmedical environments such as school-based health centers, university-  
11 based health centers, or the work location of a patient.

12 (4) "Remote patient monitoring services" means the delivery of home health services  
13 using telecommunications technology to enhance the delivery of home health care, including  
14 monitoring of clinical patient data such as weight, blood pressure, pulse, pulse oximetry, blood  
15 glucose, and other condition-specific data; medication adherence monitoring; and interactive  
16 video conferencing with or without digital image upload.

17 (5) "Telehealth services" means the use of synchronous or asynchronous  
18 telecommunications technology by a health care practitioner to provide health care services,  
19 including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a  
20 patient; transfer of medical data; patient and professional health-related education; public health

21 services; and health administration. The term does not include audio-only telephone calls, e-mail  
22 messages, or facsimile transmissions.

23 (b) Notwithstanding the provisions of §33-1-1 *et seq.* of this code, an insurer subject to  
24 §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 *et seq.* of  
25 this code which issues or renews a health insurance policy on or after July 1, 2020, shall provide  
26 coverage of health care services provided through telehealth services if those same services are  
27 covered through face-to-face consultation by the policy.

28 (c) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et*  
29 *seq.*, and §33-25A-1 *et seq.* of this code which issues or renews a health insurance policy on or  
30 after July 1, 2020, may not exclude a service for coverage solely because the service is provided  
31 through telehealth services.

32 (d) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et*  
33 *seq.*, and §33-25A-1 *et seq.*, of this code shall provide reimbursement for a telehealth service at  
34 a rate negotiated between the provider and the insurance company.

35 (e) An insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*, §33-24-1 *et seq.*, §33-25-1 *et*  
36 *seq.*, and §33-25A-1 *et seq.* of this code may not impose any annual or lifetime dollar maximum  
37 on coverage for telehealth services other than an annual or lifetime dollar maximum that applies  
38 in the aggregate to all items and services covered under the policy, or impose upon any person  
39 receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts,  
40 or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for  
41 benefits or services, that is not equally imposed upon all terms and services covered under the  
42 policy, contract, or plan.

43 (f) An originating site may charge an insurer subject to §33-15-1 *et seq.*, §33-16-1 *et seq.*,  
44 §33-24-1 *et seq.*, §33-25-1 *et seq.*, and §33-25A-1 *et seq.* of this code a site fee.

45           (g) The coverage required by this section shall include the use of telehealth technologies  
46 as it pertains to medically necessary remote patient monitoring services to the full extent that  
47 those services are available.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2020.

.....  
*Governor*