

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4003**

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

[Originating in the Committee on Health and Human  
Resources; January 30, 2020.]



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

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

## **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.**

#### **§33-53-3. 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. who provides  
5 health care services.

6           (3) "Originating site" means the location where the patient is located, whether  
7 accompanied or not by a health care practitioner, at the time services are provided by a health  
8 care 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 §5-  
24 16-1 et seq., §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-  
25 25A-1 et seq. of this code which issues or renews a health insurance policy on or after July 1,  
26 2020, shall provide coverage of health care services provided through telehealth services if those  
27 same services are covered through face-to-face consultation by the policy.

28           (c) An insurer subject to §5-16-1 et seq., §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et  
29 seq., §33-25-1 et seq., and §33-25A-1 et seq., of this code which issues or renews a health  
30 insurance policy on or after July 1, 2020, may not exclude a service for coverage solely because  
31 the service is provided through telehealth services.

32           (d) An insurer subject to §5-16-1 et seq., §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et  
33 seq., §33-25-1 et seq., and §33-25A-1 et seq., of this code shall provide reimbursement for a  
34 telehealth service at a rate negotiated between the provider and the insurance company.

35           (e) An insurer subject to §5-16-1 et seq., §33-15-1 et seq., §33-16-1 et seq., §33-24-1 et  
36 seq., §33-25-1 et seq., and §33-25A-1 et seq., of this code may not impose any annual or lifetime  
37 dollar maximum on coverage for telehealth services other than an annual or lifetime dollar

38 maximum that applies in the aggregate to all items and services covered under the policy, or  
39 impose upon any person receiving benefits pursuant to this section any copayment, coinsurance,  
40 or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit  
41 limitation or maximum for benefits or services, that is not equally imposed upon all terms and  
42 services covered under the policy, contract, or plan.

43 (f) An originating site may charge an insurer subject to §5-16-1 et seq., §33-15-1 et seq.,  
44 §33-16-1 et seq., §33-24-1 et seq., §33-25-1 et seq., and §33-25A-1 et seq., of this code a site  
45 fee.

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

NOTE: The purpose of this bill is to establish standards and regulation for telehealth practice.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.