The Commonwealth of Massachusetts

PRESENTED BY:

Vanna Howard

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to telehealth and digital equity for patients.

PETITION OF:

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<thead>
<tr>
<th>NAME</th>
<th>DISTRICT/ADDRESS</th>
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<tbody>
<tr>
<td>Vanna Howard</td>
<td>17th Middlesex</td>
<td>1/10/2023</td>
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<td>Colleen M. Garry</td>
<td>36th Middlesex</td>
<td>1/18/2023</td>
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An Act relative to telehealth and digital equity for patients.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 30 of Chapter 32A of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) Coverage for telehealth services may include utilization review to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O. Carriers shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis.
SECTION 2. Said section 30 of said chapter 32A of the General Laws, as so appearing, is hereby further amended by adding the following subsection:

(i) Coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing.

SECTION 3. Section 79 of Chapter 118E of the General Laws, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following section:

(c) The division may undertake utilization review to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if service was delivered in-person. The division, a contracted health insurer, health plan, health maintenance organization, behavioral health management firm or third-party administrator under contract to a Medicaid managed care organization or primary care clinician plan shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O. The division, a contracted health insurer, health plan, health maintenance organization, behavioral health management firm or third-party administrators under contract to a Medicaid managed care organization or primary care clinician plan shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis.

SECTION 4. Said section 79 of said chapter 118E of the General Laws, as so appearing, is hereby further amended by adding the following subsection:
The division and its contracted health insurers, health plans, health maintenance organizations, behavioral health management firms and third-party administrators under contract to a Medicaid managed care organization, accountable care organization or primary care clinician plan shall include in its coverage for reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing in its coverage for telehealth services.

SECTION 5. Section 47MM of chapter 175 of the General Laws, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) Coverage for telehealth services may include utilization review to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in-person. A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within or without the commonwealth shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O. A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis.
SECTION 6. Said section 47MM of said chapter 175 of the General Laws, as so appearing, is hereby further amended by adding the following subsection:—

(i) A policy, contract, agreement, plan or certificate of insurance issued, delivered or renewed within the commonwealth that provides coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing.

SECTION 7. Section 38 of chapter 176A of the General Laws, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) Coverage for telehealth services may include utilization review to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in-person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O. Carriers shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis.

SECTION 8. Said section 38 of said chapter 176A of the General Laws, as so appearing, is hereby further amended by adding the following subsection:—

(i) Coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing.
SECTION 9. Section 25 of chapter 176B of the General Laws, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) Coverage may include utilization review to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. A carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O. Carriers shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis.

SECTION 10. Said section 25 of said chapter 176B of the General Laws, as so appearing, is hereby further amended by adding the following subsection:-

(i) A contract that provides coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing who require interpreter services.

SECTION 11. Section 33 of Chapter 176G of the General Laws, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) A carrier may undertake utilization review to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. A
carrier shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O. Carriers shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis.

SECTION 12. Said section 33 of said chapter 176G of the General Laws, as so appearing, is hereby further amended by adding the following subsection:-

(i) A contract that provides coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing.

SECTION 13. Section 13 of chapter 176I of the General Laws, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) An organization may undertake utilization review to determine the appropriateness of telehealth as a means of delivering a health care service; provided, however, that the determination shall be made in the same manner as if the service was delivered in person. An organization shall not be required to reimburse a health care provider for a health care service that is not a covered benefit under the plan or reimburse a health care provider not contracted under the plan except as provided for under subclause (i) of clause (4) of the second sentence of subsection (a) of section 6 of chapter 176O. An organization shall not impose any prior authorization requirements to obtain medically necessary health services via telehealth that would not apply to the receipt of those same services on an in-person basis.
SECTION 14. Said section 13 of said chapter 176I of the General Laws, as so appearing, is hereby further amended by adding the following subsection:-

(i) A preferred provider contract that provides coverage for telehealth services shall include reimbursement for interpreter services for patients with limited English proficiency or those who are deaf or hard of hearing.

SECTION 15. Section 1 of chapter 176O of the General Laws, as so appearing, is hereby amended by striking out the definition of “Chronic disease management” and inserting in place thereof the following definition:-

“Chronic disease management”, care and services for the management of chronic conditions, as defined by the federal Centers for Medicare and Medicaid Services, that include, but are not limited to, diabetes, chronic obstructive pulmonary disease, asthma, congestive heart failure, hypertension, history of stroke, cancer, COVID-19 and its long-term symptoms, serious, long-term physical diseases including, but not limited to, cerebral palsy, cystic fibrosis, HIV/AIDS, blood diseases, such as anemia or sickle cell disease, muscular dystrophy, spina bifida, epilepsy and coronary heart disease.

SECTION 16. Chapter 176O of the General Laws is hereby amended by striking out section 26 and inserting in place thereof the following section:-

Section 26. The commissioner shall establish standardized processes and procedures applicable to all health care providers and payers for the determination of a patient's health benefit plan eligibility at or prior to the time of service, including telehealth services. As part of such processes and procedures, the commissioner shall (i) require payers to implement automated approval systems such as decision support software in place of telephone approvals.
for specific types of services specified by the commissioner and (ii) require establishment of an
electronic data exchange to allow providers to determine eligibility at or prior to the point of care
and determine the insured’s cost share for a proposed telehealth service, including any
copayment, deductible, coinsurance or other out of pocket amount for any covered telehealth
services.

SECTION 17. Section 67 of chapter 260 of the acts of 2020 is hereby amended by
striking out the last sentence and inserting in place thereof the following sentence:- The report,
along with a suggested plan to implement its recommendations in order to maximize access,
quality of care and cost savings, shall be submitted to the joint committee on health care
financing and the house and senate committees on ways and means not later than 2 years from
the effective date of this act; provided, however, that not later than 1 year from the effective date
of this act, the commission shall present a report on: (i) the estimated impacts on costs and time
spent by patients accessing healthcare services due to the use of telehealth; (ii) the estimated
impacts to access to healthcare services due to the use of telehealth including employment
productivity, transportation costs and school attendance; (iii) the estimated impacts on healthcare
costs due to the impacts of telehealth on COVID-19 transmission and treatment; (iv) the
estimated impact on the costs of personal protective equipment for providers and healthcare
facilities due to the use of telehealth; (v) an estimate of the impact of health outcomes to those
communities that have not been able to access telehealth services due to language or accessibility
issues; and vi) an interim estimate of the fiscal impact of telehealth use in the commonwealth
that shall include public health outcomes, increased access to services, reduction in
transportation services and reduction in hospitalizations. The report shall additionally include
data regarding the number of telehealth visits utilizing an interpreter for those who are deaf and
hard of hearing and for languages other than English and shall quantify the number of telehealth visits in each language.

SECTION 18. Notwithstanding any general or special law to the contrary, the health policy commission shall establish a Digital Bridge Pilot Program to support telehealth services and devices and to provide funding for healthcare and human service providers and their patients and clients to support the purchase of telecommunications, information services and connected devices necessary to provide telehealth services to patients and clients. Communities that have had the highest prevalence of and been disproportionately affected by COVID-19 shall be prioritized for funding under this program in addition to communities that experience barriers in accessing telehealth services due to language constraints, socioeconomic constraints or other accessibility issues. Eligible programs may include but not be limited to public private partnerships with telecommunication providers, municipalities, healthcare providers and other organizations.

Eligible services may include, but not be limited to: telecommunications services; broadband and internet connectivity services including the purchase of broadband subscriptions and the establishment of wireless hotspots, so-called; voice services; remote patient monitoring platforms and services; patient reported outcome platforms; store and forward services, including the asynchronous transfer of patient images and data for interpretation by a physician; platforms and services to provide synchronous video consultation; tablets, smartphones, or connected devices to receive connected care services at home for patient or provider use; and telemedicine kiosks/carts for provider sites. Funding shall not be used for unconnected devices that patients utilize in the home and then manually report their results to providers.
SECTION 19. (a) Notwithstanding any general or special law to the contrary, the health policy commission shall establish a Digital Health Navigator Tech Literacy Pilot Program, herein referred to as the program, to complement and work in conjunction with the Digital Bridge Pilot Program. The program shall establish telehealth digital health navigators including community health workers, medical assistants and other healthcare professionals to assist patients with accessing telehealth services. The program and its funding shall prioritize populations who experience increased barriers in accessing healthcare and telehealth services, including those disproportionately affected by COVID-19, the elderly and those who may need assistance with telehealth services due to limited English proficiency or limited literacy with digital health tools. Entities receiving funding through this program will provide culturally and linguistically competent hands-on support to educate patients on how to access broadband and wireless services and subsequently utilize devices and online platforms to access telehealth services.

(b) The health policy commission shall publish a report, 1 year following the implementation of said Digital Bridge Health Navigator Tech Literacy Pilot Program, which shall include but not be limited to the following: (i) an identification of the program’s telehealth navigators disaggregated by healthcare profession; (ii) the resources required to provide literacy with digital health tools, including, but not limited to, the cost of operating said pilot program and additional workforce training for the program’s telehealth navigators; (iii) an identification of the populations served by the program disaggregated by demographics including, but not limited to, race, ethnicity, age, gender identity and primary language spoken; (iv) an identification of the regions served by the program across the commonwealth; and (v) an evaluation of the efficacy of the program in increasing the utilization of telehealth services.
disaggregated by patient demographics and including, but not limited to, the rate of attendance at telehealth visits.

SECTION 20. (a) Notwithstanding any general or special law to the contrary, the executive office of health and human services shall establish a task force on an interstate medical licensure compact and licensure reciprocity. The task force shall consist of: the secretary of the executive office of health and human services or a designee who shall serve as chair; the commissioner of the department of public health or a designee; the commissioner of the department of mental health or a designee; the executive director of the board of registration in medicine or a designee; the undersecretary of the office of consumer affairs and business regulation or a designee; a representative from the health policy commission; a representative from the Massachusetts Medical Society; a representative from the Massachusetts Health and Hospital Association; and a representative from the Massachusetts League of Community Health Centers.

(b) The task force shall conduct an analysis and issue a report evaluating the commonwealth’s options to facilitate appropriate interstate medical practice and the practice of telemedicine including the potential entry into an interstate medical licensure compact or other reciprocity agreement. The analysis and report shall include but not be limited to: (i) an analysis of physician job vacancies in the commonwealth broken down by practice specialization and projected vacancies based on the demographics of the commonwealth’s physician workforce and medical school graduate retention rates; (ii) an analysis of other states’ entry into the interstate medical licensure compact and any impact on quality of care resulting from entry; (iii) an analysis of the ability of physicians to provide follow-up care across state lines, including via telehealth; (iv) an analysis of registration models for providers who may provide care for patients
via telehealth with the provider located in one state and the patient located in another state,
provided that said analysis would include delineation of provider responsibilities for registration
and reporting to state professional licensure boards; (v) an analysis of impacts to health care
quality, cost and access resulting from other states’ entry into a medical licensure compact, as
well as anticipated impacts to health care quality, cost and access associated with entry into an
interstate medical licensure compact; (vi) evaluations of barriers and solutions regarding
prescribing across state lines; (vii) evaluations of the feasibility of a regional reciprocity
agreement allowing telemedicine across state lines both for existing patient provider
relationships and the establishment of new relationships; (viii) evaluations of the feasibility of
the establishment of interstate proxy credentialing; and (ix) recommendations regarding the
commonwealth’s entry into an interstate physician licensure compact or other licensure
reciprocity agreements.

(c) The task force shall submit its recommendations to the governor and the clerks of the
house of representatives and the senate not later than October 1, 2023.

SECTION 21. (a) Notwithstanding any general or special law to the contrary, the
executive office of health and human services shall establish a task force on interstate licensure
reciprocity for advanced practice registered nurses, physician assistants, behavioral and allied
health professions. The task force shall consist of: the secretary of the executive office of health
and human services or a designee who shall serve as chair; the commissioner of the department
of public health or a designee; the commissioner of the department of mental health or a
designee; the executive director of the board of registration in medicine or a designee; the
Undersecretary of the office of consumer affairs and business regulation or a designee; and 12
persons to be appointed by the secretary of the executive office of health and human services
representing organizations that represent advanced practice registered nurses, physician
assistants, hospitals, patients, behavioral health professions, allied health professions, telehealth
and other professional groups.

(b) The task force shall: (i) investigate interstate license reciprocity models with other
nearby states for advanced practice registered nurses, physician assistants, behavioral health,
allied health and other professions and specialties to ensure that there is sufficient access for
professionals throughout the region and ensure that continuity of care for patients is achieved for
patients that access services in state’s throughout the region; and (ii) examine registration models
for providers who may provide care for patients via telehealth with the provider located in one
state and the patient located in another state. Such examination would include delineation of
provider responsibilities for registration and reporting to state professional licensure boards.

(c) The task force shall submit its recommendations to the governor and the clerks of the
house of representatives and the senate not later than February 1, 2024.

SECTION 22. Chapter 260 of the acts of 2020 is hereby amended by striking out section
76 and inserting in place thereof the following section:

Section 76. Section 63 is hereby repealed.

SECTION 23. Sections 77 and 79 of chapter 260 of the acts of 2020 are hereby repealed.