

CHAPTER 321
SB 258 - FINAL VERSION

03/21/2019 1036s
23May2019... 1805h
06/27/2019 2643EBA

2019 SESSION

19-0848
01/06

SENATE BILL **258**

AN ACT relative to telemedicine and telehealth services.

SPONSORS: Sen. Kahn, Dist 10; Sen. Chandley, Dist 11; Sen. Fuller Clark, Dist 21; Sen. Sherman, Dist 24; Sen. Rosenwald, Dist 13; Sen. Dietsch, Dist 9; Sen. Hennessey, Dist 5; Sen. Cavanaugh, Dist 16; Sen. Levesque, Dist 12; Rep. Edwards, Rock. 4; Rep. Long, Hills. 10; Rep. Knirk, Carr. 3; Rep. Marsh, Carr. 8

COMMITTEE: Health and Human Services

ANALYSIS

This bill adds definitions to and clarifies the statute governing telemedicine and Medicaid coverage for telehealth services.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to telemedicine and telehealth services.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 321:1 Medicaid Coverage of Telehealth Services. RSA 167:4-d is repealed and reenacted to read
2 as follows:

3 167:4-d Medicaid Coverage of Telehealth Services.

4 I. It is the intent of this section to recognize the application of telehealth for covered services
5 provided within the scope of practice of a physician or other health care provider as a method of
6 delivery of medical care by which an individual at an originating site shall receive medical services
7 which are clinically appropriate for delivery through telehealth from a health care provider at a
8 distant site without in-person contact with the provider.

9 II. In this section:

10 (a) "Telehealth services" shall comply with 42 C.F.R. section 410.78, except for 42 C.F.R.
11 section 410.78(b)(4). The use of the term "telemedicine" shall comply with the Centers for Medicare
12 and Medicaid Services requirements governing the aforementioned telehealth services.

13 (b) "Distant site" means the location of the health care provider delivering services
14 through telemedicine at the time the services are provided.

15 (c) "Originating site" means the location of the patient, whether or not accompanied by a
16 health care provider, at the time services are provided by a health care provider through
17 telemedicine, including, but not limited to, a health care provider's office, a hospital, or a health care
18 facility, or the patient's home or another nonmedical environment such as a school-based health
19 center, a university-based health center, or the patient's workplace.

20 (d) "Remote patient monitoring" means the use of electronic technology to remotely
21 monitor a patient's health status through the collection and interpretation of clinical data while the
22 patient remains at an originating site. Remote patient monitoring may or may not take place in real
23 time. Remote patient monitoring shall include assessment, observation, education and virtual visits
24 provided by all covered providers including licensed home health care providers.

25 (e) "Store and forward," as it pertains to telemedicine and as an exception to 42 C.F.R.
26 section 410.78, means the use of asynchronous electronic communications between a patient at an
27 originating site and a health care service provider at a distant site for the purpose of diagnostic and
28 therapeutic assistance in the care of patients. This includes the forwarding and/or transfer of stored
29 medical data from the originating site to the distant site through the use of any electronic device

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1 that records data in its own storage and forwards its data to the distant site via telecommunication
2 for the purpose of diagnostic and therapeutic assistance.

3 III.(a) Coverage under this section shall include the use of telehealth or telemedicine for
4 Medicaid-covered services provided within the scope of practice of a physician or other health care
5 provider as a method of delivery of medical care:

6 (1) Which is an appropriate application of telehealth services provided by physicians
7 and other health care providers, as determined by the department based on the Centers for Medicare
8 and Medicaid Services regulations, and also including persons providing psychotherapeutic services
9 as provided in He-M 426.08 and 426.09;

10 (2) By which telemedicine services for primary care, remote patient monitoring, and
11 substance use disorder services shall only be covered in the event that the patient has already
12 established care at an originating site via face-to-face in-person service; and

13 (3) By which an individual shall receive medical services from a physician or other
14 health care provider who is an enrolled Medicaid provider without in-person contact with that
15 provider.

16 (b) Nothing in this section shall be construed to prohibit the Medicaid program from
17 providing coverage for only those services that are medically necessary and subject to all other terms
18 and conditions of the coverage.

19 IV. This section shall be conditioned upon review and approval of a state plan amendment
20 submitted by the department to the Centers for Medicare and Medicaid Services, as deemed
21 necessary.

22 V. The department shall adopt rules, pursuant to RSA 541-A, necessary to carry out the
23 purposes of this section.

24 321:2 New Subparagraph; Rulemaking. Amend RSA 167:3-c by inserting after subparagraph
25 XIV the following new subparagraph:

26 XV. Telehealth services under RSA 167:4-d.

27 321:3 New Paragraphs; New Hampshire Telemedicine Act. Amend RSA 415-J:2 by inserting
28 after paragraph II-a the following new paragraphs:

29 II-b. "Remote patient monitoring" means the use of electronic technology to remotely
30 monitor a patient's health status through the collection and interpretation of clinical data while the
31 patient remains at an originating site. Remote patient monitoring may or may not take place in real
32 time. Remote patient monitoring shall include assessment, observation, education, and virtual visits
33 provided by all covered providers including licensed home health care providers.

34 II-c. "Store and forward," as it pertains to telemedicine, means the use of asynchronous
35 electronic communications between a patient at an originating site and a health care service
36 provider at a distant site for the purpose of diagnostic and therapeutic assistance in the care of
37 patients. This includes the forwarding and/or transfer of stored medical data from the originating

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1 site to the distant site through the use of any electronic device that records data in its own storage
2 and forwards its data to the distant site via telecommunication for the purpose of diagnostic and
3 therapeutic assistance.

4 321:4 New Hampshire Telemedicine Act; Coverage for Telemedicine Services. Amend RSA 415-
5 J:3, I to read as follows:

6 I. It is the intent of the general court to recognize the application of telemedicine for covered
7 services provided within the scope of practice of a physician or other health care provider as a
8 method of delivery of medical care by which an individual at an originating site shall receive medical
9 services which are clinically appropriate for delivery through telemedicine from a health care
10 provider at a distant site without in-person contact with the provider. ***For the purposes of this***
11 ***chapter, covered services include remote patient monitoring and store and forward.***

12 321:5 Contingent Renumbering. If SB 274 of the 2019 regular legislative session becomes law,
13 RSA 167:3-c, XV, as inserted by section 2 of this act, shall be renumbered to read as RSA 167:3-c,
14 XVI.

15 321:6 Effective Date.

16 I. Sections 3 and 4 of this act shall take effect January 1, 2020.

II. The remainder of this act shall take effect 60 days after its passage.

Approved: August 12, 2019

Effective Date:

I. Sections 3 and 4 shall take effect January 1, 2020.

II. Remainder shall take effect October 11, 2019.