

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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SENATE BILL 779\*

Short Title: Telemedicine Policy. (Public)

Sponsors: Senator Pate (Primary Sponsor).

Referred to: Rules and Operations of the Senate

May 31, 2018

1 A BILL TO BE ENTITLED  
2 AN ACT ESTABLISHING A TELEMEDICINE POLICY FOR THE STATE OF NORTH  
3 CAROLINA AND DIRECTING THE DEPARTMENT OF HEALTH AND HUMAN  
4 SERVICES TO STUDY AND REPORT RECOMMENDATIONS FOR VARIOUS  
5 TELEMEDICINE STANDARDS, AS RECOMMENDED BY THE JOINT LEGISLATIVE  
6 OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Chapter 90 of the General Statutes is amended by adding a new Article  
9 to read:

10 "Article 1L.

11 "North Carolina Telemedicine Practice Act.

12 **"§ 90-21.130. Title.**

13 This Article shall be known and may be cited as the "North Carolina Telemedicine Practice  
14 Act."

15 **"§ 90-21.131. Definitions.**

16 The following definitions apply in this Article:

- 17 (1) Business associate. – As defined in 45 C.F.R. § 160.103.  
18 (2) Business associate contract. – As defined in 45 C.F.R. § 160.103.  
19 (3) Covered entity. – As defined in 45 C.F.R. § 160.103.  
20 (4) Department. – The North Carolina Department of Health and Human  
21 Services.  
22 (5) HIE Network. – As defined in G.S. 90-414.3(8).  
23 (6) In-home monitoring. – The use of a nonportable medical device or equipment,  
24 in combination with an Internet connection, to collect and store vital signs, or  
25 other health information, and transmit it to a health care provider.  
26 (7) Protected health information. – As defined in 45 C.F.R. § 160.103.  
27 (8) Remote patient monitoring. – The use of a portable medical device, smart  
28 phone and dedicated application software, portable monitoring sensor, or  
29 other wearable technology, in combination with an Internet connection, to  
30 collect and store vital signs, or other health information, and transmit it to a  
31 health care provider.  
32 (9) Store-and-forward imaging. – The acquisition and storing of clinical data,  
33 including images, sound, or video, that is asynchronously transmitted to  
34 another site for clinical evaluation.  
35 (10) Telemedicine or telehealth. – The use of electronic information and  
36 telecommunication technologies to support and promote long-distance



1 clinical health care, patient and professional health-related education, public  
2 health, and health administration. Technologies include video conferencing,  
3 the Internet, store-and-forward imaging, streaming media, terrestrial and  
4 wireless communications, remote patient monitoring, and in-home  
5 monitoring. Telemedicine or telehealth does not include the provision of  
6 health care services through audio-only telephone or teleconference, e-mail,  
7 or facsimile.

8 **"§ 90-21.132. Practice of telemedicine.**

9 Any individual licensed as a health care provider in the State of North Carolina under Chapter  
10 90 of the General Statutes may provide health care services, consistent with the provider's  
11 licensed scope of practice, via telemedicine to any individual located in the State of North  
12 Carolina.

13 **"§ 90-21.133. Informed consent.**

14 (a) Before a health care provider delivers health care via telemedicine, the health care  
15 provider shall obtain written or verbal informed consent from the patient. If the consent is written,  
16 a copy shall be placed in the patient's medical record. If the consent is obtained verbally, a  
17 notation shall be made in the patient's medical record.

18 (b) Consent to receive health care services via telemedicine is informed only if all of the  
19 following conditions are satisfied:

20 (1) The patient has been informed of his or her rights when receiving telemedicine  
21 treatment, including the right to stop or refuse treatment.

22 (2) The patient has been informed of his or her own responsibilities when  
23 receiving telemedicine treatment.

24 (3) The telemedicine provider has established a formal complaint or grievance  
25 process to resolve any potential ethical concerns or issues that might arise as  
26 a result of practicing telemedicine and the patient has been informed of that  
27 process.

28 (4) A description of the potential benefits, constraints, and risks of telemedicine  
29 has been provided to the patient.

30 (5) The patient has been informed of what will happen in the case of technology  
31 or equipment failures during telemedicine sessions, and a contingency plan  
32 has been developed and communicated to the patient.

33 (6) The telemedicine provider has made a determination that the patient is  
34 comfortable operating the technology being used to deliver health care  
35 services via telemedicine.

36 **"§ 90-21.134. Secure handling of protected health information.**

37 (a) Covered entities and business associates engaged in the practice of telemedicine shall  
38 comply with all federal and State laws and regulations to secure protected health information.  
39 Any dedicated software application provided by a covered entity to a telemedicine patient shall  
40 ensure that all data is stored and transmitted in accordance with all federal and State laws and  
41 regulations for the secure storage and transmission of protected health information.

42 (b) Before any health care provider, covered entity, or business associate engages in the  
43 practice of telemedicine or handles any protected health information obtained through the  
44 practice of telemedicine, the health care provider, covered entity, or business associate shall first  
45 conduct risk analyses and install administrative, physical, and technical safeguards, as  
46 determined to be appropriate by the Department, or the Department of Information Technology,  
47 to ensure the secure handling of protected health information.

48 **"§ 90-21.135. Standard of care.**

49 (a) Each health care provider engaged in the practice of telemedicine is responsible for  
50 ensuring that health care delivered to telemedicine patients adheres to the same standard of care  
51 applicable to in-person patients. In addition, health care providers engaged in the practice of

1 telemedicine shall ensure all of the following as part of the standard of care for delivering health  
2 care via telemedicine:

- 3       (1) All health care providers and their staff members who provide care via  
4 telemedicine shall be trained in the use of telemedicine equipment and  
5 technology and its operation.
- 6       (2) All telemedicine technology and equipment used by health care providers  
7 must be sufficient to accurately assess, diagnose, and treat the patient;  
8 however, a telemedicine provider may use physical findings obtained by a  
9 physical examination of the patient by another licensed health care provider  
10 as part of the assessment.
- 11       (3) All telemedicine providers shall maintain a complete record of the  
12 telemedicine patient's care according to prevailing medical records standards.  
13 The record must include an appropriate evaluation of the patient's symptoms  
14 and all elements of the electronic professional interaction.
- 15       (4) No health care provider shall prescribe a controlled substance for the treatment  
16 of pain unless that provider has, within the last 12 months, conducted an  
17 in-person physical examination of the patient for the condition causing the  
18 pain for which the prescription is sought."

19       **SECTION 2.(a)** By September 1, 2019, The Department of Health and Human  
20 Services shall study and report to the Joint Legislative Oversight Committee on Health and  
21 Human Services recommendations for telemedicine reimbursement standards for private health  
22 benefit plans. In conducting this study, the Department of Health and Human Services shall (i)  
23 solicit the input from the Department of Insurance and relevant stakeholders and (ii) consider at  
24 least all of the following:

- 25       (1) The health benefit plan reimbursement standards of other states and the results  
26 of those standards on cost and access to care.
- 27       (2) The specific telemedicine modalities for which health benefit plans should be  
28 required to provide reimbursement.
- 29       (3) The areas of care for which health benefit plans should be required to provide  
30 reimbursement.
- 31       (4) Whether private health benefit plans should be required to provide  
32 reimbursement for health care delivered via telemedicine on the same terms  
33 as reimbursement for in-person care.
- 34       (5) How to ensure the State's telemedicine reimbursement policy remains flexible  
35 enough to evolve with innovation.
- 36       (6) How to best encourage market competition and ensure private health benefit  
37 plans retain sufficient flexibility to realize efficiencies.
- 38       (7) Any other issues the Department deems appropriate.

39       **SECTION 2.(b)** By September 1, 2019, the Department of Health and Human  
40 Services shall study and report to the Joint Legislative Oversight Committee on Health and  
41 Human Services recommendations for a plan to ensure that all North Carolina residents have  
42 sufficiently advanced Internet connectivity to receive health care via telemedicine. In conducting  
43 this study, the Department of Health and Human Services shall solicit input from the Department  
44 of Information Technology and consider at least all of the following:

- 45       (1) The best manner in which to incentivize investment in next-generation,  
46 future-proof broadband infrastructure and reduce barriers to deployment of  
47 that infrastructure.
- 48       (2) How to create community-based broadband adoption, utilization, and  
49 initiatives.
- 50       (3) How to ensure all health care providers are connected to the North Carolina  
51 HIE Network.

1 (4) Any other issues the Department deems appropriate.

2 **SECTION 2.(c)** By September 1, 2019, the Department of Health and Human  
3 Services, in consultation with the North Carolina Institute of Medicine and the North Carolina  
4 Medical Board, shall study and report to the Joint Legislative Oversight Committee on Health  
5 and Human Services and the Fiscal Research Division on recommended performance metrics to  
6 be used by the Department of Health and Human Services in assessing the quality of telemedicine  
7 services provided in the State. In conducting this study, the Department is encouraged to examine  
8 all of the following:

9 (1) The final report entitled "Creating a Framework to Support Measure  
10 Development for Telehealth" released by the National Quality Forum in  
11 August 2017.

12 (2) Guidelines established by the Agency for Healthcare Research and Quality.

13 (3) Any other sources the Department deems appropriate.

14 **SECTION 2.(d)** September 1, 2019, the Department of Health and Human Services  
15 shall report to the Joint Legislative Oversight Committee on Health and Human Services and the  
16 Fiscal Research Division on recommended State licensing standards, credentialing processes,  
17 and prescribing standards for telemedicine providers, including any proposed legislation. The  
18 report shall include at least all of the following:

19 (1) A proposal for a standardized and centralized credentialing process for all  
20 providers that is consistent with the language in the 1115 Medicaid waiver  
21 submitted by the Department to the Centers for Medicare and Medicaid  
22 Services.

23 (2) A recommendation as to whether North Carolina should participate in the  
24 Interstate Medical Licensure Compact formulated by the Federation of State  
25 Medical Boards.

26 (3) Any other issues the Department deems appropriate.

27 **SECTION 3.** This act is effective when it becomes law.