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AN ACT

RELATING TO HEALTH CARE COVERAGE; ENACTING SECTIONS OF THE HEALTH CARE PURCHASING ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO REQUIRE THAT PROVISION OF COVERED BENEFITS BE ALLOWED THROUGH TELEMEDICINE SERVICES; PROVIDING FOR REVIEW AND APPEAL RIGHTS FOR DENIALS OF TELEMEDICINE COVERAGE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"COVERAGE FOR TELEMEDICINE SERVICES.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act shall allow covered benefits to be provided through telemedicine services. Coverage for health care services provided through telemedicine shall be determined in a manner consistent with coverage for health care services provided through in-person consultation.

B. The provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by a group health plan that health care services delivered through the use of

1 telemedicine are not covered under the plan shall be subject
2 to review and appeal pursuant to the Patient Protection Act.

3 D. The provisions of this section shall not apply
4 in the event that federal law requires the state to make
5 payments on behalf of enrollees to cover the costs of
6 implementing this section.

7 E. Nothing in this section shall require a health
8 care provider to be physically present with a patient at the
9 originating site unless the consulting telemedicine provider
10 deems it necessary.

11 F. Telemedicine used to provide clinical services
12 shall be encrypted and shall conform to state and federal
13 privacy laws.

14 G. The provisions of this section shall not apply
15 to group health coverage intended to supplement major medical
16 group-type coverage, such as medicare supplement, long-term
17 care, disability income, specified disease, accident-only,
18 hospital indemnity or any other limited-benefit health
19 insurance policy.

20 H. As used in this section:

21 (1) "consulting telemedicine provider" means
22 a health care provider that delivers telemedicine services
23 from a location remote from an originating site;

24 (2) "health care provider" means a duly
25 licensed hospital or other licensed facility, physician or

1 other health care professional authorized to furnish health
2 care services within the scope of the professional's license;

3 (3) "in real time" means occurring
4 simultaneously, instantaneously or within seconds of an event
5 so that there is little or no noticeable delay between two or
6 more events;

7 (4) "originating site" means a place at
8 which a patient is physically located and receiving health
9 care services via telemedicine;

10 (5) "store-and-forward technology" means
11 electronic information, imaging and communication, including
12 interactive audio, video and data communications, that is
13 transferred or recorded or otherwise stored for asynchronous
14 use; and

15 (6) "telemedicine" means the use of
16 interactive simultaneous audio and video or store-and-forward
17 technology using information and telecommunications
18 technologies by a health care provider to deliver health care
19 services at a site other than the site where the patient is
20 located, including the use of electronic media for
21 consultation relating to the health care diagnosis or
22 treatment of the patient in real time or through the use of
23 store-and-forward technology."

24 SECTION 2. A new section of Chapter 59A, Article 22
25 NMSA 1978 is enacted to read:

1 "COVERAGE FOR TELEMEDICINE SERVICES.--

2 A. An individual or group health insurance policy,
3 health care plan or certificate of health insurance that is
4 delivered, issued for delivery or renewed in this state shall
5 allow covered benefits to be provided through telemedicine
6 services. Coverage for health care services provided through
7 telemedicine shall be determined in a manner consistent with
8 coverage for health care services provided through in-person
9 consultation.

10 B. The provisions of this section shall not be
11 construed to require coverage of an otherwise noncovered
12 benefit.

13 C. A determination by an insurer that health care
14 services delivered through the use of telemedicine are not
15 covered under the plan shall be subject to review and appeal
16 pursuant to the Patient Protection Act.

17 D. The provisions of this section shall not apply
18 in the event that federal law requires the state to make
19 payments on behalf of enrollees to cover the costs of
20 implementing this section.

21 E. Nothing in this section shall require a health
22 care provider to be physically present with a patient at the
23 originating site unless the consulting telemedicine provider
24 deems it necessary.

25 F. Telemedicine used to provide clinical services

1 shall be encrypted and shall conform to state and federal
2 privacy laws.

3 G. The provisions of this section shall not apply
4 to an individual policy, plan or contract intended to
5 supplement major medical group-type coverage, such as
6 medicare supplement, long-term care, disability income,
7 specified disease, accident-only, hospital indemnity or any
8 other limited-benefit health insurance policy.

9 H. As used in this section:

10 (1) "consulting telemedicine provider" means
11 a health care provider that delivers telemedicine services
12 from a location remote from an originating site;

13 (2) "health care provider" means a duly
14 licensed hospital or other licensed facility, physician or
15 other health care professional authorized to furnish health
16 care services within the scope of the professional's license;

17 (3) "in real time" means occurring
18 simultaneously, instantaneously or within seconds of an event
19 so that there is little or no noticeable delay between two or
20 more events;

21 (4) "originating site" means a place at
22 which a patient is physically located and receiving health
23 care services via telemedicine;

24 (5) "store-and-forward technology" means
25 electronic information, imaging and communication, including

1 interactive audio, video and data communication, that is
2 transferred or recorded or otherwise stored for asynchronous
3 use; and

4 (6) "telemedicine" means the use of
5 interactive simultaneous audio and video or store-and-forward
6 technology using information and telecommunications
7 technologies by a health care provider to deliver health care
8 services at a site other than the site where the patient is
9 located, including the use of electronic media for
10 consultation relating to the health care diagnosis or
11 treatment of the patient in real time or through the use of
12 store-and-forward technology."

13 SECTION 3. A new section of Chapter 59A, Article 23
14 NMSA 1978 is enacted to read:

15 "COVERAGE FOR TELEMEDICINE SERVICES.--

16 A. A blanket or group health insurance policy or
17 contract that is delivered, issued for delivery or renewed in
18 this state shall allow covered benefits to be provided
19 through telemedicine services. Coverage for health care
20 services provided through telemedicine shall be determined in
21 a manner consistent with coverage for health care services
22 provided through in-person consultation.

23 B. The provisions of this section shall not be
24 construed to require coverage of an otherwise noncovered
25 benefit.

1 C. A determination by an insurer that health care
2 services delivered through the use of telemedicine are not
3 covered under the plan shall be subject to review and appeal
4 pursuant to the Patient Protection Act.

5 D. The provisions of this section shall not apply
6 in the event that federal law requires the state to make
7 payments on behalf of enrollees to cover the costs of
8 implementing this section.

9 E. Nothing in this section shall require a health
10 care provider to be physically present with a patient at the
11 originating site unless the consulting telemedicine provider
12 deems it necessary.

13 F. Telemedicine used to provide clinical services
14 shall be encrypted and shall conform to state and federal
15 privacy laws.

16 G. The provisions of this section shall not apply
17 to a group or blanket policy, plan or contract intended to
18 supplement major medical group-type coverage, such as
19 medicare supplement, long-term care, disability income,
20 specified disease, accident-only, hospital indemnity or any
21 other limited-benefit health insurance policy.

22 H. As used in this section:

23 (1) "consulting telemedicine provider" means
24 a health care provider that delivers telemedicine services
25 from a location remote from an originating site;

1 (2) "health care provider" means a duly
2 licensed hospital or other licensed facility, physician or
3 other health care professional authorized to furnish health
4 care services within the scope of the professional's license;

5 (3) "in real time" means occurring
6 simultaneously, instantaneously or within seconds of an event
7 so that there is little or no noticeable delay between two or
8 more events;

9 (4) "originating site" means a place at
10 which a patient is physically located and receiving health
11 care services via telemedicine;

12 (5) "store-and-forward technology" means
13 electronic information, imaging and communication, including
14 interactive audio, video and data communication, that is
15 transferred or recorded or otherwise stored for asynchronous
16 use; and

17 (6) "telemedicine" means the use of
18 interactive simultaneous audio and video or store-and-forward
19 technology using information and telecommunications
20 technologies by a health care provider to deliver health care
21 services at a site other than the site where the patient is
22 located, including the use of electronic media for
23 consultation relating to the health care diagnosis or
24 treatment of the patient in real time or through the use of
25 store-and-forward technology."

1 SECTION 4. A new section of the Health Maintenance
2 Organization Law is enacted to read:

3 "COVERAGE FOR TELEMEDICINE SERVICES.--

4 A. An individual or group health maintenance
5 organization contract that is delivered, issued for delivery
6 or renewed in this state shall allow covered benefits to be
7 provided through telemedicine services. Coverage for health
8 care services provided through telemedicine shall be
9 determined in a manner consistent with coverage for health
10 care services provided through in-person consultation.

11 B. The provisions of this section shall not be
12 construed to require coverage of an otherwise noncovered
13 benefit.

14 C. A determination by a health maintenance
15 organization that health care services delivered through the
16 use of telemedicine are not covered under the plan shall be
17 subject to review and appeal pursuant to the Patient
18 Protection Act.

19 D. The provisions of this section shall not apply
20 in the event that federal law requires the state to make
21 payments on behalf of enrollees to cover the costs of
22 implementing this section.

23 E. Nothing in this section shall require a health
24 care provider to be physically present with a patient at the
25 originating site unless the consulting telemedicine provider

1 deems it necessary.

2 F. Telemedicine used to provide clinical services
3 shall be encrypted and shall conform to state and federal
4 privacy laws.

5 G. The provisions of this section shall not apply
6 to an individual or group health maintenance organization
7 contract intended to supplement major medical group-type
8 coverage, such as medicare supplement, long-term care,
9 disability income, specified disease, accident-only, hospital
10 indemnity or any other limited-benefit health insurance
11 policy.

12 H. As used in this section:

13 (1) "consulting telemedicine provider" means
14 a health care provider that delivers telemedicine services
15 from a location remote from an originating site;

16 (2) "in real time" means occurring
17 simultaneously, instantaneously or within seconds of an event
18 so that there is little or no noticeable delay between two or
19 more events;

20 (3) "originating site" means a place at
21 which a patient is physically located and receiving health
22 care services via telemedicine;

23 (4) "store-and-forward technology" means
24 electronic information, imaging and communication, including
25 interactive audio, video and data communication, that is

1 transferred or recorded or otherwise stored for asynchronous
2 use; and

3 (5) "telemedicine" means the use of
4 interactive simultaneous audio and video or store-and-forward
5 technology using information and telecommunications
6 technologies by a health care provider to deliver health care
7 services within that provider's scope of practice at a site
8 other than the site where the patient is located, including
9 the use of electronic media for consultation relating to the
10 health care diagnosis or treatment of the patient in real
11 time or through the use of store-and-forward technology."

12 SECTION 5. A new section of Chapter 59A, Article 47
13 NMSA 1978 is enacted to read:

14 "COVERAGE FOR TELEMEDICINE SERVICES.--

15 A. An individual or group health insurance policy,
16 health care plan or certificate of health insurance delivered
17 or issued for delivery in this state shall allow covered
18 benefits to be provided through telemedicine services.

19 Coverage for health care services provided through
20 telemedicine shall be determined in a manner consistent with
21 coverage for health care services provided through in-person
22 consultation.

23 B. The provisions of this section shall not be
24 construed to require coverage of an otherwise noncovered
25 benefit.

1 C. A determination by a nonprofit health plan that
2 health care services delivered through the use of
3 telemedicine are not covered under the plan shall be subject
4 to review and appeal pursuant to the Patient Protection Act.

5 D. The provisions of this section shall not apply
6 in the event that federal law requires the state to make
7 payments on behalf of enrollees to cover the costs of
8 implementing this section.

9 E. Nothing in this section shall require a health
10 care provider to be physically present with a patient at the
11 originating site unless the consulting telemedicine provider
12 deems it necessary.

13 F. Telemedicine used to provide clinical services
14 shall be encrypted and shall conform to state and federal
15 privacy laws.

16 G. The provisions of this section shall not apply
17 to an individual or group health care plan intended to
18 supplement major medical group-type coverage, such as
19 medicare supplement, long-term care, disability income,
20 specified disease, accident-only, hospital indemnity or any
21 other limited-benefit health insurance policy.

22 H. As used in this section:

23 (1) "consulting telemedicine provider" means
24 a health care provider that delivers telemedicine services
25 from a location remote from an originating site;

1 (2) "health care provider" means a duly
2 licensed hospital or other licensed facility, physician or
3 other health care professional authorized to furnish health
4 care services within the scope of the professional's license;

5 (3) "in real time" means occurring
6 simultaneously, instantaneously or within seconds of an event
7 so that there is little or no noticeable delay between two or
8 more events;

9 (4) "originating site" means a place at
10 which a patient is physically located and receiving health
11 care services via telemedicine;

12 (5) "store-and-forward technology" means
13 electronic information, imaging and communication, including
14 interactive audio, video and data communication, that is
15 transferred or recorded or otherwise stored for asynchronous
16 use; and

17 (6) "telemedicine" means the use of
18 interactive simultaneous audio and video or store-and-forward
19 technology using information and telecommunications
20 technologies by a health care provider to deliver health care
21 services at a site other than the site where the patient is
22 located, including the use of electronic media for
23 consultation relating to the health care diagnosis or
24 treatment of the patient in real time or through the use of
25 store-and-forward technology."
