

2021

STATE OF NEBRASKA

**STATUTES RELATING TO
NEBRASKA TELEHEALTH ACT**

NEBRASKA

Good Life. Great Mission.

DEPT. OF HEALTH AND HUMAN SERVICES

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NEBRASKA TELEHEALTH ACT

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STATUTES PERTAINING TO THE NEBRASKA TELEHEALTH ACT

71-8501. Act, how cited.

Sections 71-8501 to 71-8508 shall be known and may be cited as the Nebraska Telehealth Act.

Source: Laws 1999, LB 559, § 1.

71-8502. Legislative findings.

The Legislature finds that:

- (1) Access to health care facilities and health care practitioners is critically important to the citizens of Nebraska;
- (2) Access to a continuum of health care services is restricted in some medically underserved areas of Nebraska, and many health care practitioners in such areas are isolated from mentors, colleagues, and information resources necessary to support them personally and professionally;
- (3) The use of telecommunications technology to deliver health care services can reduce health care costs, improve health care quality, improve access to health care, and enhance the economic health of communities in medically underserved areas of Nebraska; and
- (4) The full potential of delivering health care services through telehealth cannot be realized without the assurance of payment for such services and the resolution of existing legal and policy barriers to such payment.

Source: Laws 1999, LB 559, § 2.

71-8503. Terms, defined.

For purposes of the Nebraska Telehealth Act:

- (1) Department means the Department of Health and Human Services;
- (2) Health care practitioner means a Nebraska medicaid-enrolled provider who is licensed, registered, or certified to practice in this state by the department;
- (3)(a) Telehealth means the use of medical information electronically exchanged from one site to another, whether synchronously or asynchronously, to aid a health care practitioner in the diagnosis or treatment of a patient.
(b) Telehealth includes (i) services originating from a patient's home or any other location where such patient is located, (ii) asynchronous services involving the acquisition and storage of medical information at one site that is then forwarded to or retrieved by a health care practitioner at another site for medical evaluation, and (iii) telemonitoring.
(c) Telehealth also includes audio-only services for the delivery of individual behavioral health services for an established patient, when appropriate, or crisis management and intervention for an established patient as allowed by federal law;
- (4) Telehealth consultation means any contact between a patient and a health care practitioner relating to the health care diagnosis or treatment of such patient through telehealth; and
- (5) Telemonitoring means the remote monitoring of a patient's vital signs, biometric data, or subjective data by a monitoring device which transmits such data electronically to a health care practitioner for analysis and storage.

Source: Laws 1999, LB 559, § 3; Laws 2007, LB296, § 695; Laws 2014, LB1076, § 1; Laws 2021, LB400, § 3.

Effective Date: August 28, 2021

71-8504. Act; how construed.

The Nebraska Telehealth Act does not: (1) Alter the scope of practice of any health care practitioner; (2) authorize the delivery of health care services in a setting or manner not otherwise authorized by law; or (3) limit a patient's right to choose in-person contact with a health care practitioner for the delivery of health care services for which telehealth is available.

Source: Laws 1999, LB 559, § 4.

71-8505. Written information; signed statement or verbal consent; requirements.

(1) Prior to an initial telehealth consultation under section 71-8506, a health care practitioner who delivers a health care service to a patient through telehealth shall ensure that the following written information is provided to the patient:

- (a) A statement that the patient retains the option to refuse the telehealth consultation at any time without affecting the patient's right to future care or treatment and without risking the loss or withdrawal of any program benefits to which the patient would otherwise be entitled;
- (b) A statement that all existing confidentiality protections shall apply to the telehealth consultation;
- (c) A statement that the patient shall have access to all medical information resulting from the telehealth consultation as provided by law for patient access to his or her medical records; and

(d) A statement that dissemination of any patient identifiable images or information from the telehealth consultation to researchers or other entities shall not occur without the written consent of the patient.

(2) The patient shall sign a statement prior to or during an initial telehealth consultation, or give verbal consent during the telehealth consultation, indicating that the patient understands the written information provided pursuant to subsection (1) of this section and that this information has been discussed with the health care practitioner or the practitioner's designee. The signed statement may be collected by paper or electronic signature and shall become a part of the patient's medical record. If the patient gives verbal consent during the initial telehealth consultation, the signed statement shall be collected within ten days after such telehealth consultation.

(3) If the patient is a minor or is incapacitated or mentally incompetent such that he or she is unable to sign the statement or give verbal consent as required by subsection (2) of this section, such statement shall be signed, or such verbal consent given, by the patient's legally authorized representative.

(4) This section shall not apply in an emergency situation in which the patient is unable to sign the statement or give verbal consent as required by subsection (2) of this section and the patient's legally authorized representative is unavailable.

Source: Laws 1999, LB 559, § 5; Laws 2021, LB400, § 4.

Effective Date: August 28, 2021

71-8506. Medical assistance program; reimbursement; requirements.

(1) In-person contact between a health care practitioner and a patient shall not be required under the medical assistance program established pursuant to the Medical Assistance Act and Title XXI of the federal Social Security Act, as amended, for health care services delivered through telehealth that are otherwise eligible for reimbursement under such program and federal act. Such services shall be subject to reimbursement policies developed pursuant to such program and federal act. This section also applies to managed care plans which contract with the department pursuant to the Medical Assistance Act only to the extent that:

(a) Health care services delivered through telehealth are covered by and reimbursed under the medicaid fee-for-service program; and

(b) Managed care contracts with managed care plans are amended to add coverage of health care services delivered through telehealth and any appropriate capitation rate adjustments are incorporated.

(2) The reimbursement rate for a telehealth consultation shall, as a minimum, be set at the same rate as the medical assistance program rate for a comparable in-person consultation, and the rate shall not depend on the distance between the health care practitioner and the patient.

(3) The department shall establish rates for transmission cost reimbursement for telehealth consultations, considering, to the extent applicable, reductions in travel costs by health care practitioners and patients to deliver or to access health care services and such other factors as the department deems relevant. Such rates shall include reimbursement for all two-way, real-time, interactive communications, unless provided by an Internet service provider, between the patient and the physician or health care practitioner at the distant site which comply with the federal Health Insurance Portability and Accountability Act of 1996 and rules and regulations adopted thereunder and with regulations relating to encryption adopted by the federal Centers for Medicare and Medicaid Services and which satisfy federal requirements relating to efficiency, economy, and quality of care.

Source: Laws 1999, LB 559, § 6; Laws 2006, LB 1248, § 82; Laws 2013, LB556, § 6; Laws 2014, LB1076, § 2.

Cross References

- **Medical Assistance Act**, see section 68-901.

71-8507. Health care facility; duties.

A health care facility licensed under the Health Care Facility Licensure Act that receives reimbursement under the Nebraska Telehealth Act for telehealth consultations shall establish quality of care protocols and patient confidentiality guidelines to ensure that such consultations meet the requirements of the act and acceptable patient care standards.

Source: Laws 1999, LB 559, § 7; Laws 2000, LB 819, § 147.

Cross References

- **Health Care Facility Licensure Act**, see section 71-401.

71-8508. Rules and regulations.

The department shall adopt and promulgate rules and regulations to carry out the Nebraska Telehealth Act, including, but not limited to, rules and regulations to: (1) Ensure the provision of appropriate care to patients; (2) prevent fraud and abuse; and (3) establish necessary methods and procedures.

Source: Laws 1999, LB 559, § 8; Laws 2014, LB1076, § 3.