

2021 Regular Session

HOUSE BILL NO. 270

BY REPRESENTATIVES MAGEE, BAGLEY, HUGHES, DUSTIN MILLER, AND
TURNER AND SENATOR FRED MILLS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

HEALTH SERVICES: Provides for definitions and exemptions relative to telemedicine and
telehealth

1 AN ACT

2 To amend and reenact R.S. 37:1262(4) and 1291(6) and R.S. 40:1223.3(6)(a) and to enact
3 R.S. 37:1291(7), relative to telemedicine and telehealth; to revise the definitions of
4 those terms; to exempt certain activity from laws pertaining to the practice of
5 medicine; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 37:1262(4) and 1291(6) are hereby amended and reenacted and R.S.
8 37:1291(7) is hereby enacted to read as follows:

9 §1262. Definition

10 As used in this Part the following words and phrases shall have the meanings
11 ascribed to them:

12 * * *

13 (4) "Telemedicine" means the practice of health care delivery, diagnosis,
14 consultation, treatment, and transfer of medical data by a physician using interactive
15 ~~telecommunication technology that enables a health care practitioner and a patient~~
16 ~~at two locations separated by distance to interact via two-way video and audio~~
17 ~~transmissions simultaneously. Neither a telephone conversation nor an electronic~~
18 ~~mail message between a health care practitioner and patient, or a true consultation~~
19 ~~as may be defined by rules promulgated by the board pursuant to the Administrative~~

1 ~~technologies to enable the diagnosis, consultation, treatment, education, care~~
2 ~~management, and self-management of patients at a distance from healthcare~~
3 ~~providers. Telehealth allows services to be accessed when providers are in a distant~~
4 ~~site and patients are in the originating site. Telehealth facilitates patient~~
5 ~~self-management and caregiver support for patients and includes synchronous~~
6 ~~interactions and asynchronous store and forward transfers. "Telehealth" means~~
7 ~~healthcare services, including behavioral health services, provided by a healthcare~~
8 ~~provider, as defined in this Section, to a person through the use of electronic~~
9 ~~communications, information technology, asynchronous store-and-forward transfer~~
10 ~~technology, or synchronous interaction between a provider at a distant site and a~~
11 ~~patient at an originating site, including but not limited to assessment of, diagnosis of,~~
12 ~~consultation with, treatment of, and remote monitoring of a patient, and transfer of~~
13 ~~medical data. The term "telehealth" shall not include any of the following:~~

14 (i) Electronic mail messages that are not compliant with applicable
15 requirements of the Health Insurance Portability and Accountability Act of 1996, as
16 amended (42 U.S.C. 1320d et seq.).

17 (ii) Facsimile transmissions.

18 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 270 Engrossed

2021 Regular Session

Magee

Abstract: Revises the definitions of the terms "telemedicine" and "telehealth" and exempts certain activity from laws pertaining to the practice of medicine.

Present law relative to the practice of medicine provides the following definition for the term "telemedicine":

"Telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data using interactive telecommunication technology that enables a health care practitioner and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously. Neither a telephone conversation nor an electronic mail message between a health care practitioner and patient, or a true consultation as may be

defined by rules promulgated by the board pursuant to the Administrative Procedure Act, constitutes telemedicine for the purposes of this Part (R.S. 37:1261 et seq.).

Proposed law revises this definition of "telemedicine" and defines the term as follows:

"Telemedicine" means the practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data by a physician using technology that enables the physician and a patient at two locations separated by distance to interact. Such technology may include electronic communications, information technology, asynchronous store-and-forward transfer technology, or technology that facilitates synchronous interaction between a physician at a distant site and a patient at an originating site.

Proposed law stipulates that the term "telemedicine" shall not include any of the following:

- (1) Electronic mail messages that are not compliant with applicable requirements of the Health Insurance Portability and Accountability Act of 1996, as amended.
- (2) Facsimile transmissions.

Proposed law provides that no provision of present law regulating the practice of medicine shall apply to a consultation without limitation between a practicing physician licensed in this state and a practicing physician licensed in another state or jurisdiction.

Present law known as the Louisiana Telehealth Access Act (R.S. 40:1223.1 et seq.) defines "healthcare provider", for purposes of that law, to mean any one of several types of health professionals other than physicians. Provides the following definition for the term "telehealth":

"Telehealth" means a mode of delivering healthcare services, including behavioral health services, that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from healthcare providers. Telehealth allows services to be accessed when providers are in a distant site and patients are in the originating site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store-and-forward transfers.

Proposed law revises this definition of "telehealth" and defines the term as follows:

"Telehealth" means healthcare services, including behavioral health services, provided by a healthcare provider, as defined in this Section (R.S. 40:1223.3), to a person through the use of electronic communications, information technology, asynchronous store-and-forward transfer technology, or synchronous interaction between a provider at a distant site and a patient at an originating site, including but not limited to assessment of, diagnosis of, consultation with, treatment of, and remote monitoring of a patient, and transfer of medical data.

Proposed law stipulates that the term "telehealth" shall not include any of the following:

- (1) Electronic mail messages that are not compliant with applicable requirements of the Health Insurance Portability and Accountability Act of 1996, as amended.
- (2) Facsimile transmissions.

(Amends R.S. 37:1262(4) and 1291(6) and R.S. 40:1223.3(6)(a); Adds R.S. 37:1291(7))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Health and Welfare to the original bill:

1. Revise the definition of the term "telehealth" provided in proposed law to specify that the healthcare services encompassed by the term include behavioral health services.
2. Restore present law defining "behavioral health services" for purposes of present law and proposed law comprising the Louisiana Telehealth Access Act.