

2016 Regular Session

SENATE BILL NO. 328

BY SENATOR CLAITOR

HEALTH CARE. Provides for telehealth access. (8/1/16)

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AN ACT

To amend and reenact R.S. 37:1271(B)(2)(b), R.S. 40:1223.3(5) and 1223.4(A) and to enact R.S. 40:1223.5, relative to the practice of telemedicine; to provide for physician practice requirements; to provide for definitions; to provide for rulemaking standards; to provide for venue; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1271(B)(2)(b) is hereby amended and reenacted to read as follows:

§1271. License to practice medicine or telemedicine required

* * *

B.

* * *

(2) Except as provided in R.S. 37:1276.1, all of the following shall apply to any physician practicing telemedicine as defined in this Part:

(a) The physician practicing telemedicine shall use the same standard of care as if the healthcare services were provided in person.

1 (b) The physician practicing telemedicine shall not be required to conduct an
2 in-person patient history or physical examination of the patient before engaging in
3 a telemedicine encounter if the physician satisfies all of the following conditions:

4 (i) Holds an unrestricted license to practice medicine in Louisiana.

5 (ii) Has access to the patient's medical records upon consent of the patient.

6 ~~(iii) Maintains a physical practice location within the state of Louisiana or~~
7 ~~executes an affirmation with the board that the physician has an arrangement with~~
8 ~~another physician who maintains a physical practice location in Louisiana to provide~~
9 ~~for referrals and follow-up care which may be necessary.~~

10 * * *

11 Section 2. R.S. 40:1223.3(5) and 1223.4(A) are hereby amended and reenacted and
12 R.S. 40:1223.5 is hereby enacted to read as follows:

13 §1223.3. Definitions

14 * * *

15 (5) "Synchronous interaction" means communication through interactive
16 technology that enables a healthcare provider and a patient at two locations separated
17 by distance to interact via two-way video ~~and or~~ audio transmissions ~~simultaneously~~.

18 * * *

19 §1223.4. Telehealth; rulemaking required

20 A. Each state agency or professional or occupational licensing board or
21 commission that regulates the practice of a healthcare provider, as defined in this
22 Part, may promulgate, in accordance with the Administrative Procedure Act, any
23 rules necessary to provide for, promote, and regulate the use of telehealth in the
24 delivery of healthcare services within the scope of practice regulated by the licensing
25 entity. **However, any such rules and regulations shall be consistent with and no**
26 **more restrictive than the provisions contained in this Section.**

27 * * *

28 **§1223.5. Venue; telehealth and telemedicine**

29 **Venue in any suit filed involving care rendered via telemedicine shall be**

1 proper and instituted before the district court of the judicial district in which
 2 the patient resides or in the district court having jurisdiction in the parish
 3 where the patient was physically located during the provision of the
 4 telemedicine service. The patient is considered physically located at the
 5 originating site as defined in R.S. 40:1223.3.

6 Section 3. This Act shall become effective on August 1, 2016; if vetoed by the
 7 governor and subsequently approved by the legislature, this Act shall become effective on
 8 August 1, 2016, or on the day following such approval by the legislature, whichever is later.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Christine Arbo Peck.

DIGEST

SB 328 Original

2016 Regular Session

Claitor

Present law requires a physician practicing telemedicine to maintain a physical practice location in Louisiana or affirms that he has an arrangement for referrals with a physician in Louisiana. Proposed law repeals present law.

Present law defines "synchronous interaction" as including interaction via two-way video and audio transmission simultaneously. Proposed law provides for interaction via two-way video or audio transmission.

Present law provides for rulemaking by respective professional or occupational licensing boards. Proposed law provides that rulemaking shall not be more restrictive than the provisions of present law.

Proposed law provides venue in suits arising out of telemedicine services in the district court where the patient resides or where the patient was physically located during the service.

Effective August 1, 2016.

(Amends R.S. 37:1271(B)(2)(b), R.S. 40:1223.3(5) and 1223.4(A); adds R.S. 40:1223.5)