

11415

I N A S S E M B L Y

June 11, 2010

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Morelle, Christensen, Destito, Gabryszak, Colton, Schimminger, DelMonte, DenDekker, Galef, Cymbrowitz, Maisel, Bing, Mayersohn, Millman) -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to promoting the development, provision and accessibility of telehealth/telemedicine services in New York state; and to amend the state finance law, in relation to establishing a New York state telehealth/telemedicine development and research grant fund

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "New York
2 state telehealth/telemedicine development act."

3 S 2. The public health law is amended by adding a new article 27-M to
4 read as follows:

5 ARTICLE 27-M

6 NEW YORK STATE TELEHEALTH/TELEMEDICINE DEVELOPMENT PROGRAM

7 SECTION 2799-T. LEGISLATIVE INTENT.

8 2799-U. COORDINATION OF DEPARTMENT RESPONSIBILITIES FOR
9 TELEHEALTH/TELEMEDICINE; ANNUAL PLAN.

10 2799-V. TELEHEALTH/TELEMEDICINE DEVELOPMENT; GRANTS FOR UNDER-
11 SERVED AREAS AND POPULATIONS.

12 2799-W. TELEHEALTH/TELEMEDICINE RESEARCH.

13 S 2799-T. LEGISLATIVE INTENT. THE LEGISLATURE RECOGNIZES THE DEMON-
14 STRATED COST-EFFECTIVENESS, IMPROVEMENTS IN DISEASE MANAGEMENT AND
15 IMPROVED PATIENT OUTCOMES RESULTING FROM THE PROVISION OF
16 TELEHEALTH/TELEMEDICINE SERVICES. TELEHEALTH/TELEMEDICINE SERVICES ARE
17 THOSE SERVICES WHICH UTILIZE ELECTRONIC TECHNOLOGY OVER A GEOGRAPHIC
18 DISTANCE BETWEEN PATIENTS AND HEALTH CARE PROVIDERS FOR THE PURPOSES OF
19 ASSESSMENT, MONITORING, INTERVENTION, CLINICAL MANAGEMENT AND/OR EDUCA-
20 TION WITH PATIENTS. STUDIES HAVE CHRONICLED SIGNIFICANT REDUCTIONS IN
21 HOSPITALIZATIONS AND OTHERWISE NECESSARY MEDICAL CARE AS A RESULT OF
22 TELEHEALTH/TELEMEDICINE INTERVENTION. THE LEGISLATURE FURTHER RECOGNIZES
23 THAT GEOGRAPHY, WEATHER AND OTHER FACTORS CAN CREATE BARRIERS TO ACCESS-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD17518-01-0

1 ING APPROPRIATE HEALTH AND MENTAL HEALTH CARE IN NEW YORK STATE AND
2 THAT ONE WAY TO PROVIDE, ENSURE OR ENHANCE ACCESS TO CARE GIVEN THESE
3 BARRIERS IS THROUGH THE APPROPRIATE USE OF TECHNOLOGY TO ALLOW HEALTH
4 CARE CONSUMERS ACCESS TO QUALIFIED HEALTH CARE PROVIDERS AND INSTI-
5 TUTIONS. IN ORDER TO PROMOTE THE ROLE AND CAPACITY OF
6 TELEHEALTH/TELEMEDICINE TECHNOLOGY RELATIVE TO THESE PURPOSES, THE
7 LEGISLATURE HEREBY ENACTS THE NEW YORK STATE TELEHEALTH/TELEMEDICINE
8 DEVELOPMENT ACT TO ESTABLISH A TELEHEALTH/TELEMEDICINE DEVELOPMENT
9 PROGRAM TO COORDINATE AND FOCUS STATE ADMINISTRATIVE RESPONSIBILITIES AS
10 WELL AS STATE POLICY AND PROGRAM PLANNING FOR TELEHEALTH/TELEMEDICINE,
11 PROVIDE FOR TELEHEALTH/TELEMEDICINE DEVELOPMENT IN UNDERSERVED GEOGRAPH-
12 IC AREAS AND FOR NEW POPULATIONS, PROMOTE QUALITY AND SAFEGUARDS IN
13 TELEHEALTH/TELEMEDICINE, PROMOTE AND ASSIST TELEHEALTH/TELEMEDICINE
14 RESEARCH AND EVALUATION, ESTABLISH THE TELEHEALTH/TELEMEDICINE RESEARCH
15 AND DEVELOPMENT FUND, AND PROVIDE FOR CAPITAL FINANCING.

16 S 2799-U. COORDINATION OF DEPARTMENT RESPONSIBILITIES FOR
17 TELEHEALTH/TELEMEDICINE; ANNUAL PLAN. 1. THE COMMISSIONER SHALL COORDI-
18 NATE AND FOCUS THE DEPARTMENT'S DEVELOPMENTAL, ADMINISTRATIVE, RESEARCH
19 AND EVALUATION RESPONSIBILITIES FOR TELEHEALTH/TELEMEDICINE SERVICES.

20 2. THE COMMISSIONER, IN CONSULTATION WITH ELIGIBLE PROVIDERS AS SPECI-
21 FIED IN SUBDIVISION TWO OF SECTION TWENTY-SEVEN HUNDRED NINETY-NINE-V OF
22 THIS ARTICLE, SHALL PREPARE AND SUBMIT AN ANNUAL PLAN TO SUPPORT THE
23 PROVISION OF TELEHEALTH/TELEMEDICINE SERVICES PROVIDED PURSUANT TO
24 SUBDIVISION THREE-C OF SECTION THIRTY-SIX HUNDRED FOURTEEN OF THIS CHAP-
25 TER, AS WELL AS OTHER TELEHEALTH/TELEMEDICINE SERVICES FOR WHICH THE
26 DEPARTMENT HAS DEVELOPMENTAL AND ADMINISTRATIVE RESPONSIBILITY. THE
27 ANNUAL PLAN SHALL INCLUDE:

28 (A) ANY NECESSARY RECOMMENDATIONS FOR LEGISLATIVE, ADMINISTRATIVE OR
29 BUDGETARY SUPPORT FOR TELEHEALTH/TELEMEDICINE SERVICES;

30 (B) THE IDENTIFICATION OF BARRIERS TO THE PROVISION OF AND ACCESS TO
31 TELEHEALTH/TELEMEDICINE, INCLUDING EDUCATION AND TRAINING FOR BOTH
32 PROVIDERS AND CONSUMERS, ELECTRONIC RECORDS INTERFACE, AND OTHER, AND
33 THE METHODS BY WHICH THE DEPARTMENT WILL AID IN ADDRESSING SUCH BARRI-
34 ERS; AND

35 (C) AN ABSTRACT OF TELEHEALTH/TELEMEDICINE RESEARCH EITHER BEING OR TO
36 BE CONDUCTED BY THE DEPARTMENT, OR FACILITATED BY THE DEPARTMENT AND
37 BEING OR TO BE CONDUCTED BY PROVIDERS OR OTHER ENTITIES.

38 3. THE COMMISSIONER SHALL PROVIDE COPIES OF THE ANNUAL PLAN TO THE
39 GOVERNOR, THE TEMPORARY PRESIDENT AND MINORITY LEADER OF THE SENATE AND
40 THE SPEAKER AND MINORITY LEADER OF THE ASSEMBLY.

41 4. (A) THE COMMISSIONER, IN CONSULTATION WITH ELIGIBLE PROVIDERS AS
42 SPECIFIED IN SUBDIVISION TWO OF SECTION TWENTY-SEVEN HUNDRED
43 NINETY-NINE-V OF THIS ARTICLE, SHALL IDENTIFY STANDARDS DETERMINED TO BE
44 NECESSARY FOR TELEHEALTH/TELEMEDICINE SERVICES UNDER THIS ARTICLE. SUCH
45 STANDARDS, INCLUDING STANDARDS FOR THE PROTECTION OF PATIENT INFORMA-
46 TION, SHALL BE IDENTIFIED FROM:

47 (I) THE AMERICAN TELEMEDICINE ASSOCIATION, THE FEDERAL FOOD AND DRUG
48 ADMINISTRATION AND/OR OTHER GENERALLY RECOGNIZED STANDARD-SETTING ORGAN-
49 IZATIONS AS THE COMMISSIONER MAY DETERMINE;

50 (II) TITLE EIGHT OF THE EDUCATION LAW AND REGULATIONS THERETO, THIS
51 CHAPTER AND REGULATIONS THERETO AND, AS APPLICABLE, THE STANDARDS OF
52 RELEVANT PROFESSIONAL OR ACCREDITING BODIES AS THE COMMISSIONER MAY
53 DETERMINE, TO ENSURE THAT TELEHEALTH/TELEMEDICINE MONITORING IS
54 CONDUCTED BY INDIVIDUALS IN ACCORDANCE WITH, AND AS LIMITED BY, THE
55 APPLICABLE SCOPE OF PRACTICE, LICENSURE AND/OR CREDENTIALING PROVISIONS
56 OF SUCH LAWS AND STANDARDS.

(B) THE COMMISSIONER MAY INCORPORATE, WITHIN THE ANNUAL PLAN SUBMITTED PURSUANT TO SUBDIVISION TWO OF THIS SECTION, RECOMMENDATIONS FOR ANY ADDITIONAL STANDARDS OR REQUIREMENTS FOR TELEHEALTH/TELEMEDICINE SERVICES AS MAY BE NECESSARY UNDER THIS ARTICLE.

S 2799-V. TELEHEALTH/TELEMEDICINE DEVELOPMENT; GRANTS FOR UNDERSERVED AREAS AND POPULATIONS. 1. SUBJECT TO THE AVAILABILITY OF FUNDING FROM SECTION NINETY-NINE-T OF THE STATE FINANCE LAW, FUNDS MADE AVAILABLE IN THE GENERAL FUND OR ANY OTHER FUNDS MADE AVAILABLE THEREFOR, THE DEPARTMENT SHALL PROVIDE GRANTS TO ELIGIBLE PROVIDERS FOR:

(A) THE DEVELOPMENT OF TELEHEALTH/TELEMEDICINE SERVICES IN GEOGRAPHIC AREAS OF THE STATE DEEMED BY THE DEPARTMENT TO BE UNDERSERVED ON THE BASIS OF A LACK OF PROVIDERS PURSUANT TO THIS ARTICLE;

(B) THE DEVELOPMENT OF TELEHEALTH/TELEMEDICINE SERVICES IN GEOGRAPHIC AREAS OF THE STATE DEEMED BY THE DEPARTMENT TO BE UNDERSERVED ON THE BASIS OF THE LACK OF TELEHEALTH/TELEMEDICINE SERVICES IN THE AREA;

(C) THE DEVELOPMENT OF TELEHEALTH/TELEMEDICINE SERVICES FOR NEW POPULATIONS, WHERE EVIDENCE SUGGESTS THE PROVISION OF SUCH SERVICES WOULD FACILITATE THE MANAGEMENT OF PATIENT CARE, ACCESS TO CARE AND/OR COST-EFFECTIVENESS OF CARE;

(D) THE DEVELOPMENT OF TELEHEALTH/TELEMEDICINE SERVICES FOR NEW CONDITIONS, WHERE EVIDENCE SUGGESTS THE PROVISION OF SUCH SERVICES WOULD FACILITATE THE MANAGEMENT OF SUCH CONDITIONS, ACCESS TO CARE AND/OR COST-EFFECTIVENESS OF CARE;

(E) THE DEVELOPMENT OF TELEHEALTH/TELEMEDICINE SERVICES TO EVALUATE THE POTENTIAL BENEFITS OF NEW TELEHEALTH/TELEMEDICINE TECHNOLOGY, FOR PATIENT CARE, ACCESS TO CARE AND/OR COST-EFFECTIVENESS OF CARE; OR

(F) SUCH OTHER PURPOSES AS THE DEPARTMENT MAY IDENTIFY.

2. ELIGIBLE PROVIDERS SHALL INCLUDE THOSE LICENSED, CERTIFIED OR AUTHORIZED UNDER ARTICLE TWENTY-EIGHT, THIRTY-SIX OR FORTY OF THIS CHAPTER OR UNDER SECTION FORTY-FOUR HUNDRED THREE-F OF THIS CHAPTER OR PHYSICIANS LICENSED UNDER ARTICLE ONE HUNDRED THIRTY-ONE OF TITLE EIGHT OF THE EDUCATION LAW; PROVIDED HOWEVER THAT ELIGIBILITY UNDER THIS SECTION TO PROVIDE TELEHEALTH/TELEMEDICINE SERVICES SHALL BE CONSISTENT WITH THE AUTHORITY FOR THE PROVISION OF CARE OTHERWISE PROVIDED PURSUANT TO ARTICLE TWENTY-EIGHT, THIRTY-SIX OR FORTY OF THIS CHAPTER OR UNDER SECTION FORTY-FOUR HUNDRED THREE-F OF THIS CHAPTER OR TITLE EIGHT OF THE EDUCATION LAW.

3. THE DEPARTMENT, IN CONSULTATION WITH ELIGIBLE PROVIDERS AS SPECIFIED IN SUBDIVISION TWO OF THIS SECTION, SHALL ESTABLISH THE FORMS AND PROCESS FOR THE SUBMISSION AND APPROVAL OF GRANT APPLICATIONS PURSUANT TO THIS SUBDIVISION.

S 2799-W. TELEHEALTH/TELEMEDICINE RESEARCH. 1. THE COMMISSIONER SHALL PROMOTE AND SUPPORT CLINICAL AND PROGRAMMATIC RESEARCH BY PROVIDERS AND OTHER ENTITIES TO FURTHER EVALUATE, REFINE AND/OR DEVELOP EFFECTIVE AND EFFICIENT APPLICATION OF TELEHEALTH/TELEMEDICINE METHODS AND TECHNOLOGY TO POPULATIONS, CONDITIONS AND CIRCUMSTANCES. THE COMMISSIONER SHALL MAKE AVAILABLE DATA AND TECHNICAL ASSISTANCE FOR SUCH RESEARCH, PROVIDED THAT ANY DATA MADE AVAILABLE MUST NOT CONTAIN INDIVIDUALLY IDENTIFYING INFORMATION.

2. THE COMMISSIONER IS AUTHORIZED TO APPLY FOR SUCH GOVERNMENTAL, PHILANTHROPIC AND OTHER GRANTS THAT MAY BE AVAILABLE FOR SUCH RESEARCH. MONIES FROM SUCH GRANTS SHALL BE DEPOSITED IN THE NEW YORK STATE TELEHEALTH/TELEMEDICINE DEVELOPMENT AND RESEARCH GRANT FUND ESTABLISHED BY SECTION NINETY-NINE-T OF THE STATE FINANCE LAW.

1 3. THE DEPARTMENT SHALL CONSULT WITH ELIGIBLE PROVIDERS, AS SPECIFIED
2 IN SUBDIVISION TWO OF SECTION TWENTY-SEVEN HUNDRED NINETY-NINE-V OF THIS
3 ARTICLE IN THE IMPLEMENTATION OF THIS SECTION.

4 S 3. Section 3614 of the public health law is amended by adding a new
5 subdivision 3-d to read as follows:

6 3-D. CAPITAL REIMBURSEMENT FOR TELEHEALTH/TELEMEDICINE. THE DEPARTMENT
7 SHALL INCLUDE IN THE REIMBURSEMENT RATES ESTABLISHED PURSUANT TO THIS
8 SECTION A COST ALLOWANCE FOR THE REIMBURSEMENT OF CAPITAL COSTS FOR THE
9 DEVELOPMENT, OPERATION AND PROVISION OF TELEHEALTH/TELEMEDICINE
10 SERVICES, INCLUDING THE LINKAGE OF TELEHEALTH/TELEMEDICINE AND ELECTRON-
11 IC MEDICAL RECORDS. THE METHODOLOGY FOR THE INCLUSION OF THE ALLOWANCE
12 SHALL BE DEVELOPED IN CONSULTATION WITH THE ELIGIBLE PROVIDERS FOR
13 TELEHEALTH/TELEMEDICINE PURSUANT TO SECTION TWENTY-SEVEN HUNDRED NINE-
14 TY-NINE-U OF THIS ARTICLE.

15 S 4. The state finance law is amended by adding a new section 99-t to
16 read as follows:

17 S 99-T. NEW YORK STATE TELEHEALTH/TELEMEDICINE DEVELOPMENT AND
18 RESEARCH GRANT FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY
19 OF THE STATE COMPTROLLER AND COMMISSIONER OF TAXATION AND FINANCE A
20 SPECIAL FUND TO BE KNOWN AS THE "NEW YORK STATE TELEHEALTH/TELEMEDICINE
21 DEVELOPMENT AND RESEARCH FUND".

22 2. SUCH FUND SHALL CONSIST OF ALL MONIES APPROPRIATED FOR THE PURPOSE
23 OF SUCH FUND AND ANY GRANT, GIFT OR BEQUEST MADE FOR PURPOSES OF DEVEL-
24 OPMENT OR GRANTS FOR TELEHEALTH/TELEMEDICINE SERVICES PURSUANT TO
25 SECTION TWENTY-SEVEN HUNDRED NINETY-NINE-V OF THE PUBLIC HEALTH LAW.

26 3. MONIES OF THE FUND SHALL BE AVAILABLE TO THE COMMISSIONER OF HEALTH
27 FOR THE PURPOSE OF PROVIDING DEVELOPMENT AND RESEARCH GRANTS FOR
28 TELEHEALTH/TELEMEDICINE PURSUANT TO SECTION TWENTY-SEVEN HUNDRED NINE-
29 TY-NINE-V OF THE PUBLIC HEALTH LAW.

30 4. THE MONIES OF THE FUND SHALL BE PAID OUT ON THE AUDIT AND WARRANT
31 OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER
32 OF HEALTH, OR BY AN OFFICER OR EMPLOYEE OF THE DEPARTMENT OF HEALTH
33 DESIGNATED BY SUCH COMMISSIONER.

34 S 5. This act shall take effect immediately; provided that section
35 three of this act shall take effect on the first day of April next
36 succeeding the date on which this act shall have become law; provided
37 further however that the commissioner of health shall be authorized to
38 take all necessary steps to implement this section by such date.