

As Introduced

134th General Assembly

Regular Session

2021-2022

H. B. No. 122

Representatives Fraizer, Holmes

Cosponsors: Representatives Carfagna, Hall, Seitz

A BILL

To amend sections 3902.30, 4723.94, 4731.2910, 1
4732.33, and 5164.95; to amend, for the purpose 2
of adopting a new section number as indicated in 3
parentheses, section 4731.2910 (4743.09); and to 4
enact sections 3701.1310, 3721.60, 4725.35, 5
4729.284, 4730.60, 4731.741, 4734.60, 4753.20, 6
4755.90, 4757.50, 4758.80, 4759.20, 4778.30, and 7
5119.368 of the Revised Code to establish and 8
modify requirements regarding the provision of 9
telehealth services. 10

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 3902.30, 4723.94, 4731.2910, 11
4732.33, and 5164.95 be amended; section 4731.2910 (4743.09) be 12
amended for the purpose of adopting a new section number as 13
indicated in parentheses; and sections 3701.1310, 3721.60, 14
4725.35, 4729.284, 4730.60, 4731.741, 4734.60, 4753.20, 4755.90, 15
4757.50, 4758.80, 4759.20, 4778.30, and 5119.368 of the Revised 16
Code be enacted to read as follows: 17

Sec. 3701.1310. During any declared disaster, epidemic, 18

pandemic, public health emergency, or public safety emergency, 19
an individual with a developmental disability or any other 20
permanent disability who is in need of surgery or any other 21
health care procedure, any medical or other health care test, or 22
any clinical care visit shall be given the opportunity to have 23
at least one parent or legal guardian present if the presence of 24
the individual's parent or legal guardian is necessary to 25
alleviate any negative reaction that may be experienced by the 26
individual who is the patient. 27

The director of health may take any action necessary to 28
enforce this section. 29

Sec. 3721.60. (A) As used in this section, "long-term care 30
facility" means all of the following: 31

(1) A home, as defined in section 3721.10 of the Revised 32
Code; 33

(2) A residential facility licensed by the department of 34
mental health and addiction services under section 5119.34 of 35
the Revised Code; 36

(3) A residential facility licensed by the department of 37
developmental disabilities under section 5123.19 of the Revised 38
Code; 39

(4) A facility operated by a hospice care program licensed 40
by the department of health under Chapter 3712. of the Revised 41
Code that is used exclusively for care of hospice patients or 42
any other facility in which a hospice care program provides care 43
for hospice patients. 44

(B) During any declared disaster, epidemic, pandemic, 45
public health emergency, or public safety emergency, each long- 46
term care facility shall provide residents and their families 47

with a video-conference visitation option if the governor, the 48
director of health, other government official or entity, or the 49
long-term care facility determines that allowing in-person 50
visits at the facility would create a risk to the health of the 51
residents. 52

Sec. 3902.30. (A) As used in this section: 53

(1) "Cost sharing" means the cost to a covered individual 54
under a health benefit plan according to any coverage limit, 55
copayment, coinsurance, deductible, or other out-of-pocket 56
expense requirements imposed by the plan. 57

(2) "Health benefit plan," "health care services," and 58
"health plan issuer" have the same meanings as in section 59
3922.01 of the Revised Code. 60

~~(2)-(3) "Health care professional" means any of the~~ 61
~~following:—~~ 62

~~(a) A physician licensed under Chapter 4731. of the~~ 63
~~Revised Code to practice medicine and surgery, osteopathic~~ 64
~~medicine and surgery, or podiatric medicine and surgery;—~~ 65

~~(b) A physician assistant licensed under Chapter 4731. of~~ 66
~~the Revised Code;—~~ 67

~~(c) An advanced practice registered nurse as defined in~~ 68
~~section 4723.01 of the Revised Code. has the same meaning as in~~ 69
section 4743.09 of the Revised Code. 70

~~(3)-(4) "In-person health care services" means health care~~ 71
services delivered by a health care professional through the use 72
of any communication method where the professional and patient 73
are simultaneously present in the same geographic location. 74

~~(4) "Recipient" means a patient receiving health care—~~ 75

~~services or a health care professional with whom the provider of~~ 76
~~health care services is consulting regarding the patient.~~ 77

(5) ~~"Telemedicine"~~ "Telehealth services" means a mode of 78
~~providing health care services through synchronous or~~ 79
~~asynchronous information and communication technology by a~~ 80
~~health care professional, within the professional's scope of~~ 81
~~practice, who is located at a site other than the site where the~~ 82
~~recipient is located~~ has the same meaning as in section 4743.09 83
of the Revised Code. 84

(B) (1) A health benefit plan shall provide coverage for 85
~~telemedicine~~ telehealth services on the same basis and to the 86
same extent that the plan provides coverage for the provision of 87
in-person health care services. 88

(2) A health benefit plan shall not exclude coverage for a 89
service solely because it is provided as a ~~telemedicine~~ 90
telehealth service. 91

(3) A health plan issuer shall reimburse a health care 92
professional for a telehealth service that is covered under a 93
patient's health benefit plan. Division (B) (3) of this section 94
shall not be construed to require a specific reimbursement 95
amount. 96

(C) A health benefit plan shall not impose any annual or 97
lifetime benefit maximum in relation to ~~telemedicine~~ telehealth 98
services other than such a benefit maximum imposed on all 99
benefits offered under the plan. 100

~~(D) This~~ (D) (1) A health benefit plan shall not impose a 101
cost-sharing requirement for telehealth services that exceeds 102
the cost-sharing requirement for comparable in-person health 103
care services. 104

(2) (a) A health benefit plan shall not impose a cost- 105
sharing requirement for a communication when all of the 106
following apply: 107

(i) The communication was initiated by the health care 108
professional. 109

(ii) The patient consented to receive a telehealth service 110
from that provider on any prior occasion. 111

(iii) The communication is conducted for the purposes of 112
preventive health care services only. 113

(b) If a communication described in division (D) (2) (a) of 114
this section is coded based on time, then only the time the 115
health care professional spends engaged in the communication is 116
billable. 117

(E) This section shall not be construed as doing ~~any~~ 118
~~either~~ of the following: 119

(1) ~~Prohibiting a health benefit plan from assessing cost-~~ 120
~~sharing requirements to a covered individual for telemedicine-~~ 121
~~services, provided that such cost sharing requirements for~~ 122
~~telemedicine services are not greater than those for comparable~~ 123
~~in-person health care services;~~ 124

~~(2)~~ Requiring a health plan issuer to reimburse a health 125
care professional for any costs or fees associated with the 126
provision of ~~telemedicine~~ telehealth services that would be in 127
addition to or greater than the standard reimbursement for 128
comparable in-person health care services; 129

~~(3)~~ (2) Requiring a health plan issuer to reimburse a 130
~~telemedicine~~ telehealth provider for ~~telemedicine~~ telehealth 131
services at the same rate as in-person services. 132

~~(E) This section applies to all health benefit plans~~ 133
~~issued, offered, or renewed on or after January 1, 2021.~~ 134

(F) The superintendent of insurance may adopt rules in 135
accordance with Chapter 119. of the Revised Code as necessary to 136
carry out the requirements of this section. Any such rules are 137
not subject to the requirements of division (F) of section 138
121.95 of the Revised Code. 139

Sec. 4723.94. ~~(A) As used in this section:~~ 140

~~(1) "Facility fee" means any fee charged or billed for~~ 141
~~telemedicine services provided in a facility that is intended to~~ 142
~~compensate the facility for its operational expenses and is~~ 143
~~separate and distinct from a professional fee.~~ 144

~~(2) "Health plan issuer" has the same meaning as in~~ 145
~~section 3922.01 of the Revised Code.~~ 146

~~(3) "Telemedicine services" has the same meaning as in~~ 147
~~section 3902.30 of the Revised Code.~~ 148

~~(B) An advanced practice registered nurse providing~~ 149
~~telemedicine may provide telehealth services shall not charge a~~ 150
~~facility fee, an origination fee, or any fee associated with the~~ 151
~~cost of the equipment used to provide telemedicine services to a~~ 152
~~health plan issuer covering telemedicine services under in~~ 153
accordance with section 3902.30-4743.09 of the Revised Code. 154

Sec. 4725.35. An optometrist who holds a therapeutic 155
pharmaceutical agents certificate issued under this chapter may 156
provide telehealth services in accordance with section 4743.09 157
of the Revised Code. 158

Sec. 4729.284. A pharmacist may provide telehealth 159
services in accordance with section 4743.09 of the Revised Code. 160

Sec. 4730.60. A physician assistant may provide telehealth 161
services in accordance with section 4743.09 of the Revised Code. 162

Sec. 4731.741. A physician may provide telehealth services 163
in accordance with sections 4743.09 of the Revised Code. 164

Sec. 4732.33. (A) The state board of psychology shall 165
adopt rules governing the use of telepsychology for the purpose 166
of protecting the welfare of recipients of telepsychology 167
services and establishing requirements for the responsible use 168
of telepsychology in the practice of psychology and school 169
psychology, including supervision of persons registered with the 170
state board of psychology as described in division (B) of 171
section 4732.22 of the Revised Code. The rules shall be 172
consistent with section 4743.09 of the Revised Code. 173

(B) A psychologist or school psychologist may provide 174
telehealth services in accordance with section 4743.09 of the 175
Revised Code. 176

Sec. 4734.60. A chiropractor may provide telehealth 177
services in accordance with section 4743.09 of the Revised Code. 178

Sec. 4731.2910-4743.09. (A) As used in this section: 179

(1) "Durable medical equipment" means equipment, including 180
repair and replacement parts for such equipment, that can 181
withstand repeated use, is primarily and customarily used to 182
serve a medical purpose, and generally is not useful to a person 183
in the absence of illness or injury. "Durable medical equipment" 184
includes a remote monitoring device utilized by a physician, 185
physician assistant, or advanced practice registered nurse in 186
accordance with this section. 187

(2) "Facility fee" has the same meaning as in section 188
4723.94 of the Revised Code means any fee charged or billed for 189

telehealth services provided in a facility that is intended to 190
compensate the facility for its operational expenses and is 191
separate and distinct from a professional fee. 192

~~(2)~~ (3) "Health care professional" means: 193

(a) An advanced practice registered nurse, as defined in 194
section 4723.01 of the Revised Code; 195

(b) An optometrist licensed under Chapter 4725. of the 196
Revised Code to practice optometry under a therapeutic 197
pharmaceutical agents certificate; 198

(c) A pharmacist licensed under Chapter 4729. of the 199
Revised Code; 200

(d) A physician assistant licensed under Chapter 4730. of 201
the Revised Code; 202

(e) A physician licensed under ~~this chapter~~ Chapter 4731. 203
of the Revised Code to practice medicine and surgery, 204
osteopathic medicine and surgery, or podiatric medicine and 205
surgery; 206

~~(b) A physician assistant licensed under Chapter 4730.~~ 207

(f) A psychologist or school psychologist licensed under 208
Chapter 4732. of the Revised Code; 209

(g) A chiropractor licensed under Chapter 4734. of the 210
Revised Code; 211

(h) An audiologist or speech-language pathologist licensed 212
under Chapter 4753. of the Revised Code; 213

(i) An occupational therapist or physical therapist 214
licensed under Chapter 4755. of the Revised Code; 215

(j) A professional clinical counselor, independent social 216

worker, or independent marriage and family therapist licensed 217
under Chapter 4757. of the Revised Code; 218

(k) An independent chemical dependency counselor licensed 219
under Chapter 4758. of the Revised Code; 220

(l) A dietitian licensed under Chapter 4759. of the 221
Revised Code; 222

(m) A genetic counselor licensed under Chapter 4778. 223
of the Revised Code. 224

~~(3)~~ (4) "Health care professional licensing board" means 225
any of the following: 226

(a) The board of nursing; 227

(b) The state vision professionals board; 228

(c) The state board of pharmacy; 229

(d) The state medical board; 230

(e) The state board of psychology; 231

(f) The state chiropractic board; 232

(g) The state speech and hearing professionals board; 233

(h) The Ohio occupational therapy, physical therapy, and 234
athletic trainers board; 235

(i) The counselor, social worker, and marriage and family 236
therapist board; 237

(j) The chemical dependency professionals board. 238

(5) "Health plan issuer" has the same meaning as in 239
section 3922.01 of the Revised Code. 240

~~(4)-(6) "Telemedicine-Telehealth services" has the same~~ 241
~~meaning as in section 3902.30 of the Revised Code means health~~ 242
~~care services provided through the use of information and~~ 243
~~communication technology by a health care professional, within~~ 244
~~the professional's scope of practice, who is located at a site~~ 245
~~other than the site where either of the following is located:~~ 246

(a) The patient receiving the services; 247

(b) Another health care professional with whom the 248
provider of the services is consulting regarding the patient. 249

(B) Each health care professional licensing board shall 250
permit a health care professional under its jurisdiction to 251
provide the professional's services as telehealth services in 252
accordance with this section. The board may adopt any rules it 253
considers necessary to implement this section. The rules shall 254
be adopted in accordance with Chapter 119. of the Revised Code. 255

(C) With respect to the provision of telehealth services, 256
all of the following apply: 257

(1) A health care professional may use synchronous or 258
asynchronous technology to provide telehealth services to a 259
patient during an initial visit if the appropriate standard of 260
care for an initial visit is satisfied. 261

(2) A health care professional may deny a patient 262
telehealth services and, instead, require the patient to undergo 263
an in-person visit. 264

(3) When providing telehealth services in accordance with 265
this section, a health care professional shall comply with all 266
requirements under state and federal law regarding the 267
protection of patient information. A health care professional 268
shall ensure that any username or password information and any 269

electronic communications between the professional and a patient 270
are securely transmitted and stored. 271

(4) A health care professional may use technology to 272
provide telehealth services to a patient during an annual visit 273
if the appropriate standard of care for an annual visit is 274
satisfied. 275

(5) In the case of a health care professional who is a 276
physician, physician assistant, or advanced practice registered 277
nurse, both of the following apply: 278

(a) The professional may provide telehealth services to a 279
patient located outside of this state if permitted by the laws 280
of the state in which the patient is located. 281

(b) The professional may provide telehealth services 282
through the use of medical devices that enable remote 283
monitoring, including such activities as monitoring a patient's 284
blood pressure, heart rate, or glucose level. 285

(D) When a patient has consented to receiving telehealth 286
services, the health care professional who provides those 287
services is not liable in damages under any claim made on the 288
basis that the services do not meet the same standard of care 289
that would apply if the services were provided in-person. 290

(E) (1) A health care professional providing ~~telemedicine~~ 291
telehealth services shall not charge a health plan issuer 292
covering telehealth services under section 3902.30 of the 293
Revised Code any of the following: a facility fee, an 294
origination fee, or any fee associated with the cost of the 295
equipment used at the provider site to provide ~~telemedicine~~ 296
telehealth services to a health plan issuer covering 297
~~telemedicine services under section 3902.30 of the Revised Code.~~ 298

A health care professional may charge a health plan issuer for 299
durable medical equipment used at a patient or client site. 300

(2) A health care professional may negotiate with a health 301
plan issuer to establish a reimbursement rate for fees 302
associated with the administrative costs incurred in providing 303
telehealth services as long as a patient is not responsible for 304
any portion of the fee. 305

(3) A health care professional providing telehealth 306
services shall obtain a patient's consent before billing for the 307
cost of providing the services, but the requirement to do so 308
applies only once. 309

(F) Nothing in this section limits or otherwise affects 310
any other provision of the Revised Code that requires a health 311
care professional who is not a physician to practice under the 312
supervision of, in collaboration with, in consultation with, or 313
pursuant to the referral of another health care professional. 314

Sec. 4753.20. An audiologist or speech-language 315
pathologist may provide telehealth services in accordance with 316
section 4743.09 of the Revised Code. 317

Sec. 4755.90. An occupational therapist or physical 318
therapist may provide telehealth services in accordance with 319
section 4743.09 of the Revised Code. 320

Sec. 4757.50. A professional clinical counselor, 321
independent social worker, or independent marriage and family 322
therapist may provide telehealth services in accordance with 323
section 4743.09 of the Revised Code. 324

Sec. 4758.80. An independent chemical dependency counselor 325
may provide telehealth services in accordance with section 326
4743.09 of the Revised Code. 327

Sec. 4759.20. A dietitian may provide telehealth services 328
in accordance with section 4743.09 of the Revised Code. 329

Sec. 4778.30. A genetic counselor may provide telehealth 330
services in accordance with section 4743.09 of the Revised Code. 331

Sec. 5119.368. (A) As used in this section, "telehealth 332
services" has the same meaning as in section 3902.30 of the 333
Revised Code. 334

(B) Each community mental health services provider and 335
community addiction services provider shall establish written 336
policies and procedures describing how the provider will ensure 337
that staff persons assisting clients with receiving telehealth 338
services or providing telehealth services are fully trained in 339
using equipment necessary for providing the services. 340

(C) Prior to providing telehealth services to a client, a 341
provider shall describe to the client the potential risks 342
associated with receiving treatment through telehealth services 343
and shall document that the client was provided with the risks 344
and agreed to assume those risks. The risks communicated to a 345
client shall address the following: 346

(1) Clinical aspects of receiving treatment through 347
telehealth services; 348

(2) Security considerations when receiving treatment 349
through telehealth services; 350

(3) Confidentiality for individual and group counseling. 351

(D) It is the responsibility of the provider, to the 352
extent possible, to ensure contractually that any entity or 353
individuals involved in the transmission of information through 354
telehealth mechanisms guarantee that the confidentiality of the 355

information is protected. 356

(E) Every provider shall have a contingency plan for 357
providing telehealth services to clients in the event that 358
technical problems occur during the provision of those services. 359

(F) Providers shall maintain, at a minimum, the following 360
information pertaining to local resources: 361

(1) The local suicide prevention telephone hotline, if 362
available, or the national suicide prevention telephone hotline. 363

(2) Contact information for the local police and fire 364
departments. 365

The provider shall provide the client written information 366
on how to access assistance in a crisis, including one caused by 367
equipment malfunction or failure. 368

(G) It is the responsibility of the provider to ensure 369
that equipment meets standards sufficient to do the following: 370

(1) To the extent possible, ensure confidentiality of 371
communication; 372

(2) Provide for interactive communication between the 373
provider and the client; 374

(3) When providing telehealth services using synchronous 375
technology, ensure that video or audio are sufficient to enable 376
real-time interaction between the client and the provider and to 377
ensure the quality of the service provided. 378

(H) A mental health facility or unit that is serving as a 379
client site shall be maintained in such a manner that 380
appropriate staff persons are on hand at the facility or unit in 381
the event of a malfunction with the equipment used to provide 382

telehealth services. 383

(I) (1) All telehealth services provided by interactive 384
videoconferencing shall meet both of the following conditions: 385

(a) Begin with the verification of the client through a 386
name and password or personal identification number when 387
treatment services are being provided; 388

(b) Be provided in accordance with state and federal law. 389

(2) When providing telehealth services in accordance with 390
this section, a provider shall comply with all requirements 391
under state and federal law regarding the protection of patient 392
information. Each provider shall ensure that any username or 393
password information and any electronic communications between 394
the provider and a client are securely transmitted and stored. 395

(J) The department of mental health and addiction services 396
may adopt rules as it considers necessary to implement this 397
section. The rules shall be adopted in accordance with Chapter 398
119. of the Revised Code. Any such rules are not subject to the 399
requirements of division (F) of section 121.95 of the Revised 400
Code. 401

Sec. 5164.95. (A) As used in this section, "telehealth 402
service" means a health care service delivered to a patient 403
through the use of interactive audio, video, or other 404
telecommunications or electronic technology from a site other 405
than the site where the patient is located. 406

(B) The department of medicaid shall establish standards 407
for medicaid payments for health care services the department 408
determines are appropriate to be covered by the medicaid program 409
when provided as telehealth services. The standards shall be 410
established in rules adopted under section 5164.02 of the 411

Revised Code. 412

In accordance with section 5162.021 of the Revised Code, 413
the medicaid director shall adopt rules authorizing the 414
directors of other state agencies to adopt rules regarding the 415
medicaid coverage of telehealth services under programs 416
administered by the other state agencies. Any such rules adopted 417
by the medicaid director or the directors of other state 418
agencies are not subject to the requirements of division (F) of 419
section 121.95 of the Revised Code. 420

(C) (1) The following practitioners are eligible to provide 421
telehealth services covered pursuant to this section: 422

(a) A physician licensed under Chapter 4731. of the 423
Revised Code to practice medicine and surgery, osteopathic 424
medicine and surgery, or podiatric medicine and surgery; 425

(b) A psychologist licensed under Chapter 4732. of the 426
Revised Code; 427

(c) A physician assistant licensed under Chapter 4730. of 428
the Revised Code; 429

(d) A clinical nurse specialist, certified nurse-midwife, 430
or certified nurse practitioner licensed under Chapter 4723. of 431
the Revised Code; 432

(e) An independent social worker, independent marriage and 433
family therapist, or professional clinical counselor licensed 434
under Chapter 4757. of the Revised Code; 435

(f) An independent chemical dependency counselor licensed 436
under Chapter 4758. of the Revised Code; 437

(g) A supervised practitioner or supervised trainee; 438

<u>(h) An audiologist or speech-language pathologist licensed</u>	439
<u>under Chapter 4753. of the Revised Code;</u>	440
<u>(i) An audiology aide or speech-language pathology aide,</u>	441
<u>as defined in section 4753.072 of the Revised Code, or an</u>	442
<u>individual holding a conditional license under section 4753.071</u>	443
<u>of the Revised Code;</u>	444
<u>(j) An occupational therapist or physical therapist</u>	445
<u>licensed under Chapter 4755. of the Revised Code;</u>	446
<u>(k) An occupational therapy assistant or physical</u>	447
<u>therapist assistant licensed under Chapter 4755. of the Revised</u>	448
<u>Code.</u>	449
<u>(l) A dietitian licensed under Chapter 4759. of the</u>	450
<u>Revised Code;</u>	451
<u>(m) A chiropractor licensed under Chapter 4734. of the</u>	452
<u>Revised Code;</u>	453
<u>(n) A pharmacist licensed under Chapter 4729. of the</u>	454
<u>Revised Code;</u>	455
<u>(o) A genetic counselor licensed under Chapter 4778. of</u>	456
<u>the Revised Code;</u>	457
<u>(p) An optometrist licensed under Chapter 4725. of the</u>	458
<u>Revised Code to practice optometry under a therapeutic</u>	459
<u>pharmaceutical agents certificate;</u>	460
<u>(q) A practitioner who provides services through a</u>	461
<u>medicaid school program;</u>	462
<u>(r) Subject to section 5119.368 of the Revised Code, a</u>	463
<u>practitioner authorized to provide services and supports</u>	464
<u>certified under section 5119.36 of the Revised Code through a</u>	465

community mental health services provider or community addiction 466
services provider; 467

(s) Any other practitioner the medicaid director considers 468
eligible to provide telehealth services. 469

(2) The following provider types are eligible to submit 470
claims for medicaid payments for providing telehealth services: 471

(a) Any practitioner described in division (B)(1) of this 472
section, except for those described in divisions (B)(1)(g), (i), 473
and (k) of this section; 474

(b) A professional medical group; 475

(c) A federally qualified health center or rural health 476
clinic; 477

(d) An ambulatory health care clinic; 478

(e) An outpatient hospital; 479

(f) A medicaid school program; 480

(g) Subject to section 5119.368 of the Revised Code, a 481
community mental health services provider or community addiction 482
services provider that offers services and supports certified 483
under section 5119.36 of the Revised Code; 484

(h) Any other provider type the medicaid director 485
considers eligible to submit the claims for payment. 486

(D)(1) When providing telehealth services under this 487
section, a practitioner shall comply with all requirements under 488
state and federal law regarding the protection of patient 489
information. A practitioner shall ensure that any username or 490
password information and any electronic communications between 491
the practitioner and a patient are securely transmitted and 492

stored. 493

(2) When providing telehealth services under this section, 494
every practitioner site shall have access to the medical records 495
of the patient at the time telehealth services are provided. 496

Section 2. That existing sections 3902.30, 4723.94, 497
4732.33, 5164.95, and 4731.2910 of the Revised Code are hereby 498
repealed. 499

Section 3. Section 3902.30 of the Revised Code, as amended 500
by this act, applies to health benefit plans, as defined in 501
section 3922.01 of the Revised Code, that are in effect on the 502
effective date of the amendment to that section and to plans 503
that are issued, renewed, modified, or amended on or after the 504
effective date of that amendment. 505