

**SENATE BILL NO. 2179**

Introduced by

Senators Lee, Anderson, K. Roers

Representatives Dobervich, Westlind

1 A BILL ~~for an Act to amend and reenact section 26.1-36-09.15 of the North Dakota Century~~  
2 ~~Code, relating to health insurance coverage of telehealth; and to declare an emergency.~~for an  
3 Act to provide for a legislative management study relating to coverage of telehealth.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 ~~— **SECTION 1. AMENDMENT.** Section 26.1-36-09.15 of the North Dakota Century Code is~~  
6 ~~amended and reenacted as follows:~~

7 ~~— **26.1-36-09.15. Coverage of telehealth services.**~~

8 ~~— 1. As used in this section:~~

9 ~~— a. "Distant site" means a site at which a health care provider or health care facility is~~  
10 ~~located while providing medical services by means of telehealth.~~

11 ~~— b. "Health care facility" means any office or institution at which health services are~~  
12 ~~provided. The term includes hospitals; clinics; ambulatory surgery centers;~~  
13 ~~outpatient care facilities; nursing homes; nursing, basic, long-term, or assisted,~~  
14 ~~living, and residential facilities; group homes; laboratories; and offices of any~~  
15 ~~health care provider.~~

16 ~~— c. "Health care provider" includes an individual licensed under chapter 43-05,~~  
17 ~~43-06, 43-12.1 as a registered nurse or as an advanced practice registered~~  
18 ~~nurse, 43-13, 43-15, 43-17, 43-26.1, 43-28, 43-32, 43-37, 43-40, 43-41, 43-42,~~  
19 ~~43-44, 43-45, 43-47, 43-58, or 43-60.~~

20 ~~— d. "Originating site" means a site at which a patient is located at the time health~~  
21 ~~services are provided to the patient by means of telehealth.~~

22 ~~— e. "Policy" means an accident and health insurance policy, contract, or evidence of~~  
23 ~~coverage on a group, individual, blanket, franchise, or association basis.~~

1 ~~f. "Store and forward technology" means electronic information, imaging, and~~  
2 ~~communication that is transferred, recorded, or otherwise stored in order to be~~  
3 ~~reviewed at a distant site at a later date by a health care provider or health care~~  
4 ~~facility without the patient present in real time. The term includes telehome~~~~remote~~  
5 ~~patient monitoring and interactive audio, video, and data communication.~~

6 ~~g. "Telehealth":~~

7 ~~(1) Means the use of interactive audio, video, or other telecommunications~~  
8 ~~technology that is used by a health care provider or health care facility at a~~  
9 ~~distant site to deliver health services at an originating site and that is~~  
10 ~~delivered over a secure connection that complies with the requirements of~~  
11 ~~state and federal laws.~~

12 ~~(2) Includes the use of electronic media for consultation relating to the health~~  
13 ~~care diagnosis or treatment of a patient in real time or through the use of~~  
14 ~~store and forward technology.~~

15 ~~(3) Includes audio only telephone if no other means of communications~~  
16 ~~technology are available to the patient, including lack of adequate~~  
17 ~~broadband access, or that other means of communications technology~~  
18 ~~being infeasible, impractical, or otherwise not medically advisable, as~~  
19 ~~determined by the health care provider or health care facility providing~~  
20 ~~telehealth services to the patient or as determined by another health care~~  
21 ~~provider or health care facility with an existing relationship with the patient.~~

22 ~~(4) Does not include the use of audio only telephone, electronic mail, or~~  
23 ~~facsimile transmissions.~~

24 ~~2. An insurer may not deliver, issue, execute, or renew a policy that provides health~~  
25 ~~benefits coverage unless that policy provides coverage for health services delivered~~  
26 ~~by means of telehealth which is the same as the coverage for health services~~  
27 ~~delivered by in-person means.~~

28 ~~3. Payment or reimbursement of expenses for covered health services delivered by~~  
29 ~~means of telehealth under this section may not be established through negotiations~~  
30 ~~conducted by the insurer with the health services providers in the same manner as the~~  
31 ~~insurer with the health services providers in the same manner as the insurer~~

1 establishes ~~payment or less than reimbursement~~ of expenses for covered health-  
2 services that are delivered by in-person means.

3 ~~4. Coverage under this section may be subject to deductible, coinsurance, and~~  
4 ~~copayment provisions. However, any coinsurance or copayment applicable to covered~~  
5 ~~health services delivered by means of telehealth must be equivalent to the~~  
6 ~~coinsurance or copayment applicable to such covered health services if delivered by~~  
7 ~~in-person means and coverage may not provide for application of a deductible to~~  
8 ~~covered health services delivered by means of telehealth which accumulates~~  
9 ~~separately from the deductible that applies in the aggregate to all items and services~~  
10 ~~covered.~~

11 ~~5. This section does not require:~~

12 ~~a. A policy to provide coverage for health services that are not medically necessary,~~  
13 ~~subject to the terms and conditions of the policy;~~

14 ~~b. A policy to provide coverage for health services delivered by means of telehealth~~  
15 ~~if the policy would not provide coverage for the health services if delivered by~~  
16 ~~in-person means;~~

17 ~~c. A policy to reimburse a health care provider or health care facility for expenses~~  
18 ~~for health services delivered by means of telehealth if the policy would not~~  
19 ~~reimburse that health care provider or health care facility if the health services~~  
20 ~~had been delivered by in-person means; or~~

21 ~~d. A health care provider to be physically present with a patient at the originating~~  
22 ~~site unless the health care provider who is delivering health services by means of~~  
23 ~~telehealth determines the presence of a health care provider is necessary.~~

24 ~~6. An insurer may not impose any type of utilization management on health services~~  
25 ~~delivered by means of telehealth unless that type of utilization management is~~  
26 ~~imposed if the health services had been delivered by in-person means.~~

27 ~~7. An insurer may not require an in-person consultation or contact with a health care~~  
28 ~~provider or a health care facility before a patient may receive health services delivered~~  
29 ~~by means of telehealth.~~

30 ~~**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.~~

1 |     **SECTION 1. LEGISLATIVE MANAGEMENT STUDY - TELEHEALTH COVERAGE.** During  
2 | the 2021-22 interim, the legislative management shall study telehealth costs, services, and  
3 | reimbursement options. The study should include input from stakeholders, such as providers,  
4 | payors, and the insurance department. A goal of the study is to encourage providers and payors  
5 | to collaborate to find a mutually agreeable telehealth reimbursement structure. The study may  
6 | begin with a focus on behavioral health provided via telehealth. The legislative management  
7 | shall report its finding and recommendations, together with any legislation required to  
8 | implement the recommendations, to the sixty-eighth legislative assembly.