COMMITTEE AMENDMENT ADOPTED

April 23, 2013

**S. 290**

Introduced by Senators Cleary, Hutto, Hembree, Davis and Alexander

S. Printed 4/23/13--S. [SEC 4/25/13 12:06 PM]

Read the first time January 24, 2013.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE “SOUTH CAROLINA TELEMEDICINE ACT”; BY ADDING ARTICLE 3 TO CHAPTER 47, TITLE 40 SO AS TO PROVIDE DEFINITIONS AND TO REQUIRE COVERAGE OF TELEMEDICINE SERVICES BY THE STATE PUBLIC EMPLOYEE BENEFIT AUTHORITY AND BY ESTABLISHING THE TELEMEDICINE ADVISORY COUNCIL.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 47, Title 40 of the 1976 Code is amended by adding:

“Article 3

Telemedicine

Section 40-47-300. This article is known and may be cited as the ‘South Carolina Telemedicine Act’.

Section 40-47-310. (A) For the purposes of this article:

(1) ‘Telemedicine’ means the delivery of health care, including diagnosis, treatment, or transfer of medical data, by means of bi-directional, real-time, interactive, secured and HIPAA compliant, electronic audio and video telecommunications systems by a consulting health care provider to a patient of a referring health care provider*,* at a referring site. HIPAA compliant electronic audio and video telecommunications systems must be used between the consultant site and referring site. Standard telephone, facsimile transmissions, unsecured electronic mail, or a combination of them do not constitute telemedicine services.

(2) ‘Consultant site’ means the physical site at which the consulting health care provider is located at the time the health care is provided by means of telemedicine.

(3) ‘Referring site’ means the physical site of the patient.

(4) ‘Consulting health care provider’ means an allopathic or osteopathic physician, physician assistant, or a nurse practitioner licensed in the State of South Carolina and practicing pursuant to their respective practice act under Title 40.

(5) ‘Referring health care provider’ means an allopathic or osteopathic physician, physician assistant, or nurse practitioner who, upon evaluation of the patient determines the need for consultation and makes the arrangements for the consulting health care provider services. A referring health care provider must be licensed in the State of South Carolina and practicing pursuant to their respective practice act under Title 40.

(6) ‘State Health Plan' means the employee and retiree insurance program administered by the Public Employee Benefit Authority.

(B) (1) On or after January 1, 2014, the State Health Plan shall not require face‑to‑face contact between a consulting health care provider and a patient as a prerequisite for payment for covered services appropriately provided through telemedicine in accordance with generally accepted health care practices and standards at the time the telemedicine service was rendered.

(2) Notwithstanding the provisions of item (1), the State Health Plan shall establish coverage guidelines, documentation requirements, and benefit design standards for telemedicine services.

(C) Reimbursement for covered services provided through telemedicine shall be determined by the State Health Plan and shall be based upon Current Procedural Terminology (CPT) codes with appropriate GT telemedicine modifiers (via interactive audio and video telecommunications systems).

(D**)** It is the responsibility of the consulting health care provider to communicate the details of the telemedicine service with the patient’s primary care provider or referring health care provider within a mutually agreed upon time frame and mode of communication.

(E) The Board of Medical Examiners shall promulgate regulations to authorize and establish standards for other forms or methods of providing health care services through telephone, facsimile, or electronic means, or combination thereof; provided, however, that the State Health Plan may reimburse for such other services but are not required by subsection (B) of this section to do so.

(F)The Board of Medical Examiners and the Board of Nursing shall use the same standards in evaluating and investigating a complaint and disciplining a licensee who practices telemedicine as it would use for a licensee who does not practice telemedicine.

(G) This chapter does not affect health care services currently reimbursed by the State Health Plan that utilize electronic communications which are not real-time or preclude the Public Employee Benefit Authority from reimbursing for similar services in the future.

Section 40-47-320. (A) There is hereby created the Telemedicine Advisory Council whose functions are to study telemedicine outcomes, evaluate reimbursement rates and make recommendations regarding the further development and use of telemedicine. The council shall consist of:

(1) the Director of the Department of Insurance or their designee;

(2) the Director of the Department of Health and Human Services or their designee;

(3) the Director of the Department of Labor, Licensing and Regulation or their designee;

(4) the Director of the Public Employee Benefit Authority or their designee;

(5) a member of the Senate appointed by the Chairman of the Senate Medical Affairs Committee;

(6) a member of the House of Representatives appointed by the Chairman of the House Labor, Commerce and Industry Committee;

(7) five members appointed by the Governor consisting of:

(a) a rural hospital administrator;

(b) a physician with specialized knowledge and interest in the use of telemedicine;

(c) a psychiatrist with specialized knowledge and interest in the use of telepsychiatry;

(d) a representative from a health insurance issuer licensed to do business in this State; and

(e) a representative from a public medical school in South Carolina; and

(8) the Chairman of the Board of Directors for Palmetto Care Connections, Inc. or their designee, ex officio and non-voting.

(B) The Director of the Public Employee Benefit Authority or their designee shall serve as chairman. A quorum will be a majority of the members present but not less than four attendees. Members shall serve without per diem, subsistence, or mileage.

(C) Staff support shall be provided by the Public Employee Benefit Authority, the Senate, and the House of Representatives.

(D) Members shall be appointed no later than August 1, 2013 and will serve a minimum of two years. Vacancies must be filled in the manner of the original appointment for the unexpired portion of the term. The initial meeting of the council shall be no later than December 1, 2013, and the council shall meet at least twice a year or at the call of the chairman.

(E) The council shall make a progress report to the Public Employee Benefit Authority, the Chairman of the Senate Medical Affairs Committee and the Chairman of the House of Representatives Labor, Commerce and Industry Committee no later than July 1, 2015, and annually thereafter. The progress reports shall include, but not be limited to, evaluation of the access to health care; patient satisfaction of telemedicine services; medical outcomes; affordability of telemedicine health care services; and recommendations and results from subsection (F).

(F) The council shall research and evaluate the opportunities and challenges for further growth and development of telemedicine in South Carolina including, but not limited to, market incentives for telemedicine growth; market impediments to the use and growth of telemedicine; statutory and regulatory limitations to the utilization and growth of telemedicine; the value and availability of the various types of telemedicine available in medicine, including physician-to-patient telemedicine; the impact of telemedicine policy directives and decisions by the Board of Medical Examiners; and, liability concerns for providers and insurers.”

SECTION 2. This act takes effect upon approval by the Governor.

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