

As Introduced

133rd General Assembly

Regular Session

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H. B. No. 679

Representatives Fraizer, Holmes, A.

**Cosponsors: Representatives Abrams, Butler, Crossman, Patton, Seitz,
Swearingen**

A BILL

To amend sections 3902.30, 4723.94, 4732.33, 1
5123.60, 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 3721.60, 4730.60, 4753.20, 5
4755.90, 4757.50, 4758.80, 4759.20, 5119.368, 6
and 5123.603 of the Revised Code to establish 7
and modify requirements regarding the provision 8
of telehealth services and to declare an 9
emergency. 10

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

Section 1. That sections 3902.30, 4723.94, 4732.33, 11
5123.60, 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 3721.60, 4730.60, 14
4753.20, 4755.90, 4757.50, 4758.80, 4759.20, 5119.368, and 15
5123.603 of the Revised Code be enacted to read as follows: 16

Sec. 3721.60. (A) As used in this section, "long-term care 17
facility" means all of the following: 18

(1) A home, as defined in section 3721.10 of the Revised Code; 19
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(2) A residential facility licensed by the department of mental health and addiction services under section 5119.34 of the Revised Code; 21
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(3) A residential facility licensed by the department of developmental disabilities under section 5123.19 of the Revised Code; 24
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(4) A facility operated by a hospice care program licensed by the department of health under Chapter 3712. of the Revised Code that is used exclusively for care of hospice patients. 27
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(B) During any declared disaster, epidemic, pandemic, public health emergency, or public safety emergency, each long-term care facility shall provide residents and their families with a video-conference visitation option if the governor, the director of health, other government official or entity, or the long-term care facility determines that allowing in-person visits at the facility would create a risk to the health of the residents. 30
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Sec. 3902.30. (A) As used in this section: 38

(1) "Cost-sharing" means the cost to a covered individual under a health benefit plan according to any coverage limit, copayment, coinsurance, deductible, or other out-of-pocket expense requirements imposed by the plan. 39
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(2) "Health benefit plan," "health care services," and "health plan issuer" have the same meanings as in section 3922.01 of the Revised Code. 43
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~~(2)~~ (3) "Health care professional" means any of the 46

following: 47

(a) A physician licensed under Chapter 4731. of the 48
Revised Code to practice medicine and surgery, osteopathic 49
medicine and surgery, or podiatric medicine and surgery; 50

(b) A physician assistant licensed under Chapter ~~4731~~4730. 51
of the Revised Code; 52

(c) An advanced practice registered nurse as defined in 53
section 4723.01 of the Revised Code. 54

~~(3)~~(4) "In-person health care services" means health care 55
services delivered by a health care professional through the use 56
of any communication method where the professional and patient 57
are simultaneously present in the same geographic location. 58

~~(4)~~(5) "Recipient" means a patient receiving health care 59
services or a health care professional with whom the provider of 60
health care services is consulting regarding the patient. 61

~~(5)~~ ~~"Telemedicine"~~(6) "Telehealth services" means a mode 62
of providing health care services through synchronous or 63
asynchronous information and communication technology by a 64
health care professional, within the professional's scope of 65
practice, who is located at a site other than the site where the 66
recipient is located. 67

(B) (1) A health benefit plan shall provide coverage for 68
~~telemedicine~~telehealth services ~~on the same basis and to the~~ 69
~~same extent that the plan provides coverage for the provision of~~ 70
~~in-person health care services.~~ 71

(2) A health benefit plan shall not exclude coverage for a 72
service solely because it is provided as a ~~telemedicine~~ 73
telehealth service. 74

(C) A health benefit plan shall not impose any annual or 75
lifetime benefit maximum in relation to ~~telemedicine~~telehealth 76
services other than such a benefit maximum imposed on all 77
benefits offered under the plan. 78

(D) ~~This~~A health plan issuer may impose cost-sharing 79
requirements with regard to telehealth services in accordance 80
with both of the following: 81

(1) A health benefit plan shall not impose a cost-sharing 82
requirement for telehealth services provided via telephone or 83
electronic mail. 84

(2) A health benefit plan shall not impose a cost-sharing 85
requirement for telehealth services that exceeds the cost- 86
sharing requirement for comparable in-person health care 87
services. 88

(E) Telehealth services provided by electronic mail or 89
telephone shall be tallied using the minutes spent per patient 90
on a running total. Health plan issuers shall reimburse 91
providers for a block of time spent on such services that is 92
equivalent to the standard amount of time spent on a telehealth 93
service. 94

(F) This section shall not be construed as doing ~~any~~ 95
either of the following: 96

~~(1) Prohibiting a health benefit plan from assessing cost-~~ 97
~~sharing requirements to a covered individual for telemedicine-~~ 98
~~services, provided that such cost sharing requirements for~~ 99
~~telemedicine services are not greater than those for comparable-~~ 100
~~in-person health care services;~~ 101

~~(2)~~ Requiring a health plan issuer to reimburse a health 102
care professional for any costs or fees associated with the 103

provision of ~~telemedicine-telehealth~~ services that would be in 104
addition to or greater than the standard reimbursement for 105
comparable in-person health care services; 106

~~(3)-(2)~~ Requiring a health plan issuer to reimburse a 107
~~telemedicine-telehealth~~ provider for ~~telemedicine-telehealth~~ 108
services at the same rate as in-person services. 109

~~(E) This section applies to all health benefit plans~~ 110
~~issued, offered, or renewed on or after January 1, 2021.~~ 111

(G) Except as provided in division (D) of this section, 112
coverage for telehealth services shall be provided on the same 113
terms and the same basis as in-person health care services. 114

(H) The superintendent of insurance may adopt rules in 115
accordance with Chapter 119. of the Revised Code as necessary to 116
carry out the requirements of this section. Any such rules shall 117
be exempted from the requirements of division (F) of section 118
121.95 of the Revised Code. 119

Sec. 4723.94. ~~(A) As used in this section:~~ 120

~~(1) "Facility fee" means any fee charged or billed for~~ 121
~~telemedicine services provided in a facility that is intended to~~ 122
~~compensate the facility for its operational expenses and is~~ 123
~~separate and distinct from a professional fee.~~ 124

~~(2) "Health plan issuer" has the same meaning as in~~ 125
~~section 3922.01 of the Revised Code.~~ 126

~~(3) "Telemedicine services" has the same meaning as in~~ 127
~~section 3902.30 of the Revised Code.~~ 128

~~(B) An advanced practice registered nurse providing~~ 129
~~telemedicine may provide telehealth services shall not charge a~~ 130
~~facility fee, an origination fee, or any fee associated with the~~ 131

~~cost of the equipment used to provide telemedicine services to a~~ 132
~~health plan issuer covering telemedicine services under in~~ 133
~~accordance with section ~~3902.30~~ 4743.09 of the Revised Code.~~ 134

Sec. 4730.60. A physician assistant may provide telehealth 135
services in accordance with section 4743.09 of the Revised Code. 136

Sec. 4732.33. (A) The state board of psychology shall 137
adopt rules governing the use of telepsychology for the purpose 138
of protecting the welfare of recipients of telepsychology 139
services and establishing requirements for the responsible use 140
of telepsychology in the practice of psychology and school 141
psychology, including supervision of persons registered with the 142
state board of psychology as described in division (B) of 143
section 4732.22 of the Revised Code. The rules shall be 144
consistent with section 4743.09 of the Revised Code. 145

(B) A psychologist or school psychologist may provide 146
telehealth services in accordance with section 4743.09 of the 147
Revised Code. 148

Sec. ~~4731.2910~~ 4743.09. (A) As used in this section: 149

(1) "Facility fee" ~~has the same meaning as in section~~ 150
~~4723.94 of the Revised Code~~ means any fee charged or billed for 151
telehealth services provided in a facility that is intended to 152
compensate the facility for its operational expenses and is 153
separate and distinct from a professional fee. 154

(2) "Health care professional" means: 155

(a) An advanced practice registered nurse, as defined in 156
section 4723.01 of the Revised Code; 157

(b) A physician assistant licensed under Chapter 4730. of 158
the Revised Code; 159

<u>(c) A physician licensed under this chapter to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;</u>	160 161 162
<u>(b) A physician assistant licensed under Chapter 4730.</u>	163
<u>(d) A psychologist or school psychologist licensed under Chapter 4732. of the Revised Code;</u>	164 165
<u>(e) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;</u>	166 167
<u>(f) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;</u>	168 169
<u>(g) A professional clinical counselor, independent social worker, or independent marriage and family therapist licensed under Chapter 4757. of the Revised Code;</u>	170 171 172
<u>(h) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;</u>	173 174
<u>(i) A dietitian licensed under Chapter 4759. of the Revised Code.</u>	175 176
<u>(3) "Health care professional licensing board" means any of the following:</u>	177 178
<u>(a) The board of nursing;</u>	179
<u>(b) The state medical board;</u>	180
<u>(c) The state board of psychology;</u>	181
<u>(d) The state speech and hearing professionals board;</u>	182
<u>(e) The Ohio occupational therapy, physical therapy, and athletic trainers board;</u>	183 184
<u>(f) The counselor, social worker, and marriage and family</u>	185

<u>therapist board;</u>	186
<u>(g) The chemical dependency professionals board.</u>	187
<u>(4) "Health plan issuer" has the same meaning as in section 3922.01 of the Revised Code.</u>	188 189
<u>(4) (5) "Telemedicine-Telehealth services" has the same meaning as in section 3902.30 of the Revised Code.</u>	190 191
<u>(B) Each health care professional licensing board shall permit a health care professional under its jurisdiction to provide the professional's services as telehealth services in accordance with this section. The board may adopt any rules it considers necessary to implement this section. The rules shall be adopted in accordance with Chapter 119. of the Revised Code.</u>	192 193 194 195 196 197
<u>(C) With respect to the provision of telehealth services, all of the following apply:</u>	198 199
<u>(1) A health care professional shall conduct an initial in-person visit with a patient before providing telehealth services to the patient, except that the professional may waive this requirement if the professional determines that a situation is critical and an in-person visit is not practical.</u>	200 201 202 203 204
<u>(2) A health care professional may deny a patient telehealth services and, instead, require the patient to undergo an in-person visit.</u>	205 206 207
<u>(3) When providing telehealth services, a health care professional shall use technology with secure video capabilities. A health care professional shall ensure that any username or password information and any electronic communications between the professional and a patient are securely transmitted and stored.</u>	208 209 210 211 212 213

(4) A health care professional shall conduct at least one 214
in-person visit each year with each patient who receives 215
telehealth services from the professional, except that the 216
professional may waive this requirement if the professional 217
determines that a situation is critical and an in-person visit 218
is not practical. 219

(5) In the case of a health care professional who is a 220
physician, physician assistant, or advanced practice registered 221
nurse, both of the following apply: 222

(a) The professional may provide telehealth services to a 223
patient located outside of this state if permitted by the laws 224
of the state in which the patient is located. 225

(b) The professional may provide telehealth services 226
through the use of medical devices that enable remote 227
monitoring, including such activities as monitoring a patient's 228
blood pressure, heart rate, or glucose level. 229

(D) When a patient has consented to receiving telehealth 230
services, the health care professional who provides those 231
services is not liable in damages under any claim made on the 232
basis that the services do not meet the same standard of care 233
that would apply if the services were provided in-person. 234

(E) (1) A health care professional providing ~~telemedicine-~~ 235
telehealth services shall not charge a health plan issuer 236
covering telehealth services under section 3902.30 of the 237
Revised Code any of the following: a facility fee, an 238
origination fee, a fee associated with the administrative costs 239
incurred in providing telehealth services, or any fee associated 240
with the cost of the equipment used to provide ~~telemedicine-~~ 241
telehealth services to a health plan issuer covering 242

~~telemedicine services under section 3902.30 of the Revised Code.~~ 243

(2) A health care professional providing telehealth services is not required to receive a patient's consent before billing for the cost of providing the services. 244
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(F) Nothing in this section eliminates or modifies any other provision of the Revised Code that requires a health care professional who is not a physician to practice under the supervision of, in collaboration with, in consultation with, or pursuant to the referral of another health care professional. 247
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Sec. 4753.20. An audiologist or speech-language pathologist may provide telehealth services in accordance with section 4743.09 of the Revised Code. 252
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Sec. 4755.90. An occupational therapist or physical therapist may provide telehealth services in accordance with section 4743.09 of the Revised Code. 255
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Sec. 4757.50. A professional clinical counselor, independent social worker, or independent marriage and family therapist may provide telehealth services in accordance with section 4743.09 of the Revised Code. 258
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Sec. 4758.80. An independent chemical dependency counselor may provide telehealth services in accordance with section 4743.09 of the Revised Code. 262
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Sec. 4759.20. A dietitian may provide telehealth services in accordance with section 4743.09 of the Revised Code. 265
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Sec. 5119.368. (A) As used in this section, "telehealth services" has the same meaning as in section 3902.30 of the Revised Code. 267
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(B) The following services may be provided as telehealth 270

<u>services and are considered to have been provided on a face-to-</u>	271
<u>face basis:</u>	272
<u>(1) General services;</u>	273
<u>(2) Community psychiatric supportive treatment services;</u>	274
<u>(3) Therapeutic behavioral services and psychosocial</u>	275
<u>rehabilitation services;</u>	276
<u>(4) Peer recovery services;</u>	277
<u>(5) Substance use disorder case management services;</u>	278
<u>(6) Crisis intervention services;</u>	279
<u>(7) Assertive community treatment services;</u>	280
<u>(8) Intensive home-based treatment services.</u>	281
<u>(C) Each provider shall establish a written policy and</u>	282
<u>procedures describing how the provider will ensure that staff</u>	283
<u>assisting clients with receiving telehealth services or</u>	284
<u>providing telehealth services are fully trained in using</u>	285
<u>equipment necessary for providing the services.</u>	286
<u>(D) Prior to providing telehealth services to a client, a</u>	287
<u>provider shall describe to the client the potential risks</u>	288
<u>associated with receiving treatment through telehealth services</u>	289
<u>and shall document that the client was provided with the risks</u>	290
<u>and agreed to assume those risks. The risks communicated to a</u>	291
<u>client must address the following:</u>	292
<u>(1) Clinical aspects of receiving treatment through</u>	293
<u>telehealth services;</u>	294
<u>(2) Security considerations when receiving treatment</u>	295
<u>through telehealth services;</u>	296

<u>(3) Confidentiality for individual and group counseling.</u>	297
<u>(E) It is the responsibility of the provider, to the extent possible, to ensure contractually that any entity or individuals involved in the transmission of information through telehealth mechanisms guarantee that the confidentiality of the information is protected.</u>	298 299 300 301 302
<u>(F) Every provider shall have a contingency plan for providing telehealth services to clients in the event that technical problems occur during the provision of those services.</u>	303 304 305
<u>(G) Providers shall maintain, at a minimum, the following information pertaining to local resources:</u>	306 307
<u>(1) The local suicide prevention hotline, if available, or the national suicide prevention hotline.</u>	308 309
<u>(2) Contact information for the local police and fire departments.</u>	310 311
<u>The provider shall provide the client written information on how to access assistance in a crisis, including one caused by equipment malfunction or failure.</u>	312 313 314
<u>(H) It is the responsibility of the provider to assure that equipment meets standards sufficient to do the following:</u>	315 316
<u>(1) To the extent possible, ensure confidentiality of communication;</u>	317 318
<u>(2) Provide for interactive communication between the provider and the client;</u>	319 320
<u>(3) Ensure that both picture and audio are sufficient to enable real-time interaction between the client and the provider and to ensure the quality of the service provided.</u>	321 322 323

(I) The client site shall be maintained in such a manner 324
that appropriate staff persons are on hand in the event of a 325
malfunction with the equipment used to provide telehealth 326
services. 327

(J) (1) All telehealth services provided by interactive 328
videoconferencing shall meet both of the following conditions: 329

(a) Begin with the verification of the client through a 330
name and password or personal identification number when 331
treatment services are being provided; 332

(b) Be provided in accordance with state and federal law. 333

(2) Each provider shall ensure that any username or 334
password information and any electronic communications between 335
the provider and a client are securely transmitted and stored. 336

(K) The department of mental health and addiction services 337
may adopt rules as it considers necessary to implement this 338
section. The rules shall be adopted in accordance with Chapter 339
119. of the Revised Code. Any such rules are not subject to the 340
requirements of division (F) of section 121.95 of the Revised 341
Code. 342

Sec. 5123.60. (A) As used in this section and ~~section in~~ 343
sections 5123.601 to 5123.603 of the Revised Code, "Ohio 344
protection and advocacy system" means the nonprofit entity 345
designated by the governor in accordance with Am. Sub. H.B. 153 346
of the 129th general assembly to serve as the state's protection 347
and advocacy system and client assistance program. 348

(B) The Ohio protection and advocacy system shall provide 349
both of the following: 350

(1) Advocacy services for people with disabilities, as 351

provided under section 101 of the "Developmental Disabilities Assistance and Bill of Rights Act of 2000," 114 Stat. 1678 (2000), 42 U.S.C. 15001;

(2) A client assistance program, as provided under section 112 of the "Rehabilitation Act of 1973," 29 U.S.C. 732.

(C) The Ohio protection and advocacy system may establish any guidelines necessary for its operation.

Sec. 5123.603. During any declared disaster, epidemic, pandemic, public health emergency, or public safety emergency, an individual with a developmental disability or any other permanent disability who is in need of surgery or any other health care procedure, any medical or other health care test, or any clinical care visit shall be given the opportunity to have at least one parent or legal guardian present if the presence of the individual's parent or legal guardian is necessary to alleviate any negative reaction that may be experienced by the individual who is the patient.

The Ohio protection and advocacy system may enforce this section.

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

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

Revised Code. 381

In accordance with section 5162.021 of the Revised Code, 382
the medicaid director shall adopt rules authorizing the 383
directors of other state agencies to adopt rules regarding the 384
medicaid coverage of telehealth services under programs 385
administered by the other state agencies. Any such rules adopted 386
by the medicaid director or the directors of other state 387
agencies are not subject to the requirements of division (F) of 388
section 121.95 of the Revised Code. 389

(C) (1) The following practitioners are eligible to render 390
telehealth services covered pursuant to this section: 391

(a) A physician licensed under Chapter 4731. of the 392
Revised Code to practice medicine and surgery, osteopathic 393
medicine and surgery, or podiatric medicine and surgery; 394

(b) A psychologist licensed under Chapter 4732. of the 395
Revised Code; 396

(c) A physician assistant licensed under Chapter 4730. of 397
the Revised Code; 398

(d) A clinical nurse specialist, certified nurse-midwife, 399
or certified nurse practitioner licensed under Chapter 4723. of 400
the Revised Code; 401

(e) An independent social worker, independent marriage and 402
family therapist, or professional clinical counselor licensed 403
under Chapter 4757. of the Revised Code; 404

(f) An independent chemical dependency counselor licensed 405
under Chapter 4758. of the Revised Code; 406

(g) A supervised practitioner or supervised trainee; 407

<u>(h) An audiologist or speech-language pathologist licensed</u>	408
<u>under Chapter 4753. of the Revised Code;</u>	409
<u>(i) An audiology aide or speech-language pathology aide,</u>	410
<u>as defined in section 4753.072 of the Revised Code, or an</u>	411
<u>individual holding a conditional license under section 4753.071</u>	412
<u>of the Revised Code;</u>	413
<u>(j) An occupational therapist or physical therapist</u>	414
<u>licensed under Chapter 4755. of the Revised Code;</u>	415
<u>(k) An occupational therapy assistant or physical</u>	416
<u>therapist assistant licensed under Chapter 4755. of the Revised</u>	417
<u>Code.</u>	418
<u>(l) A dietitian licensed under Chapter 4759. of the</u>	419
<u>Revised Code;</u>	420
<u>(m) A medicaid school program;</u>	421
<u>(n) Any other practitioner the medicaid director considers</u>	422
<u>eligible to provide the services.</u>	423
<u>(2) The following provider types are eligible to submit</u>	424
<u>claims for medicaid payments for providing telehealth services:</u>	425
<u>(a) Any practitioner described in division (B)(1) of this</u>	426
<u>section, except for those described in divisions (B)(1)(g), (i),</u>	427
<u>and (k) of this section;</u>	428
<u>(b) A professional medical group;</u>	429
<u>(c) A federally qualified health center or rural health</u>	430
<u>clinic;</u>	431
<u>(d) An ambulatory health care clinic;</u>	432
<u>(e) An outpatient hospital;</u>	433

<u>(f) A medicaid school program;</u>	434
<u>(g) Any other provider type the medicaid directors</u>	435
<u>considers eligible to submit the claims for payment.</u>	436
<u>(D) (1) When providing telehealth services under this</u>	437
<u>section, a practitioner shall comply with all requirements under</u>	438
<u>state and federal law regarding the protection of patient</u>	439
<u>information. A practitioner shall ensure that any username or</u>	440
<u>password information and any electronic communications between</u>	441
<u>the practitioner and a patient are securely transmitted and</u>	442
<u>stored.</u>	443
<u>(2) When providing telehealth services under this section,</u>	444
<u>every practitioner site shall have access to the medical records</u>	445
<u>of the patient at the time telehealth services are provided.</u>	446
<u>(E) Payment may be made only for the following medically</u>	447
<u>necessary health care services when delivered as telehealth</u>	448
<u>services:</u>	449
<u>(1) Evaluation and management of a new patient described</u>	450
<u>with medical decision making not to exceed moderate complexity;</u>	451
<u>(2) Evaluation and management of an established patient</u>	452
<u>described with medical decision making not to exceed moderate</u>	453
<u>complexity;</u>	454
<u>(3) Inpatient or office consultation for a new or</u>	455
<u>established patient when providing the same quality and</u>	456
<u>timeliness of care to the patient is not possible other than by</u>	457
<u>telehealth;</u>	458
<u>(4) Mental health or substance use disorder services</u>	459
<u>described as psychiatric diagnostic evaluation or psychotherapy;</u>	460
<u>(5) Remote evaluation of recorded video or images</u>	461

<u>submitted by an established patient;</u>	462
<u>(6) Virtual check-in by a physician or other qualified</u>	463
<u>health care professional who can report evaluation and</u>	464
<u>management services, provided to an established patient;</u>	465
<u>(7) Online digital evaluation and management service for</u>	466
<u>an established patient;</u>	467
<u>(8) Remote patient monitoring;</u>	468
<u>(9) Audiology, speech-language pathology, physical</u>	469
<u>therapy, and occupational therapy services;</u>	470
<u>(10) Medical nutrition services;</u>	471
<u>(11) Lactation counseling provided by dietitians;</u>	472
<u>(12) Psychological and neuropsychological testing;</u>	473
<u>(13) Smoking and tobacco use cessation counseling;</u>	474
<u>(14) Developmental test administration;</u>	475
<u>(15) Services provided under the specialized recovery</u>	476
<u>services program;</u>	477
<u>(16) Any other services designated by the medicaid</u>	478
<u>director.</u>	479
Section 2. That existing sections 3902.30, 4723.94,	480
4732.33, 5123.60, 5164.95, and 4731.2910 of the Revised Code are	481
hereby repealed.	482
Section 3. Section 3902.30 of the Revised Code, as amended	483
by this act, shall apply to health benefit plans, as defined in	484
section 3922.01 of the Revised Code, that are in effect on the	485
effective date of the amendment to that section and to plans	486
that are issued, renewed, modified, or amended on or after the	487

effective date of that amendment. 488

Section 4. This act is hereby declared to be an emergency 489
measure necessary for the immediate preservation of the public 490
peace, health, and safety. The reason for such necessity is that 491
increased access to and use of telehealth services is vital 492
during the global health emergency related to COVID-19. 493
Therefore, this act shall go into immediate effect. 494