

As Reported by the House Insurance Committee

133rd General Assembly

Regular Session

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

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

Section 1. That sections 3902.30, 4723.94, 4732.33, and 10
5164.95 be amended; section 4731.2910 (4743.09) be amended for 11
the purpose of adopting a new section number as indicated in 12
parentheses; and sections 3701.1310, 3721.60, 4730.60, 4753.20, 13
4755.90, 4757.50, 4758.80, 4759.20, and 5119.368 of the Revised 14
Code be enacted to read as follows: 15

Sec. 3701.1310. During any declared disaster, epidemic, 16
pandemic, public health emergency, or public safety emergency, 17
an individual with a developmental disability or any other 18

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

The director of health may take any action necessary to 26
enforce this section. 27

Sec. 3721.60. (A) As used in this section, "long-term care 28
facility" means all of the following: 29

(1) A home, as defined in section 3721.10 of the Revised 30
Code; 31

(2) A residential facility licensed by the department of 32
mental health and addiction services under section 5119.34 of 33
the Revised Code; 34

(3) A residential facility licensed by the department of 35
developmental disabilities under section 5123.19 of the Revised 36
Code; 37

(4) A facility operated by a hospice care program licensed 38
by the department of health under Chapter 3712. of the Revised 39
Code that is used exclusively for care of hospice patients or 40
other facility in which a hospice care program provides care for 41
hospice patients. 42

(B) During any declared disaster, epidemic, pandemic, 43
public health emergency, or public safety emergency, each long- 44
term care facility shall provide residents and their families 45
with a video-conference visitation option if the governor, the 46
director of health, other government official or entity, or the 47

long-term care facility determines that allowing in-person 48
visits at the facility would create a risk to the health of the 49
residents. 50

Sec. 3902.30. (A) As used in this section: 51

(1) "Cost sharing" means the cost to a covered individual 52
under a health benefit plan according to any coverage limit, 53
copayment, coinsurance, deductible, or other out-of-pocket 54
expense requirements imposed by the plan. 55

(2) "Health benefit plan," "health care services," and 56
"health plan issuer" have the same meanings as in section 57
3922.01 of the Revised Code. 58

~~(2)-(3) "Health care professional" means any of the~~ 59
~~following:~~ 60

~~(a) A physician licensed under Chapter 4731. of the~~ 61
~~Revised Code to practice medicine and surgery, osteopathic~~ 62
~~medicine and surgery, or podiatric medicine and surgery;~~ 63

~~(b) A physician assistant licensed under Chapter 4731. of~~ 64
~~the Revised Code;~~ 65

~~(c) An advanced practice registered nurse as defined in~~ 66
~~section 4723.01 of the Revised Code. has the same meaning as in~~ 67
~~section 4743.09 of the Revised Code.~~ 68

~~(3)-(4) "In-person health care services" means health care~~ 69
~~services delivered by a health care professional through the use~~ 70
~~of any communication method where the professional and patient~~ 71
~~are simultaneously present in the same geographic location.~~ 72

~~(4)-(5) "Recipient" means a patient receiving health care~~ 73
~~services or a health care professional with whom the provider of~~ 74
~~health care services is consulting regarding the patient.~~ 75

~~(5) "Telemedicine-~~(6) "Telehealth services" means ~~a mode~~ 76
~~of providing~~ health care services provided through synchronous 77
or asynchronous information and communication technology by a 78
health care professional, within the professional's scope of 79
practice, who is located at a site other than the site where the 80
recipient is located. 81

(B) (1) A health benefit plan shall provide coverage for 82
~~telemedicine-~~telehealth services on the same basis and to the 83
same extent that the plan provides coverage for the provision of 84
in-person health care services. 85

(2) A health benefit plan shall not exclude coverage for a 86
service solely because it is provided as a ~~telemedicine-~~ 87
telehealth service. 88

(3) A health plan issuer shall reimburse a health care 89
professional for a telehealth service that is covered under a 90
patient's health benefit plan. Division (B) (3) of this section 91
shall not be construed to require a specific reimbursement 92
amount. 93

(C) A health benefit plan shall not impose any annual or 94
lifetime benefit maximum in relation to ~~telemedicine-~~telehealth 95
services other than such a benefit maximum imposed on all 96
benefits offered under the plan. 97

~~(D) This-~~(D) (1) A health benefit plan shall not impose a 98
cost-sharing requirement for telehealth services that exceeds 99
the cost-sharing requirement for comparable in-person health 100
care services. 101

(2) (a) A health benefit plan shall not impose a cost- 102
sharing requirement for a communication when all of the 103
following apply: 104

(i) The communication was initiated by the health care professional. 105
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(ii) The patient consented to receive a telehealth service from that provider on any prior occasion. 107
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(iii) The communication is conducted for the purposes of preventive health care services only. 109
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(b) If a communication described in division (D) (2) (a) of this section is coded based on time, then only the time the health care professional spends engaged in the communication is billable. 111
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(E) This section shall not be construed as doing ~~any~~ either of the following: 115
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~~(1) Prohibiting a health benefit plan from assessing cost-sharing requirements to a covered individual for telemedicine services, provided that such cost sharing requirements for telemedicine services are not greater than those for comparable in person health care services;~~ 117
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~~(2) Requiring a health plan issuer to reimburse a health care professional for any costs or fees associated with the provision of ~~telemedicine~~ telehealth services that would be in addition to or greater than the standard reimbursement for comparable in-person health care services;~~ 122
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~~(3)~~ (2) Requiring a health plan issuer to reimburse a telemedicine telehealth provider for ~~telemedicine~~ telehealth services at the same rate as in-person services. 127
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~~(E) This section applies to all health benefit plans issued, offered, or renewed on or after January 1, 2021.~~ 130
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(F) The superintendent of insurance may adopt rules in 132

accordance with Chapter 119. of the Revised Code as necessary to 133
carry out the requirements of this section. Any such rules shall 134
be exempted from the requirements of division (F) of section 135
121.95 of the Revised Code. 136

Sec. 4723.94. ~~(A) As used in this section:—~~ 137

~~(1) "Facility fee" means any fee charged or billed for~~ 138
~~telemedicine services provided in a facility that is intended to~~ 139
~~compensate the facility for its operational expenses and is~~ 140
~~separate and distinct from a professional fee.—~~ 141

~~(2) "Health plan issuer" has the same meaning as in~~ 142
~~section 3922.01 of the Revised Code.—~~ 143

~~(3) "Telemedicine services" has the same meaning as in~~ 144
~~section 3902.30 of the Revised Code.—~~ 145

~~(B) An advanced practice registered nurse providing~~ 146
~~telemedicine may provide telehealth services shall not charge a~~ 147
~~facility fee, an origination fee, or any fee associated with the~~ 148
~~cost of the equipment used to provide telemedicine services to a~~ 149
~~health plan issuer covering telemedicine services under in~~ 150
~~accordance with section 3902.30 4743.09 of the Revised Code.~~ 151

Sec. 4730.60. A physician assistant may provide telehealth 152
services in accordance with section 4743.09 of the Revised Code. 153

Sec. 4732.33. (A) The state board of psychology shall 154
adopt rules governing the use of telepsychology for the purpose 155
of protecting the welfare of recipients of telepsychology 156
services and establishing requirements for the responsible use 157
of telepsychology in the practice of psychology and school 158
psychology, including supervision of persons registered with the 159
state board of psychology as described in division (B) of 160
section 4732.22 of the Revised Code. The rules shall be 161

consistent with section 4743.09 of the Revised Code. 162

(B) A psychologist or school psychologist may provide 163
telehealth services in accordance with section 4743.09 of the 164
Revised Code. 165

Sec. ~~4731.2910~~ 4743.09. (A) As used in this section: 166

(1) "Facility fee" ~~has the same meaning as in section~~ 167
~~4723.94 of the Revised Code~~ means any fee charged or billed for 168
telehealth services provided in a facility that is intended to 169
compensate the facility for its operational expenses and is 170
separate and distinct from a professional fee. 171

(2) "Health care professional" means: 172

(a) An advanced practice registered nurse, as defined in 173
section 4723.01 of the Revised Code; 174

(b) A physician assistant licensed under Chapter 4730. of 175
the Revised Code; 176

(c) A physician licensed under this chapter to practice 177
medicine and surgery, osteopathic medicine and surgery, or 178
podiatric medicine and surgery; 179

~~(b) A physician assistant licensed under Chapter 4730.~~ 180

(d) A psychologist or school psychologist licensed under 181
Chapter 4732. of the Revised Code; 182

(e) An audiologist or speech-language pathologist licensed 183
under Chapter 4753. of the Revised Code; 184

(f) An occupational therapist or physical therapist 185
licensed under Chapter 4755. of the Revised Code; 186

(g) A professional clinical counselor, independent social 187
worker, or independent marriage and family therapist licensed 188

<u>under Chapter 4757. of the Revised Code;</u>	189
<u>(h) An independent chemical dependency counselor licensed</u>	190
<u>under Chapter 4758. of the Revised Code;</u>	191
<u>(i) A dietitian licensed under Chapter 4759. of the</u>	192
Revised Code.	193
(3) <u>"Health care professional licensing board" means any</u>	194
<u>of the following:</u>	195
<u>(a) The board of nursing;</u>	196
<u>(b) The state medical board;</u>	197
<u>(c) The state board of psychology;</u>	198
<u>(d) The state speech and hearing professionals board;</u>	199
<u>(e) The Ohio occupational therapy, physical therapy, and</u>	200
<u>athletic trainers board;</u>	201
<u>(f) The counselor, social worker, and marriage and family</u>	202
<u>therapist board;</u>	203
<u>(g) The chemical dependency professionals board.</u>	204
<u>(4) "Health plan issuer" has the same meaning as in</u>	205
section 3922.01 of the Revised Code.	206
(4) <u>(5) "Telemedicine-Telehealth services" has the same</u>	207
meaning as in section 3902.30 of the Revised Code.	208
(B) <u>Each health care professional licensing board shall</u>	209
<u>permit a health care professional under its jurisdiction to</u>	210
<u>provide the professional's services as telehealth services in</u>	211
<u>accordance with this section. The board may adopt any rules it</u>	212
<u>considers necessary to implement this section. The rules shall</u>	213
<u>be adopted in accordance with Chapter 119. of the Revised Code.</u>	214

(C) With respect to the provision of telehealth services, 215
all of the following apply: 216

(1) A health care professional may use technology to 217
provide telehealth services to a patient during an initial visit 218
if the appropriate standard of care for an initial visit is 219
satisfied. 220

(2) A health care professional may deny a patient 221
telehealth services and, instead, require the patient to undergo 222
an in-person visit. 223

(3) When providing telehealth services in accordance with 224
this section, a health care professional shall comply with all 225
requirements under state and federal law regarding the 226
protection of patient information. A health care professional 227
shall ensure that any username or password information and any 228
electronic communications between the professional and a patient 229
are securely transmitted and stored. 230

(4) A health care professional may use technology to 231
provide telehealth services to a patient during an annual visit 232
if the appropriate standard of care for an annual visit is 233
satisfied. 234

(5) In the case of a health care professional who is a 235
physician, physician assistant, or advanced practice registered 236
nurse, both of the following apply: 237

(a) The professional may provide telehealth services to a 238
patient located outside of this state if permitted by the laws 239
of the state in which the patient is located. 240

(b) The professional may provide telehealth services 241
through the use of medical devices that enable remote 242
monitoring, including such activities as monitoring a patient's 243

blood pressure, heart rate, or glucose level. 244

(D) When a patient has consented to receiving telehealth services, the health care professional who provides those services is not liable in damages under any claim made on the basis that the services do not meet the same standard of care that would apply if the services were provided in-person. 245
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(E) (1) A health care professional providing ~~telemedicine-telehealth~~ services shall not charge a health plan issuer covering telehealth services under section 3902.30 of the Revised Code any of the following: a facility fee, an origination fee, or any fee associated with the cost of the equipment used at the provider site to provide ~~telemedicine-telehealth~~ services to a health plan issuer covering ~~telemedicine~~ services under section 3902.30 of the Revised Code. A health care professional may charge a health plan issuer for durable medical equipment used at a patient or client site. 250
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(2) A health care professional may negotiate with a health plan issuer to establish a reimbursement rate for fees associated with the administrative costs incurred in providing telehealth services as long as a patient is not responsible for any portion of the fee. 260
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(3) A health care professional providing telehealth services shall obtain a patient's consent once before billing for the cost of providing the services. 265
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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. 268
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<u>Sec. 4753.20. An audiologist or speech-language</u>	273
<u>pathologist may provide telehealth services in accordance with</u>	274
<u>section 4743.09 of the Revised Code.</u>	275
<u>Sec. 4755.90. An occupational therapist or physical</u>	276
<u>therapist may provide telehealth services in accordance with</u>	277
<u>section 4743.09 of the Revised Code.</u>	278
<u>Sec. 4757.50. A professional clinical counselor,</u>	279
<u>independent social worker, or independent marriage and family</u>	280
<u>therapist may provide telehealth services in accordance with</u>	281
<u>section 4743.09 of the Revised Code.</u>	282
<u>Sec. 4758.80. An independent chemical dependency counselor</u>	283
<u>may provide telehealth services in accordance with section</u>	284
<u>4743.09 of the Revised Code.</u>	285
<u>Sec. 4759.20. A dietitian may provide telehealth services</u>	286
<u>in accordance with section 4743.09 of the Revised Code.</u>	287
<u>Sec. 5119.368. (A) As used in this section, "telehealth</u>	288
<u>services" has the same meaning as in section 3902.30 of the</u>	289
<u>Revised Code.</u>	290
<u>(B) Each provider shall establish a written policy and</u>	291
<u>procedures describing how the provider will ensure that staff</u>	292
<u>assisting clients with receiving telehealth services or</u>	293
<u>providing telehealth services are fully trained in using</u>	294
<u>equipment necessary for providing the services.</u>	295
<u>(C) Prior to providing telehealth services to a client, a</u>	296
<u>provider shall describe to the client the potential risks</u>	297
<u>associated with receiving treatment through telehealth services</u>	298
<u>and shall document that the client was provided with the risks</u>	299
<u>and agreed to assume those risks. The risks communicated to a</u>	300
<u>client must address the following:</u>	301

<u>(1) Clinical aspects of receiving treatment through telehealth services;</u>	302 303
<u>(2) Security considerations when receiving treatment through telehealth services;</u>	304 305
<u>(3) Confidentiality for individual and group counseling.</u>	306
<u>(D) 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>	307 308 309 310 311
<u>(E) 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>	312 313 314
<u>(F) Providers shall maintain, at a minimum, the following information pertaining to local resources:</u>	315 316
<u>(1) The local suicide prevention hotline, if available, or the national suicide prevention hotline.</u>	317 318
<u>(2) Contact information for the local police and fire departments.</u>	319 320
<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>	321 322 323
<u>(G) It is the responsibility of the provider to ensure that equipment meets standards sufficient to do the following:</u>	324 325
<u>(1) To the extent possible, ensure confidentiality of communication;</u>	326 327
<u>(2) Provide for interactive communication between the</u>	328

<u>provider and the client;</u>	329
<u>(3) Ensure that video or audio are sufficient to enable</u>	330
<u>real-time interaction between the client and the provider and to</u>	331
<u>ensure the quality of the service provided.</u>	332
<u>(H) A mental health facility or unit that is serving as a</u>	333
<u>client site shall be maintained in such a manner that</u>	334
<u>appropriate staff persons are on hand at the facility or unit in</u>	335
<u>the event of a malfunction with the equipment used to provide</u>	336
<u>telehealth services.</u>	337
<u>(I) (1) All telehealth services provided by interactive</u>	338
<u>videoconferencing shall meet both of the following conditions:</u>	339
<u>(a) Begin with the verification of the client through a</u>	340
<u>name and password or personal identification number when</u>	341
<u>treatment services are being provided;</u>	342
<u>(b) Be provided in accordance with state and federal law.</u>	343
<u>(2) When providing telehealth services in accordance with</u>	344
<u>this section, a provider shall comply with all requirements</u>	345
<u>under state and federal law regarding the protection of patient</u>	346
<u>information. Each provider shall ensure that any username or</u>	347
<u>password information and any electronic communications between</u>	348
<u>the provider and a client are securely transmitted and stored.</u>	349
<u>(J) The department of mental health and addiction services</u>	350
<u>may adopt rules as it considers necessary to implement this</u>	351
<u>section. The rules shall be adopted in accordance with Chapter</u>	352
<u>119. of the Revised Code. Any such rules are not subject to the</u>	353
<u>requirements of division (F) of section 121.95 of the Revised</u>	354
<u>Code.</u>	355
Sec. 5164.95. (A) As used in this section, "telehealth	356

service" means a health care service delivered to a patient 357
through the use of interactive audio, video, or other 358
telecommunications or electronic technology from a site other 359
than the site where the patient is located. 360

(B) The department of medicaid shall establish standards 361
for medicaid payments for health care services the department 362
determines are appropriate to be covered by the medicaid program 363
when provided as telehealth services. The standards shall be 364
established in rules adopted under section 5164.02 of the 365
Revised Code. 366

In accordance with section 5162.021 of the Revised Code, 367
the medicaid director shall adopt rules authorizing the 368
directors of other state agencies to adopt rules regarding the 369
medicaid coverage of telehealth services under programs 370
administered by the other state agencies. Any such rules adopted 371
by the medicaid director or the directors of other state 372
agencies are not subject to the requirements of division (F) of 373
section 121.95 of the Revised Code. 374

(C) (1) The following practitioners are eligible to render 375
telehealth services covered pursuant to this section: 376

(a) A physician licensed under Chapter 4731. of the 377
Revised Code to practice medicine and surgery, osteopathic 378
medicine and surgery, or podiatric medicine and surgery; 379

(b) A psychologist licensed under Chapter 4732. of the 380
Revised Code; 381

(c) A physician assistant licensed under Chapter 4730. of 382
the Revised Code; 383

(d) A clinical nurse specialist, certified nurse-midwife, 384
or certified nurse practitioner licensed under Chapter 4723. of 385

<u>the Revised Code;</u>	386
<u>(e) An independent social worker, independent marriage and family therapist, or professional clinical counselor licensed under Chapter 4757. of the Revised Code;</u>	387 388 389
<u>(f) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;</u>	390 391
<u>(g) A supervised practitioner or supervised trainee;</u>	392
<u>(h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;</u>	393 394
<u>(i) An audiology aide or speech-language pathology aide, as defined in section 4753.072 of the Revised Code, or an individual holding a conditional license under section 4753.071 of the Revised Code;</u>	395 396 397 398
<u>(j) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;</u>	399 400
<u>(k) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code.</u>	401 402 403
<u>(l) A dietitian licensed under Chapter 4759. of the Revised Code;</u>	404 405
<u>(m) A medicaid school program;</u>	406
<u>(n) Any other practitioner the medicaid director considers eligible to provide the services.</u>	407 408
<u>(2) The following provider types are eligible to submit claims for medicaid payments for providing telehealth services:</u>	409 410
<u>(a) Any practitioner described in division (B)(1) of this section, except for those described in divisions (B)(1)(g), (i),</u>	411 412

<u>and (k) of this section;</u>	413
<u>(b) A professional medical group;</u>	414
<u>(c) A federally qualified health center or rural health clinic;</u>	415 416
<u>(d) An ambulatory health care clinic;</u>	417
<u>(e) An outpatient hospital;</u>	418
<u>(f) A medicaid school program;</u>	419
<u>(g) Any other provider type the medicaid director considers eligible to submit the claims for payment.</u>	420 421
<u>(D) (1) When providing telehealth services under this section, a practitioner shall comply with all requirements under state and federal law regarding the protection of patient information. A practitioner shall ensure that any username or password information and any electronic communications between the practitioner and a patient are securely transmitted and stored.</u>	422 423 424 425 426 427 428
<u>(2) When providing telehealth services under this section, every practitioner site shall have access to the medical records of the patient at the time telehealth services are provided.</u>	429 430 431
Section 2. That existing sections 3902.30, 4723.94, 4732.33, 5164.95, and 4731.2910 of the Revised Code are hereby repealed.	432 433 434
Section 3. Section 3902.30 of the Revised Code, as amended by this act, shall apply to health benefit plans, as defined in section 3922.01 of the Revised Code, that are in effect on the effective date of the amendment to that section and to plans that are issued, renewed, modified, or amended on or after the	435 436 437 438 439

effective date of that amendment.

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