

113TH CONGRESS
1ST SESSION

H. R. 3750

To promote the provision of telehealth by establishing a Federal standard for telehealth, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 12, 2013

Ms. MATSUI (for herself and Mr. JOHNSON of Ohio) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To promote the provision of telehealth by establishing a Federal standard for telehealth, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Telehealth Moderniza-
5 tion Act of 2013”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) Telehealth technologies can transform
9 health care delivery by improving access to quality
10 care by removing traditional barriers to health care

1 delivery such as distance, mobility, and time con-
2 straints.

3 (2) Telehealth is a mode of delivering health
4 care utilizing information and communication tech-
5 nologies to enable the diagnosis, consultation, treat-
6 ment, and care management of patients by health
7 care providers.

8 (3) The use of information and telecommuni-
9 cation technologies to deliver health care has the po-
10 tential to reduce costs, improve quality, change con-
11 ditions of practice, and improve access to health
12 care, particularly in rural and medically underserved
13 areas.

14 (4) A lack of primary care providers, specialty
15 providers, and transportation continues to be a sig-
16 nificant barrier to access to health care in medically
17 underserved rural and urban areas.

18 (5) Parts of the nation have difficulty attract-
19 ing and retaining health professionals, as well as
20 supporting local health facilities to provide a con-
21 tinuum of health care.

22 (6) Many health care providers in medically un-
23 derserved areas are isolated from mentors, col-
24 leagues, and the information resources necessary to
25 support them personally and professionally.

1 (7) A patchwork of state regulatory environ-
2 ments poses legal and regulatory hurdles that are in-
3 hibiting the proliferation of private-sector telehealth
4 innovations and have created significant uncertainty
5 for the telehealth community.

6 (8) As of June 2013, 40 out of 50 states have
7 introduced legislation addressing telehealth policy,
8 with wide variations in how telehealth is defined.

9 (9) To help clarify this uncertainty and provide
10 States with appropriate guidance, Congress should
11 provide a workable Federal definition of telehealth
12 that ensures the highest common denominator of
13 care while facilitating future innovation.

14 (10) The fundamental health care provider-pa-
15 tient relationship cannot only be preserved through
16 a Federal definition of telehealth, but also can be es-
17 tablished, augmented, and enhanced through the use
18 of telehealth.

19 **SEC. 3. FEDERAL STANDARD FOR TELEHEALTH.**

20 (a) IN GENERAL.—If a State authorizes a health care
21 professional to deliver health care to an individual, the
22 State should also authorize the health care professional
23 to deliver such health care to such individual through tele-
24 health, subject to the conditions specified in subsection
25 (b).

1 (b) CONDITIONS.—The following are conditions for
2 the delivery of health care through telehealth by a health
3 care professional to an individual that States should con-
4 sider adopting:

5 (1) ACCESSIBILITY AND REVIEW OF MEDICAL
6 HISTORY.—The health care professional should have
7 access to the medical history of the individual, and
8 should review such medical history with the indi-
9 vidual, to the same extent that the health care pro-
10 fessional would have access to such medical history
11 and would review such medical history if delivering
12 the health care in person.

13 (2) IDENTIFICATION OF UNDERLYING CONDI-
14 TIONS AND CONTRAINDICATIONS.—To the extent
15 practicable, the health care professional should at-
16 tempt to identify the conditions underlying the
17 symptoms, if any, reported by the individual before
18 such professional provides any diagnosis or treat-
19 ment to the individual. In the case that the health
20 care professional recommends a treatment to the in-
21 dividual, the health care professional should review
22 with the individual the contraindications to the rec-
23 ommended treatment.

24 (3) DIAGNOSIS.—Subject to the professional
25 discretion of the health care professional, such pro-

1 fessional should have a conversation with the indi-
2 vidual adequate to establish any diagnosis rendered.

3 (4) DOCUMENT EVALUATION, MEDICAL
4 RECORDS, AND PROVISION OF MEDICAL INFORMA-
5 TION.—The health care professional should docu-
6 ment the evaluation and treatment delivered to the
7 individual, if any, for the purpose of generating a
8 medical record of the encounter. At the option of the
9 individual, the health care professional should—

10 (A) provide the individual with medical in-
11 formation, in standard medical record format,
12 about such evaluation and treatment; and

13 (B) send any documentation concerning
14 such evaluation and treatment to one or more
15 selected health care professionals responsible
16 for the care of the individual.

17 (5) TRANSPARENCY REGARDING PROFESSIONAL
18 CREDENTIALS.—At the option of the individual, the
19 health care professional should provide to the indi-
20 vidual, in electronic and paper format, information
21 regarding the health care education, certification,
22 and credentials of the health care professional.

23 (6) NO ASSURANCE CONCERNING ITEMS OR
24 SERVICES.—The health care professional should
25 offer no assurance to the individual that any item or

1 service, including a prescription, will be issued or
2 provided—

3 (A) in exchange for the payment of the
4 consultation fee charged by the health care pro-
5 fessional; or

6 (B) solely in response to the individual
7 completing a form or questionnaire.

8 (7) PRESCRIPTION REQUIREMENTS.—Any pre-
9 scription issued by the health care professional as
10 part of the health care delivered to the individual
11 should meet the following requirements:

12 (A) The prescription is issued for a legiti-
13 mate medical purpose in the usual course of
14 professional practice.

15 (B) The prescription is issued by a health
16 care professional who has obtained a medical
17 history and conducted an evaluation of the indi-
18 vidual to whom such prescription is issued ade-
19 quate to establish a diagnosis.

20 (C) The prescription is not for a drug or
21 substance in schedule II, III, or IV of section
22 202(c) of the Controlled Substances Act (21
23 U.S.C. 812(c)).

24 (D) The prescription is filled by an appro-
25 priately licensed dispensing entity.

1 (c) CONSTRUCTION.—Nothing in this section shall be
2 construed to—

3 (1) change the application of the HIPAA pri-
4 vacy regulations (as defined in section 1180(b)(3) of
5 the Social Security Act (42 U.S.C. 1320d–9(b)(3)))
6 with respect to a health care professional’s provision
7 of telehealth; or

8 (2) affect the standard of care for medical or
9 clinical appropriateness as established by State law
10 or policy.

11 (d) DEFINITIONS.—For purposes of this section:

12 (1) TELEHEALTH.—The term “telehealth”
13 means, with respect to health care that a health care
14 professional is authorized to deliver to an individual
15 in person under State law, such health care delivered
16 by such health care professional to such individual
17 not in person, from any location to any other loca-
18 tion, and by means of real-time video, secure chat or
19 secure email, or integrated telephony.

20 (2) HEALTH CARE PROFESSIONAL.—The term
21 “health care professional” means, with respect to
22 health care, a physician or practitioner who is au-
23 thorized under law to deliver such health care in per-
24 son.

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