



2021 South Dakota Legislature

Senate Bill 96

Introduced by: The Committee on Health and Human Services at the request of the Office of the Governor

1 **An Act to revise certain provisions regarding the use of telehealth technologies.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1.** That § 34-52-1 be AMENDED.

4 **34-52-1. Definitions.**

5 Terms used in this chapter mean:

- 6 (1) "Health care professional," as defined in § 58-17F-1;
- 7 (2) "Health care facility," any office or institution where health services are provided,
8 including any hospital, clinic, ambulatory surgery center, outpatient care facility,
9 nursing home, assisted living facility, laboratory, or office of a health care
10 professional;
- 11 (3) "Originating site," a site where a patient is located at the time health care services
12 are delivered to the patient via telehealth;
- 13 (4) "Store-and-forward technology," secure electronic information, imaging, or data,
14 including audio, video, and data communication that is transferred or recorded or
15 otherwise stored for asynchronous delivery of health care services to a patient; and
- 16 (5) "Telehealth," the use of secure electronic information, imaging, and communication
17 technologies by a health care professional to deliver health care services to a
18 patient, including interactive audio-video, interactive audio with store and forward,
19 store-and-forward technology, and remote patient monitoring. Telehealth does not
20 include the delivery of health care services through electronic means under the
21 provisions of chapter 27A-10, ~~or the delivery of health care services through an~~
22 ~~audio only telephone, electronic mail message, text message, mail service,~~
23 ~~facsimile transmission, or any combination thereof.~~

24 **Section 2.** That § 34-52-3 be AMENDED.

1 **34-52-3. Provider-patient relationship required--Exceptions.**

2 ~~Telehealth may not be utilized by a health care professional with respect to any~~
3 ~~patient located in the state in the absence of a provider-patient relationship.~~ Any health
4 care professional who utilizes telehealth shall ensure that a proper health provider-patient
5 relationship is established and includes:

- 6 (1) Verifying and authenticating the location and, to the extent reasonable, identifying
7 the requesting patient;
- 8 (2) Disclosing and validating the health care professional's identity and applicable
9 credentials, as appropriate;
- 10 (3) Obtaining appropriate consent for treatment from a requesting patient after
11 disclosure regarding the delivery models and treatment methods or limitations;
- 12 (4) Establishing a diagnosis through the use of acceptable medical practices, including
13 patient history, mental status examination, physical examination, and appropriate
14 diagnostic and laboratory testing;
- 15 (5) Discussing with the patient the diagnosis and its evidentiary basis and the risks and
16 benefits of various treatment options;
- 17 (6) Ensuring appropriate follow-up care for the patient; ~~and~~
- 18 (7) Providing a visit summary to the patient or consult note; and
- 19 (8) Utilizing technology sufficient to evaluate or diagnose and appropriately treat a
20 patient for the condition as presented in accordance with the applicable standard of
21 care.

22 Exceptions to the requirements of this section include on-call, cross coverage
23 situations, and consultation with another health care professional who has an ongoing
24 health care provider relationship with the patient and agrees to supervise the patient's
25 care and emergency treatment.