

**A2552-A** Russell Same as S 2405 YOUNG

Public Health Law

TITLE....Relates to telehealth delivery of services; repealer

01/16/15 referred to health

01/23/15 amend and recommit to health

01/23/15 print number 2552a

02/03/15 reported

02/05/15 advanced to third reading cal.14

02/09/15 passed assembly

02/09/15 delivered to senate

02/09/15 REFERRED TO RULES

02/25/15 SUBSTITUTED FOR S2405

02/25/15 PASSED SENATE

02/25/15 RETURNED TO ASSEMBLY

03/06/15 delivered to governor

03/13/15 signed chap.6

---

**RUSSELL**

Rpld § 2 sub 1 §§ (o) - (s), add Art 29-G §§ 2999-cc & 2999-dd, § 4406-g, Pub Health L;  
 rpld § 3216 sub (i) § 30, § 3221 sub (k) § 19, § 4303 sub (oo), add §§ 3217-h &  
 4306-g, amd § 3229, Ins L; amd § 367-u, Soc Serv L; amd § 7, Chap 550 of 2014

Relates to telehealth delivery of services.

EFF. DATE 03/13/2015 (SEE TABLE)

## LAWS OF NEW YORK, 2015

## CHAPTER 6

AN ACT to amend the public health law, the insurance law and the social services law, in relation to the telehealth delivery of services; to amend chapter 550 of the laws of 2014, amending the public health law, the insurance law and the social services law, relating to the telehealth delivery of services, in relation to the effectiveness thereof; and to repeal certain provisions of the public health law and the insurance law relating thereto

Became a law March 13, 2015, with the approval of the Governor.

Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraphs (o), (p), (q), (r) and (s) of subdivision 1 of section 2 of the public health law are REPEALED.

§ 2. The public health law is amended by adding a new article 29-G to read as follows:

ARTICLE 29-G

TELEHEALTH DELIVERY OF SERVICES

Section 2999-cc. Definitions.

2999-dd. Telehealth delivery of services.

§ 2999-cc. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Distant site" means a site at which a telehealth provider is located while delivering health care services by means of telehealth.

2. "Telehealth provider" means:

(a) a physician licensed pursuant to article one hundred thirty-one of the education law;

(b) a physician assistant licensed pursuant to article one hundred thirty-one-B of the education law;

(c) a dentist licensed pursuant to article one hundred thirty-three of the education law;

(d) a nurse practitioner licensed pursuant to article one hundred thirty-nine of the education law;

(e) a registered professional nurse licensed pursuant to article one hundred thirty-nine of the education law only when such nurse is receiving patient-specific health information or medical data at a distant site by means of remote patient monitoring;

(f) a podiatrist licensed pursuant to article one hundred forty-one of the education law;

(g) an optometrist licensed pursuant to article one hundred forty-three of the education law;

(h) a psychologist licensed pursuant to article one hundred fifty-three of the education law;

(i) a social worker licensed pursuant to article one hundred fifty-four of the education law;

(j) a speech language pathologist or audiologist licensed pursuant to article one hundred fifty-nine of the education law;

EXPLANATION--Matter in italics is new; matter in brackets [-] is old law to be omitted.

CHAP. 6

2

(k) a midwife licensed pursuant to article one hundred forty of the education law;

(l) a person who is certified as a diabetes educator by the National Certification Board for Diabetes Educators, or a successor national certification board, or provided by such a professional who is affiliated with a program certified by the American Diabetes Association, the American Association of Diabetes Educators, the Indian Health Services, or any other national accreditation organization approved by the federal centers for medicare and medicaid services;

(m) a person who is certified as an asthma educator by the National Asthma Educator Certification Board, or a successor national certification board;

(n) a person who is certified as a genetic counselor by the American Board of Genetic Counseling, or a successor national certification board;

(o) a hospital as defined in article twenty-eight of this chapter;

(p) a home care services agency as defined in article thirty-six of this chapter;

(q) a hospice as defined in article forty of this chapter; and

(r) any other provider as determined by the commissioner pursuant to regulation.

3. "Originating site" means a site at which a patient is located at the time health care services are delivered to him or her by means of telehealth. Originating sites shall be limited to facilities licensed under articles twenty-eight and forty of this chapter, facilities as defined in subdivision six of section 1.03 of the mental hygiene law, private physician's offices located within the state of New York and, when a patient is receiving health care services by means of remote patient monitoring, the patient's place of residence located within the state of New York or other temporary location located within or outside the state of New York.

4. "Telehealth" means the use of electronic information and communication technologies by telehealth providers to deliver health care services, which shall include the assessment, diagnosis, consultation, treatment, education, care management and/or self-management of a patient. Telehealth shall not include delivery of health care services by means of audio-only telephone communication, facsimile machines, or electronic messaging alone, though use of these technologies is not precluded if used in conjunction with telemedicine, store and forward technology, or remote patient monitoring. For purposes of this section, telehealth shall be limited to telemedicine, store and forward technology, and remote patient monitoring. This subdivision shall not preclude the delivery of health care services by means of "home telehealth" as used in section thirty-six hundred fourteen of this chapter.

5. "Telemedicine" means the use of synchronous, two-way electronic audio visual communications to deliver clinical health care services, which shall include the assessment, diagnosis, and treatment of a patient, while such patient is at the originating site and a telehealth provider is at a distant site.

6. "Store and forward technology" means the asynchronous, electronic transmission of a patient's health information in the form of patient-specific digital images and/or pre-recorded videos from a provider at an originating site to a telehealth provider at a distant site.

7. "Remote patient monitoring" means the use of synchronous or asynchronous electronic information and communication technologies to collect personal health information and medical data from a patient at

an originating site that is transmitted to a telehealth provider at a distant site for use in the treatment and management of medical conditions that require frequent monitoring. Such conditions shall include, but not be limited to, congestive heart failure, diabetes, chronic obstructive pulmonary disease, wound care, polypharmacy, mental or behavioral problems, and technology-dependent care such as continuous oxygen, ventilator care, total parenteral nutrition or enteral feeding. Remote patient monitoring shall be ordered by a physician licensed pursuant to article one hundred thirty-one of the education law, a nurse practitioner licensed pursuant to article one hundred thirty-nine of the education law, or a midwife licensed pursuant to article one hundred forty of the education law, with which the patient has a substantial and ongoing relationship.

§ 2999-dd. Telehealth delivery of services. Health care services delivered by means of telehealth shall be entitled to reimbursement under section three hundred sixty-seven-u of the social services law.

§ 3. Paragraph 30 of subsection (i) of section 3216 of the insurance law, as added by chapter 550 of the laws of 2014, is REPEALED.

§ 4. The insurance law is amended by adding a new section 3217-h to read as follows:

§ 3217-h. Telehealth delivery of services. (a) An insurer shall not exclude from coverage a service that is otherwise covered under a policy that provides comprehensive coverage for hospital, medical or surgical care because the service is delivered via telehealth, as that term is defined in subsection (b) of this section; provided, however, that an insurer may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the policy. An insurer may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the insured as those established for the same service when not delivered via telehealth. An insurer may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth.

(b) For purposes of this section, "telehealth" means the use of electronic information and communication technologies by a health care provider to deliver health care services to an insured individual while such individual is located at a site that is different from the site where the health care provider is located.

§ 5. Paragraph 19 of subsection (k) of section 3221 of the insurance law, as added by chapter 550 of the laws of 2014, is REPEALED.

§ 6. Paragraph 2 of subsection (a) of section 3229 of the insurance law, as amended by chapter 550 of the laws of 2014, is amended to read as follows:

(2) a home care benefit with personal care, nursing care, adult day health care[7] and respite care services, ~~[telemedicine services, as defined in section two of the public health law, provided that such telemedicine services are pursuant to an agreement between a provider participating in the insurer's network and the insurer, and meet the requirements of federal law, rules and regulations for Medicare, or telehealth services, as defined by section two of the public health law, provided that such services are consistent with subdivision three-c of section thirty-six hundred fourteen of the public health law. The provider of such services shall meet the terms and conditions (to the extent not inconsistent with this paragraph) of his or her contract with~~

CHAP. 6

4

~~the insurer,~~] which shall provide total benefits in an amount determined by regulations of the superintendent;

§ 7. Subsection (oo) of section 4303 of the insurance law is REPEALED.

§ 8. The insurance law is amended by adding a new section 4306-g to read as follows:

§ 4306-g. Telehealth delivery of services. (a) A corporation shall not exclude from coverage a service that is otherwise covered under a contract that provides comprehensive coverage for hospital, medical or surgical care because the service is delivered via telehealth, as that term is defined in subsection (b) of this section; provided, however, that a corporation may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the contract. A corporation may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the insured as those established for the same service when not delivered via telehealth. A corporation may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth.

(b) For purposes of this section, "telehealth" means the use of electronic information and communication technologies by a health care provider to deliver health care services to an insured individual while such individual is located at a site that is different from the site where the health care provider is located.

§ 9. The public health law is amended by adding a new section 4406-g to read as follows:

§ 4406-g. Telehealth delivery of services. 1. A health maintenance organization shall not exclude from coverage a service that is otherwise covered under an enrollee contract of a health maintenance organization because the service is delivered via telehealth, as that term is defined in subdivision two of this section; provided, however, that a health maintenance organization may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the enrollee contract. A health maintenance organization may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the enrollee as those established for the same service when not delivered via telehealth. A health maintenance organization may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth.

2. For purposes of this section, "telehealth" means the use of electronic information and communication technologies by a health care provider to deliver health care services to an enrollee while such enrollee is located at a site that is different from the site where the health care provider is located.

§ 10. Subdivision 2 of section 367-u of the social services law, as added by chapter 550 of the laws of 2014, is amended to read as follows:

2. Subject to federal financial participation and the approval of the director of the budget, the commissioner shall not exclude from the payment of medical assistance funds the [provision] delivery of [medical care] health care services through [telemedicine services] telehealth, as defined in [section two] subdivision four of section two thousand nine hundred ninety-nine-cc of the public health law[; provided that

~~such]. Such services shall meet the requirements of federal law, rules and regulations for the provision of medical assistance pursuant to this title[, and for telehealth services, as defined by section two of the public health law, that are, at a minimum, those required to be provided pursuant to subdivision three-c of section thirty-six hundred fourteen of the public health law].~~

§ 11. Section 7 of chapter 550 of the laws of 2014, amending the public health law, the insurance law and the social services law, relating to the telehealth delivery of services, is amended to read as follows:

§ 7. This act shall take effect January 1, ~~[2015 and shall apply to all policies and contracts issued, renewed, modified, altered or amended on or after such date]~~ 2016.

§ 12. This act shall take effect immediately, provided that sections one through ten of this act shall take effect on the same date and in the same manner as chapter 550 of the laws of 2014, takes effect, provided, however, that sections four, eight and nine of this act shall apply to all policies and contracts issued, renewed, modified, altered or amended on or after January 1, 2016, and provided further that, effective immediately, the commissioner of health is authorized to issue, amend or repeal any regulations as necessary to implement this act on or before such effective date.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOHN J. FLANAGAN  
Temporary President of the Senate

CARL E. HEASTIE  
Speaker of the Assembly

**NEW YORK STATE ASSEMBLY  
MEMORANDUM IN SUPPORT OF LEGISLATION  
submitted in accordance with Assembly Rule III, Sec 1(f)**

**BILL NUMBER:** A2552A

**SPONSOR:** Russell

**TITLE OF BILL:** An act to amend the public health law, the insurance law and the social services law, in relation to the telehealth delivery of services; to amend chapter 550 of the laws of 2014, amending the public health law, the insurance law and the social services law, relating to the telehealth delivery of services, in relation to the effectiveness thereof; and to repeal certain provisions of the public health law and the insurance law relating thereto

**PURPOSE:**

To amend provisions in Chapter 550 of 2014.

**SUMMARY OF PROVISIONS:**

This bill provides clarification to telehealth related definitions and insurance provisions related to requiring insurers and Medicaid to provide coverage for the provision of telehealth and telemedicine services. The bill also delays the effective date of Chapter 550 of 2014 until January 1, 2016.

**JUSTIFICATION:**

These changes are necessary in order to allow for effective implementation of Chapter 550 of 2014.

**LEGISLATIVE HISTORY:**

New Bill.

**FISCAL IMPLICATIONS:**

None.

**EFFECTIVE DATE:**

Immediate.

