



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

AMENDED
FACT SHEET FOR H.B. 2454

telehealth; health care providers; requirements

Purpose

Outlines telehealth procedures and requirements relating to coverage of services, network adequacy, delivery of health care, health care providers and interstate health care services. Establishes the Telehealth Advisory Committee on Telehealth Best Practices (Advisory Committee) and the Acute Care Services Pilot Program.

Background

Telemedicine is the practice of health care delivery, diagnosis, consultation and treatment and the transfer of medical data through interactive audio, video or data communications that occur in the physical presence of the patient, including audio or video communications sent to a health care provider for diagnostic or treatment consultation. Before a health care provider delivers health care through telemedicine, the treating health care provider must obtain verbal or written informed consent from the patient or the patient's health care decision maker, with certain exceptions (A.R.S. §§ [36-3601](#) and [36-3602](#)).

All contracts and policies issued, delivered or renewed in Arizona must provide coverage for health care services that are provided through telemedicine if the health care service would be covered were it provided through an in-person consultation between the subscriber and a health care provider. A corporation, health care services organization (HCSO), disability insurer, group disability insurer and blanket disability insurer may not limit or deny the coverage of health care services provided through telemedicine and must apply only the same limits or exclusions on a health care service provided through telemedicine that are applicable to an in-person consultation for the same health care service (A.R.S. §§ [20-841.09](#); [20-1057.13](#); [20-1376.05](#); and [20-1406.05](#)).

An employee who may be entitled to workers' compensation must submit to medical examination, if and when requested by the Industrial Commission of Arizona (ICA), the employee's employer or the insurance carrier. The request for the medical examination must fix a time and place with regard to the convenience of the employee and their physical condition and ability to attend ([A.R.S. § 23-1026](#)).

On March 25, 2020, Governor Douglas A. Ducey issued an executive order requiring all health insurance plans regulated by the Department of Insurance and Financial Institutions (DIFI) to provide coverage for all healthcare services provided through telemedicine if the healthcare service would be covered were it provided through an in-person visit between the enrollee and a healthcare provider ([Executive Order 2020-15](#)).

If the modification of telehealth services leads to an increase in utilization of telehealth services, there may be a fiscal impact to the state General Fund.

Provisions

Coverage of Telehealth Services

1. Prohibits a corporation, HCSO, disability insurer, group disability insurer and blanket disability insurer (health insurer) from limiting or denying the coverage of health care services provided through telehealth, including ancillary services, with certain exceptions.
2. Defines *telehealth* for the purposes of health care services coverage to include:
 - a) the use of an audio-only telephone encounter between a subscriber who has an existing relationship with a health care provider or provider group if:
 - i. an audio-visual telehealth encounter is not reasonably available due to the subscriber's functional status, lack of technology or telecommunications infrastructure limits, as determined by the health care provider; and
 - ii. the telehealth encounter is initiated at the request of the subscriber or authorized by the subscriber before the telehealth encounter; and
 - b) the use of an audio-only encounter between the subscriber and health care provider, regardless of whether there is an existing relationship between the health care provider or provider group, if the telehealth encounter is for a behavioral health or substance use disorder service and the outlined conditions apply.
3. Allows a corporation, disability insurer, group disability insurer and blanket disability insurer to apply only the same limits or exclusions on a health care service provided through telehealth that are applicable to an in-person encounter for the same service, except for procedures or services for which the weight of evidence, determines the service is not appropriate to be provided through telehealth based on practice guidelines, peer-reviewed clinical publications or research, or recommendations by the Advisory Committee.
4. Allows a HCSO to apply only the same limits or exclusions on a health care service provided through telehealth that are applicable to an in-person encounter for the same health care service, except for procedures or services as identified by the diagnostic and procedure codes, for which the weight of evidence, based on practice guidelines, peer-reviewed clinical publications or research, or recommendations by the Advisory Committee, determines not to be appropriate to be provided through telehealth.
5. Requires a health insurer to reimburse health care providers at the same level of payment for equivalent services as identified by the healthcare common procedure coding system, whether provided through telehealth using an audio-visual format or in-person care, with certain exceptions.
6. Requires a health insurer to reimburse health care providers at the same level of payment for equivalent in-person behavioral health and substance use disorder services, as identified by the healthcare common procedure coding system, if provided through telehealth using an audio-only format.
7. Stipulates that reimbursement requirements do not apply to a telehealth encounter provided through a telehealth platform that is sponsored or provided by the health insurer.
8. Prohibits a health insurer from requiring a health care provider to use a telehealth platform that is sponsored or provided by the health insurer as a condition of network participation.

9. Requires a health insurer, by January 1, 2022, to cover services provided through an audio-only telehealth encounter if that service is covered by Medicare or the Arizona Health Care Cost Containment System (AHCCCS) when provided through an audio-only telehealth encounter.
10. Requires a health insurer, beginning January 1, 2022, to cover services provided through an audio-only telehealth encounter if the Advisory Committee recommends that the services may be appropriately provided through an audio-only telehealth encounter.
11. Requires a health care provider to bill for a telehealth encounter by using the healthcare common procedure coding system and to identify whether the telehealth encounter was provided in an audio-only or audio-video format.
12. Requires a health care provider, to submit a claim for an audio-only, to make telehealth services generally available to patients through the interactive use of audio, video or other electronic media.
13. Requires the health care provider, at the time of the telehealth encounter, to access available clinical information and records that are appropriate to evaluate the patient's condition.
14. Requires the health care provider to inform the subscriber before the telehealth encounter if there is a charge for the encounter.
15. Allows a health insurer to establish reasonable requirements and parameters for telehealth services, including documentation, fraud prevention, identity verification and recordkeeping.
16. Prohibits the requirements and parameters established by a health insurer from being more restrictive or less favorable to health care providers or subscribers than are required for health care services delivered in-person.
17. Allows covered telehealth services to be provided regardless of where the subscriber is located or the type of site.
18. Excludes outlined emergency services from the coverage a contract may limit.
19. Stipulates that outlined requirements for the coverage of telehealth services does not:
 - a) limit the ability of health insurers to provide incentives to subscribers that are designed to improve health outcomes, increase adherence to a course of treatment or reduce risk; or
 - b) prevent health insurers from offering network contracts to health care providers who employ value-based purchasing or bundled payment methodologies, if otherwise allowed by law, or prevent health care providers from voluntarily agreeing to enter into the contracts with a health insurer.
20. Requires services provided through telehealth or resulting from a telehealth encounter to comply with any practice guidelines developed by the Advisory Committee.
21. Excludes the sole use of voice mail from the definition of *telehealth*.

Network Adequacy

22. Prohibits network adequacy standards required by state or federal law from being met by a health insurer through the use of contracted health care providers who provide only telehealth services and do not provide in-person health care services in Arizona or within 50 miles of the border of Arizona.

23. Stipulates that a health insurer is not relieved from an obligation to provide adequate access to in-person health care services by statutes governing telehealth coverage.
24. Requires a health insurer that waives a deductible or a copayment or coinsurance requirement that impacts a health care provider's contracted reimbursement rate to reimburse the health care provider for that cost to ensure that the health care provider receives the contracted reimbursement rate if the service is covered and the claim meets other requirements of the network participation agreement.

Telehealth Delivery of Health Care

25. Defines *telehealth*, for statutes governing the practice of telehealth, as the:
 - a) interactive use of audio, video or other electronic media, including asynchronous store-and-forward technologies and remote patient monitoring technologies, for the practice of health care, assessment, diagnosis, consultation or treatment and the transfer of medical data; and
 - b) use of an audio-only telephone encounter between the patient or client and health care provider if an audio-visual telehealth encounter is not reasonably available due to the patient's functional status or lack of technology or any telecommunications infrastructure limits, as determined by the health care provider.
26. Allows verbal or written informed consent to be obtained by electronic means before a health care provider delivers health care through telehealth.
27. Prohibits a health care provider regulatory board or agency from enforcing any statute, rule or policy that would require a licensed health care provider who is authorized to write prescriptions or dispense or administer prescription drugs and devices to provide an in-person examination of a patient before issuing a prescription, except as specifically prescribed by federal law, with certain exceptions.
28. Allows schedule II drugs to be prescribed only after an in-person or audio-visual examination and only to the extent allowed by federal and state law.
29. Subjects services provided through telehealth to Arizona's laws and rules governing the health care provider's scope of practice and the practice guidelines adopted by the Advisory Committee.
30. Allows a physical or mental health status examination to be conducted during a telehealth encounter.

Telehealth Health Care Providers

31. Requires a health care provider to make a good faith effort in determining:
 - a) whether a health care service should be provided through telehealth instead of in person, consistent with the best practice guidelines adopted by the Advisory Committee; and
 - b) the communication medium of telehealth and, if practicable, the telehealth communication medium that allows the health care provider to most effectively assess, diagnose and treat the patient.
32. Requires a health care provider to use their clinical judgement in considering whether the nature of the services necessitates physical interventions and close observation and the circumstances of the patient, including diagnosis, symptoms, history, age, physical location and access to telehealth.

33. Allows the factors the health care provider may consider in determining the communication medium to include the patient's lack of access to or inability to use technology or any limits in telecommunication infrastructure necessary to support interactive telehealth encounters.

Interstate Telehealth Services

34. Allows a health care provider who is not licensed in Arizona to provide telehealth services to a person located in Arizona if the health care provider:
- a) registers with Arizona's applicable health care provider regulatory board or agency that licenses comparable health care providers in Arizona on an application that contains:
 - i. the health care provider's name;
 - ii. proof of the health care provider's professional licensure, including all United States jurisdictions the provider is licensed and the license numbers;
 - iii. the health care provider's address, email address and telephone number, including information if the provider needs to be contacted urgently;
 - iv. evidence of professional liability insurance coverage; and
 - v. designation of a duly appointed statutory agent for service of process in Arizona;
 - b) registers with the Controlled Substances Prescription Monitoring Program before prescribing a controlled substance to a patient in Arizona;
 - c) pays the applicable registration fee;
 - d) holds a current, valid and unrestricted license to practice in another state that is substantially similar to a license issued in Arizona to a comparable health care provider and is not subject to any past or pending disciplinary proceedings in any jurisdiction;
 - e) acts in full compliance with all applicable laws and rules of Arizona, including scope of practice, laws and rules governing prescribing, dispensing and administering prescription drugs and devices, telehealth requirements and the best practice guidelines adopted by the Advisory Committee;
 - f) complies with all existing requirements of Arizona and any other state in which the health care provider is licensed regarding maintaining professional liability insurance, including coverage for telehealth services provided in Arizona;
 - g) consents to Arizona's jurisdiction for any disciplinary action or legal proceeding related to the health care provider's acts or omissions;
 - h) follows Arizona's standards of care for that particular licensed health profession;
 - i) annually updates the health care provider's registration for accuracy; and
 - j) submits to the applicable health care provider regulatory board or agency a report with the number of patients the provider served in Arizona and the total number and type of encounters in Arizona for the preceding year.
35. Requires verification of licensure in another state to be made through information obtained from the applicable regulatory board's website.
36. Exempts, from interstate telehealth registration requirements, a health care provider who is not licensed to provide health care services in Arizona but holds an active license to provide health care services in another jurisdiction and who provides telehealth services to a person located in Arizona if either of the following applies:
- a) the health care provider provides fewer than 10 telehealth encounters in a calendar year; or
 - b) the services are provided under one of the following circumstances:
 - i. in response to an emergency medication condition;

- ii. in consultation with a health care provider who is licensed in Arizona and has the ultimate authority over the patient's diagnosis and treatment;
 - iii. to provide after-care specifically related to a medical procedure that was delivered in-person in another state; or
 - iv. to a person who is a resident of another state and the telehealth provider is the primary care provider or behavioral health provider located in the person's residence.
- 37. Requires a health care provider, within five days after any restriction is placed on the health care provider's license or any disciplinary action is initiated or imposed, to notify the applicable health care provider regulatory board or agency.
- 38. Allows the health care provider regulatory board or agency registering a health care provider to use the National Practitioner Databank to verify the submitted information.
- 39. Prohibits a registered interstate health care provider from:
 - a) opening an office in Arizona, except as part of a multistate provider group that includes at least one health care provider who is licensed in Arizona through the applicable health care provider regulatory board or agency; or
 - b) providing in-person health care services to persons located in Arizona without first obtaining a license through the applicable health care provider regulatory board or agency.
- 40. Stipulates that a health care provider who fails to comply with the applicable laws and rules of Arizona is subject to investigation and both nondisciplinary and disciplinary action by the applicable health care provider regulatory board or agency.
- 41. Allows, for the purposes of disciplinary action by the applicable health care provider regulatory board or agency in Arizona, all statutory authority regarding investigating, rehabilitating and educating health care providers to be used.
- 42. Allows the applicable health care provider regulator board or agency in Arizona, if a health care provider fails to comply with the applicable laws and rules of Arizona, to:
 - a) revoke or prohibit the health care provider's privileges in Arizona;
 - b) report the action to the National Practitioner Database; and
 - c) refer the matter to the licensing authority in Arizona or in the states where the health care provider possesses a professional license.
- 43. Allows, in any matter or proceeding arising from a licensing authority referral, the applicable health care provider regulatory board or agency in Arizona to share any related disciplinary and investigative information in its possession with another state licensing board.
- 44. Determines that the venue for any civil or criminal action arising from a violation of interstate telehealth services is the patient's county of residence in Arizona.

Telehealth Advisory Committee on Telehealth Best Practices

- 45. Establishes the Advisory Committee consisting of the following members:
 - a) one physician who is licensed by the Arizona Medical Board (AMB);
 - b) one physician who is licensed by the Arizona Board of Osteopathic Examiners (ABOE) in Medicine and Surgery and is practicing primary care in Arizona;
 - c) two advanced practice registered nurses who are licensed by the Arizona Board of Nursing;

- d) one physician who is licensed by the AMB or the ABOE in Medicine and Surgery and who specializes in pain management;
 - e) one psychiatrist who is licensed by the AMB or the ABOE in Medicine and Surgery;
 - f) one psychologist who is licensed by the Arizona Board of Psychologist Examiners;
 - g) two behavioral health professionals who are licensed by the Arizona State Board of Behavioral Health Examiners, one of whom is employed by an outpatient treatment center;
 - h) one physician who is licensed by the Arizona Naturopathic Physicians Medical Board;
 - i) one health care professional whose primary area of focus is treating persons with developmental disabilities;
 - j) one health care professional whose primary area of focus is industrial injuries;
 - k) one speech-language pathologist who is licensed by the Arizona Department of Health Services (DHS);
 - l) one occupational therapist who is licensed by the Arizona Board of Occupational Therapy Examiners;
 - m) one hospital administrator;
 - n) one physician assistant who is licensed by the Arizona Regulatory Board of Physician Assistants;
 - o) one representative of the Arizona Commission for the Deaf and Hard of Hearing;
 - p) two representatives of health care insurers who are licensed health care providers;
 - q) one optometrist who is licensed by the Arizona Board of Optometry;
 - r) one representative of a vertically integrated telemedicine technology manufacturer of hardware and compatible software;
 - s) one behavioral analyst who is licensed by the Arizona Board of Psychologist Examiners; and
 - t) one representative from:
 - i. AHCCCS;
 - ii. DHS;
 - iii. the Department of Economic Security;
 - iv. DIFI; and
 - v. the ICA.
46. Requires the Advisory Committee to review national and other standards for telehealth best practices and relevant peer-reviewed literature.
47. Allows the Advisory Committee to conduct public meetings at which testimony may be taken regarding the efficacy of various communications media and the types of services and populations for which telehealth is appropriate.
48. Requires the Advisory Committee to adopt telehealth best practice guidelines and recommendations regarding the health care services that may be appropriately provided through an audio-only telehealth format and make updates, when applicable.
49. Requires the Advisory Committee, before making its recommendations, to:
- a) analyze medical literature and national practice guidelines;
 - b) consider the comparative effectiveness, safety and benefit to the patient of performing a service through an audio-only telehealth format instead of in person or through an audio-visual format; and
 - c) consider the appropriate frequency and duration of audio-only telehealth encounters.
50. Allows the Advisory Committee to authorize subcommittees to address select issues or services and report to the Advisory Committee as directed.

51. Requires the Advisory Committee to submit a report to the Governor, the President of the Senate and the Speaker of the House of Representatives by:
 - a) December 1, 2021, with recommendations regarding the specific health care services that are appropriate to provide through an audio-only telehealth format as a substitute for an in-person or audio-visual telehealth encounter; and
 - b) June 30, 2022, with recommendations regarding telehealth best practice guidelines for health care providers.
52. Requires AHCCCS to staff the Advisory Committee and provide meeting space.
53. Requires, from October 1, 2021 until January 1, 2026, each health care provider regulatory board or agency to submit to the Advisory Committee a report identifying the number and type of out-of-state health care providers who have applied for interstate telehealth registration and the number and type of out-of-state health care providers whose registration has been approved.
54. Terminates the Advisory Committee on July 1, 2029.

Acute Care Services Pilot Program

55. Requires DHS, by the earlier of 30 days after the effective date of this legislation or September 1, 2021, to develop a three-year pilot program that allows the delivery of acute care services to patients in the patient's home by licensed hospitals in Arizona.
56. Allows DHS to waive rules necessary to implement the requirements of the pilot program.
57. Requires DHS, in collaboration with interested hospitals in Arizona, to determine the:
 - a) criteria necessary for a licensed hospital to be eligible for the pilot program;
 - b) protocols for eligible hospitals to determine patient eligibility in the program; and
 - c) protocols for health care services to be provided by or under the direction of eligible hospitals to patients in the program.
58. Stipulates that eligible hospitals must demonstrate the required in-person and telehealth equipment necessary to provide acute in-home services.
59. Allows hospitals participating in the pilot program to use applicable protocols determined by DHS to set the:
 - a) patient eligibility criteria;
 - b) categories of licensed health care providers that may be used;
 - c) services that may be outsourced by the hospital; and
 - d) health care services to be provided by or under the direction of the hospital.
60. Requires hospitals participating in the pilot program to report patient progress and program quality outcomes as required by DHS.
61. Requires the pilot program to be designed in a manner and in coordination with the Acute Care at Home Program authorized by the Centers for Medicare and Medicaid Services.
62. Terminates the pilot program on December 31, 2024.

DIFI Reporting Requirements

63. Requires DIFI, by March 31, 2023, to report to the President of the Senate and the Speaker of the House of Representatives the number of telehealth encounters based on claims data received by health insurers and health plans for services provided in Arizona in the preceding year, including the:
- a) overall number of telehealth encounters and the number of audio-only telehealth encounters billed to health care insurers;
 - b) number of telehealth encounters in Arizona involving out-of-state health care providers;
 - c) types of services provided through telehealth encounters and through audio-only telehealth encounters; and
 - d) differential in payment between audio-only telehealth encounters, in-person care or audio-visual telehealth encounters.
64. Requires any personally identifiable health information to be redacted from the DIFI report.

Workers' Compensation Medical Examination

65. Allows a medical examination to be conducted via telehealth with the consent of both the employee and the requesting party.

Definitions

66. Excludes, from the definition of *telehealth*, the use of a fax machine, instant messages, voice mail or email.
67. Removes the definition of *telemedicine*.
68. Modifies the definition of *unprofessional conduct* to allow the physical or mental health status examination required prior to prescribing, dispensing or furnishing a prescription medication or prescription-only device to be conducted through telehealth with a clinical evaluation that is appropriate for the patient and the condition with which the patient presents, rather than during a real-time telemedicine encounter with audio and video capability.
69. Modifies the definition of *unethical conduct* to allow, in the course of dispensing drugs pursuant to diagnosis by mail or the internet, knowingly dispensing a drug on a prescription order written pursuant to a physical or mental health status examination that was conducted through telehealth and is consistent with federal law, rather than during a real-time telemedicine encounter with audio and video capability.
70. Modifies the definition of *health care provider* to include certain licensed or permitted persons and health care institutions.
71. Includes the use of telehealth in the definition of *direct client contact*.
72. Removes the definition of *telepractice* relating to the Arizona State Board of Behavioral Health Examiners.
73. Defines relevant terms.

Miscellaneous

- 74. Exempts specified health care provider regulatory boards or agencies from rulemaking requirements for one year.
- 75. Makes technical and conforming changes.
- 76. Becomes effective on the general effective date.

Amendments Adopted by Committee

- 1. Modifies the basis on which a health insurer may apply different limits and exclusions on telehealth.
- 2. Requires a health insurer to reimburse health care providers at the same level of payment for equivalent in-person behavioral health and substance use disorder services, as identified by the healthcare common procedure coding system, if provided through telehealth using an audio-only format.
- 3. Prescribes procedures for telehealth platforms sponsored or provided by a health insurer.
- 4. Requires a health insurer, by January 1, 2022, to cover services provided through an audio-only telehealth encounter if that service is covered by Medicare or AHCCCS when provided through an audio-only telehealth encounter.
- 5. Requires a health insurer, beginning January 1, 2022, to cover services provided through an audio-only telehealth encounter if the Advisory Committee recommends that the services may appropriately be provided through an audio-only telehealth encounter.
- 6. Requires a health care provider to bill for a telehealth encounter by using the healthcare common procedure coding system and to identify whether the telehealth encounter was provided in an audio-only or audio-video format.
- 7. Stipulates that the requirements for coverage of telehealth services do not limit the ability of health insurers to provide incentives or prevent health insurers from offering network contracts to health care providers who employ value-based purchasing or bundled payment methodologies.
- 8. Prohibits a health insurer from using contracted health care providers who provide only telehealth services and do not provide in-person health care services in Arizona or within 50 miles of the border of Arizona to meet network adequacy standards required by state or federal law.
- 9. Stipulates that a health insurer is not relieved from an obligation to provide adequate access to in-person health care services.
- 10. Requires a health insurer that waives certain payments that impact a health care provider's contracted reimbursement rate to reimburse the health care provider for the cost.
- 11. Removes the requirement that a health insurer must provide notice in its provider network directories that all enrollees have the right to request and receive appropriate nonemergency in-person health care services from the network's health care providers in a timely manner.

12. Removes, from the definition of *telehealth*, the use of an audio-only telephone encounter between the patient or client and health care provider if an audio-visual telehealth encounter is not reasonably available due to the patient's preference.
13. Allows schedule II drugs to be prescribed only after an in-person or audio-visual examination and only to the extent allowed by federal and state law.
14. Requires a health care provider to make a good faith effort in determining whether a health care service should be provided through telehealth instead of in person, consistent with the best practice guidelines adopted by the Advisory Committee.
15. Removes the prohibition on a health care provider from considering the provider's personal preference or convenience in determining the communication medium of telehealth.
16. Outlines requirements for a health care provider who is not licensed in Arizona to meet in order to provide telehealth services to a person located in Arizona.
17. Prescribes requirements and procedures for an interstate healthcare provider.
18. Outlines permissible actions by an applicable health care provider regulatory board or agency in Arizona, if an interstate health care provider fails to comply with the applicable laws and rules of Arizona.
19. Allows, in any matter or proceeding arising from a licensing authority referral, the applicable health care provider regulatory board or agency in Arizona to share any related disciplinary and investigative information in its possession with another state licensing board.
20. Modifies the Advisory Committee membership and requires the Advisory Committee to adopt telehealth best practice guidelines and recommendations that may be appropriately provided through an audio-only telehealth format and make updates, when applicable.
21. Requires the Advisory Committee to consider and analyze outlined information before making its recommendations.
22. Modifies the administration and reporting requirements of the Advisory Committee.
23. Clarifies the date by which DHS must develop the pilot program.
24. Allows DHS to waive rules necessary to implement the requirements of the pilot program.
25. Outlines procedures for DHS to develop the pilot program and procedures for hospitals interested in participating in the pilot program.
26. Modifies the information that must be included in DIFI's report to the President of the Senate and the Speaker of the House of Representatives.
27. Removes the requirement that a request for an employee's medical examination include whether the medical examination could be conducted through telehealth.

28. Exempts specified health care provider regulatory boards and agencies from rulemaking requirements for one year.

29. Makes technical and conforming changes.

House Action

HHS	2/1/21	DPA	8-0-0-1
3 rd Read	2/11/21		37-22-1

Senate Action

FIN	3/17/21	DPA	8-0-2
-----	---------	-----	-------

Prepared by Senate Research

March 19, 2021

MG/ML/gs