

# REPRINTED

MAR 19 1999

HOUSE FILE 732

BY COMMITTEE ON HUMAN RESOURCES

Place On Calendar

(SUCCESSOR TO HF 604)

Passed House, <sup>(p. 784)</sup> Date 3/23/99 Passed Senate, Date \_\_\_\_\_  
 Vote: Ayes 93 Nays 1 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
 Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to telehealth, by providing for reimbursement for  
 2 health care services provided by means of interactive audio,  
 3 video, or data communications, and establishing telehealth  
 4 delivery and disciplinary standards.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 732

1 Section 1. NEW SECTION. 144D.1 TITLE.

2 This chapter shall be known and may be cited as the "Iowa  
3 Telehealth Act".

4 Sec. 2. NEW SECTION. 144D.2 DEFINITIONS.

5 As used in this chapter, unless the context otherwise  
6 requires:

7 1. a. "Telehealth" means both of the following:

8 (1) The exchange of patient health information or the  
9 exchange of medical education information by means of  
10 interactive audio, video, or data communications.

11 (2) The delivery of health care services by means of  
12 interactive audio, video, or data communications, including  
13 assessment, diagnosis, consultation, and treatment, both in  
14 consultation and in the direct delivery of health care  
15 services, when the health care practitioner providing the  
16 consultation or delivering health care services is at one  
17 location and the patient is at another location.

18 b. "Telehealth" does not include a consultation provided  
19 by telephone or facsimile machine.

20 Sec. 3. NEW SECTION. 144D.3 PATIENT CONSENT TO  
21 TELEHEALTH SERVICES -- CONSENT REQUIREMENTS.

22 1. Prior to the delivery of health care services by  
23 telehealth, the health care practitioner who is in physical  
24 contact with the patient shall have the ultimate authority  
25 over the care of the patient and shall obtain informed consent  
26 from the patient. The informed consent procedure, at a  
27 minimum, shall require that the patient be provided both  
28 verbally and in writing, all of the following:

29 a. A statement that the individual retains the option to  
30 withhold or withdraw consent at any time without affecting the  
31 right to future care or treatment or risking the loss or  
32 withdrawal of any health care benefits to which the individual  
33 would otherwise be entitled.

34 b. A description of the potential risks, consequences, and  
35 benefits of telehealth.

1 c. A statement that all existing confidentiality  
2 protections apply.

3 d. A statement that patient access to all medical  
4 information transmitted during a telehealth interaction is  
5 guaranteed, and that copies of this information are available  
6 at stated costs, which shall not exceed the direct cost of  
7 providing the copies.

8 e. A statement that dissemination to researchers or other  
9 entities or persons external to the patient and health care  
10 practitioner relationship of any patient-identifiable images  
11 or other patient-identifiable information from the telehealth  
12 interaction shall not occur without the written consent of the  
13 patient.

14 2. a. The patient shall sign a written statement prior to  
15 the delivery of any telehealth services indicating that the  
16 patient understands the written information provided pursuant  
17 to subsection 1 and that this information has been discussed  
18 by the patient with the patient's health care practitioner or  
19 the practitioner's designee.

20 b. Consent by a patient who is a minor, is incapacitated,  
21 or is mentally incompetent such that the patient is unable to  
22 give informed consent, may be given by such patient's  
23 representative.

24 c. The consent requirements under paragraphs "a" and "b"  
25 do not apply in an emergency situation if the patient is  
26 unable to give informed consent and the patient's  
27 representative is unavailable.

28 3. A written consent statement signed by the patient shall  
29 become part of the patient's medical record.

30 4. This section does not apply to consultations among or  
31 between health care practitioners or to other telehealth  
32 interactions in which the patient is not directly involved.

33 Sec. 4. NEW SECTION. 144D.4 HEALTH CARE PRACTITIONER  
34 DISCIPLINARY ACTION.

35 A health care practitioner who fails to comply with the

1 requirements of section 144D.3 engages in unprofessional  
2 conduct and may be subject to a complaint and investigation,  
3 and appropriate disciplinary action, by the appropriate  
4 disciplinary entity associated with such health care  
5 practitioner's profession.

6 Sec. 5. NEW SECTION. 514F.10 HEALTH CARE SERVICES --  
7 TELEHEALTH.

8 1. A policy or contract providing for third-party payment  
9 or prepayment shall not require person-to-person contact  
10 between a health care practitioner and a patient as a  
11 precondition for providing coverage under the policy or  
12 contract for health care services if the patient's health care  
13 practitioner determines such services may be appropriately  
14 provided by means of telehealth.

15 2. For purposes of this section, "telehealth" means  
16 telehealth as defined in section 144D.2.

17 3. This section applies to the following classes of third-  
18 party payment provider contracts or policies delivered, issued  
19 for delivery, continued, or renewed in this state on or after  
20 July 1, 2000:

21 a. Individual or group accident and sickness insurance  
22 providing coverage on an expense-incurred basis.

23 b. An individual or group hospital or medical service  
24 contract issued pursuant to chapter 509, 514, or 514A.

25 c. An individual or group health maintenance organization  
26 contract regulated under chapter 514B.

27 d. An individual or group Medicare supplemental policy,  
28 unless coverage pursuant to such policy is preempted by  
29 federal law.

30 e. Any other entity engaged in the business of insurance,  
31 risk transfer, or risk retention, which is subject to the  
32 jurisdiction of the commissioner.

33 f. An organized delivery system licensed by the director  
34 of public health.

35 4. This section also applies to benefits received in this

1 state under the medical assistance program pursuant to chapter  
2 249A or under Title XIX of the federal Social Security Act.

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EXPLANATION

4 This bill creates new Code chapter 144D which establishes  
5 the Iowa Telehealth Act. The bill defines "telehealth" as  
6 including the exchange of health information or the exchange  
7 of medical education information by means of interactive  
8 audio, video, or data communications, and the delivery of  
9 health care services including assessment, diagnosis,  
10 consultation, and treatment, both in consultation and in the  
11 direct delivery of health care services between a health care  
12 practitioner at one location and a patient at another  
13 location, by means of interactive audio, video, or data  
14 communications.

15 The bill establishes minimum requirements for a patient's  
16 consent and provides that prior to the delivery of health care  
17 services by telehealth, the health care practitioner who is in  
18 physical contact with the patient shall have the ultimate  
19 authority over the care of the patient and shall obtain the  
20 informed consent from the patient.

21 The bill provides that a health care practitioner who fails  
22 to comply with the consent requirements is guilty of  
23 unprofessional conduct and may be subject to a complaint and  
24 investigation, and appropriate disciplinary action, by the  
25 appropriate disciplinary entity associated with such health  
26 care practitioner's profession.

27 The bill also creates new Code section 514F.10 and provides  
28 that a policy or contract providing for third-party payment or  
29 prepayment shall not require person-to-person contact between  
30 a health care practitioner and a patient as a precondition for  
31 providing coverage under the policy or contract for health  
32 care services if the patient's health care practitioner  
33 determines such services may be appropriately provided by  
34 means of telehealth.

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## HOUSE FILE 732

H-1144

1 Amend House File 732 as follows:

2 1. Page 1, lines 8 and 9, by striking the words  
3 "or the exchange of medical education information".

4 2. By striking page 1, line 26, through page 2,  
5 line 29, and inserting the following: "from the  
6 patient. A consent in writing to any medical or  
7 surgical procedure, or course of procedures in patient  
8 care provided by means of telehealth, creates a  
9 presumption that informed consent was given, if the  
10 written consent satisfies the following:

11 a. The consent sets forth in general terms the  
12 nature and purpose of the procedure to be performed by  
13 means of telehealth.

14 b. The consent contains a description of the  
15 potential material benefits, risks, and consequences  
16 of performing the procedure by means of telehealth.

17 c. The consent includes a statement that  
18 confidentiality protections apply.

19 d. The consent is signed by the patient for whom  
20 the procedure is to be performed, or if the patient  
21 for any reason lacks the capacity to give consent, the  
22 consent is signed by a person who has legal authority  
23 to give consent on behalf of the patient under these  
24 circumstances."

25 3. By striking page 3, line 6, through page 4,  
26 line 2, and inserting the following:

27 "Sec. \_\_\_\_ . STATEMENT OF POLICY. The general  
28 assembly encourages health care providers, the  
29 domestic health insurance industry, and other third-  
30 party payors of health care coverage to consult and  
31 cooperate with each other to facilitate the  
32 implementation of telehealth in a cost-effective  
33 manner."

34 4. Title page, by striking lines 1 through 4 and  
35 inserting the following: "An Act relating to  
36 telehealth by providing for patient consent to  
37 telehealth services and for complaints and  
38 disciplinary actions against health care  
39 practitioners."

40 5. By renumbering as necessary.

By BLODGETT of Cerro Gordo

H-1144 FILED MARCH 22, 1999

*adopted*  
*3/23/99*

*(p.783)*

S-3/23/99 Humond, w/s  
S-3/31/99 Amend/Bo Para  
w/s-3211

HOUSE FILE **732**  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HF 604)

(As Amended and Passed by the House, March 23, 1999)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to telehealth by providing for patient consent to  
2 telehealth services and for complaints and disciplinary  
3 actions against health care practitioners.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments \_\_\_\_\_

**HOUSE FILE 732**

S-3211

1 Amend House File 732, as amended, passed, and  
2 reprinted by the House, as follows:  
3 1. Page 1, line 5, by inserting after the word  
4 "used" the following: "only".

By COMMITTEE ON HUMAN RESOURCES  
NANCY BOETTGER, Chairperson

S-3211 FILED MARCH 31, 1999

HF 732

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23 contact with the patient shall have the ultimate authority  
24 over the care of the patient and shall obtain informed consent  
25 from the patient. A consent in writing to any medical or  
26 surgical procedure, or course of procedures in patient care  
27 provided by means of telehealth, creates a presumption that  
28 informed consent was given, if the written consent satisfies  
29 the following:

30 a. The consent sets forth in general terms the nature and  
31 purpose of the procedure to be performed by means of  
32 telehealth.

33 b. The consent contains a description of the potential  
34 material benefits, risks, and consequences of performing the  
35 procedure by means of telehealth.

1 c. The consent includes a statement that confidentiality  
2 protections apply.

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4 procedure is to be performed, or if the patient for any reason  
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21 insurance industry, and other third-party payors of health  
22 care coverage to consult and cooperate with each other to  
23 facilitate the implementation of telehealth in a cost-  
24 effective manner.

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