

Telemedicine/Telehealth - Verbal Consent

written by Richard Leslie | May 24, 2016

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... I have written about telemedicine before – when I have discussed online therapy, e-therapy, or therapy delivered via the Internet. California has had a telemedicine statute for quite a while, and now it is undergoing significant change. There are three proposed changes that caught my eye in Assembly Bill 415 (Logue).

One change involves the title and definition of the Act and the description of the service being delivered or the mode of service being used. The Act was previously referred to as the “Telemedicine Development Act,” and now it is to be called the “[Telehealth Advancement Act of 2011](#).”

Another change involves informed consent. The bill removes the requirement of written and verbal informed consent.

A third area of change involves prohibiting insurers and health plans from requiring in-person contact between a health care provider and a patient before payment is made for covered services appropriately provided through telehealth.

Much of the proposed changes to existing law are the result of the work of the [Center for Connected Health Policy](#), a non-profit planning and strategy organization working to remove policy barriers that prevent the integration of telehealth technologies into the California Health System. The organization proposed a telehealth model statute and made other policy recommendations in a report issued in 2011. California’s Telemedicine Development Act (1996) was one of the first in the country and served as a model for other states. The amendments proposed in AB 415 are intended to remedy problems and barriers in the current system, to reduce costs, increase quality, and to increase access, especially in rural and other medically underserved areas where there is a shortage of primary care and specialty providers. Additionally, the Legislative intent is to promote the parity of telehealth with other health care delivery modes. The bill garnered broad bipartisan support and is now on the Governor’s desk. His signature is expected.

“Telehealth” means the mode of delivering health care services and public health via information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while the patient is at the originating site and the health care provider is at a distant site. Telehealth includes synchronous interactions, which is defined as a real time interaction between a patient and a health care provider located at a distant site. The Legislature, in enacting the bill, has found and declared that the consumer of health care will benefit from telehealth in many ways, including expanded access to providers, faster and more

convenient treatment, better continuity of care, reduction of lost work time and travel costs, and the ability to remain with support networks.

Only the patient's verbal consent to the use of telehealth will be required when the bill becomes effective on January 1, 2012 (assuming that the Governor signs this bill). Prior to the delivery of health care via telehealth, the health care provider at the "originating site" (where the patient is located) must verbally inform the patient that telehealth may be used and must obtain verbal consent from the patient for this use. As mentioned above, prior law required both verbal and written informed consent of the patient, and required, among other things, that the patient be informed of the potential risks of telemedicine. It was found that these requirements imposed unreasonable barriers to the use of telemedicine. The new law will require that the verbal consent to the use of telehealth be documented in the patient's medical record. Amendments to existing law regarding insurers, health plans, and Medi-Cal (California's Medicaid program) are made in the bill in order to remove some of the existing barriers to reimbursement.

The passage of this bill represents a strong endorsement of the use of telehealth. As was the case with California's Telemedicine Development Act, other states will likely update their laws regarding telemedicine and telehealth as a result of the passage of AB 415.