SESSION OF 2017

HOUSE BILL No. 2254

By Committee on Health and Human Services

AN ACT concerning health and health care; relating to the practice of telehealth; pertaining to persons licensed to practice medicine and surgery and osteopathic medicine and surgery; the state board of healing arts; establishing definitions; licensure requirements; rules and regulations.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) For purposes of this section:

(1) "Board" means the state board of healing arts.

(2) "Distant site" means a site at which a physician is located while providing health care services by means of telehealth.

(3) "Originating site" means a site at which a patient is located at the time health care services are provided by means of telehealth.

(4) "Physician" means a person licensed to practice medicine and surgery or osteopathic medicine and surgery in the state of Kansas.

(5) "Telecommunications services" means the delivery of a health care service using electronic communications, information technology or other electronic or technological means to bridge a gap between the health care practitioner who is located at the distant site, and a patient who is located at the originating site, either with or without the assistance of an intervening health care provider and in accordance with the provisions of this section.

(6) "Telehealth" means the delivery of health care services by means of telecommunications services that facilitate the assessment, diagnosis, consultation, treatment, education, care management and self-management of a patient's health care while such patient is at the originating site and the physician is at the distant site.

(b) Any physician shall be authorized to provide telehealth services if such services are within the physician's scope of practice and are provided with the same standard of care as if the services were provided in person.

(c) Except as otherwise provided in this section, a physician shall not provide a telehealth service without directly or indirectly obtaining consent for treatment. The provisions of this subsection shall not apply to a physician who is providing a telehealth service to an inmate who is under the jurisdiction of the department of corrections and is housed in a correctional facility.
(d) A physician who provides health care services through telehealth shall ensure that a properly established physician-patient relationship exists with the person who receives the telehealth service. The physician-patient relationship may be established by:

1. An in-person encounter through a medical interview and physical examination;
2. consultation with another physician who has an established relationship with the patient and an agreement to participate in the patient's care; or
3. a telehealth encounter, if the standard of care does not require an in-person encounter.

(e) In order to establish a physician-patient relationship through a telehealth encounter:

1. The telecommunications services utilized shall be sufficient to establish an informed diagnosis as though the medical interview and physical examination has been performed in person; and
2. prior to providing treatment, including issuing prescriptions or dispensing prescriptions, a physician who provides health care services through telehealth shall interview the patient, collect or review the patient's relevant medical history and perform an examination sufficient for the diagnosis and treatment of the patient.

(f) A physician-patient relationship established through a telehealth encounter shall at least be equivalent to a physician-patient relationship established through an in-person encounter for all purposes, including issuing a prescription for or dispensing prescription drugs and collaborative drug therapy management pursuant to a written collaborative practice agreement with one or more pharmacists.

(g) The board shall:

1. Maintain consistent licensure and certification standards and standards of care requirements between in-person and telemedicine and telehealth-provided practices. A physician who delivers health care services through telehealth shall not be subject to differing state laws requiring licensure, certification or other authorization to practice medicine and surgery or osteopathic medicine and surgery and shall be held to the same standard of professional practice as a similar licensee of the same practice area or specialty that provides the same health care services through in-person encounters;
2. not establish a more restrictive standard of professional practice for the practice of telehealth than that specifically authorized by the physician's practice act, this section or any other specifically applicable statute; and
3. promulgate all rules and regulations necessary to administer the provisions of this section.
Nothing in this section shall be construed to:

1. Authorize a health care service that is otherwise prohibited by law; or
2. Limit the provision of health care services otherwise allowed by law.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.