

AMENDED IN SENATE AUGUST 4, 2014

AMENDED IN SENATE MAY 19, 2014

AMENDED IN SENATE JUNE 25, 2013

AMENDED IN ASSEMBLY APRIL 29, 2013

AMENDED IN ASSEMBLY APRIL 3, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 809

Introduced by Assembly Member Logue
(Coauthor: Senator Galgiani)

February 21, 2013

An act to amend Section 2290.5 of the Business and Professions Code, relating to telehealth, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 809, as amended, Logue. Healing arts: telehealth.

Existing law requires a health care provider, as defined, prior to the delivery of health care services via telehealth, as defined, to verbally inform the patient that telehealth may be used and obtain verbal consent from the patient for this use. Existing law also provides that failure to comply with this requirement constitutes unprofessional conduct.

This bill would require the health care provider initiating the use of telehealth at the originating site to obtain verbal or written consent from the patient for the use of telehealth, as specified. The bill would require that health care provider to document the consent in the patient's medical record *consent*.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2290.5 of the Business and Professions
2 Code is amended to read:

3 2290.5. (a) For purposes of this division, the following
4 definitions shall apply:

5 (1) “Asynchronous store and forward” means the transmission
6 of a patient’s medical information from an originating site to the
7 health care provider at a distant site without the presence of the
8 patient.

9 (2) “Distant site” means a site where a health care provider who
10 provides health care services is located while providing these
11 services via a telecommunications system.

12 (3) “Health care provider” means a person who is licensed under
13 this division.

14 (4) “Originating site” means a site where a patient is located at
15 the time health care services are provided via a telecommunications
16 system or where the asynchronous store and forward service
17 originates.

18 (5) “Synchronous interaction” means a real-time interaction
19 between a patient and a health care provider located at a distant
20 site.

21 (6) “Telehealth” means the mode of delivering health care
22 services and public health via information and communication
23 technologies to facilitate the diagnosis, consultation, treatment,
24 education, care management, and self-management of a patient’s
25 health care while the patient is at the originating site and the health
26 care provider is at a distant site. Telehealth facilitates patient
27 self-management and caregiver support for patients and includes
28 synchronous interactions and asynchronous store and forward
29 transfers.

30 (b) Prior to the delivery of health care via telehealth, the health
31 care provider initiating the use of telehealth at the originating site
32 shall inform the patient about the use of telehealth and obtain verbal
33 or written consent from the patient for the use of telehealth as an

1 acceptable mode of delivering health care services and public
2 ~~health during a specified course of health care and treatment~~ *health*.
3 The consent shall be ~~documented in the patient's medical record~~
4 *documented*.

5 (c) Nothing in this section shall preclude a patient from receiving
6 in-person health care delivery services during a specified course
7 of health care and treatment after agreeing to receive services via
8 telehealth.

9 (d) The failure of a health care provider to comply with this
10 section shall constitute unprofessional conduct. Section 2314 shall
11 not apply to this section.

12 (e) This section shall not be construed to alter the scope of
13 practice of any health care provider or authorize the delivery of
14 health care services in a setting, or in a manner, not otherwise
15 authorized by law.

16 (f) All laws regarding the confidentiality of health care
17 information and a patient's rights to his or her medical information
18 shall apply to telehealth interactions.

19 (g) This section shall not apply to a patient under the jurisdiction
20 of the Department of Corrections and Rehabilitation or any other
21 correctional facility.

22 (h) (1) Notwithstanding any other provision of law and for
23 purposes of this section, the governing body of the hospital whose
24 patients are receiving the telehealth services may grant privileges
25 to, and verify and approve credentials for, providers of telehealth
26 services based on its medical staff recommendations that rely on
27 information provided by the distant-site hospital or telehealth
28 entity, as described in Sections 482.12, 482.22, and 485.616 of
29 Title 42 of the Code of Federal Regulations.

30 (2) By enacting this subdivision, it is the intent of the Legislature
31 to authorize a hospital to grant privileges to, and verify and approve
32 credentials for, providers of telehealth services as described in
33 paragraph (1).

34 (3) For the purposes of this subdivision, "telehealth" shall
35 include "telemedicine" as the term is referenced in Sections 482.12,
36 482.22, and 485.616 of Title 42 of the Code of Federal Regulations.

37 SEC. 2. This act is an urgency statute necessary for the
38 immediate preservation of the public peace, health, or safety within
39 the meaning of Article IV of the Constitution and shall go into
40 immediate effect. The facts constituting the necessity are:

1 In order to protect the health and safety of the public due to a
2 lack of access to health care providers in rural and urban medically
3 underserved areas of California, the increasing strain on existing
4 providers that occurred with the implementation of the federal
5 Patient Protection and Affordable Care Act, and the assistance that
6 further implementation of telehealth can provide to help relieve
7 these burdens, it is necessary for this act to take effect immediately.

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