



Ohio Revised Code

Section 4743.09 [Former R.C. 4731.2910, amended and renumbered by H.B. 122 of the 134th General Assembly, effective 3/23/2022] Standards for telehealth services.

Effective: March 23, 2022

Legislation: House Bill 122 - 134th General Assembly

(A) As used in this section:

(1) "Durable medical equipment" means a type of equipment, such as a remote monitoring device utilized by a physician, physician assistant, or advanced practice registered nurse in accordance with this section, that can withstand repeated use, is primarily and customarily used to serve a medical purpose, and generally is not useful to a person in the absence of illness or injury and, in addition, includes repair and replacement parts for the equipment.

(2) "Facility fee" means any fee charged or billed for telehealth services provided in a facility that is intended to compensate the facility for its operational expenses and is separate and distinct from a professional fee.

(3) "Health care professional" means:

(a) An advanced practice registered nurse, as defined in section 4723.01 of the Revised Code;

(b) An optometrist licensed under Chapter 4725. of the Revised Code to practice optometry under a therapeutic pharmaceutical agents certificate;

(c) A pharmacist licensed under Chapter 4729. of the Revised Code;

(d) A physician assistant licensed under Chapter 4730. of the Revised Code;

(e) A physician licensed under Chapter 4731. of the Revised Code to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery;



- (f) A psychologist or school psychologist licensed under Chapter 4732. of the Revised Code or under rules adopted in accordance with sections 3301.07 and 3319.22 of the Revised Code;
 - (g) A chiropractor licensed under Chapter 4734. of the Revised Code;
 - (h) An audiologist or speech-language pathologist licensed under Chapter 4753. of the Revised Code;
 - (i) An occupational therapist or physical therapist licensed under Chapter 4755. of the Revised Code;
 - (j) An occupational therapy assistant or physical therapist assistant licensed under Chapter 4755. of the Revised Code;
 - (k) A professional clinical counselor, independent social worker, or independent marriage and family therapist licensed under Chapter 4757. of the Revised Code;
 - (l) An independent chemical dependency counselor licensed under Chapter 4758. of the Revised Code;
 - (m) A dietitian licensed under Chapter 4759. of the Revised Code;
 - (n) A respiratory care professional licensed under Chapter 4761. of the Revised Code;
 - (o) A genetic counselor licensed under Chapter 4778. of the Revised Code;
 - (p) A certified Ohio behavior analyst certified under Chapter 4783. of the Revised Code.
- (4) "Health care professional licensing board" means any of the following:
- (a) The board of nursing;
 - (b) The state vision professionals board;



- (c) The state board of pharmacy;
 - (d) The state medical board;
 - (e) The state board of psychology;
 - (f) The state board of education with respect to the licensure of school psychologists;
 - (g) The state chiropractic board;
 - (h) The state speech and hearing professionals board;
 - (i) The Ohio occupational therapy, physical therapy, and athletic trainers board;
 - (j) The counselor, social worker, and marriage and family therapist board;
 - (k) The chemical dependency professionals board.
- (5) "Health plan issuer" has the same meaning as in section 3922.01 of the Revised Code.
- (6) "Telehealth services" means health care services provided through the use of information and communication technology by a health care professional, within the professional's scope of practice, who is located at a site other than the site where either of the following is located:
- (a) The patient receiving the services;
 - (b) Another health care professional with whom the provider of the services is consulting regarding the patient.
- (B)(1) Each health care professional licensing board shall permit a health care professional under its jurisdiction to provide the professional's services as telehealth services in accordance with this section. Subject to division (B)(2) of this section, a board may adopt any rules it considers necessary to implement this section. All rules adopted under this section shall be adopted in accordance with



Chapter 119. of the Revised Code. Any such rules adopted by a board are not subject to the requirements of division (F) of section 121.95 of the Revised Code.

(2)(a) Except as provided in division (B)(2)(b) of this section, the rules adopted by a health care professional licensing board under this section shall establish a standard of care for telehealth services that is equal to the standard of care for in-person services.

(b) Subject to division (B)(2)(c) of this section, a board may require an initial in-person visit prior to prescribing a schedule II controlled substance to a new patient, equivalent to applicable state and federal requirements.

(c)(i) A board shall not require an initial in-person visit for a new patient whose medical record indicates that the patient is receiving hospice or palliative care, who is receiving medication-assisted treatment or any other medication for opioid-use disorder, who is a patient with a mental health condition, or who, as determined by the clinical judgment of a health care professional, is in an emergency situation.

(ii) Notwithstanding division (B) of section 3796.01 of the Revised Code, medical marijuana shall not be considered a schedule II controlled substance.

(C) With respect to the provision of telehealth services, all of the following apply:

(1) A health care professional may use synchronous or asynchronous technology to provide telehealth services to a patient during an initial visit if the appropriate standard of care for an initial visit is satisfied.

(2) A health care professional may deny a patient telehealth services and, instead, require the patient to undergo an in-person visit.

(3) When providing telehealth services in accordance with this section, a health care professional shall comply with all requirements under state and federal law regarding the protection of patient information. A health care professional shall ensure that any username or password information and any electronic communications between the professional and a patient are securely transmitted and



stored.

(4) A health care professional may use synchronous or asynchronous technology to provide telehealth services to a patient during an annual visit if the appropriate standard of care for an annual visit is satisfied.

(5) In the case of a health care professional who is a physician, physician assistant, or advanced practice registered nurse, both of the following apply:

(a) The professional may provide telehealth services to a patient located outside of this state if permitted by the laws of the state in which the patient is located.

(b) The professional may provide telehealth services through the use of medical devices that enable remote monitoring, including such activities as monitoring a patient's blood pressure, heart rate, or glucose level.

(D) When a patient has consented to receiving telehealth services, the health care professional who provides those services is not liable in damages under any claim made on the basis that the services do not meet the same standard of care that would apply if the services were provided in-person.

(E)(1) A health care professional providing telehealth services shall not charge a patient or a health plan issuer covering telehealth services under section 3902.30 of the Revised Code any of the following: a facility fee, an origination fee, or any fee associated with the cost of the equipment used at the provider site to provide telehealth services.

A health care professional providing telehealth services may charge a health plan issuer for durable medical equipment used at a patient or client site.

(2) A health care professional may negotiate with a health plan issuer to establish a reimbursement rate for fees associated with the administrative costs incurred in providing telehealth services as long as a patient is not responsible for any portion of the fee.

(3) A health care professional providing telehealth services shall obtain a patient's consent before



billing for the cost of providing the services, but the requirement to do so applies only once.

(F) Nothing in this section limits or otherwise affects any other provision of the Revised Code that requires a health care professional who is not a physician to practice under the supervision of, in collaboration with, in consultation with, or pursuant to the referral of another health care professional.

(G) It is the intent of the general assembly, through the amendments to this section, to expand access to and investment in telehealth services in this state in congruence with the expansion and investment in telehealth services made during the COVID-19 pandemic.