

(S. B. 2646)

(No. 413)

(Approved October 9, 2000)

AN ACT

To amend subsections (a) and (b) of Section 2; and Sections 4, 5, 7 and 9 of Act No. 227 of August 11, 1998, known as the “Telemedicine Regulating Act”, in order to clarify who are the persons authorized to practice telemedicine; to establish the responsibility of compliance with the controls or mechanisms to ensure the integrity of the information contained in the electronic medical record; and to create the Telemedicine Committee, to be attached to the Department of Health.

STATEMENT OF MOTIVES

Act No. 227 of August 11, 1998, known as the “Telemedicine Regulating Act”, recognized the practice of telemedicine as an adequate means through which a person may receive excellent medical services. This Act provided that the Board of Medical Examiners would issue a special license to a physician who practices surgery or an osteologist for the practice of telemedicine in Puerto Rico. This language has caused confusion because it seems to suggest that any practice of telemedicine in Puerto Rico shall need a special license, even when this practice is carried out by a physician who practices surgery or an osteologist authorized by the Board of Medical Examiners to practice as such. This is due to the fact that the definition of telemedicine in the Act contemplated that the patient be located in Puerto Rico, while the physician who practices surgery or osteologist was outside of the jurisdiction of Puerto Rico.

Likewise, this Act provides that the physician who practices surgery or the osteologist shall be responsible for compliance with all the controls or

mechanisms that ensure the integrity of the information contained in the electronic medical record so that it may not be accessed or altered by third parties who do not have a doctor-patient relationship, and whose intervention could affect the diagnosis and treatment process of the patient.

The amendments provided in this Act guarantee clear and precise guidelines as to the requirements to practice telemedicine in Puerto Rico, and provide the mechanisms to ensure its evaluation in accordance to the latest advances in the field.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1. – Subsections (a) and (b) of Section 2 of Act No. 227 of August 11, 1998, are hereby amended to read as follows:

“Section 2. – Definitions

For the purposes of this Act, the following terms shall have the meaning and scope stated for each, except when the text clearly indicates another meaning:

- (a) “License”, means the license issued by the Board of Medical Examiners for the practice of medicine, surgery or osteology in the Commonwealth of Puerto Rico.
- (b) “Telemedicine”, means any test, diagnosis, treatment, operation or prescription for any physical and/or mental illness, ailment, pain, lesion, deformity or condition performed on a patient by a physician who practices surgery or an osteologist who practices as such through advanced technologic telecommunication means in order to exchange information and provide the health services mentioned above in distant geographical areas.
- (c) ...”

Section. 2. – Section 4 of Act No. 227 of August 11, 1998, is hereby amended to read as follows:

“Section 4. – License

As of the effectiveness of this Act, any physician who practices surgery or osteologist in the Commonwealth of Puerto Rico shall request and obtain from the Board of Medical Examiners a license to practice medicine, surgery or osteology in compliance with the requirements established in Act No. 22 of April 22, 1931, as amended. “

Section 3. - Section 5 of Act No. 227 of August 11, 1998, is hereby amended to read as follows:

“Section 5. – Issuance of license to a physician who practices surgery or an osteologist outside of the jurisdiction

As of the effectiveness of this Act, no physician who practices surgery or osteology outside of the jurisdiction may practice telemedicine in the Commonwealth of Puerto Rico without being duly licensed for said practice by the Board of Medical Examiners. Neither shall he/she write nor publish any advertisement purporting to be legally qualified to practice telemedicine, unless he/she holds a license duly issued for such purposes by the Board of Medical Examiners evidencing that he/she complies with the requirements of Act No. 22 of August 22, *supra*. “

Section 4. - Section 7 of Act No. 227 of August 11, 1998, is hereby amended to read as follows:

“Section 7. – Confidentiality and integrity of the patients’ medical records

Any physician who practices surgery or an osteologist who practices telemedicine shall comply with the legislation or regulations in effect in the Commonwealth of Puerto Rico concerning the management and

maintenance of the medical records of his/her patients, including confidentiality thereof. The physician who practices surgery or the osteologist shall be responsible for keeping those controls or mechanisms that would ensure the integrity of the information contained in the electronic medical record, so that it cannot be accessed or altered by any third party who does not have a doctor-patient relationship, and whose intervention could affect the diagnosis and treatment process on the patient. In the case of physicians who practice surgery or osteologists outside of the jurisdiction, they shall also comply with any other existing provision in the state or territory where said physician who practices surgery or osteologist is physically located. “

Section 5. – The Telemedicine Committee, attached to the Department of Health, is hereby created, which shall be composed of eleven (11) persons appointed by the Secretary of Health. The Committee shall have representation of hospital institutions, insurance companies, participating physicians and the Board of Medical Examiners, among others. The Committee shall have as main function to define the services to be reimbursed through telemedicine, reimbursement methods for services rendered, the mechanisms to finance telemedicine, incentives, medical-legal aspects, and definitions of any operating standards, among other things. The Committee shall render monthly reports to the Secretary of Health and a final report after six (6) months of its constitution with its recommendations, including possible legislation to be filed.

Nothing of the herein established, shall affect the development or implementation of the Pilot Telemedicine Program of the Departments of Economic Development, Commerce and Health “

Section 6. - Section 9 of Act No. 227 of August 11, 1998, is hereby amended to read as follows:

Section 9. – Proviso

The provisions of this Act shall not be applicable to the practice of telemedicine by a physician who practices surgery or an osteologist outside of the jurisdiction for reason of a medical emergency. Provided that the term medical emergency shall be determined by a physician who practices surgery or an osteologist, and shall be construed as a practice engaged only once per patient and involves a maximum of ten (10) patients on a yearly basis.”

Section 7. – This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 413 (S.B. 2646) of the 4th Special Session of the 13th Legislature of Puerto Rico:

AN ACT to amend subsections (a) and (b) of Section 2; and Sections 4, 5, 7 and 9 of Act No. 227 of August 11, 1998, known as the “Telemedicine Regulating Act”, in order to clarify who are the persons authorized to practice telemedicine; to establish the responsibility of compliance with the controls or mechanisms to ensure the integrity of the information contained in the electronic medical record; and to create the Telemedicine Committee, to be attached to the Department of Health,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 11th of February of 2005.

Luis Fusté-Lacourt
Director

