

SENATE BILL 402

J2, J1

EMERGENCY BILL

0lr1855
CF HB 448

By: **Senators Kagan and Lam**

Introduced and read first time: January 27, 2020

Assigned to: Finance

Reassigned: Education, Health, and Environmental Affairs, January 28, 2020

Committee Report: Favorable with amendments

Senate action: Adopted with floor amendments

Read second time: March 8, 2020

CHAPTER _____

1 AN ACT concerning

2 **Health Care Practitioners – Telehealth and Shortage**

3 FOR the purpose of authorizing certain health care practitioners to establish a
4 practitioner–patient relationship through certain telehealth interactions under
5 certain circumstances; requiring a health care practitioner providing telehealth
6 services to be held to certain standards of practice and provide or refer a patient for
7 certain services under certain circumstances; requiring a health care practitioner to
8 perform a certain clinical evaluation before providing certain treatment or issuing a
9 prescription through telehealth; prohibiting a health care practitioner from
10 prescribing a controlled dangerous substance through telehealth except under
11 certain circumstances; providing that a health care practitioner who prescribes a
12 controlled dangerous substance through telehealth is subject to certain laws under
13 certain circumstances; requiring a health care practitioner to document certain
14 information in a patient’s medical record using certain documentation standards;
15 providing that certain laws regarding confidentiality and a patient’s right to health
16 information apply to telehealth interactions in a certain manner; requiring a health
17 care practitioner performing services through telehealth to be licensed, certified, or
18 otherwise authorized by law to provide health care services in the State under
19 certain circumstances; authorizing health occupations boards to adopt certain
20 regulations; defining certain terms; stating the intent of the General Assembly;
21 making this act an emergency measure; and generally relating to ~~telehealth and~~
22 health care practitioners.

23 BY adding to

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Article – Health Occupations
2 Section 1–1001 through 1–1006 to be under the new subtitle “Subtitle 10.
3 Telehealth”
4 Annotated Code of Maryland
5 (2014 Replacement Volume and 2019 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
7 That the Laws of Maryland read as follows:

8 **Article – Health Occupations**

9 **SUBTITLE 10. TELEHEALTH.**

10 **1–1001.**

11 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
12 INDICATED.

13 (B) “ASYNCHRONOUS TELEHEALTH INTERACTION” MEANS AN EXCHANGE
14 OF INFORMATION BETWEEN A PATIENT AND A HEALTH CARE PRACTITIONER THAT
15 DOES NOT OCCUR IN REAL TIME, INCLUDING THE SECURE COLLECTION AND
16 TRANSMISSION OF A PATIENT’S MEDICAL INFORMATION, CLINICAL DATA, CLINICAL
17 IMAGES, LABORATORY RESULTS, AND SELF-REPORTED MEDICAL HISTORY.

18 (C) “HEALTH CARE PRACTITIONER” MEANS AN INDIVIDUAL WHO IS
19 LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED BY LAW TO PROVIDE HEALTH
20 CARE SERVICES UNDER THIS ARTICLE.

21 (D) “SYNCHRONOUS TELEHEALTH INTERACTION” MEANS AN EXCHANGE OF
22 INFORMATION BETWEEN A PATIENT AND A HEALTH CARE PRACTITIONER THAT
23 OCCURS IN REAL TIME.

24 (E) (1) “TELEHEALTH” MEANS A MODE OF DELIVERING HEALTH CARE
25 SERVICES THROUGH THE USE OF TELECOMMUNICATIONS TECHNOLOGIES BY A
26 HEALTH CARE PRACTITIONER TO A PATIENT AT A DIFFERENT PHYSICAL LOCATION
27 THAN THE HEALTH CARE PRACTITIONER.

28 (2) “TELEHEALTH” INCLUDES SYNCHRONOUS AND ASYNCHRONOUS
29 INTERACTIONS.

30 (3) “TELEHEALTH” DOES NOT INCLUDE THE PROVISION OF HEALTH
31 CARE SERVICES SOLELY THROUGH AUDIO-ONLY CALLS, E-MAIL MESSAGES, OR
32 FACSIMILE TRANSMISSIONS.

33 **1–1002.**

1 A HEALTH CARE PRACTITIONER MAY ESTABLISH A PRACTITIONER-PATIENT
2 RELATIONSHIP THROUGH EITHER A SYNCHRONOUS TELEHEALTH INTERACTION OR
3 AN ASYNCHRONOUS TELEHEALTH INTERACTION, IF THE HEALTH CARE
4 PRACTITIONER:

5 (1) VERIFIES THE IDENTITY OF THE PATIENT RECEIVING HEALTH
6 CARE SERVICES THROUGH TELEHEALTH;

7 (2) DISCLOSES TO THE PATIENT THE HEALTH CARE PRACTITIONER'S
8 NAME, CONTACT INFORMATION, AND THE TYPE OF HEALTH OCCUPATION LICENSE
9 HELD BY THE HEALTH CARE PRACTITIONER; AND

10 (3) OBTAINS ORAL OR WRITTEN CONSENT FROM THE PATIENT OR
11 FROM THE PATIENT'S PARENT OR GUARDIAN IF STATE LAW REQUIRES THE CONSENT
12 OF A PARENT OR GUARDIAN.

13 1-1003.

14 (A) A HEALTH CARE PRACTITIONER PROVIDING TELEHEALTH SERVICES
15 SHALL ~~BE~~:

16 (1) BE HELD TO THE SAME STANDARDS OF PRACTICE THAT ARE
17 APPLICABLE TO IN-PERSON HEALTH CARE SETTINGS; AND

18 (2) IF CLINICALLY APPROPRIATE FOR THE PATIENT, PROVIDE OR
19 REFER A PATIENT TO IN-PERSON HEALTH CARE SERVICES OR ANOTHER TYPE OF
20 TELEHEALTH SERVICE.

21 (B) (1) A HEALTH CARE PRACTITIONER SHALL PERFORM A CLINICAL
22 EVALUATION THAT IS APPROPRIATE FOR THE PATIENT AND THE CONDITION WITH
23 WHICH THE PATIENT PRESENTS BEFORE PROVIDING TREATMENT OR ISSUING A
24 PRESCRIPTION THROUGH TELEHEALTH.

25 (2) A HEALTH CARE PRACTITIONER MAY USE A SYNCHRONOUS
26 TELEHEALTH INTERACTION OR AN ASYNCHRONOUS TELEHEALTH INTERACTION TO
27 PERFORM THE CLINICAL EVALUATION REQUIRED UNDER PARAGRAPH (1) OF THIS
28 SUBSECTION.

29 (C) (1) ~~A~~ A HEALTH CARE PRACTITIONER MAY NOT PRESCRIBE A
30 CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL
31 LAW ARTICLE, THROUGH TELEHEALTH, UNLESS A DECLARED STATE OF
32 EMERGENCY IS IN EFFECT.

1 **(2) IF A DECLARED STATE OF EMERGENCY IS IN EFFECT, A HEALTH**
2 **CARE PRACTITIONER WHO THROUGH TELEHEALTH PRESCRIBES A CONTROLLED**
3 **DANGEROUS SUBSTANCE, AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE,**
4 **IS SUBJECT TO ANY APPLICABLE REGULATION, LIMITATION, AND PROHIBITION IN**
5 **FEDERAL AND STATE LAW RELATING TO THE PRESCRIPTION OF CONTROLLED**
6 **DANGEROUS SUBSTANCES.**

7 **1–1004.**

8 **(A) A HEALTH CARE PRACTITIONER SHALL DOCUMENT IN A PATIENT’S**
9 **MEDICAL RECORD THE HEALTH CARE SERVICES PROVIDED THROUGH TELEHEALTH**
10 **TO THE PATIENT ACCORDING TO THE SAME DOCUMENTATION STANDARDS USED FOR**
11 **IN–PERSON HEALTH CARE SERVICES.**

12 **(B) ALL LAWS REGARDING THE CONFIDENTIALITY OF HEALTH**
13 **INFORMATION AND A PATIENT’S RIGHT TO THE PATIENT’S HEALTH INFORMATION**
14 **APPLY TO TELEHEALTH INTERACTIONS IN THE SAME MANNER AS THE LAWS APPLY**
15 **TO IN–PERSON HEALTH CARE INTERACTIONS.**

16 **1–1005.**

17 **A HEALTH CARE PRACTITIONER PROVIDING HEALTH CARE SERVICES**
18 **THROUGH TELEHEALTH MUST BE LICENSED, CERTIFIED, OR OTHERWISE**
19 **AUTHORIZED BY LAW TO PROVIDE HEALTH CARE SERVICES IN THE STATE IF THE**
20 **HEALTH CARE SERVICES ARE BEING PROVIDED TO A PATIENT LOCATED IN THE**
21 **STATE.**

22 **1–1006.**

23 **(A) A HEALTH OCCUPATIONS BOARD MAY ADOPT REGULATIONS TO**
24 **IMPLEMENT THIS SUBTITLE.**

25 **(B) REGULATIONS ADOPTED BY A HEALTH OCCUPATIONS BOARD UNDER**
26 **SUBSECTION (A) OF THIS SECTION:**

27 **(1) MAY NOT ESTABLISH A SEPARATE STANDARD OF CARE FOR**
28 **TELEHEALTH; AND**

29 **(2) SHALL ALLOW FOR THE ESTABLISHMENT OF A**
30 **PRACTITIONER–PATIENT RELATIONSHIP THROUGH A SYNCHRONOUS TELEHEALTH**
31 **INTERACTION OR AN ASYNCHRONOUS TELEHEALTH INTERACTION PROVIDED BY A**
32 **HEALTH CARE PRACTITIONER WHO IS COMPLYING WITH THE HEALTH CARE**
33 **PRACTITIONER’S STANDARD OF CARE.**

1 SECTION 2. AND BE IT FURTHER ENACTED, That it is the intent of the General
2 Assembly that the Governor shall develop and implement a plan to facilitate the joining of
3 the State with adjacent states and jurisdictions in interstate compacts regulating health
4 care practitioners for the purpose of improving patient access to health care practitioners
5 in State communities experiencing a health care practitioner shortage.

6 SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act ~~shall take effect~~
7 ~~July 1, 2020~~ is an emergency measure, is necessary for the immediate preservation of the
8 public health or safety, has been passed by a yea and nay vote supported by three-fifths of
9 all the members elected to each of the two Houses of the General Assembly, and shall take
10 effect from the date it is enacted.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.