



Telehealth Updates to the Health and Government Ops. Cmte.

Health Occupations and Long-Term Care Subcommittee and Health Insurance Subcommittee

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Summary

- The Maryland Department of Health (MDH) is working closely with the MD Insurance Administration, the Maryland Health Care Commission, and the health occupation boards and commissions to ensure telehealth flexibilities for Marylanders during the COVID-19 declaration of emergency and catastrophic health emergency.
- Three basic efforts:
 - Ensuring alignment with federal telehealth flexibilities through the federal public health emergency (Maryland Medicaid).
 - Implementing HB448/SB402 (2020) with the boards, including the development and promulgation of regulations as appropriate.
 - Providing COVID-19 specific assistance for specific providers through Executive and Departmental orders.

Medicaid & Telehealth

- Medicaid has implemented temporary flexibilities designed to ensure safety of participants and providers during the COVID-19 pandemic.
- Most flexibilities are tied to
 - (1) Executive Orders and/or
 - (2) Waivers from the federal government.
- Federal Actions:
 - January 31, 2020: Public Health Emergency (PHE) declared (retroactive to January 27, 2020)
 - March 13, 2020: National Emergency (NE) declared
 - PHE extended for up to an additional 90 days at a time; last extended Oct. 2, effective Oct. 23. The current authority expires Jan. 23, 2021.
- The federal PHE allows two principal telehealth flexibilities:
 - Using non-HIPAA compliant technology for health care providers; and
 - Audio-only services.
- The combination of the federal PHE flexibilities and Governor's Executive Orders allow Maryland to use state and federal funds to reimburse services in the home using such services. We are waiting on federal guidance on audio-only services reimbursement.

Medicaid & Telehealth (2)

- Safety of Medicaid providers and participants is a priority.
- To prevent transmission and spread of COVID-19 disease, Medicaid implemented certain flexibilities with respect to delivery of services via telehealth, these include:
 - Permitting a participant's home or any other secure location to serve as a telehealth originating site for purpose of the delivery of Medicaid-covered services;
 - Permitting reimbursement for audio-only health care services delivered by phone; and
 - Permitting the use of telehealth technology not compliant with HIPAA.
 - Federal waivers permitting telephonic and non-HIPAA compliant technology sunset in tandem with the end of the federal PHE.
 - Medicaid is evaluating which services may be appropriate for delivery via telehealth in a home setting on a permanent basis.

Useful Links for Medicaid

- COVID-19 Provider Information:
<https://mmcp.health.maryland.gov/Pages/COVID-19-Provider-Updates.aspx>
- COVID-19 Participant Information:
<https://mmcp.health.maryland.gov/Pages/Medicaid-COVID-19-Participant-Updates.aspx>
- COVID-19 Federal Waivers:
<https://mmcp.health.maryland.gov/Pages/home.aspx>

Statutes and MD Emergency Orders

- **HB448** (Rosenberg, *et al.*) / **SB402** (2020) passed at the end of the 2020 Session as emergency legislation, and was signed into law by the Governor as Ch. 15/16.
 - HB448/SB402 provide the new statutory basis for telehealth in Maryland, largely replacing older legislation and regulations from a year ago.
 - HB448/SB402 does not permit telehealth health services through audio-only calls, emails, or faxes.
- **Exec. Order No. 20-04-01-01** (issued 4/1/2020, replaced the order of 3/20/2020) authorizes the Health Secretary to authorize health care practitioners to deliver healthcare services through telehealth, including realtime (or synchronous) audio-only calls or conversations, with certain conditions and suspends the HB448/SB402 prohibition of audio-only calls for the duration of the COVID-19 state of emergency.

Health Occ. Board Specific Orders

- MD Department of Health Orders issued by request and consultation with the relevant health occupation Board.
- **Professional Counselors & Therapists Board (04/06/2020):**
 - Permits Alcohol and Drug Trainees to provide counseling services via teletherapy.
 - Permits interstate teletherapy (where a professional counselor or therapist from out of state can provide services to a Maryland patient if they had a pre-COVID-19 professional relationship).
- **Audiologists, Hearing Aid Dispensers & Speech Language Pathologists Board (05/08/2020):**
 - Permits interstate telehealth services (same as above).
- **Morticians Board (07/24/2020):**
 - Waives practical exam requirement for Mortician's License.

Health Occ. Board Telehealth Updates

An informal survey of the boards revealed:

1. Numerous **inquiries** from licensees seeking clarification:
 - who can perform telehealth services;
 - where the client must be located, and
 - guidance for compliance with technological requirements, HIPPA, etc.
2. The Board of Physicians has received many **complaints** regarding telehealth:
 - Out of state practitioners prescribing CDS to MD patients;
 - Telemedicine companies and physicians prescribing high cost durable medical equipment, Rxs, CDS without a MD license;
 - Prescriptions issued without physical examination or existing patient relationship;
 - MD licensed physicians supervising out of state PAs, not licensed in MD, who are prescribing to MD patients, and
 - Appropriate use and technical issues such as being required to disrobe on camera, practitioner muting relatives/power of attorney during appointment, patients being denied telehealth visits, practitioners showing up late or missing telehealth appointments.
3. **Concerns** that out of state providers are unregulated resulting in frustration by consumers, pharmacists, and practitioners.