



# Board of Physicians

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

## **Telehealth – Maryland State of Emergency – COVID-19** **Frequently Asked Questions**

The Maryland Board of Physicians encourages Maryland practitioners regulated by the Board of Physicians to consider how telehealth might be added to their practice during the Maryland State of Emergency.

**Q: May I practice telehealth in Maryland without a Maryland license during the Maryland State of Emergency?**

A: For the duration of the Maryland State of Emergency, health care practitioners who have an active license in good standing in another state or the District of Columbia may practice telehealth without a Maryland license to provide continuity of care to existing Maryland patients during the state of emergency for the purpose of implementing social distancing. Please see <https://www.mbp.state.md.us/forms/NoticeExecOrder.pdf>

Also, during the state of emergency out-of-state licensees may be able to practice at a Maryland healthcare facility. Please see <https://www.mbp.state.md.us/forms/FAQsExecOrder.pdf> for guidance regarding the Executive Order concerning out-of-state licensees.

**Q: What rules must I follow to be reimbursed for Telehealth Services during the Maryland State of Emergency?**

A: The Board does not provide reimbursement advice. However, the Governor's April 1, 2020 Executive Order "To further Authorize Additional Telehealth Services" (attached) has the following requirements to qualify for reimbursement from the Maryland Medical Assistance Program for telehealth, telecommunications technology, and audio-only calls or conversations with medical assistance or behavioral health service recipients:

- I. The health care services delivered are:
  - a. Clinically appropriate; and
  - b. Within the scope of practice of the health care practitioner; and
- II. The health care practitioner:
  - a. Is licensed, certified, or otherwise authorized by law to provide health care services in the state;
  - b. Complies with the same standards of practice that are applicable to the provision of health care services in in-person health care settings;
  - c. Documents in a patient's medical record the health care services provided through telehealth or audio-only calls or conversations, according to the same documentation

- standards used for in-patient health care services; and
- d. If using audio-only calls or conversations, can interact with the patient at the time the health care service is provided.
- III. A health care practitioner authorized to use telehealth or audio-only calls or conversations may establish a practitioner–patient relationship through an exchange of information between a patient and a health care practitioner, if:
- a. The health care practitioner;
  - b. Verifies the identity of the patient receiving health care services through telehealth or audio-only calls or conversations;
  - c. Discloses to the patient the health care practitioner’s name, contact information, and the type of health occupation license held by the health care practitioner;
  - d. Obtains oral or written consent from the patient or from the patient’s parent or guardian if state law requires the consent of a parent or guardian; and
    - i. Any audio-only calls or conversation occur in real time.
- IV. Before providing treatment or issuing a prescription through telehealth or audio-only calls or conversations, the health care practitioner shall perform a clinical evaluation that is appropriate for the patient and the condition with which the patient presents.
- V. A health care practitioner who through telehealth or audio-only calls or conversations prescribes a controlled dangerous substance, as defined in § 5–101 of the Criminal Law article of the Maryland Code, is subject to any applicable regulation, limitation, and prohibition in federal and state law relating to the prescription of controlled dangerous substances.

**Q: What privacy requirements for video-phone provider-patient interactions have changed due to the Maryland State of Emergency?**

A: The requirement that a link must be a secure and private telehealth connection in accordance with state and federal law and the required use of encryption has been relaxed during the Federal and Maryland states of emergency. During the Federal and Maryland states of emergency a provider shall make good faith efforts to prevent access to data by unauthorized persons. Please refer to the latest state and federal privacy rules for further information, including the following website for information about HIPAA: <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

Additionally, the Governor’s April 1, 2020 Executive Order “To further Authorize Additional Telehealth Services” (attached) states that the effect of HG § 4-301 to 4-309 is hereby suspended in connection with the provision of health care services through the telehealth, audio-only calls or conversations, or telemedicine as defined in HG § 15-105.2.

**Q: During the Maryland State of Emergency, may I prescribe Opioids for the treatment of pain through telehealth?**

A: Yes, during the state of emergency, prescriptions for Opioids may be prescribed for pain. Please see the Office of Controlled Substances Administration frequently asked questions for

more details about prescribing Controlled Dangerous Substances during the State of Emergency.

**PLEASE BE ADVISED:** The suspension of statutes and regulations during the state of emergency and catastrophic health emergency, as approved by the Board in its public notice, as proclaimed by the Governor in the March 16, 2020 Executive Order “Relating to Various Health Care Matters,” and as proclaimed by the Governor in the April 1, 2020 Executive Order “To further Authorize Additional Telehealth Services” will not be considered as a basis for making these temporary changes permanent.

## **Telehealth – General Frequently Asked Questions**

Please review these frequently asked questions about the Board’s regulations regarding Telehealth. The Board’s Telehealth Regulations are in the Code of Maryland Regulations at 10.32.05 [http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=10.32.05.\\*](http://www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=10.32.05.*). Please note, while these FAQs reflect recent legislative changes, the regulations do not.

**Please note that these frequently asked questions only address the Maryland Board of Physicians’ regulations and do not constitute legal advice.**

### **Is Telehealth Allowed for Treating Patients?**

**Q: May I practice telehealth in Maryland without a Maryland license?**

A: Generally, you must be licensed in Maryland to treat patients in Maryland. For the duration of the Maryland State of Emergency, health care practitioners who have an active license in good standing in another state or the District of Columbia may practice telehealth without a Maryland license to provide continuity of care to existing Maryland patients during the state of emergency for the purpose of implementing social distancing. Health Occ. § 1-1005; COMAR 10.32.05.03.

**Q: Do I need a special telehealth license to perform telehealth in the state?**

A: No. You do not need a special telehealth license. A Maryland license authorizes you to perform telehealth for Maryland patients without any further authorization from the Board. COMAR 10.32.05.03.

**Q: I have a Maryland license; can I treat existing patients who reside outside of Maryland via telehealth, so that they do not have to come into my office?**

A: Please consult the statutes and regulations in the state where the patient is located.

**Q: May I perform telehealth services via video-phone?**

A: Yes. Generally, the link must be a secure and private telehealth connection as required by state and federal law and you should prevent access to data by unauthorized persons through encryption or other means. COMAR 10.32.05.04B. These requirements for a secure and private telehealth connection have been relaxed during the Federal and Maryland states of emergency. During the Federal and Maryland states of emergency you should make good faith efforts to prevent access to data by unauthorized persons. Please refer to the following website for information about HIPAA: <https://www.hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html>

**Q: May I treat patients via telephone calls, emails, or faxes?**

A: Yes. The Board’s telehealth regulations do not apply to telephone calls, emails or fax. *See* Health Occ. § 1-1001(E)(3). COMAR 10.32.05.02B (8) (b). For the duration of the state of emergency, the April 1, 2020 Executive Order allows treatment and Medicaid reimbursement for audio-only calls and conversations and asynchronous telehealth. *See* Executive Order Number 20-04-01-01. Such interactions may not be reimbursable after the state of emergency is lifted, but are not prohibited or otherwise regulated by the Board’s telehealth regulations.

**Please Note:** The Board does not regulate reimbursement. Changes in reimbursement for the Maryland Medical Assistance Program or for those in a program of the Behavioral Health Administration have been authorized by an Executive Order of the Governor “To further Authorize Additional Telehealth Services” (attached). *See* Executive Order Number 20-04-01-01 (attached). Please see that executive order and the links and contact list at the end of this document for further questions about reimbursement for Medicare, Medicaid and Insurance Companies.

**Q: What telehealth modalities may I use?**

A: You may use all telehealth modalities, including synchronous or asynchronous telehealth interactions. *See* Health Occ. § 1-1002.

**Q: May I prescribe Opioids for the treatment of pain through telehealth?**

A: Yes, but only during a declared state of emergency due to a catastrophic health emergency or if the prescription is provided to a patient in a health care facility, as defined in Health-General Article § 19-114(d)(1). You must continue to follow Federal and Maryland law relating to the prescription of Controlled Dangerous Substances. Health Occ. § 1-1003(C); COMAR 10.32.06C.

## **What Additional Telehealth Rules Must I Follow?**

### **Q: What requirements must be met when performing telehealth?**

A: A practitioner performing telehealth should verify the patient's identity, disclose to the patient the health care practitioner's name, contact information, and type of health occupation license, obtain oral or written consent from a patient to perform the telehealth services, utilize encryption to prevent access to data by an unauthorized person, ensure the telehealth connection is secure and complies with state and federal privacy laws, and establish safety protocols in the case of an emergency. *See* Health Occ. § 1-1002; COMAR 10.32.05.04.

### **Q: How should I verify the patient's identity?**

A: A patient may present photo identification, or you may use any other means to identify a patient that you would accept for an in-person encounter.

### **Q: Why must I provide the patient with my contact information during the initial telehealth encounter?**

A: Patients should be informed of the practitioner who is treating them and be able to contact the practitioner again for follow-up care. COMAR 10.32.05.04B (3).

### **Q: Is written patient consent required before engaging in telehealth?**

A: The statute requires oral or written consent from the patient or from the patient's parent or guardian if state law requires consent of a parent or guardian. *See* Health Occ. § 1-1002.

### **Q: What privacy issues should I be considering?**

A: Please consider whether your technology for providing telehealth services includes encryption, password protection, or other security measures to ensure confidentiality and prevent unauthorized people from accessing the confidential visit. A written business associate agreement between the telehealth practitioner and the company providing telehealth services may be necessary to safeguard and protect privacy and security of the patient. COMAR 10.32.05.04A (3), (5).

### **Q: What safety protocols are required?**

A: Just as a health care practitioner has a procedure in their office in the case of emergency, it is even more crucial that the telehealth practitioner have a procedure in place if a patient who is being seen remotely has a medical emergency. COMAR 10.32.05.04A (6).

**Q: Are there any special requirements for a real-time telehealth encounter?**

A: Yes. A physician should obtain an alternative method of contacting the patient if there is a technological failure, identify the practice setting of the patient and confirm whether the patient is in Maryland, and identify individuals at each location and confirm that they are allowed to hear the personal health information to be discussed. COMAR 10.32.05.04B.

**Q: What does “identify practice setting” mean?**

A: You should be aware of the location where your patient is contacting you from (a local clinic, hospital, the patient’s home, a nursing home, or other location). COMAR 10.32.05.04B (2).

**Q: Do I need to identify information technology staff, medical assistants, and others who are present during the telehealth communication?**

A: Yes. Unlike an in person visit, it is not apparent who is in the room and “off-camera” during a patient encounter. To insure patient privacy, all individuals in the room at each location are required to be identified and the patient should consent to discussing confidential information with those individuals present in the room, or you should ask those individuals to leave. COMAR 10.32.05.04B (4).

### **Standard of Care**

**Q: What is the standard of care for telehealth?**

A: The standard of care for telehealth treatment and documentation recording the health care services provided by telehealth is the same standard as for an in-person health care service visit. The laws regarding confidentiality of health information and a patient’s right to the patient’s health information also apply in the same manner as the laws apply to an in-person health care interaction. The Board uses the same standards for evaluating and investigating complaints regarding telehealth practitioners and practitioners who see patients in-person. The use of telehealth does not excuse a practitioner from failing to comply with certain requirements or failing to conduct required tests because they are not technologically feasible. If the standard of care would require information or treatment that is only obtainable in-person, the practitioner should see the patient in-person. *See* Health Occ. § 1-1003(A)(1); § 1-1004; COMAR 10.32.05.06A, COMAR 10.32.05.07A.

### **Reimbursement Questions - Including Medicaid**

The Board does not provide reimbursement advice. If you have questions about reimbursement please consult the Medicaid regulations at COMAR 10.09.49 and the telephone numbers at the

bottom of these FAQs or visit the following websites for Maryland State of Emergency related changes regarding reimbursement:

Governor Hogan’s April 1, 2020 Executive Order To further Authorize Additional Telehealth Services Executive Order Number 20-04-01-01 (attached).

<https://governor.maryland.gov/wp-content/uploads/2020/04/Telehealth-Amended-4.1.20.pdf>

COVID-19 #1: Temporary Expansion of Medicaid Regulations to Permit Delivery of Telehealth Services to the Home to Mitigate Possible Spread of Novel Coronavirus (“COVID-19”), [https://phpa.health.maryland.gov/Documents/COVID-19.1\\_Telehealth%20Guidance\\_Neall.pdf](https://phpa.health.maryland.gov/Documents/COVID-19.1_Telehealth%20Guidance_Neall.pdf)

Maryland Medicaid Telehealth Program:

<https://mmcp.health.maryland.gov/Pages/telehealth.aspx>

Federal Medicare: <https://www.cms.gov/newsroom/fact-sheets/medicare-telemedicine-health-care-provider-fact-sheet>

Or try calling these phone numbers for more information:

Phone Numbers	For Consumers	For Providers
Medicaid Hotline	(800) 284-4510	(800) 766-8692
Optum Behavioral Health ASO	(800) 888-1965	(800) 888-1965
Aetna	(866) 827-2710	(866) 827-2710
Amerigroup	(800) 600-4441	(800) 454-3730
Jai Medical Systems	(888) 524-1999	(888) 524-1999
Kaiser Permanente	(855) 249-5025	(301) 816-6564
Maryland Physicians Care	(800) 953-8854	(410) 401-9504
MedStar Family Choice	(800) 404-3549	(800) 905-1722
Option 6 Priority Partners	(800) 654-9728	(888) 895-4998
UnitedHealthcare	(800) 318-8821	(877) 842-3210
University of Maryland Health Partners	(800) 730-8530	(443) 552-3263



# The State of Maryland

## Executive Department

### ORDER OF THE GOVERNOR OF THE STATE OF MARYLAND

NUMBER 20-04-01-01

AMENDING AND RESTATING ORDER No. 20-03-20-01  
TO FURTHER AUTHORIZE ADDITIONAL TELEHEALTH SERVICES

- WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, and renewed on March 17, 2020, to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency continue to exist;
- WHEREAS, The currently known and available scientific evidence and best practices support social distancing to prevent exposures to and transmissions of COVID-19, and to reduce the threat to especially vulnerable populations, including older individuals and those with chronic health conditions;
- WHEREAS, Health care practitioners are needed to respond to the state of emergency and catastrophic health emergency;
- WHEREAS, To respond to the state of emergency and catastrophic health emergency, health care practitioners must be permitted to deliver health care services at sites other than the sites at which patients are located;
- WHEREAS, Marylanders require access to health care services during the catastrophic health emergency, but compliance with social distancing guidelines may make it difficult for Marylanders to safely obtain those health care services in-person;
- WHEREAS, To protect the public health, welfare, and safety, prevent the transmission of the novel coronavirus, control the spread of COVID-19, and save lives, it is necessary to minimize the movement of individuals in Maryland, including those seeking health care services;

WHEREAS, It is necessary that health care practitioners licensed, certified, or otherwise authorized by law to provide health care services be permitted in Maryland to provide those services through the use of telecommunications technologies (“telehealth”), including audio-only calls or conversations, while complying with the same standards of practice that are applicable to in-person health care settings;

WHEREAS, To expand the use of telehealth and the delivery of health care services through audio-only calls and conversations, and protect the public health, welfare, and safety, it is necessary to suspend certain State and local statutes, rules, and regulations regarding confidentiality during use of various video and telecommunications applications and products;

WHEREAS, It is necessary during the state of emergency and catastrophic health emergency that health care practitioners be authorized to, through telehealth and audio-only calls or conversations, perform clinical evaluations, refer patients to health care services, provide treatment, and issue prescriptions; and

WHEREAS, Authorizing health care practitioners to use telehealth and audio-only calls or conversations under appropriate circumstances will help Marylanders continue to receive needed health care services during the catastrophic health emergency;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, DO HEREBY ORDER:

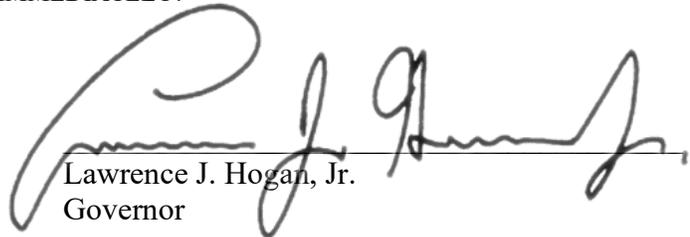
- I. Order No. 20-03-20-01 of the Governor of the State of Maryland is further amended and restated in its entirety as set forth herein.
- II. Subject to paragraphs III, IV, and V of this Order, the Secretary of Health may, through directives, rules, or guidelines, authorize a health care practitioner to deliver health care services through the use of telecommunications technologies (“telehealth”), as well as audio-only calls or conversations, to a patient at a different physical location than the health care practitioner, provided that:
  - a. The health care services delivered are:
    - i. Clinically appropriate; and
    - ii. Within the scope of practice of the health care practitioner; and
  - b. The health care practitioner:

- i. Is licensed, certified, or otherwise authorized by law to provide health care services in the state;
    - ii. Complies with the same standards of practice that are applicable to the provision of health care services in in-person health care settings;
    - iii. Documents in a patient's medical record the health care services provided through telehealth or audio-only calls or conversations, according to the same documentation standards used for in-patient health care services; and
    - iv. If using audio-only calls or conversations, can interact with the patient at the time the health care service is provided.
- III. A health care practitioner authorized to use telehealth or audio-only calls or conversations may establish a practitioner-patient relationship through an exchange of information between a patient and a health care practitioner, if:
  - a. The health care practitioner:
    - i. Verifies the identity of the patient receiving health care services through telehealth or audio-only calls or conversations;
    - ii. Discloses to the patient the health care practitioner's name, contact information, and the type of health occupation license held by the health care practitioner;
    - iii. Obtains oral or written consent from the patient or from the patient's parent or guardian if state law requires the consent of a parent or guardian; and
  - b. Any audio-only calls or conversation occur in real time.
- IV. Before providing treatment or issuing a prescription through telehealth or audio-only calls or conversations, the health care practitioner shall perform a clinical evaluation that is appropriate for the patient and the condition with which the patient presents.
- V. A health care practitioner who through telehealth or audio-only calls or conversations prescribes a controlled dangerous substance, as defined in § 5-101 of the Criminal Law article of the Maryland Code, is subject to any applicable regulation, limitation, and prohibition in federal and state law relating to the prescription of controlled dangerous substances.
- VI. The Maryland Medical Assistance Program shall not reimburse, in accordance with the requirements of Title 15, Subtitle 1 of the Health-General Article of the Maryland Code ("HG"), health care practitioners for health care services provided through telehealth or audio-only calls or conversations if the health care practitioner has violated this Order.
- VII. The Behavioral Health Administration shall not reimburse, in accordance with the requirements of HG Title 7.5, Subtitle 2, health care practitioners for health care services

provided through telehealth or audio-only calls or conversations if the health care practitioner has violated this Order.

- VIII. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this order, including HG § 15-105.2, is hereby suspended.
- IX. The effect of HG §§ 4-301 to 4-309 is hereby suspended in connection with the provision of health care services through telehealth, audio-only calls or conversations, or telemedicine as defined in HG § 15-105.2.
- X. Subject to paragraphs VIII and IX of this Order, all others laws and regulations regarding the confidentiality of health information and a patient's right to the patient's health information apply to telehealth interactions or audio-only calls or conversations in the same manner as the laws apply to in-person health care interactions.
- XI. This Order remains effective until the state of emergency has been terminated and the proclamation of the catastrophic health emergency has been rescinded, or until rescinded, superseded, amended, or revised by additional orders.

ISSUED UNDER MY HAND THIS 1ST DAY OF APRIL, 2020, AND  
EFFECTIVELY IMMEDIATELY.



Lawrence J. Hogan, Jr.  
Governor

Chapter 16

(Senate Bill 402)

AN ACT concerning

**Health Care Practitioners – Telehealth and Shortage**

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

BY adding to

Article – Health Occupations

Section 1–1001 through 1–1006 to be under the new subtitle “Subtitle 10. Telehealth”

Annotated Code of Maryland

(2014 Replacement Volume and 2019 Supplement)

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

**Article – Health Occupations**

**SUBTITLE 10. TELEHEALTH.**

**1–1001.**

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

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

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

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

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

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

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

1-1002.

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

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

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

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

1-1003.

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

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

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

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

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

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

(C) (1) A HEALTH CARE PRACTITIONER MAY NOT PRESCRIBE AN OPIATE DESCRIBED IN THE LIST OF SCHEDULE II SUBSTANCES UNDER § 5-403 OF THE CRIMINAL LAW ARTICLE FOR THE TREATMENT OF PAIN THROUGH TELEHEALTH, UNLESS:

(I) THE INDIVIDUAL RECEIVING THE PRESCRIPTION IS A PATIENT IN A HEALTH CARE FACILITY, AS DEFINED IN § 19-114 OF THE HEALTH – GENERAL ARTICLE; OR

(II) THE GOVERNOR HAS DECLARED A STATE OF EMERGENCY DUE TO A CATASTROPHIC HEALTH EMERGENCY.

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

**1-1004.**

**(A) A HEALTH CARE PRACTITIONER SHALL DOCUMENT IN A PATIENT'S MEDICAL RECORD THE HEALTH CARE SERVICES PROVIDED THROUGH TELEHEALTH TO THE PATIENT ACCORDING TO THE SAME DOCUMENTATION STANDARDS USED FOR IN-PERSON HEALTH CARE SERVICES.**

**(B) ALL LAWS REGARDING THE CONFIDENTIALITY OF HEALTH INFORMATION AND A PATIENT'S RIGHT TO THE PATIENT'S HEALTH INFORMATION APPLY TO TELEHEALTH INTERACTIONS IN THE SAME MANNER AS THE LAWS APPLY TO IN-PERSON HEALTH CARE INTERACTIONS.**

**1-1005.**

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

**1-1006.**

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

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

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

**(2) SHALL ALLOW FOR THE ESTABLISHMENT OF A PRACTITIONER-PATIENT RELATIONSHIP THROUGH A SYNCHRONOUS TELEHEALTH INTERACTION OR AN ASYNCHRONOUS TELEHEALTH INTERACTION PROVIDED BY A HEALTH CARE PRACTITIONER WHO IS COMPLYING WITH THE HEALTH CARE PRACTITIONER'S STANDARD OF CARE.**

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

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

**Approved by the Governor, April 3, 2020.**