

HOUSE BILL 448

J2, J1

0lr1012
CF SB 402

By: ~~Delegate Rosenberg~~ Delegates Rosenberg, Bagnall, Bhandari, Charles, Cullison, Kelly, Kerr, R. Lewis, Pena-Melnyk, Pendergrass, Sample-Hughes, and K. Young

Introduced and read first time: January 23, 2020

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 4, 2020

CHAPTER _____

1 AN ACT concerning

2 **Health Care Practitioners – Telehealth**

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; providing that a health care practitioner who
10 prescribes a controlled dangerous substance through telehealth is subject to certain
11 laws; requiring a health care practitioner to document certain information in a
12 patient’s medical record using certain documentation standards; providing that
13 certain laws regarding confidentiality and a patient’s right to health information
14 apply to telehealth interactions in a certain manner; requiring a health care
15 practitioner performing services through telehealth to be licensed, certified, or
16 otherwise authorized by law to provide health care services in the State under
17 certain circumstances; authorizing health occupations boards to adopt certain
18 regulations; defining certain terms; and generally relating to telehealth and health
19 care practitioners.

20 BY adding to
21 Article – Health Occupations

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.



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.

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) A HEALTH CARE PRACTITIONER WHO THROUGH TELEHEALTH
30 PRESCRIBES A CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF
31 THE CRIMINAL LAW ARTICLE, IS SUBJECT TO ANY APPLICABLE REGULATION,
32 LIMITATION, AND PROHIBITION IN FEDERAL AND STATE LAW RELATING TO THE
33 PRESCRIPTION OF CONTROLLED DANGEROUS SUBSTANCES.

1 **1-1004.**

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

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

10 **1-1005.**

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

16 **1-1006.**

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

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

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

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

28 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**
29 **1, 2020.**