AARP_Tammy Bresnahan_FAV_SB402
Uploaded by: Bresnahan, Tammy
Position: FAV

AARP Real Possibilities Maryland

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SB 402 Health Care Practitioners – Telehealth
Senate Education, Health & Environmental Affairs Committee
FAVORABLE
February 13, 2020

Good Afternoon Chairman Pinksy and Vice Chairwoman Kagan and members of the Senate Education, Health & Environmental Affairs Committee. My name is Tammy Bresnahan and I am the Director of Advocacy for AARP MD. As you may know, AARP Maryland is one of the largest membership-based organizations in the Free State, encompassing almost 900,000 members**.** I am here today representing AARP MD and its members in support of **SB 402 Health Care Practitioners – Telehealth**. We thank Senator Kagan for bringing this bill forward.

AARP is a nonpartisan, nonprofit, nationwide organization that helps people turn their goals and dreams into real possibilities, strengthens communities and fights for the issues that matter most to families such as healthcare, employment and income security, retirement planning, affordable utilities and protection from financial abuse.

SB 402 authorizes a health care practitioner (an individual licensed under the Health Occupations Article) to establish a practitioner-patient relationship through a telehealth interaction through asynchronous telehealth interaction, 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. SB 402 also includes synchronous telehealth interaction, an exchange of information between a patient and a health care practitioner that occurs in real time.

Telehealth holds great potential for helping seniors looking to maintain their independence and enjoy living at home longer. It offers a range of options to make healthcare easier and more accessible. From tracking vital signs with remote monitoring devices, to communicating easily with a nurse through a web portal, to receiving on-the-spot care from a doctor via video chat, telehealth aims to make life easier. Research shows that older adults prefer to remain in their homes for as long as they are able to do so.[1] Wherever people live, they need access to health care and support services—telehealth can play a part in enabling people to age in place.

Telehealth shows great potential for making healthcare more affordable, convenient, and self-directed, which may explain its rapid growth. According to AARP research, the telehealth industry

[1] Joanne Binette and Kerri Vasold, 2018 Home & Community-Based Preferences: A National Survey of Adults Age 18 Plus. Washington, DC. AARP Research, August, 2018. Available as of July 17, 2019 at, https://www.aarp.org/research/topics/community/info-2018/2018-home-community-preference.html

will reach $36.2 billion by the year 2020, up from $14.3 billion in 2013. While the industry reported only 350,000 users in 2013, around 7 million people are expected to use some form of telehealth in the year 2018.

For many caregivers, finding time to help manage their older family member's health issues can be difficult. Accompanying seniors to frequent doctor's appointments, coordinating care, and managing health records can prove challenging. Thankfully, telehealth may make the process easier for both seniors and their caregivers, helping both keep their independence. Many seniors and the adult children who serve as caregivers live far apart, and telehealth may help them communicate more easily.

Lastly, telehealth can help caregivers in practicing self-care, making the caregiving relationship more sustainable for both parties. Online therapy in particular shows great promise for helping caregivers get the support they need while caring for an older family member. Accessing a therapist from home can let them care for their own needs in order to continue helping their loved one.[2]

AARP supports SB 402 and respectfully requests the Education, Health & Environmental Affairs Committee issue a favorable report. For questions please contact Tammy Bresnahan at 410-302-8451 or at tbresnahan@aarp.org .

[2] https://www.aginginplace.org/telehealth-and-seniors

SB402_Hims_Support_Carroll
Uploaded by: Carroll, Dr. Patrick
Position: FAV

Re: Senate Bill 402, Healthcare Practitioners - Telehealth
Dr. Patrick Carroll, Chief Medical Officer
in Support

Chairman Pensky, Vice-Chair Kagan and members of the Committee, my name is Patrick Carroll and I'm the Chief Medical Officer for Hims & Hers, a direct-to-consumer digital health company. Our innovative platform connects consumers to state-licensed physicians for medical consultations focused on specific conditions that are largely stigmatized and where telemedicine can be safe and discreet.

You might not be familiar with who we are but chances are you know someone who is using our service. In less than two years, we have facilitated more than one million digital healthcare visits across the United States and have built a critical access point to everyday conditions that are often difficult to discuss or are stigmatized by society; conditions such as hair loss, erectile dysfunction, and acne among others.

In my role as Chief Medical Officer, I am responsible for ensuring the safety and clinical quality of the care that patients access through our platform. It's also my job and that of our company to always keep a vigilant eye on ways we can enhance care delivery models for patients who struggle with access or other barriers to treatment.

Prior to joining Hims & Hers, I served as the Chief Medical Officer at Walgreens where I supervised the retail clinics business, our health system collaborations, and various quality and safety programs.

My background in healthcare goes back many decades. I started my career as a physician working for a primary care group in the Northeast. I've twice spent extended periods of time working for the Indian Health Service in suboptimal conditions. And I got to know the ins-and-outs of value-based care as I was helping steer Hartford Healthcare through their transformation.

I'm here today to speak out in support of SB 402, a bill that establishes stronger standards for telemedicine and embraces telehealth as a means to ensure we are upholding the same level of care as an in-person setting.

We have only recently begun to offer access to consultations in Maryland, starting at the end of January. This is because we've added live audio and video capabilities to our platform. Up to then, we were unable to offer access to care in Maryland because the current telemedicine

statues don't afford providers the ability to offer care asynchronously or through store-and-forward technology.

The feedback we've consistently received in Maryland and throughout the country is that patients prefer the efficiency and privacy an asynchronous visit offers compared to that of a live audio or video chat.

As patients we are often at the mercy of a physician's schedule, which rarely align to meet our demanding lives. Asynchronous care, especially for the conditions that are treated by the providers using our platform, gives consumers the flexibility and discretion to seek individualized care for historically stigmatized conditions.

When SB 402 is enacted, Maryland providers will have the flexibility to use tools like ours to offer asynchronous options to Maryland patients anywhere in the state and reach into communities in desperate need of access where none currently exists. This is, in our estimation, the most significant improvement this bill affords.

To help this Committee better understand how a platform like ours functions and how providers that have access our platform maintain the highest level of integrity and quality of care, I would like to provide some details into the process.

Hims and Hers is painstaking about the licensure and certification requirements for providers who wish to utilize our platform, and providers are only permitted to provide services to patients located in states in which the provider holds a state license to practice medicine. The platform's technology is designed to only connect a provider with patients in states in which the provider's state license has been verified.

It is important to emphasize that we only partner with outside medical groups that are aligned with our mission and have thoroughly vetted their providers to ensure safe, high-quality care is administered through our platform. In return, we provide best-in-class administrative support to ensure our partners have the resources they need and the most accurate data and information available to support their provision of high-quality, evidence-based medical care and treatment.

Providers who wish to use the platform are only approved by the medical groups after successfully completing a thorough credentialing process. When a provider expresses an interest in using the platform, he/she is required to submit an online application and a CV. This is followed by a phone screening. Next, the provider completes a written exercise that is evaluated for clinical quality and communication proficiency.

h

If the provider passes the initial screening and testing, their state license is verified and a thorough background check is administered by a third party. The report encompases a providers practice history and flags significant findings or disciplinary actions in the National Practitioner Data Bank.

The data is then cross-referenced with both the HHS Office of Inspector General (OIG) List of Excluded Individuals and Entities as well as the System for Award Management. This is a necessary step to ensure individuals or entities have not been excluded from certain federal healthcare programs and also identifies any significant findings or disciplinary actions that may have resulted from improper practice. Needless to say, if any concerns are identified, the candidate is immediately disqualified.

If a provider passes the background report and meets the rigorous vetting standards, the provider is then individually evaluated by the physician owners of the medical groups who work with our platform.

Once approved, providers practicing on the platform undergo formal training to ensure they are adept with the technology being utilized and are educated on evidence-based clinical guidelines applicable to the conditions they treat. These clinical education programs are developed by highly-experienced physicians who are esteemed within their respective fields and are based upon the most recent evidence-based clinical standards. After their training is completed, all providers must conduct a supervised live visit to gauge their proficiency on the platform.

Before a provider begins practicing on the platform, they go through another round of identity verification by the third party e-Prescribing platform that processes any prescriptions that the providers may write. For any medications that are prescribed by providers using the platform, patients are given access to low cost prescription fulfillment services provided by licensed pharmacies who have been accredited by the National Association of Boards of Pharmacy under the Verified Internet Pharmacy Practice Sites (VIPPS) program. VIPPS program accreditation means these pharmacies must comply with stringent licensing requirements and regulations governing how and from where medications can be sourced.

We also conduct periodic, independent third-party testing of medications dispensed by these pharmacies to ensure the quality and integrity of drug strengths and ingredients made available to our customers.

In addition to the initial credentialing and vetting that providers undergo, both our platform and the medical groups we work with maintain robust quality assurance programs designed to ensure quality of care and patient safety remains the highest priority.

To conclude, I hope you now have sufficient assurances that the providers on our platform are properly vetted and licensed to practice in Maryland as a requirement before they have any patient interaction.

Beyond the obvious benefits of expanded access and better price transparency, I strongly believe that telemedicine can create a discreet and safe environment where consumers can feel confident using platforms like ours to tackle their issues and not have to deal with the awkwardness that can come with going to a provider. Moreover, it provides a way for healthcare providers to likewise reap the benefits of greater convenience and scheduling flexibility in making care available to their patients.

I urge the Committee to support SB402 and stand ready to answer any of your questions.

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MATOD_Ann Ciekot_FAV SB 0402

Uploaded by: Ciekot, Ann
Position: FAV

c/o IBR/REACH Health Services
2104 Maryland Avenue
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www.matod.org

Senate Education, Health, and Environmental Affairs Committee
February 13, 2020

Senate Bill 402
Health Care Practitioners - Telehealth

Support

The Maryland Association for the Treatment of Opioid Dependence (MATOD) supports Senate Bill 402. MATOD believes that the appropriate use of technology in the delivery of somatic and behavioral health care should be utilized to its fullest potential. Telehealth is an important part of the behavioral health care delivery system that leads to success in reaching those who might not otherwise engage in the behavioral health care system.

Engaging patients in need of substance use disorders (SUD) treatment can often be difficult. MATOD believes that telehealth can increase access to addiction treatment services by removing the barriers of geography and stigma. The chronic nature of the disease calls for new ways for clinicians to stay connected with patients over extended periods of time. The use of telehealth is a valuable tool in the engagement and treatment of those with SUD. Telehealth can be used to address relapse issues and can keep patients engaged in the treatment process by increasing the amount of contact between the provider and the patient.

MATOD firmly supports the use of synchronous and asynchronous telehealth, and believes it should be available to all health care clinicians; somatic and behavioral.

For these reasons, we urge a favorable report on Senate Bill 402.

MATOD members include community and hospital based Opioid Treatment Programs, local Health Departments, local Addiction and Behavioral Health Authorities and Maryland organizations that support evidence-based Medication Assisted Treatment. MATOD members include thousands of highly trained and dedicated addiction counselors, clinical social workers, physicians, nurse practitioners, physician assistants, nurses, peer recovery specialists and dedicated staff who work every day to save and transform lives.

MDDCSAM_Ann Ciekot_FAV_SB 0402
Uploaded by: Ciekot, Ann
Position: FAV

Maryland-DC Society of Addiction Medicine

A Chapter of American Society of Addiction Medicine

SB 402 Health Care Practitioners - Telehealth Senate Finance Committee February 13, 2020

SUPPORT

Asynchronous telehealth allows communication without the requirement that both parties arrange to be available simultaneously. Because of this convenience and accessibility, asynchronous communication has become an ubiquitous and indispensable means of communicating in modern life.

Currently, the need to wait for a mutually agreed-upon time for direct communication limits the frequency and timeliness of health care communication, which is often time-sensitive. This results in barriers to accessing care for ordinary citizens, especially those in rural areas, those experiencing poverty, and those with limited support networks and health care challenges.

Patients with behavioral health conditions are likely to face the greatest challenges in making arrangements to communicate with health care providers at a particular time or place.

Regarding behavioral health care, the critical provider workforce shortage is the number one barrier limiting access to care. Telehealth, including asynchronous telehealth, has the potential to ameliorate these barriers in the near term. In the setting of the current opioid epidemic, the rising suicide rate, and the critical shortage of behavioral health treatment generally, these advances are urgently needed.

Health services with synchronous and asynchronous communication will be held to the same standards of practice that apply to in-person health care settings, including the prescribing of controlled and dangerous substances.

Providers would be able to give more frequent feedback and encouragement to patients. Periodic checking in on progress with treatment plans, problems with medication, or the development of new symptoms, would be recognized and addressed much sooner, without waiting for a scheduled, or re-scheduled, virtual or in-person visit. Efficiency of health care services would improve.

A July 2019 study 'Asynchronous telepsychiatry: A systematic review' by Molly O'Keefe, et al, in the Journal of Telemedicine and Telecare reviewed 11 published articles and found that these services improve access to care, can be feasibly implemented, maintain patient/family satisfaction, and potentially reduce the cost of services.

We ask for a favorable report on SB 402.

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NCADD_Ann Ciekot_FAV_SB 0402
Uploaded by: Ciekot, Ann
Position: FAV

Senate Education, Health, and Environmental Affairs Committee
February 13, 2020

Senate Bill 402
Health Care Practitioners - Telehealth

Support

The National Council on Alcoholism & Drug Dependence – Maryland supports Senate Bill 402. Fundamentally, NCADD-Maryland believes that the appropriate use of technology in the delivery of somatic and behavioral health care should be utilized to its potential. Telehealth is an important part of a health care delivery system that leads to success in reaching several important goals:

- Access to outpatient specialty care, reducing preventable hospitalizations and reducing barriers to health care access;
- Patient compliance with treatment plans;
- Health outcomes through timely disease detection and treatment options; and
- Capacity and choice for outpatient ongoing treatment in underserved areas of the state.

For substance use disorders, telehealth can increase access to addiction treatment services by removing the barriers of geography and stigma. The chronic nature of the disease calls for new ways for clinicians to stay connected with patients over extended periods of time. The use of synchronous and asynchronous telehealth, *while adhering to clinical standards of care*, should be available to all health clinicians.

As new technologies develop and their uses expand in their applications related to health care, policies must ensure that no disease space, no clinician type, and no patient be left behind. We urge a favorable report on Senate Bill 402.

The Maryland Affiliate of the National Council on Alcoholism and Drug Dependence (NCADD-Maryland) is a statewide organization that works to influence public and private policies on addiction, treatment, and recovery, reduce the stigma associated with the disease, and improve the understanding of addictions and the recovery process. We advocate for and with individuals and families who are affected by alcoholism and drug addiction.

National Council on Alcoholism & Drug Dependence – Maryland Chapter
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CBH_Lori Doyle_FAV_SB0402
Uploaded by: doyle, lori
Position: FAV

Testimony on SB 402
Health Care Practitioners – Telehealth
Senate Education, Health, and Environmental Affairs Committee
February 13, 2020
POSITION: SUPPORT

The Community Behavioral Health Association of Maryland is the professional organization for providers of community-based mental health and substance use disorder treatment services. Our members serve the majority of the almost-300,000 children and adults who access care through the public behavioral health system. We provide outpatient treatment, residential and day programs, case management and assertive community treatment (ACT), employment supports, and crisis intervention.

We support this bill because telehealth has proven invaluable in providing access to needed behavioral health treatment. As psychiatrists, addictionologists, and other clinicians become increasingly scarce, the use of telehealth has allowed organizations to make the most efficient use of their clinicians' time. The Medicaid program has long allowed clinical interactions through telehealth, particularly in outpatient mental health centers (OMHCs) and substance use disorder clinics.

While our organizations have not yet utilized asynchronous telehealth, we know that times are rapidly changing. Given the opioid overdose crisis and the rising suicide rates in Maryland we must use all the technology at our disposal to ensure that those in need can receive intervention quickly. It is important that we keep all options open as the use of technology, including synchronous and asynchronous telehealth, is rapidly becoming the mode of choice for those seeking treatment.

We also support this bill because it requires the various health occupations boards to agree on standards of care for the use of telehealth. This is of particular interest to OMHCs since they employ various types of clinicians (psychiatrists, nurse practitioners, licensed clinical social workers, psychologists, and licensed professional counselors) and would greatly benefit from having one set of standards applied to all practitioners operating under the clinic's roof.

We urge a favorable report for SB 402.

Gary Hicks_FAV_Board of Nursing_SB0402
Uploaded by: Hicks, Gary
Position: FAV

Maryland
DEPARTMENT OF HEALTH

Board of Nursing

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

February 13, 2020

The Honorable Paul G. Pinsky
Chair, Senate Education, Health, and Environmental Affairs Committee
2 West, Miller Senate Office Building
Annapolis, MD 21401-1991

RE: SB0402 – Health Care Practitioners – Telehealth – Letter of Support

Dear Chair Pinsky:

The Maryland Board of Nursing ("the Board") is submitting this letter of support for SB0402 – Health Care Practitioners – Telehealth – Letter of Support. This bill authorizes nurse practitioners to establish a practitioner-patient relationship through both synchronous and asynchronous interactions under certain circumstances. The bill requires a health care practitioner providing telehealth services to be held to the same standards of practice that are applicable to in-person settings. Additionally, the health care practitioner must perform a clinical evaluation appropriate for the condition the patient presents before providing certain treatment or issuing a prescription through telehealth.

The Board feels that this bill has substantial value for promoting access to care, particularly for patients in rural areas. The bill establishes the standard for the practice for telehealth and proactively addresses patient safety concerns by requiring that a health care practitioner providing telehealth services be held to the same standards of practice that are applicable to in-patient settings. Practitioners who prescribe a controlled dangerous substance are subject to any applicable regulation, limitation, and prohibition in federal and State law relating to the prescription of controlled dangerous substances.

The bill explicitly requires a health care practitioner providing health care services through telehealth to be licensed in the State if the health care services are being provided to a patient located in the State. This aligns with Maryland's Nursing License Compact allowing nurses the privilege to practice in other compact states. Currently, these nurses, which include nurse practitioners, can practice in a compact state and are required to practice according to the statutes and regulations governing nursing practice in that state.

For the reasons discussed above, the Board of Nursing submits this letter of support for SB0402.

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For more information, please contact Rhonda Scott, Deputy Director, at (410) – 585 – 1953 (rhonda.scott2@maryland.gov) or Karen E. B. Evans, Executive Director, at (410) – 585 – 1914 (karene.evans@maryland.gov).

Sincerely,

Gary N. Hicks
Board President

The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.

LBH_MARTHA_FAV_SB402
Uploaded by: Nathanson, Martha
Position: FAV

LIFEBRIDGE HEALTH®

CARE BRAVELY

SB402 – Health Care Practitioners - Telehealth
Senate Education, Health, and Environmental Affairs Committee – February 13, 2020
Testimony of Martha D. Nathanson, Vice President, Government Relations and Community Development LifeBridge Health
Position: **SUPPORT**

I am writing in strong SUPPORT of SB402. LifeBridge Health is a regional health system comprising Sinai Hospital of Baltimore, an independent academic medical center; Levindale Geriatric Center and Hospital in Baltimore; Northwest Hospital, a community hospital in Baltimore County; Carroll Hospital, a sole community hospital in Carroll County, and; Grace Medical Center in Baltimore (formerly Bon Secours Hospital).

LifeBridge engages patients and providers in many telehealth initiatives, with the goals of managing patients in their homes and other non-acute hospital settings, identifying risk factors as early as possible for seriously ill patients, and ultimately enhancing access to care in areas of medicine where providers are in short supply. Asynchronous transmission of data is an essential element of many of these initiatives. A sampling of LifeBridge telehealth programs follows.

Psychiatry Telehealth Program. LifeBridge provides emergency psychiatric evaluations by licensed mental health clinicians between the hours of 11pm to 7am. Patients are assessed and placed accordingly. The telepsych-evaluators communicate with the site-specific ED attendings and nursing teams , and coordinate patient transitions, documenting patient information in the EHR. Telepsychiatry services are beneficial to a mental health care delivery system, when on-site services are not available or would be delayed because of distance, location, time of day, or availability of resources. Benefits include improved ED throughput resulting from improved access to care, provision of care locally in a timely manner and improved continuity of care.

Pediatric Telehealth Service. Newly established at Grace Medical Center, where pediatric emergency services have not historically been available where a child presenting in the Emergency Department will be seen by a physician who generally treats adult emergencies. Such physicians can access a Pediatric Emergency Physician located on-site at Sinai Hospital" Pediatric Emergency Department section. The physicians, patient, and family can all see the pediatrician and interact with him or her in real time on video.

Telehealth Triage and Check in Service. This program targeting high utilizers in skilled nursing facilities facilitates improved continuity of care from inpatient to post-acute setting. It reduces the total cost of care by reducing potentially avoidable utilization (PAU), leading to better patient outcomes and improved staff and patient satisfaction. The process includes weekly clinical review using telehealth, followed by referral to an appropriate level of service, not necessarily the

Emergency department. It also includes on-demand telehealth visit for unscheduled medical concerns with appropriate treatment-in-place, which, besides reducing ED utilization, prevents disruptive transfers for frail SNF residents.

Remote Patient Monitoring for Congestive Heart Failure and Chronic Obstructive Pulmonary Disease. This asynchronous telehealth program uses smart connective devices such as scales, blood pressure, heart rate and pulse ox monitors in the patient's home which transmit data asynchronously to the health care team. Data are monitored by nurses at a call center, and when weight or blood pressure show certain danger signs, the nurses see that data in real time and contact the patient and local clinical staff. The local nurse connects with the patient by telephone.

Telehealth Triage in Emergency Department. Upon registration in ED and triage with nurse, patient is seen remotely by video by a physician assistant who not only sees the patient for visual examination but also orders tests and labs in real time. While the standard is to have a provider (MD or PA) in triage, this reduces the need to have such a provider onsite during periods when volume is slow. Through this process, providers can see more patients and flex through any particular shift, enabling patients to move through the ED more quickly.

Community Paramedicine. This program provides home-based care in lieu of emergency transport. It includes telephone advice to 911 callers, chronic disease management, preventive care or post discharge follow up visits by paramedics. When necessary, patients are transported or referred to one of many healthcare settings. In addition, the LifeBridge model is unique as a workforce development driver, as paramedics obtain CNA and phlebotomy certifications, and while not providing field care, can work in the hospital setting, or perform ongoing medical care visits for patients of LifeBridge Health. This program creates a pipeline for community members to health careers by providing EMTs with superior additional workforce training and credentials – all while keeping patients out of the hospital when appropriate.

Telehealth Stroke Intervention. Specialist remotely evaluates patients in ERs (Carroll, NW and Sinai) when stroke provider is not located in that ER. Upon patient arrival in ED, stroke physician is accessed for real-time audio/video session, assisted by onsite nurse, PA or other provider to assist with exam, and stroke provider makes a recommendation as a consult. Stroke providers carry wireless cellular enabled laptops carried and can provide consults as needed. After consult, onsite physician continues to provide care, if patient admitted.

For all the above stated reasons, we request a **FAVORABLE** report for SB402.

AAN_FAV_SB402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

8229 Boone Boulevard, Suite 260, Vienna VA 22182 • 800.878.4403 • *AllergyAsthmaNetwork.org*

February 10, 2020

The Honorable Shane Pendergrass, Chair
The Honorable Joseline Pena-Melnyk, Vice Chair
House Health and Government Operations Committee
Maryland General Assembly
Annapolis, Maryland

The Honorable Paul Pinksy, Chair
The Honorable Cheryl Kagan, Vice Chair
Senate Education, Health, and Environmental Affairs Committee
Maryland General Assembly
Annapolis, Maryland

Re: Support for telehealth bills (HB 448 and SB 402)

Dear Chairs, Vice Chairs and Members of the Committees:

Allergy & Asthma Network is pleased to see Maryland policymakers taking up the important issue of telehealth in House Bill 448 (Rosenburg) and Senate Bill 402 (Kagan and Lam) and supports the bill's telehealth provisions, which will enable Maryland residents to secure high-quality care through the use of modern technologies. Our organization is a national nonprofit dedicated to protecting and improving the health of people with asthma, allergies and related conditions, and we believe progressive policies regarding telehealth are essential to fulfilling that goal.

The bills' telehealth provisions properly balance access and safety issues to strengthen the healthcare system for Maryland patients. Physicians who use telehealth to deliver care should be held to the same standards as they would be if they were treating a patient in an office. Many patients who suffer from allergies, especially those with allergy-related skin conditions, would benefit from greater and more convenient access to a physician.

We believe telehealth functions as a complement to existing healthcare resources by increasing access to affordable medical treatment. The delivery system uses technology that is pervasive in modern daily life, and it can provide a valuable – and cost-effective – way for people to get necessary treatment. Allergic reactions and related conditions can occur at any time, and patients should have the option to pursue treatment through telehealth rather than traveling to a hospital's emergency room in the middle of the night.

We appreciate your consideration, and we hope to see telehealth policies in HB 448 and SB 402 become law.

Sincerely,

Tonya A. Winders

Tonya A. Winders
President and CEO

ACNM_FAV_SB402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

Committee:	**Senate Education, Health, and Environmental Affairs Committee**
Bill Title:	**Senate Bill 402 - Health Occupations - Telehealth**
Hearing Date:	**February 13, 2020**
Position:	**Support**

The Maryland Affiliate of the American College of Nurse Midwives (ACNM) supports *Senate Bill 402 – Health Occupations – Telehealth.* The bill establishes a broad regulatory framework, including consumer protections, for telehealth across health care professions.

Certified Nurse-Midwives (CNMS) and other advanced practice nurses are already allowed to provide services through telehealth. However, there is not explicit authorization under the Nurse Practice Act. The bill provides clarity that health care practitioners are authorized to use telehealth and that they must follow the same standard of care for in-person services.

In providing services to women, CNMs and other health care practitioners can use telehealth technology to increase access to care:

- **Hypertension – Prenatal and Post-Partum:** Telehealth, including remote patient monitoring, is a strategy for addressing hypertension for women in both prenatal and postpartum care. It allows for more frequent monitoring and clinical intervention than regular in-person visits.[i] A recent peer-reviewed research study showed that remote patient monitoring reduced prenatal admissions and induced labor for women with gestational hypertension.[ii]

- **Lowering Pregnancy Stress:** The Mayo Clinic's "OB Nest" program, which includes several uses of asynchronous communication (meaning not in real time), resulted in lower pregnancy stress and higher patient satisfaction.[iii]

- **PrEP:** Telehealth, including asynchronous modalities, is being used to increase access to PrEP.[iv]

We need clear and consistent rules in order to continue to implement telehealth innovation. CNMs work side-by-side with other health care practitioners in hospitals, community health centers, and other health care program. Those facilities will have difficulty moving forward in telehealth without clear and consistent rules across all health care disciplines. We ask for a favorable report.
If we can provide any further assistance, please contact Robyn Elliott at relliott@policypartners.net or (443) 926-3443

[i] Hoppe, Kara et al. Telehealth with remote blood pressure monitoring for postpartum hypertension: A prospective single-cohort feasibility study. Pregnancy Hypertension. Volume 15, January 2019, Pages 171-176.

[ii] Lanssens, Dorien et al. The impact of a remote monitoring program on the prenatal follow-up of women with gestational hypertensive disorders. Obstetrics & Gynecology and Reproductive Biology Volume 223, April 2018.

[iii] Butler Tobah, Yvonne et al. Randomized comparison of a reduced-visit prenatal care model enhanced with remote monitoring. American Journal of Obstectics and Gynecology. December 2019.

[iv] Touger, R. & Wood, B.R. Curr HIV/AIDS Rep (2019) 16: 113. https://doi.org/10.1007/s11904-019-00430-z.

ERIC_ FAV_ SB402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

THE ERISA INDUSTRY COMMITTEE
Shaping benefit policies before they shape you.

JAMES GELFAND
Senior Vice President, Health Policy

February 11, 2020

The Honorable Paul G. Pinsky
Chairman
Committee on Education, Health, and Welfare
Maryland State Senate
2 West Miller Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

Re: Large Employer Support for Telehealth Measures in Senate Bill 402

Dear Chairman Pinsky:

On behalf of The ERISA Industry Committee (ERIC), thank you for accepting testimony from interested stakeholders as you consider Senate Bill 402. We are writing to express our strong support for the telehealth provisions in S.B. 402, specifically the provisions that define telehealth in a technology-neutral way, and to urge the Committee on Education, Health, and Welfare to report out the bill favorably as soon as possible.

ERIC is the only national association that advocates exclusively for large employers on health, retirement, and compensation public policies at the federal, state, and local levels. We speak in one voice for our member companies on their benefit and compensation interests, including those with employees and retirees in Maryland. Maryland policymakers are likely to engage with an ERIC member company when they drive a car or fill it with gas, use a cell phone or a computer, visit a bank or hotel, fly on an airplane, watch TV, benefit from our national defense, go shopping, receive or send a package, use cosmetics, or enjoy a soft drink.

Our member companies offer comprehensive health benefits to employees, their families, and often retirees, too. On average, large employers pay around 85 percent of health care costs on behalf of their beneficiaries – that would be a gold or platinum plan if bought on a state health care exchange. There are about 181 million Americans who get health care through their job, and over 110 million of them are in self-insured plans like those offered by ERIC member companies.

As plan sponsors, our member companies strive to provide the best health care possible to their employees, retirees, and families at an affordable cost. ERIC seeks to enhance our member companies' ability to provide high-quality, affordable health care, and we recognize the significant opportunity provided by telehealth to modernize health care delivery and improve access to quality medical care for workers and their dependents. Telehealth minimizes the time spent attending a health care provider visit, making telehealth a great value to working

parents, caregivers, and others struggling to balance work and family demands. It also provides access to care for rural and urban underserved populations, retirees, the elderly, disabled employees, and those with language barriers, chronic conditions, or transportation barriers that may otherwise not have access to care.

Large, multistate employers need consistent telehealth policies around the country so that their employees and families can enjoy the same company benefits regardless of the state in which they live or work. It is imperative that employers' funds to pay benefits are used to maximize value for patients, and not diverted to administrative and compliance burdens stemming from a myriad of disparate and potentially conflicting state rules and regulations.

ERIC member companies want their employees to have the care they need – when and how they need it. Telehealth offers many unique benefits that are appreciated by employees, retirees, and their families because it allows access to health care that is provided at an affordable, cost-effective rate.

ERIC supports S.B. 402, including the provisions that define telehealth in a technology-neutral way, amending the current code to ease the process of providing telehealth services. ERIC champions technology-neutral requirements in telemedicine legislation and regulations because restrictive requirements create a barrier to access.

Under the July 22, 2019 rule passed by the Maryland Board of Physicians, telehealth interactions are mandated to use video and audio for the initial visit. S.B. 402 would remove that requirement and allow for video and/*or* audio to be used. ERIC commends this amendment for eliminating this restrictive requirement. We believe restrictive technology requirements only serve to prevent new forms of telemedicine technology, which are ever evolving, from being quickly implemented. Patients should not be prevented from using telemedicine solely because they lack the capability to communicate with a provider via video.

ERIC appreciates the opportunity to weigh-in on this very important legislation. We are happy to provide any additional input as the Committee moves the bill forward.

Sincerely,

James P. Gelfand

Freshbenies Maryland_FAV_SB 402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

freshbenies®
A FRESH APPROACH TO BENEFITS

February 13, 2020

Dear Chair and Members of the Committee:

Our company offers telemedicine benefits to employees around the country, including serving more than 1,500 Maryland citizens, as part of an effort to provide improved access to quality health care that is convenient and affordable for both employers and employees.

Legislation currently pending in the Senate Education, Health, and Environmental Affairs Committee would have the positive effect of allowing patients and healthcare practitioners the option to use both synchronous and asynchronous telehealth interactions to establish a relationship during the initial telemedicine visit. I urge the committee to accept this language to give Maryland patients and providers a choice and maximize access.

Given that Maryland faces healthcare provider shortages in both rural and urban areas, it makes sense to maximize allowable technologies for the way in which healthcare practitioners can establish a relationship with patients. Broadband with speeds sufficient to carry a video signal are not uniformly available in Maryland, so restricting the establishment of the practitioner-patient relationship via telemedicine to audio-visual visits has a significant impact on the number of our employees who are able to access this benefit. The Committee has a tremendous opportunity in front of them to solidify good telemedicine policy in Maryland.

Please vote “yes” on SB 402 (Rosenberg) to ensure Maryland maximizes the types of technology that can be used in establishment of the patient-practitioner relationship when using telemedicine.

Thank you for your support,

Heidi Rasmussen
COO & Co-Founder
freshbenies

MAAPC_FAV_SB402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

Support
***SB* 402 – Health Care Practitioners – Telehealth**

February 2020

The Maryland Academy of Advanced Practice Clinicians (MAAPC) supports Senators Kagan and Lam's *SB* 402 – Health Care Practitioners – Telehealth

With information technology evolving at a record pace, the healthcare arena is struggling to keep up. As access to care is a major issue in the U.S., the adaptation of Telehealth could be used to reach even the most remote rural areas and busy inner-city neighborhoods where healthcare providers are historically underrepresented.

SB 402 allows providers to use existing, and evolving, technology to increase access to care and has the possibility to increase compliance in those patients who work during regular office hours or live long distances from their providers' offices.

Example: remote monitoring of heart rhythm through Kardia (https://www.alivecor.com/kardiamobile) and smartphone technology.

Please contact Dr. Elaine Crain (410-703-0556, TheMAAPC@gmail.com), or Lorraine Diana, our Legislative Chair (301-980-8004), for any information you may need about current Telehealth use in practice or SB 402. MAAPC is represented in Annapolis by John Favazza (jfavazza@maniscanning.com, 410 263-7882).

We ask the Committee for a favorable vote on SB 402,

Dr. Elaine Crain, DNP, RN, FNP-BC
President, MAAPC

Maryland_FAV_SB402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

February 11, 2020

VIA EMAIL

Committee on Education, Health, and Environmental Affairs
Maryland House of Delegates
Miller Senate Office Building, 2 West
Annapolis, Maryland 21401

Committee on Health and Government Operations Committee
Maryland Senate
House Office Building, Room 241
Annapolis, Maryland 21401

Dear Mr. Chairman, Madam Chair and Members of the Committees

I am writing on behalf of New Benefits to express support for the proposed telemedicine legislation before you, Senate Bill 402 (Kagan and Lam) cross-filed with House Bill 448 (Rosenberg), as it would allow the patient-practitioner relationship to be established via telemedicine using interactive audio as well as through video. We believe the Maryland should create telemedicine policies that preserve consistent standards and allow healthcare practitioners to use their knowledge and experience in deciding whether to use modern technology to provide care, without narrowly defining allowable technologies.

For more than a decade, we have offered telemedicine services through Teladoc to our members. Although New Benefits is headquartered in Texas, our presence in Maryland is substantial. Our clients include insurance companies, restaurants, hotels, hospital systems, small businesses and school systems. We connect Maryland residents with Maryland-licensed healthcare practitioners, who provide affordable, high-quality treatment of common, non-emergency ailments, and we have received virtually no complaints. Our experience is telemedicine provides patients with high-quality care that is safe, secure, timely and cost-effective.

My hope is that the Legislature will incorporate technology neutral language into the Maryland Code which does not require audio-visual technology to be used initially in treatment through telemedicine.

This language will position Maryland to better take advantage of telemedicine to address the significant areas of the state currently medically underserved, provide employers with a much-needed tool to manage health care costs and bring Maryland telemedicine policy in line with the vast majority of other states' rules regarding telemedicine.

I would be pleased to answer any questions you may have about our experience with telemedicine and can be reached at 1-800-800-8304 x1615.

Sincerely,

Joel Ray, CEO

MD Teladoc_FAV_SB 402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

February 13, 2020

The Honorable Paul Pinksy
Chair, Education, Health, and Environmental Affairs Committee
Maryland General Assembly
Miller Senate Office Building, 2 West
Annapolis, Maryland 21401

The Honorable Shane Pendergrass
Chair, Health and Government Operations Committee
Maryland General Assembly
House Office Building, Room 241
Annapolis, Maryland 21401

RE: Support for SB 402 and HB 448 Telehealth Provisions

Dear Chairs Pinksy and Pendergrass:

On behalf of Teladoc Health, I urge you to support SB 402 and HB 448. As Vice President of Government Affairs at Teladoc Health, I have responsibility for all 50 states and all federal work relating to telehealth. I have the privilege of working with state legislators to develop good public policy and seeing firsthand what works and what does not. It is important to note that while Teladoc Health supports this bill, we are here at the request of our clients and members who want the same access to telehealth that they have in the four states that surround Maryland and the District of Columbia; the only exception to that is Delaware, where legislators have indicated they intend to address this with legislation parallel to SB 402/HB 448 this year.

As the world's largest telehealth company, Teladoc Health serves our clients in all 50 states, the District of Columbia and over 130 countries. As background, in Maryland, Teladoc Health performed the first virtual visit in 2005. Currently, there are over 785,000 lives covered by Teladoc in the state. We have 146 Maryland board certified and licensed physicians. We performed over 26,000 virtual visits in Maryland in 2019. Over 3,100 employers in Maryland offer the Teladoc Health benefit. In 2019 we saved Marylanders and its citizens over $12.6 million dollars.

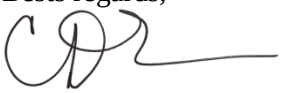
We supported the original telehealth legislation that placed Maryland as a leader in the country. When the Board of Physicians filed the rule that took good policy and amended it to restrict access to Marylanders, we submitted a comment letter in opposition with sound reasons why. I've talked to the Executive Director to try and ascertain why the Board felt the need to take this action. I'm still not sure of the motivation, but I have heard that Board members wanted to change the Rule because of concern that "asynchronous" could lead to bad actors in the state and pill mills.

Where is the clinical data that supports this action? There is none. There is no empirical evidence to support that an audio-visual interaction is superior to an interactive audio consults with access to the patient's medical history. Further, 46 other states have adopted what is referred to as a "technology neutral approach". Everything in telehealth rests upon the standard of care; the standard of care is the same for telehealth encounters as it is for in-person visits. If in the health care practitioner's professional discretion, she can treat the patient using audio, the visit proceeds; if the practitioner needs the video component, then it only proceeds with video. If the practitioner believes that telehealth is not appropriate, she advised the patient to seek in-person care.

SB 402/HB 448 will do one thing; it will remove the requirement for a video first virtual exam as long as the health care practitioner has access to and reviews the patient's medical history. It will allow for PATIENT CHOICE and physician discretion. It will place Maryland back where it was in access to care before the Board of Physicians took this unnecessary action. I urge you to allow Maryland to have CHOICE in their health care by using a tool that will increase access and decrease costs. I urge you to vote YES on SB 402 HB 448.

Please consider TDOC a resource should you have any questions regarding telehealth. Thank you again for your dedication and resolve to pass good telehealth policy in the state.

Bests regards,



Claudia Tucker
Vice President of Government Affairs
Teladoc Health, Inc.

MD Telehealth TechNet_FAV_SB402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

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February 11, 2020

The Honorable Paul Pinksy
Chair, Education, Health, and Environmental Affairs Committee
Maryland General Assembly
Miller Senate Office Building, 2 West
Annapolis, Maryland 21401

The Honorable Shane Pendergrass
Chair, Health and Government Operations Committee
Maryland General Assembly
House Office Building, Room 241
Annapolis, Maryland 21401

Dear Madam Chair and Mr. Chair:

TechNet is the national, bipartisan network of innovation economy CEOs and senior executives. Our diverse membership includes dynamic American businesses ranging from revolutionary startups to the most iconic companies on the planet. TechNet represents over three million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

On behalf of TechNet, I am writing today to urge you and your colleagues in the Maryland Legislature to vote in favor of House Bill 448 (Rosenberg) and Senate Bill 402 (Kagan and Lam). This legislation will encourage the use of innovative technologies and remove an important artificial barrier to the use of telehealth. Namely, any requirement that the first telehealth visit use an audio-visual connection restricts access to health care and diminishes the use of cost-saving technologies. This is a clinically unsupported requirement that has put Maryland's telehealth policies among the most restrictive in the nation.

It is our belief that telehealth should be supported as a tool to practice medicine and ensure consumers have access to affordable healthcare options, and that the standard of care should govern all Maryland-licensed practitioners – regardless of what technology they use.

We urge you to vote "yes" on SB 402 and HB 448 and remove this problematic provision, which TechNet believes hinders innovation, access and consumer choice. Thank you for your consideration. I look forward to working with you on this issue should you have any questions.

Sincerely,

Christina Fisher
Executive Director, Northeast
TechNet

MD_FAV_SB402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

February 13, 2020

The Honorable Paul Pinksy
Chair, Senate Education, Health, and Environmental Affairs Committee
Maryland General Assembly
Miller Senate Office Building, 2 West
Annapolis, Maryland 21401

The Honorable Shane Pendergrass
Chair, House Health and Government Operations Committee
Maryland General Assembly
House Office Building, Room 241
Annapolis, Maryland 21401

Re: SB 402 and HB 448 - Telehealth Legislation to Expand Access to Care in Maryland

Dear Chairman Pinsky and Madam Chair Pendergrass:

On behalf of the American Telemedicine Association (ATA), I am writing to encourage you and your colleagues to vote favorably on SB 402, cross-filed with HB 448, to help advance the adoption of telehealth and digital health technologies, address health care provider shortages, and help expand access to quality care in Maryland.

As the only organization completely focused on advancing telehealth, the ATA is committed to ensuring that everyone has access to safe, affordable and appropriate care when and where they need it, enabling the system to do more good for more people. The ATA represents a broad and inclusive member network of technology solution providers and payers, as well as partner organizations and alliances, working to advance industry adoption of telehealth, promote responsible policy, advocate for government and market normalization, and provide education and resources to help integrate virtual care into emerging value-based delivery models.

SB 402/HB 448 provides a consistent framework for regulating telehealth and includes important safety requirements. The bill empowers providers with the ability to use both real-time and non-real time technologies, which advances patients' access to care and offers flexibility for future advances in technology.

As you may know, Maryland is one of only five states in the nation that requires physicians to use a real-time audio-visual connection for an initial telehealth visit.[1] This requirement unfortunately prevents patients and providers in Maryland from accessing and utilizing emerging digital health technologies that enhance quality and expand access to care.

[1] Arkansas, Delaware, Idaho, Maryland, New Hampshire. Idaho has active legislation to eliminate this requirement.

AMERICAN TELEMEDICINE ASSOCIATION
901 N. Glebe Road, Ste. 850 | Arlington, VA 22203
T: 703.373.9600

Given advances in telehealth technology and delivery, we believe that the synchronous audio-visual only requirement adopted by the Maryland Board of Physicians in 2019 is an unnecessary and clinically unsubstantiated barrier to quality care that fails to consider how asynchronous telehealth can address some of the significant provider shortages and health care disparities in the state. Notably, 20 out of Maryland's 24 counties face primary care health provider shortages, according to data from the US Health Resources and Services Administration (HRSA).[2]

The framework in SB 402/HB 448 is a step forward in that it properly focuses on whether a practitioner has the necessary information to arrive at a diagnosis and treatment plan that meets the standard of care, rather than giving unnecessary weight to the specific modality enabling care.

We encourage the Committee to consider the unintended consequences of language which deliberately gives preference to specific modalities and technologies rather than ensuring all providers, whether virtual or in-person, meet the standard of care. While there are some important clinical differences that should be recognized and appropriately regulated, the provision of telehealth should not be regulated differently or held to a different standard than in-person care.

The ATA supports legislation, like SB 402/HB 448, that are technology and modality neutral and allows providers and patients to access care when and where they need it. Each year brings additional evidence that when used appropriately, telehealth and the use of safe and effective technologies to deliver remote care improves health care quality and outcomes at reduced costs. Importantly, efforts to expand access to virtual care would allow Maryland to better align with neighboring states, including Pennsylvania, West Virginia, Virginia, and the District of Columbia, that have made, or are in the process of, making similar reforms. For these reasons, we support SB 402 / HB 448 and recommend advancing this critical legislation.

Thank you for your consideration of these important issues impacting your state and constituents. If you have any questions or would like to further discuss ATA's perspective, please contact me at kharper@americantelemed.org.

Sincerely,

Kevin Harper
Director, Public Policy

[2] https://data.hrsa.gov/tools/shortage-area/hpsa-find

MNA_FAV_SB402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

Committee:	**Senate**
Bill Number:	**SB 402**
Title:	**Health Occupations - Telehealth**
Hearing Date:	**February 13, 2020**
Position:	**Support**

The Maryland Nurses Association (MNA) supports *Senate Bill 402 – Health Occupations – Telehealth*. The bill establishes a broad and consistent regulatory framework for telehealth for all health care practitioners. Nurses work with many other types of health care practitioners in hospitals, community health centers, and other health care facilities. It makes sense that all health care practitioners are operating under the same general telehealth requirements.

Under our Total Cost of Care Model in Maryland, it is critical that health care providers be able to utilize telehealth to communicate efficiently and effectively with patients. According to the American Hospital Association Center for Health Innovation[i]:

> *"Telehealth and digital health care enable a model of care that is ubiquitous and seamless, more affordable and integrated into patients' lives. In the shift to demand-driven health care, telehealth becomes the patient's first — and most frequent — point of access for urgent care, triage for emergent conditions, specialty consults, post-discharge management, medication education, behavioral health counseling, chronic care management and more."*

Telehealth includes both synchronous and asynchronous communications (video chat/electronic messaging within a patient portal. Telehealth can be used to:

- Increase access to primary care services, urgent care, and specialist services in shortage areas;
- Support facilities and programs in managing the use of the use of their ambulatory care space. If some patients can be treated through telehealth, it is a more efficient use of resources; and
- Increase patient satisfaction. Patients can probably be seen more quickly and without having to take time off from work.

The Veterans Administration was an early adopter of telehealth strategies. Now, the VA reports that 12% of their patients received a portion of their services through telehealth.[ii]

We understand that nurses, including advanced practice registered nurses, may already provide telehealth in either a synchronous or asynchronous manner. However, the Nurse Practice Act is not explicit. This legislation would codify what is already allowed, and it mitigate the confusing about what is allowed in all the different health settings where nurses work.

We ask for a favorable report on this legislation. If we can provide additional perspective on telehealth, please contact Robyn Elliott at relliott@policypartners.net or (443) 926-3443.

[i] The American Hospital Association Center for Health Innovation. "Telehealth: A Path to Virtual Integrated Care". February 2019. https://www.aha.org/system/files/media/file/2019/02/MarketInsights_TeleHealthReport.pdf

[ii] The Department of Veterans Affairs. Telehealth Fact Sheet. https://www.va.gov/COMMUNITYCARE/docs/news/VA_Telehealth_Services.pdf

MOTA_FAV_SB402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

Maryland Occupational Therapy Association

PO Box 131 ♦ Stevenson, Maryland 21153 ♦ mota.memberlodge.org

Committee: **Senate Education, Health, and Environmental Affairs Committee**
Bill Number: **Senate Bill 402**
Title: **Health Care Practitioners – Telehealth**
Hearing Date: **February 13, 2020**
Position: **Support**

The Maryland Occupational Therapy Association (MOTA) supports *Senate Bill 402 – Health Care Practitioners - Telehealth.* This bill provides a consistent telehealth framework, including across all health care practitioners.

MOTA has long supported efforts in Maryland to expand the delivery of occupational therapy services through telehealth. As occupational therapy services are often provided in a client's home and other community-based setting, the use of telehealth has obvious advantages. It accomplishes in a relatively brief interaction what would otherwise require hours of round-trip travel for the occupational therapist. This in turn reduces staff costs and affords access to services for a greater number of individuals.

Patient counseling on the use of durable medical equipment is an example of use of telehealth in occupational therapy. . Common equipment for seating and positioning, feeding, bathing and toileting lend themselves to synchronous and asynchronous telehealth solutions through measurements and follow-up that can be conducted remotely. This can be accomplished by the client or caregiver taking measurements by themselves—under remote supervision, if needed—using a tape measure or a smartphone app. After the initial measurements are taken, occupational therapists can continue to monitor the use and effectiveness through telehealth solutions. This could include the use of videos to illustrate a client's performance navigating modifications in their home environment.

In addition, through the use of new technologies such as mobile health devices, occupational therapists are now able to monitor health data, including Activities for Daily Living (ADLs) while a client is in their home, at work, or otherwise in their community. This may inform an occupational therapist of the need to modify services within an individual's environment. Without the use of telehealth and other technologies, this data would be impossible to collect and an in-person encounter is limited to a "moment in time" when the practitioner is physically present.

Thank you for your consideration of our testimony, and we urge a favorable vote. If we can provide any further information, please contact Rachael Faulkner at rfaulkner@policypartners.net or (410) 693-4000.

NURX_FAV_SB402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

NURX.

SUPPORT
Senate Bill 402 – Health Care Practitioners – Telehealth
Senate Education, Health, and Environmental Affairs Committee
February 13, 2020

Nurx is a healthcare company that facilitates access to high-quality medical services from licensed healthcare providers via telemedicine, and makes available related pharmacy and lab testing services. We operate in over 20 states, and have helped hundreds of thousands of patients address sexual health needs, including birth control, emergency contraception, and PrEP for HIV prevention. Nurx was the first telehealth company to offer patients a seamless end-to-end PrEP treatment, from remote consultation with a medical provider to at-home lab testing to delivery of medication straight to the patients' door.

Nurx supports Senate Bill 402, which outlines straightforward requirements and patient safety protections to permit licensed healthcare practitioners to deliver care through telehealth. SB 402 is a significant step forward for Maryland in that it recognizes that licensed providers should be permitted to choose the telehealth tools and technologies – just as a provider would in an in-person setting – that are best-suited to the patient and the medical issue presented.

For example, studies have shown PrEP – which is up to 99 percent effective at preventing HIV infection – is heavily underutilized for many reasons, including lack of awareness, access, and particularly stigma associated with use. In our experience, robust asynchronous telehealth interactions (online exam, secure messaging) can address these barriers by offering PrEP in a discrete and convenient way:

- **Breaks down stigma:** With stigmatized and sensitive issues like PrEP, some patients can be embarrassed or have too much anxiety to talk to their provider face-to-face. Asynchronous interactions can facilitate an honest exchange of information between the patient and provider that can exceed that elicited during traditional in-person exams.

- **Meets patients where they are:** Allows patients the convenience of initiating care and sharing at times of their choosing, rather than having to schedule a time to meet a provider or arrange for private space to have a video interaction.

- **Access to expert providers:** It can be difficult for patients to find a medical provider that knows about PrEP or is willing to prescribe it. Telehealth connects patients to knowledgable providers and the opportunity to engage in ongoing discussions.

Current regulations from the Board of Physicians unnecessarily restrict access to care by mandating that physicians and physician assistants delivering care through telehealth must use synchronous video interactions for any new patient. While a video interaction might be appropriate for certain patients or medical issues, it is not always medically necessary and can serve as a barrier to care.

In Maryland, there are over 30,000 people living with HIV, and in 2017, there were over 1,000 new HIV diagnoses in the state. The clear framework in this bill will give providers like Nurx the assurance to serve patients in Maryland, and in the process, expand patients' access safe and affordable critical health services like PrEP. We ask the Committee to vote favorably on this bill.

PPM_FAV_SB402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

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Support
Senate Bill 402 – Health Care Practitioners – Telehealth
Senate Education, Health, and Environmental Affairs Committee
February 13, 2020

Planned Parenthood of Maryland (PPM) supports *Senate Bill 402 – Health Care Practitioners – Telehealth*. The bill provides a consistent framework, including consumer protections, for the provision of telehealth by all licensed health care practitioners.

PPM's involvement in this issue began because we wanted to follow the lead of many other states – including Texas, Georgia, and Alabama (see attached article) - which allow health care practitioners to prescribe birth control through electronic messaging in a secure patient portal (or an app). This is known as asynchronous prescribing. The Maryland Board of Physician's has telehealth regulations which are more restrictive than many other states.

We understand the Board of Physicians has offered an amendment that would allow asynchronous prescribing of birth control for new patients, but that the Board wants to continue to restrict asynchronous prescribing of any other medications for new patients. PPM asks the committee to recognize the value of telehealth beyond birth control:

- **Enhancing Access to PrEP:** Telehealth, including asynchronous platforms, can expand access to PrEP. As with birth control, many individuals may be anxious to ask their providers abut PreP in a face-to-face encounter, so asynchronous communication increases access[i];

- **Improving Prenatal and Post-Partum Outcomes:** Providers, such as the Mayo Clinic, are using remote patient monitoring to improve health outcomes of prenatal and postpartum outcomes[ii];

- **Expanding Access in 50 Specialties in the Veterans Administration:** The Veterans Administration (VA) was an early adopter of telehealth, and now telehealth is available in over 900 facilities and across 50 specialties in the VA system.[iii]

PPM asks for a favorable vote on the bill. We want Maryland to move forward, not backwards, in implementing telehealth. We care about the overall health, beyond birth control, of our patients. They deserve for their health care providers to be utilizing all the available communication tools. If we can provide any further information, please contact Robyn Elliott at (443) 926-3443.

[i] Touger, R. & Wood, B.R. Curr HIV/AIDS Rep (2019) 16: 113. https://doi.org/10.1007/s11904-019-00430-z.

[ii] https://www.mayoclinichealthsystem.org/ob-nest

[iii] https://www.va.gov/COMMUNITYCARE/docs/news/VA_Telehealth_Services.pdf

Nurx Expands to Alabama, Providing Affordable and Convenient Access to Birth Control and PrEP

The telemedicine company also welcomes Former U.S. Surgeon General Dr. Regina Benjamin to its board of directors

NURX.

NEWS PROVIDED BY
Nurx →
Nov 12, 2018, 11:03 ET

SAN FRANCISCO, Nov. 12, 2018 /PRNewswire/ -- Nurx, the consumer healthcare company providing free online consultations with physicians and seamless home delivery of medications, is now available in Alabama. Nurx offers birth control and the HIV prevention medication PrEP, expanding access to convenient and high quality healthcare.

(PRNewsfoto/Nurx)

Today Nurx is also announcing that Alabama native and Former U.S. Surgeon General Dr. Regina Benjamin, MD, MBA has joined the telemedicine company's board of directors. Dr. Benjamin will advise the company on a variety of critical public health issues and brings a strong background and commitment to patient-first preventive care.

"I have always been committed to ensuring everyone has access to quality affordable healthcare, regardless of their income or where they live," said Dr. Benjamin. "I look forward to working with the Nurx team as they break down barriers to care, increase access, and ultimately help improve the health of the nation."

Nurx is especially focused on those who traditionally lack access to affordable health care services and prescriptions. After consulting with a state-licensed provider, Nurx users can choose from over 50 birth control brands, many of which are affordable and cost-effective for those with and without insurance. In Alabama, more than half of all pregnancies are unintended (55 percent) and public spending for unplanned pregnancies in Alabama topped an estimated $323 million in 2010.*

Committed to giving users full control of their sexual health, Nurx also of-

fers PrEP, a daily pill that is up to 99% effective at preventing transmission of the HIV virus. Southern states accounted for more than half of new HIV diagnoses in 2016, with 13.1 new cases for every 100,000 people in Alabama. Southern states have the highest number of new HIV diagnoses in the U.S., but have disproportionately fewer people using anti-HIV treatment.**

Nurx recently removed a critical barrier to PrEP treatment by offering an at-home test kit, allowing patients to discreetly complete all the testing required before initiating PrEP. Nurx is the only company that allows patients to consult with a provider to determine if PrEP is right for them, complete the necessary lab work, receive and fill the prescription, and have PrEP delivered straight to their door - all without needing to visit a physical health center.

"We're putting the power back in the people of Alabama's hands by making critical healthcare services much more accessible, all the while keeping it affordable," said Hans Gangeskar, co-founder and CEO of Nurx. "State by state, our users get the care they need when they need it, regardless of their insurance status or where they live. We're especially thrilled to have Dr. Benjamin join our board as well. She has consistently demonstrated her commitment to community health and pushing for innovative healthcare solutions, and we're thrilled that Dr. Benjamin will bring these same insights to Nurx."

Nurx offers a seamless experience by integrating an owned-and-operated pharmacy, a network of partner physicians, and a telehealth app. Nurx is now available in 21 states and the District of Columbia, encompassing more than 70% of the US population. The full list includes California, Colorado, District of Columbia, Florida, Georgia, Indiana, Illinois, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Tennessee, Texas, Virginia, Washington, Wisconsin, and now Alabama. The company operates according to state and federal standards, including HIPAA.

About Nurx

Nurx is a telemedicine platform offering easy online access to doctors and seamless delivery of medications. No more time-consuming trips to the clinic and no more frantic pharmacy runs. We put you in control of your own health, empowering you to get the care you need, when you need it. Starting with birth control and PrEP for HIV prevention, Nurx is available in 21 states and counting. From diagnosis to delivery of prescriptions, we make every part of getting healthy and staying healthy, better.

Sources

*Guttmacher Institute

**Center for Disease Control and Prevention

Media Contact

Allison Berry

Communications Lead

allison@nurx.co

(650) 799 2676

SOURCE Nurx

Related Links

http://www.nurx.com

News

TELEMEDICINE BIRTH CONTROL APP NURX LAUNCH IN GEORGIA AND TENNESSEE

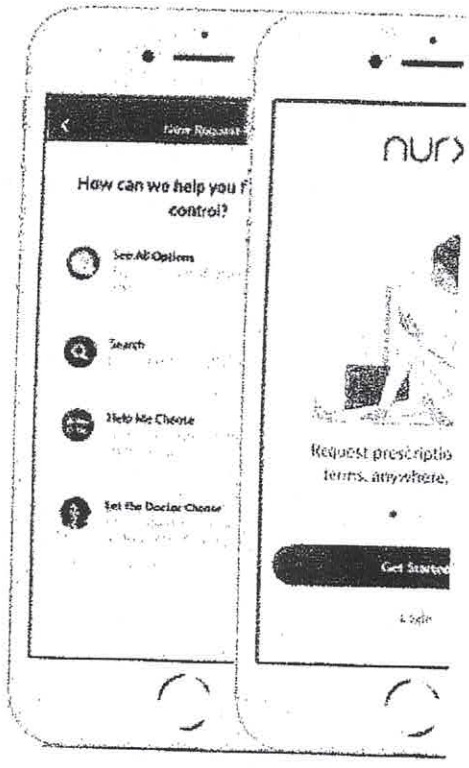
by Muriel Vega | August 14, 2018 | 0 comment

Telemedicine platform Nurx, which offers a quick consultation with medical providers who can prescribe l and HIV-prevention prescriptions, has officially launched its services in Georgia and Tennessee. Currently, 19 million women in America live in "contraceptive deserts," meaning they don't have access to a public cl county that offers the full range of contraceptive methods.

"State by state, we are launching Nurx to create equity in healthcare access for all Americans through this

telehealth option," said Hans Gangeskar, co-founder and CEO of Nurd, in a statement.

The platform provides an end-to-end digital health experience for customers. Patients have access to board-certified physicians to ask questions about different options, and can be prescribed a 3-month prescription supply at a time. It has over 50 different brands of birth control available, along with emergency contraception and the HIV-prevention drugs PrEP, which has been shown to be up to 99% effective at preventing transmission of the HIV virus when taken as directed.



Patients fill out a simple questionnaire and scan their ID, both of which are reviewed by a doctor. If the providers have any questions, they can speak with the customer through text-based messaging or video call.

Nurx is not for everyone, says company representatives, as many patients have more complicated medical histories that should be discussed with a doctor that knows their background. The service is best for patients who have an idea of prescriptions they need.

After acceptance, the supply is mailed right to the customer — for free if they have full-coverage insurance low as $15.

"The CDC predicts that one in five Georgians will be diagnosed with HIV in their lifetime," said Jessica Hor Medical Director at Nurx, in a statement. "Health disparities like this are unacceptable. Especially when w comprehensive education and PrEP access can significantly reduce new HIV infection rates."

The Y-Combinator alum startup, founded in California, launched in 2015. It is now available in 20 states wi recent additions of Georgia and Tennessee, making the service available to more than 70 percent of the U population. This past July, Nurx closed a $36 million funding round led by Kleiner Perkins earmarked for f expansion, and added Chelsea Clinton to its board of directors.

So far, Nurx has contracted two physicians in Georgia, and plans to add more medical providers to the loc

HB 448/SB 402

**Quality Health Care Services:
When and Where Patients Need It**

Telehealth in Maryland

Telehealth provides a pathway to improve access to health care for Marylanders, including individuals:

- **In rural areas**: Individuals may not have the regular transportation or work schedules to allow them to travel long distances for quality health care, particularly specialists.
- **With challenging work or family schedules**: Individuals may not be able to seek care because of challenging work schedules or commitments to care for children or aging relatives.
- **Who are homebound or have limited mobility:** Individuals may have difficulty seeking care because of disabilities or health problems.
- **Who are embarrassed or anxious in seeking care:** Individuals may be intimidated or anxious in seeking in-person care. This may be particularly true for sensitive services including family planning, behavioral health, and particular men's health services.

Telehealth has already begun to make inroads in improving access to health care for Marylanders, but we can do more. HB 448/SB 402 will help Maryland move steadily forward in implementing telehealth. The legislation provides a clear and consistent framework for the provision of telehealth according to the same high standards of care for in-person services.

What This Bill Does:

HB 448/SB402 defines telehealth and authorizes Maryland licensed health care professionals to use telehealth to deliver health care services within their respective scopes of practice:

- **Implements a consistent regulatory framework and standards to promote telehealth adoption:** Currently a patchwork of conflicting regulations govern the use of telehealth in Maryland. The legislation provides clear definitions and standards on how practitioners can establish a patient relationship through telehealth and deliver care, including issuing prescriptions. Through technology-neutral language that accounts for future developments this bill also eliminates the current uncertainties about implementing new technologies that contain costs and improve quality.
- **Includes protections to ensure patient safety and appropriate use of telehealth services:** Telehealth is a delivery method and not a separate service in care. For that reason, the legislation makes clear that any practitioner using telehealth must be licensed in Maryland, must meet the same standard of care as for in-person healthcare services, and must comply with all federal laws regarding the prescribing of controlled substances.

HB 448/SB 402: Quality Health Care Services: When and Where Patients Need It

- **Permits health professionals to use a range of telehealth tools to meaningfully engage with their patients in the most appropriate setting:** Maryland needs to join the majority of other states -- from Texas to California-- that empower providers and patients to use both real-time and non-real time technologies (like secure messaging) to advance access to care through telehealth. Providers should be able to use their clinical judgment to determine the appropriate telehealth communication to uphold the standard of care and serve the best interest of their patients.

- **Builds a patient-centered model of care by allowing patients to choose when and where they obtain services:** Over 36% of people have delayed a doctor visit because they are too busy or the wait is too long, particularly for specialists. Telehealth can remove barriers of time, cost, and distance by allowing patients to initiate care at the time of their choosing, using technology to gather their pertinent health information in a structured fashion, and ensuring their issue is addressed as expeditiously as possible.

- **Helps Maryland meet the goals of Total Cost of Care Model:** Maryland is on the forefront of addressing population health goals and lowering the cost of care through our Total Cost of Care Model. We need to ensure that our hospitals and community-based providers have every tool they need, including telehealth, to deliver effective and efficient care.

- **Ensures consumers have access to the providers they need in their insurance networks**: In 2016, the Maryland General Assembly enacted legislation to ensure there were enough providers in insurance networks to meet consumers needs. However, there are still challenges, particularly in rural areas. Health insurers can build out their provider networks through telehealth. Consumers - whether located on the Eastern Shore, in Southern Maryland, or in Western Maryland - will not be as bound by geography in seeking health care services.

HB 448/SB 402

Quality Health Care Services: When and Where Patients Need It

Telehealth is the Future of Care

As the average wait to see a primary care physician is nearly 30 days and providers spend only 40% of their time with patients, telehealth technologies improve access and make the delivery of quality healthcare more streamlined, cost-effective and transparent. Telehealth provides quality life-saving, routine, or preventive health care:

Primary Care: Many of the low-acuity conditions for which patients seek treatment -- like sinus infections and sore throats-- do not always require an in-person visit. Telehealth allows providers to remotely and efficiently treat patients where they are, while reserving in-person time for patients who need that kind of visit.

Maternal Health: Telehealth connects pregnant women to the care and resources they need to maintain a healthy pregnancy. Women with low-risk pregnancies can connect to their providers with greater frequency, while women with higher risk pregnancies can have better access to specialists and increased monitoring.

Emergency Care: Telehealth technologies help emergency departments remotely triage, evaluate, and treat non-emergency cases, which reduces wait times and allows ED providers to take care of more urgent cases.

Telestroke: Seconds matter when it comes to stroke care. Telehealth technologies connect stroke patients with experts for faster care, increasing survival rates and improving quality of life.

Reproductive and Sexual Health: Telehealth expands safe and convenient access to contraceptives, STI testing and treatment (including HIV prevention), and other stigmatized health conditions. Adherence to clinical guidelines among reproductive health providers using telehealth can be higher than in-person visits.

Department of Veterans Affairs

Office of Public Affairs
Media Relations

Washington, DC 20420
(202) 461-7600
www.va.gov

Fact Sheet

VA Telehealth Services

Operating the nation's largest health care system, the Department of Veterans Affairs' (VA's) uses a wide variety of technologies to ensure excellence in care delivery. New technologies are revolutionizing health care and VA is recognized as a world leader in the development and use of telehealth. Telehealth services are mission-critical to the future direction of VA care to Veterans.

Telehealth increases access to high quality health care services by using information and telecommunication technologies to provide health care services when the patient and practitioner are separated by geographical distance. VA is committed to increasing access to care for Veterans, and has placed special emphasis on those in rural and remote locations.

Telehealth is Transformational. Telehealth is one of VA's major transformational initiatives aimed at ensuring care is convenient, accessible and patient-centered.

- In fiscal year (FY) 2016, about 12% of Veterans received elements of their care via telehealth.
- Telehealth in VA provides mission-critical services that help Veterans to live independently in their own homes and local communities.
- VA providers and patients discuss and decide together which telehealth care services are available in their location and clinically appropriate for the patient to opt into.

Telehealth is Robust and Sustainable. Telehealth is an effective and convenient way for patients to receive, and clinicians to provide, VA care. VA has implemented national quality, implementation, and development resources to ensure local services from more than 900 VA locations.

Telehealth is Visionary. Telehealth in VA is the forerunner of a wider vision in which the relationship between patients and the health care system is changed with the full realization of the "connected patient". The high levels of patient satisfaction and positive clinical outcomes attest to this.

VA Telehealth by the Numbers Fiscal Year 2016

- The number of Veterans receiving care via VA's telehealth services grew approximately 4% in FY16, and is anticipated to grow by approximately 4% in FY17.
- VA provided care to more than 702,000 patients via the three telehealth modalities. This amounted to over 2.17 million telehealth episodes of care.
- Forty-five percent 45% of these Veterans lived in rural areas, and may otherwise have had limited access to VA healthcare.

VA Telehealth Modalities

Clinical Video Telehealth (CVT) is defined as the use of real-time interactive video conferencing, sometimes with supportive peripheral technologies, to assess, treat and provide care to a patient remotely. Typically CVT links the patient(s) at a clinic to the provider(s) at another location. CVT can also provide video connectivity between a provider and a patient at home. CVT encompasses more than 50 clinical applications in VA such as specialty and primary care.

Home Telehealth (HT) is defined as a program into which Veterans are enrolled that applies care and case management principles to coordinate care using health informatics, disease management and technologies such as in-home and mobile monitoring, messaging and/or video technologies. The goal of Home Telehealth is to improve clinical outcomes and access to care while reducing complications, hospitalizations, and clinic or emergency room visits for Veterans in post-acute care settings, high-risk Veterans with chronic disease or Veterans at risk for placement in long-term care.

Store and Forward Telehealth (SFT) is generally defined as the use of technologies to asynchronously acquire and store clinical information (e.g. data, image, sound and video) that is then forwarded to or retrieved by a provider at another location for clinical evaluation. VA's national Store-and-Forward Telehealth programs operationalize this definition to cover services that provide this care using a clinical consult pathway and a defined information technology platform to communicate the event/encounter between providers, as well as enabling documentation of the event/encounter and the associated clinical evaluation within the patient record.

Signature VA Telehealth Programs

In developing VA Telehealth programs, VA has focused on Veteran patients as the main driver to prioritize areas of care. Signature VA Telehealth Programs that have been developed, or are currently under development include, but are not limited to:

- TeleAddiction Services
- TeleAmputation Care
- TeleAudiology
- TeleBipolar Disorder
- TeleCardiology
- TeleDental Care
- TeleDermatology
- TeleCardiology
- TeleChaplain
- TeleDentistry
- TeleDermatology
- TeleEpilepsy
- TeleGastroIntestinal/Hepatitis Care
- TeleGenomic Counseling
- TeleInfectious Disease
- TeleIntensive Care
- TeleKinesiology
- TeleMental Health
- TeleMOVE! Weight Management
- TeleNephrology
- TeleNeurology
- TeleNutrition
- TeleRetinal Imaging
- TeleOccupational Therapy
- TelePain Management
- TelePathology
- TelePodiatry
- TelePolytrauma Care
- TelePrimary Care
- TelePulmonology
- TeleRehabilitation
- TeleSchizophrenia
- TeleSpinal Cord Injury Care
- TeleSpirometry
- TeleSurgery (Pre - & Post- Care)
- TeleTransplant (Pre - & Post- Care)
- TeleWound Care
- Women's Telehealth

Veteran Enrollment in Telehealth

- Telehealth has been implemented in over 900 VA sites of care.
- Providers and patients agree on suitability for Telehealth.
- Veterans can elect to have traditional in-person care instead of Telehealth.
- Telehealth is available for over 50 specialty areas of care.

Telehealth by Modality

Veterans accessed VA care through one (or more) of the following telehealth types in FY16:

- More than 307,000 Veterans used Clinical Video Telehealth
- More than 150,000 Veterans used Home Telehealth
- More than 304,000 Veterans used Store-and-Forward Telehealth

Training for VA Physicians and other Clinicians

VA provides its national telehealth training for VA staff virtually. In FY16:

- VA provided 282 training sessions, with a total of 45,700 training completions. More than 10,000 staff attended at least one training session. VA conducts annual competency testing.

VA Telehealth Outcomes

Improved patient outcomes resulting in reduced utilization of inpatient care in FY16:

- Veterans enrolled in Home Telehealth for non-institutional care needs and chronic care management had a 59% decrease in VA bed days of care and a 31% decrease in VA hospital admissions.
- Mental Health services provided to Veterans via Clinical Video Telehealth (TeleMental Health) reduced Acute Psychiatric VA bed days of care by 39% and a 32% decrease in VA hospital admissions.

High Veteran satisfaction scores in FY16:

- 92% for Clinical Video Telehealth
- 88% for Home Telehealth
- 94% for Store and Forward Telehealth

Learn More Online about VA Telehealth Services:

- *http://www.telehealth.va.gov/*

Sen. Kagan SB402 Telehealth - Testimony

Uploaded by: Senator Kagan, Senator Kagan

Position: FAV

CHERYL C. KAGAN
Legislative District 17
Montgomery County

Vice Chair
Education, Health, and
Environmental Affairs Committee

Joint Audit Committee
Joint Committee on Federal Relations

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Cheryl.Kagan@senate.state.md.us

THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

SB402: Health Care Practitioners – Telehealth
Education, Health, and Environmental Affairs Committee
Hearing: Thursday, February 13, 2020, at 1:00pm

Many Marylanders lack access to consistent, timely medical care. A relatively new component of health care delivery, telehealth, holds promise to make many health care services deliverable virtually, reducing the time it takes to get care and expanding care to rural residents. But state laws need some adjustments to ensure telehealth service delivery can expand. This issue arose from the Joint Committee on Administrative, Executive, and Legislative Review (AELR). The Maryland Board of Physicians proposed regulations that did not match the legislature's intent and SB402 seeks to address those concerns.

SB402 creates a consistent regulatory framework in Maryland for telehealth across all health care professions, authorizing the use of both synchronous technology -- which means two-way "real-time" online communication like a chat -- and asynchronous technology -- one-way electronic messaging. The bill also addresses some barriers created by the current Board of Physician regulations, which restrict the use of asynchronous technology in some circumstances.

Telehealth will increase access to medical advice and services for people. People in remote, rural and underserved areas do not have equal, consistent, or timely access to medical care. Telehealth can reduce the need for emergency room visits. The Department of Veterans Affairs (VA) has been an early adopter of telehealth, and it has helped them reach thousands of more veterans. Now, about 12% of the VA's services are delivered through telehealth.

Health care consumers can connect with a professional without leaving their homes. This is especially helpful for patients who cannot get an appointment during normal business hours; those without transportation; and patients who would have to arrange childcare services.

As consumers rely on high deductible plans, they are demanding more efficiency with their health care dollars. According to The American Journal of Emergency Medicine, "telemedicine consults result in short-term cost savings by diverting patients from a more expensive care setting." Telehealth reduces the number of hospital admissions and bed days. This will lead to lower costs and a huge increase in care quality and patient satisfaction.

I strongly urge a favorable report of SB402.

United Spinal Association_FAV_SB402
Uploaded by: Senator Kagan, Senator Kagan
Position: FAV

United Spinal Association
www.unitedspinal.org

February 12, 2020

Education, Health, and Environmental Affairs Cmte.
Maryland General Assembly
2 West
Miller Senate Office Building
Annapolis, Maryland 21401

Health and Government Operations Cmte.
Maryland General Assembly
Room 241
House Office Building
Annapolis, Maryland 21401

RE: SB 402 / HB 448 and the use of telehealth

Dear Chairs Pinsky and Pendergrass and Committee Members

I am writing to voice our support for Senate Bill 402 (Kagan, Lam) and House Bill 448 (Rosenberg) as you take up the issue of telehealth. The bill's language regarding allowable technology in telehealth will allow the state of Maryland to maximize expanded access to healthcare for people with disabilities through telehealth. United Spinal Association supports public policies that promote and improve the quality of life for individuals with spinal cord injuries and other paralyzing conditions.

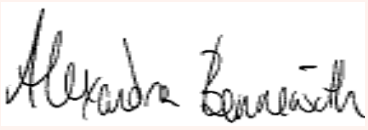
United Spinal Association is the largest non-profit organization, founded by paralyzed veterans, dedicated to enhancing the quality of life of all people living with spinal cord injuries and disorders (SCI/D), including veterans, and providing support and information to loved ones, care providers and professionals. United Spinal has over 70 years of experience educating and empowering almost 2.5 million individuals with SCI/D to achieve and maintain the highest levels of independence, health and personal fulfillment. United Spinal has over 50,000 members, over 50 chapters, close to 200 support groups and more than 100 rehabilitation facilities and hospital partners nationwide including 10 distinguished Spinal Cord Injury Model System Centers that support innovative projects and research in the field of SCI. United Spinal Association is also a VA-accredited veterans service organization (VSO) serving veterans with disabilities of all kinds.

United Spinal Association respectfully requests the Committee pass SB 402 and HB 448 to allow the use of telecommunications technologies, both in synchronous and asynchronous telehealth interactions, in establishing the practitioner-patient relationship. Any requirement for audio-visual connections in establishing this relationship would create a barrier to access and removes another avenue for individuals with disabilities to obtain qualified physician access via telehealth.

Telehealth is a valuable tool for meeting the needs of Marylanders, particularly individuals with disabilities. United Spinal Association strongly supports technology-neutral telehealth laws and regulations for the purpose of improving public access to high-quality health care. For people in rural areas and individuals living with spinal cord injuries and other paralyzing conditions, obtaining in-person care can be a difficult process.

While it is important that telehealth providers be regulated to protect the public, it is equally important that policies not be designed to impede access. Passing SB 402 and HB 448 in their current form would ensure that individuals with disabilities across the state of Maryland have greater access to medical care from providers that comply with Federal and State requirements. If you have any questions, please do not hesitate to contact Stephen Lieberman, Director of Policy & Advocacy, at slieberman@unitedspinal.org or (202) 556-2076, x7104.

Sincerely,



Alexandra Bennewith, MPA
Vice President, Government Relations

MRHA_FAV_SB402
Uploaded by: Wilson, Lara
Position: FAV

Statement of Maryland Rural Health Association
To the Education, Health, and Environmental Affairs Committee
February 13, 2020
Senate Bill 402: Health Care Practitioners - Telehealth

POSITION: SUPPORT

Senator Lam, Chair Pinsky, Vice Chair Kagan, and members of the Education, Health, and Environmental Affairs Committee, the Maryland Rural Health Association (MRHA) is in SUPPORT of Senate Bill 402 – Health Care Practitioners – Telehealth.

This legislation would authorize 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 the same standards of practice that are applicable to in-person settings; requiring a health care practitioner to perform a clinical evaluation appropriate for the condition the patient presents before providing certain treatment or issuing a prescription through telehealth; etc.

MRHA's mission is to educate and advocate for the optimal health and wellness of rural communities and their residents. Membership is comprised of health departments, hospitals, community health centers, health professionals, and community members in rural Maryland.

Rural Maryland represents almost 80 percent of Maryland's land area and 25% of its population. Of Maryland's 24 counties, 18 are considered rural by the state, and with a population of over 1.6 million they differ greatly from the urban areas in the state.

This legislation helps remove barriers for some of Maryland's most vulnerable populations as well as increases the capacity for the rural regions of Maryland to provide much-needed services to rural residents, specifically in the health professional shortage areas of the state.

The 2018 Maryland Rural Health Plan (www.MDRuralHealthPlan.org), an extensive assessment of Maryland's rural health needs, cites the telehealth as a viable solution to many of the access barriers across our 18 rural jurisdictions.

MHRA believes this legislation is important to support our rural communities and we thank you for your consideration.

Lara Wilson, Executive Director, larawilson@mdruralhealth.org, 410-693-6988

MHA_FAV_SB402
Uploaded by: Witten, Jennifer
Position: FAV

Maryland
Hospital Association

February 13, 2020

To: The Honorable Pinsky, Chairman
Senate Education, Health & Environmental Affairs Committee

From: Jennifer Witten, Vice President, Government Affairs, Maryland Hospital Association

Re: Letter of Support: Senate Bill 402-Health Care Practitioners-Telehealth

Dear Chairman Pinsky and Committee Members,

On behalf of the Maryland Hospital Association's (MHA) 61 member hospitals and health systems, we appreciate the opportunity to comment on Senate Bill 402. Maryland's nonprofit hospitals and health systems care for millions of people each year, treating 2.3 million in emergency departments and delivering more than 67,000 babies. The 108,000 people they employ are caring for Maryland around-the-clock every day—delivering leading edge, high-quality medical service.

Increasingly hospitals are adopting telehealth and virtual visits to expand access to care and remove barriers to health services for Marylanders.

Senate Bill 402 would strengthen these efforts and establish standards across all health occupation boards to ensure standard of practice applies for care delivered via telehealth. The bill does not modify or diminish the role, oversight, safety and disciplinary action authority of the boards. SB 401 would allow for telehealth to meet patients' needs in different forms supported by a health care provider making recommendations for care and treatment. Additionally, the proposed legislation clarifies and streamlines the board's existing telehealth requirements. These requirements apply broadly across all types of telehealth—easing the burden on providers and hospitals to comply with separate sets of requirements depending on the technology they use.

Further, the legislation is sensitive to several important consumer protections that ensure providers have necessary patient consent before providing telehealth and that they appropriately document telehealth services in compliance with HIPPA and privacy requirements.

Telehealth is a potential tool to address physician shortages, expand access to behavioral health care, and improve efficiencies. Telehealth opens the door to new delivery models that extend the reach of the provider to where patients need care—anytime, anyplace. The Maryland Model encourages unique approaches to providing care to patients in the community and improving population health. The proposed legislation is an important step to expand access to essential health care services and assist in meeting the goals of the Maryland Total Cost of Care Model.

For these reasons we urge a **favorable report on SB 402**.

For more information, please contact:
Jennifer Witten
Jwitten@mhaonline.org

PatriciaBennett_FWA_Optometry Board_SB 402
Uploaded by: Bennett, Patricia
Position: FWA

Board of Examiners in Optometry
4201 Patterson Avenue, #307
Baltimore, MD 21215
Phone: 410-764-4710

BILL NO: SB 402
COMMITTEE: EHE
POSITION: Support with Amendments

TITLE: Health Care Practitioners - Telehealth

BILL ANALYSIS:
The purpose of this bill is to authorize certain health care practitioners to establish a practitioner–patient relationship through telehealth interactions under certain circumstances and adopt regulations; require a health care practitioner providing telehealth services to be held to certain standards of practice, be licensed in the State, perform a clinical evaluation before providing treatment or issuing a prescription through telehealth, and document certain information in a patient's medical record using certain documentation standards; and provide that a health care practitioner who prescribes a controlled dangerous substance through telehealth interactions is subject to certain laws regarding confidentiality and a patient's right to health information.

POSITION AND RATIONALE: The Maryland Board of Examiners in Optometry ("Board") supports SB 402 with amendments. The Board considers telehealth to be a tool to be used in the practice of optometry. The use of telehealth interaction does not negate, replace, nor alter the provisions of the practice of optometry as defined in the Maryland Optometry Practice Act. The benefits to the citizens include increased patient access to health care, increased availability of patient records, and reduced costs. However, the Board's ultimate mandate of public protection is at the forefront of its support of telehealth interaction in order to promote visual health, patient safety, and wellbeing. The appropriate practitioner-patient relationship underpins the provision of effective telehealth care and service.

Historically, the Board's statute and regulations were intended for the delivery of services by direct face-to-face, in-person interactions. However, the world exists and functions in this age of technology. Therefore, the Board must be adaptable and be able to provide the framework and foundation for the practice of optometry in this digital age. The Board's stance is that there is no separate or different scope of practice or standard of care applicable to those who practice telehealth within the state of Maryland.

There are, however, two instances during which asynchronous telehealth interactions would not be allowed by the Board. The Board does not support asynchronous telehealth interactions to establish or initiate a practitioner-patient relationship or during clinical evaluations for the purpose of issuing prescriptions for ophthalmic devices, including glasses, contact lenses, and low vision devices. Any online or asynchronous telehealth interaction which includes refraction and vision or contact lenses exams with the issuance of prescriptions is a disservice to the public.

Telehealth as a tool can be appropriate. However, under no circumstances, should refractive vision testing be an asynchronous telehealth interaction. Not only does online refractive vision testing and the prescribing of glasses, contact lenses, and low vision devices not meet the requirements of a minimum optometric examination, but more importantly: these actions do not provide for consumer safety and protection, patient wellbeing, and visual health.

As a case in point, due to concerns and reports regarding patient health and safety, there was federal action taken recently. The FDA issued a Cease and Desist Order to Opternative, a company that had been offering online eye exams for more than 3 years in several states.

The Board's position is that there are situations where asynchronous telehealth interactions are unacceptable and pose a detriment to patient health and consumer safety. Therefore, the Board's proposed amendments to SB 402 are listed at the end of this position paper.

The Maryland Board of Examiners in Optometry thanks you for reviewing its position and requests your favorable consideration of the position to support SB 402 with the proposed amendments.

For more information, please contact Patricia G. Bennett, Executive Director, Maryland Board of Examiners in Optometry at 443-934-0816 or patricia.bennett@maryland.gov

The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.

Amendment No. 1

On page 2, amend lines 25–26 with the following:

A HEALTH CARE PRACTITIONER MAY ~~ESTABLISH A~~ PROVIDE CARE TO A PATIENT WHERE THERE IS AN ESTABLISHED PRACTITIONER-PATIENT RELATIONSHIP THROUGH EITHER A SYNCHRONOUS TELEHEALTH INTERACTION OR AN ASYNCHRONOUS TELEHEALTH INTERACTION, IF THE HEALTH CARE PRACTITIONER:

Amendment No. 2

On page 3, add new language to line 13 with the following:

(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 SYNCHRONOUS OR ASYNCHRONOUS TELEHEALTH INTERACTION, AS APPROPRIATE.

Board of Physicians_FWA_SB 402
Uploaded by: Finkler, David
Position: FWA

Maryland
DEPARTMENT OF HEALTH

Board of Physicians

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

2020 SESSION
POSITION PAPER

BILL NO:	**SB 402**
COMMITTEE:	**Senate-Education, Health & Environmental Affairs**
POSITION:	**Support with Amendments**

TITLE: **Health Care Practitioners-Telehealth**

BILL ANALYSIS: SB 402 authorizes all occupations licensed under the Health Occupations Article (including physicians, nurses, pharmacists, dentists, psychologists, social workers, chiropractors, professional counselors, acupuncturists, and massage therapists) to utilize telehealth in their respective practice. The bill defines telehealth to include both synchronous (in real time) and asynchronous (not in real time) modalities and authorizes the prescribing of Controlled Dangerous Substances (CDS) using both modalities.

POSITION AND RATIONALE: The Maryland Board of Physicians supports SB 402 with amendments. This bill will override the patient evaluation requirements of the Board's telehealth regulations.

The Board Supports Telemedicine and Telehealth

The Board began regulating telemedicine in 2009. **The Board has always required a prior synchronous (real-time) evaluation prior to diagnosis or treatment.** In 2017, the Board initiated a revision of its telemedicine regulations which resulted in the adoption of telehealth regulations in 2019. The Board sought and received considerable stakeholder input and revised various drafts based on this input. The Board's goal was to promote healthcare access for practitioners and their patients while also protecting patient safety, a key element to the Board's mission.

The revised regulations significantly expanded the access to telehealth by expanding the practice to physician assistants and other allied health providers who may now practice telehealth under the Board's regulations. The Board revised the language, but retained the content of the Board's requirements of synchronous (real-time) evaluation. Some stakeholders argued that the Board's regulations did not go far enough to expand telehealth and was too restrictive.

The Board's Regulation Led to this Legislation

The Board's telehealth regulations state: *"A telehealth practitioner shall perform a synchronous (in real time) audio-visual patient evaluation adequate to establish diagnoses and identify underlying conditions or contraindications to recommend treatment options before providing treatment or prescribing medications."*[1] The Board regulation exempts interpretive services (such as radiology), remote patient monitoring, follow-up care, surrogate examiners and coverage situations.

For an initial patient encounter, the Board maintains that a physician or other practitioner must examine the patient in-person or through a live audio-visual technology prior to diagnosing, and if appropriate, determine treatment and possible prescribing of medication, as is recommended by the American Medical Association (AMA), the American College of Physicians (ACP), and experts in the medical field.

In its regulations promulgated in 2019, based upon the opioid epidemic and public safety concerns, the Board expressly prohibits treatment and prescribing based solely on an online questionnaire, and opioid prescribing for the treatment of pain.

Several groups disagree with this approach. They argue that there is no need for a real time audio-visual patient evaluation prior to prescribing medication for patients and that the Board's requirements are unnecessary and an impediment to healthcare access. The Board considered but rejected this requested revision that would have removed the live audio-visual requirement. The Administrative, Executive, Legislative Review Committee (AELR) placed a hold on the regulations which was eventually lifted, but the Committee chairs informed the Board that legislation would be forthcoming in the 2020 Session and that has resulted in SB 402/HB 448.

The Board consulted with stakeholders and experts again after the regulations were adopted. Based on the input from those entities, the Board determined that prescribing birth control pills without live audio-visual evaluation was generally deemed safe for patients. The Board, however, continues to have significant concerns with allowing prescribing and treatment without any initial real-time audio-visual encounter. The Board believes that prescribing authority without any live evaluation could lead to a serious compromise of patient safety, especially from bad actors. Further study is required to determine the safety and efficacy of telehealth without live audio-visual evaluations.

What does the Medical Community Say?

Maryland Board of Physicians

Board members have considered the expansion of telehealth to asynchronous modalities, conducting multiple workgroups and discussing the issue in Board meetings. While the Board believes that telehealth is an important tool for physicians to be able to use and has supported the expansion of telehealth, Board members have expressed significant concerns about treatment and prescribing with no prior in-person or synchronous (real-time) patient examinations and evaluations.

American College of Physicians (ACP) and American Medical Association (AMA)

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[1] We should mention that this requirement has been in the regs since 2009...

Both the American College of Physicians and American Medical Association advise that a valid patient-physician relationship must exist to provide telehealth. In January 2019, the American College of Physicians issued a supplement that contained the seventh edition of the American College of Physicians Ethics Manual[2] that describes that such a relationship may be established in-person or through real-time audiovisual technology. We have attached the full discussion about telehealth and include a summary of the guidance in this box from the ethics manual:

There must be a valid patient–physician relationship for a professionally responsible telemedicine service to take place.

A telemedicine encounter itself can establish a patient–physician relationship through real-time, technically appropriate audiovisual technology.

In the absence of direct previous contact or an existing relationship before a telemedicine encounter, the physician must take appropriate steps to establish a relationship based on the standard of care required for an in-person visit, or consult with another physician who does have a relationship with the patient.

The benefits of increased access to care through telemedicine must be balanced with risks from the loss of the in-person encounter—for example, misdiagnosis potential; overprescribing; absent in-person interactions, including the therapeutic value of touch, and body language; and continuity of care.

According to the American Medical Association: **"The AMA believes that a valid patient-physician relationship must be established before the provision of telemedicine services."**[3]

Investigative Journalism - The New York Times Article

In an article, The New York Times described telehealth treatment approaches that concern the Board. The article describes the internet telehealth process as follows:

> *The sites invert the usual practice of medicine by turning the act of prescribing drugs into a service. Instead of doctors making diagnoses and then suggesting treatments, patients request drugs and physicians serve largely as gatekeepers.*

The New York Times also quotes medical experts in ethics and behavioral health expressing their concerns:

> *"It's restaurant-menu medicine,"* said Arthur L. Caplan, a medical ethics professor at New York University School of Medicine.
>
> *"Where are the regulatory agencies in this?"* asked Dr. C. Neill Epperson, a women's behavioral health expert at the University of Colorado School of Medicine. *"How can this just be O.K.?"*

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[2] https://annals.org/aim/fullarticle/2720883/american-college-physicians-ethics-manual-seventh-edition?_ga=2.221162833.183773295.1580827508-1097467148.1580827508#208345953

[3] https://www.ama-assn.org/system/files/2018-10/ama-chart-telemedicine-patient-physician-relationship.pdf

Asynchronous Practice and Prescribing in Other States

Twenty-one (21) states and the District of Columbia do not authorize asynchronous practice or prescribing. Twenty-five (25) states that we have reviewed neither prohibit nor authorize asynchronous practice and prescribing. To date, only four (4) states (Maine, Iowa, Florida and California) have authorized asynchronous (not in real time) prescribing.

The bill authorizes asynchronous prescribing of Controlled Dangerous Substances (CDS)

At a time when Maryland and many states are still battling opioids as a public health crisis, it is especially counter-productive to authorize the prescribing of CDS, including benzodiazepines and opioids, through questionnaires. A physician or other prescriber who has never conducted a prior patient evaluation will be authorized to prescribe CDS. In contrast, federal law requires at least one in-person medical evaluation of a patient or a covering practitioner to be considered a "valid prescription" for the purposes of delivering, distributing, or dispensing CDS by means of the internet. *See* 21 U.S.C. 829. This bill does not add any further restrictions on CDS prescribing, seemingly overriding the Board's telehealth opioid prescribing prohibitions and also allowing asynchronous prescribing without further restrictions on CDS prescribing.

The Board's position:

The Board of Physicians and other health occupation boards are concerned that SB 402/HB 448 will compromise patient safety by authorizing all health care practitioner licensees to use asynchronous technology often involving the use of online and smartphone app-based questionnaires. The Board of Physicians is especially concerned with physicians prescribing drugs asynchronously through these questionnaires.

From our discussions, it is the Board's understanding that Med Chi and some insurance carriers share our concerns and both support our recommendation for a Task Force instead of passing this legislation.

The Board's mission is to protect public health and patient safety. The Board has too many concerns to support the bills as drafted. Consequently the urges the Committee to consider, in the alternative, the following two amendments to SB 402/HB 448:

1. Support an amendment to authorize asynchronous prescribing of birth control pills.
2. Support an amendment that would strike the existing bill and replace it with a Legislative-directed Task Force to Study Telehealth led by the Department of Legislative Services, in consultation with the Department of Health and the Board of Physicians. The Task Force study would include but not be limited to how other states address maximizing healthcare access while protecting patient safety involving different telehealth modalities.

Attachments

New York Times articles: Drug Sites Upend Doctor-Patient Relations: "It's Restaurant-Menu Medicine" 4/2/19

American College of Physicians Ethics manual: Seventh Edition
"Initiating and Discontinuing the Patient-Physician Relationship" 1/15/19

For more information, please contact Wynee Hawk, Manager, Policy/Legislation-at the Board of Physicians at 410-764-3786.

The opinion of the Board expressed in this document does not necessarily reflect that of the Maryland Department of Health or the Administration.

The New York Times https://nyti.ms/2K1wZV2

Drug Sites Upend Doctor-Patient Relations: 'It's Restaurant-Menu Medicine'

By Natasha Singer and Katie Thomas

April 2, 2019

The sites promise easy and embarrassment-free access to erectile dysfunction and libido pills. "E.D. meds prescribed online, delivered to your door," one said recently. "Starting at $2 per dose."

"Low sex drive? That can be optional," another one said. "Try today — $99."

The sites, Roman and Hers, as well as others now make obtaining lifestyle drugs for sexual health, hair loss and anxiety nearly as easy as ordering dinner online.

On the sites, people self-diagnose and select the drug they want, then enter some personal health and credit card information. A doctor then assesses their choice, with no in-person consultation. If approved, the medicine arrives in the mail days or weeks later.

The sites invert the usual practice of medicine by turning the act of prescribing drugs into a service. Instead of doctors making diagnoses and then suggesting treatments, patients request drugs and physicians serve largely as gatekeepers.

Some of these companies operate in a regulatory vacuum that could increase public health risks, according to interviews with physicians, former federal health regulators and legal experts. And federal and state health laws, written to ensure competent medical care and drug safety, have not kept pace with online services, they say.

"It's restaurant-menu medicine," said Arthur L. Caplan, a medical ethics professor at New York University School of Medicine.

After answering questions online, two reporters for The New York Times in California gained approval for generic Viagra prescriptions through Roman and Hims, a site run by the same start-up that owns the Hers site. A third Times reporter ordered Addyi, the libido drug, through Hers.

Whether the sites' screening processes are sufficient is open to interpretation. This year, a doctor in California, who had prescribed Viagra online through a site called KwikMed.com, surrendered his medical license after the state's medical board accused him of failing to provide standard medical care like examining the patient and taking vital signs.

Some start-ups, like Kick Health, sell blood pressure pills or other prescription drugs for unapproved uses like calming the symptoms of performance anxiety.

One drug, Addyi, which can cause fainting if taken with alcohol, arrived without the necessary safety warning protocols created by the drug's manufacturer.

Much like Uber, which argues that it is not a transportation company even as it connects drivers and passengers, the drug sites argue that they are tech platforms, not health providers. The sites connect consumers — and often process their payments — to doctors who may prescribe drugs and pharmacies that can ship the medications.

To comply with state laws, the doctors work for separate companies that cater to the sites. The doctors are typically paid for each health consultation, or by the hour, not the number of prescriptions written. The sites generate revenue for themselves by charging service or processing fees to consumers, the doctors or both.

Kick, Roman and Hims each said they complied with laws and did not influence the doctors' prescribing decisions.

Zachariah Reitano, the chief executive of Ro, the owner of Roman, said his site encouraged people to tend to their health who might not otherwise have done so.

"It provides more convenient, higher-quality, more affordable care for certain conditions and saves people a lot of time and energy," Mr. Reitano said.

Justin Ip, the chief executive of Kick, said his company was "trying to be careful and cautious" about complying with health laws. He added that federal marketing restrictions on drug makers did not apply to his company.

Federal drug marketing rules apply to drug manufacturers, drug distributors, packers and their representatives. Whether the consumer drug sites fall into any of those categories is an unsettled question. And there is no single federal or state agency in charge of overseeing online prescription drug services.

"Where are the regulatory agencies in this?" asked Dr. C. Neill Epperson, a women's behavioral health expert at the University of Colorado School of Medicine. "How can this just be O.K.?"

Prescribing Algorithms

The new wave of sites that market drugs directly to consumers began popping up several years ago, promising to streamline medical care with software.

Several gained traction with cheeky TV commercials, billboard ads and social media feeds featuring sexual imagery like cactuses. They use slick packaging, wrapping doses of Viagra in condom-size envelopes or sending chocolate along with birth control pills.

The premise is so attractive to investors that Hims and Ro have raised nearly $100 million each. They have also tapped experts for advice, including Dr. Joycelyn Elders, a former surgeon general who is a medical adviser to Ro, and men's health specialists at leading hospitals.

Dr. Elders said she had signed on to advise Ro to promote accurate information about sexual health.

Nurx, a San Francisco start-up that markets contraceptives for women, has raised more than $41 million. Keeps, a hair loss treatment site for men, is based in New York and has raised nearly $23 million.

"We believe this is a radical new way of providing care — by changing unstructured interactions into structured care, by shifting work from M.D.s to algorithms where possible," Andy Weissman, a managing partner at Union Square Ventures, wrote in a blog post in 2016 after his firm led an investment round in Nurx.

Limited Doctor Interaction

For people who get nervous before public speaking, there is Kick, a San Francisco start-up that operates in 12 states. The site offers consumers a blood pressure drug, propranolol, to calm a racing heart and shaking hands.

But the site's home page did not disclose that the medication was not federally approved to treat anxiety. In fact, it suggested the opposite: "FDA approved prescriptions tailored to you," the home page said.

After queries from a reporter, the site added a sentence on a drug information page noting that prescribing propranolol for anxiety was "off-label" — or not federally approved.

The Food and Drug Administration generally prohibits pharmaceutical companies from marketing medicines for unapproved uses, as they have not been federally vetted for safety and effectiveness. Over the last decade, Pfizer and Johnson & Johnson have each paid fines of more than $2 billion to settle government charges of illegally marketing unapproved drug uses.

Doctors are permitted to practice medicine as they see fit, including prescribing drugs for unapproved uses. Mr. Ip of Kick noted that doctors regularly prescribed propranolol to treat anxiety.

But state and professional ethical standards typically require doctors to establish relationships with new patients, and examine them, before prescribing a drug. The interactions with physicians through the sites can be quite limited.

After submitting the information to Hims and being charged, a reporter received a message from a doctor saying he was a good candidate for erectile dysfunction treatment and asking if he had any questions. The reporter had no questions and ordered the drug.

Roman, Hims and Kick each said they designed their systems to ask the questions doctors would ask of new patients. The companies said the questions changed based on a person's previous answers, allowing for individualized diagnoses. The companies use algorithms to flag or weed out people with medical conditions, like high blood pressure, that could make certain prescriptions inappropriate.

Some states specifically prohibit doctors from relying solely on online questionnaires to prescribe drugs to new patients. Hims, Kick and Roman said their processes were interactive and should not be considered questionnaires.

In Ohio, state regulators said doctors must — at a minimum — communicate with patients in real time, through audio or video, to meet their standards.

But Spence Bailey of Columbus, Ohio, said he had never spoken to a doctor by phone or on video when ordering hair loss medication from Hims, communicating only through the site's messaging system.

He said he was satisfied, but canceled his monthly subscription because it was too expensive.

Hims said it complied with state medical board rules.

On some sites, it can be unclear who is reviewing consumers' health data and prescribing the drugs.

A reporter in California who requested generic Viagra through Roman received a message from a doctor, including his name and a link to a page listing his medical school, qualifications and state licenses.

But a different reporter in California, who requested generic Viagra through Hims, received a message without a doctor's name.

After being asked about the interaction by a Times reporter, the company said it had changed its software to require doctors to include their medical credentials on such messages.

Incomplete Warnings

A week or two after reporters were approved for prescriptions, the medications arrived in discreet packages.

A shipment of the Addyi libido pills, from Postmeds, a pharmacy based in Hayward, Calif., came with a colorful "usage guide." "It's time to get busy," the guide said.

The Hers questionnaire, as well as an online message from the doctor, had explicitly warned about fainting risks that can arise from taking the drugs with alcohol. But the usage guide made no mention of it. That potential danger was included only in the required F.D.A. information insert printed in a tiny typeface.

Pharmacists dispensing Addyi "must counsel all patients on the need to avoid alcohol" with every prescription, according to protocols created by Sprout Pharmaceuticals, the drug's manufacturer.

Instead, the pills came with a card providing a phone number for a "drug consultation" with Postmeds.

"The idea here is that there must be an added layer of professional counseling," said Ned Milenkovich, a pharmacist and lawyer with the firm Much Shelist in Chicago.

Cindy Eckert, Sprout's chief executive, referred questions to Hers and the pharmacies it uses. Hers referred questions to Postmeds. Umar Afridi, Postmeds' chief executive, said the required medical insert contained the alcohol warning, satisfying the counseling requirements.

Blurred Lines

The start-ups have stayed under the regulatory radar partly by arguing that they are not health providers. But the lines between the companies and the entities handling the prescribing can blur.

Ro's terms of use policy says that another company, Roman Pennsylvania Medical, provides the sites' doctors. And Mr. Reitano, Ro's chief executive, said the start-up's clinical directors and the owners of the physician company did not hold equity in Ro.

But Roman Pennsylvania has the same address in New York as Ro, according to business registration documents. Its president, Dr. Tzvi Doron, is a Ro clinical director.

Keeps, the hair-loss site, also has links to a physician corporation, KMG Medical Group, that supplies doctors to its users. Steven Gutentag, Keeps's chief executive, said that KMG was an independent corporation and that Keeps did not control the doctors' decisions.

But the two entities are closely related. Keeps's customers pay KMG Medical Group for their doctor consultations, and KMG pays Keeps's parent company, Thirty Madison, for the patient software it uses and other business services.

Then there is Dr. Michael Demetrius Karagas, a Texas physician who is KMG Medical Group's owner. He, too, has close ties to Keeps: He is the father of one of its co-founders, Demetri Michael Karagas. Dr. Karagas did not respond to requests for comment.

Annals of Internal Medicine SUPPLEMENT

American College of Physicians Ethics Manual

Seventh Edition

Lois Snyder Sulmasy, JD, and Thomas A. Bledsoe, MD; for the ACP Ethics, Professionalism and Human Rights Committee*

Medicine, law, and social values are not static. Reexamining the ethical tenets of medicine and their application in new circumstances is a necessary exercise. The seventh edition of the American College of Physicians (ACP) Ethics Manual covers emerging issues in medical ethics and revisits older ones that are still very pertinent. It reflects on many of the ethical tensions in medicine and attempts to shed light on how existing principles extend to emerging concerns. In addition, by reiterating ethical principles that have provided guidance in resolving past ethical problems, the Manual may help physicians avert future problems. The Manual is not a substitute for the experience and integrity of individual physicians, but it may serve as a reminder of the shared duties of the medical profession.

Ann Intern Med. 2019;170:S1-S32. doi:10.7326/M18-2160 Annals.org
For author affiliations, see end of text.

> The secret of the care of the patient is in caring for the patient.
> —Francis Weld Peabody (1)

Some aspects of medicine, such as the patient-physician relationship, are fundamental and timeless. Medicine, however, does not stand still–it evolves. Physicians must be prepared to deal with relevant changes and reaffirm what is fundamental. This seventh edition of the Ethics Manual examines emerging issues in medical ethics and professionalism and revisits older issues that are still very pertinent. Major changes to the Manual since the 2012 (sixth) edition (2) include new or expanded sections on electronic communications; telemedicine ethics; electronic health record ethics; precision medicine and genetics; social media and online professionalism; the changing practice environment; population health; physician volunteerism; research and protection of human subjects; and a revised case method for ethics decision making (**Appendix**).

Changes to the Manual from the sixth edition are noted in **Box 1**.

The Manual is intended to facilitate the process of making ethical decisions in clinical practice, teaching, and medical research and to describe and explain underlying principles of ethics, as well as the physician's role in society and with colleagues. Because ethics and professionalism must be understood within a historical and cultural context, the second edition of the Manual included a brief overview of the cultural, philosophical, and religious underpinnings of medical ethics in Western cultures. In this edition, we refer the reader to that overview (3, 4) and to other sources (5, 6) that more fully explore this rich heritage.

The Manual raises issues and presents general guidelines. In applying these guidelines, physicians should consider the circumstances of the individual patient and use their best judgment. Physicians have ethical and legal obligations, and the two may not be concordant. Physician participation in torture is legal in some countries but is never ethical. Physicians must keep in mind the distinctions and potential conflicts between legal and ethical obligations and seek counsel when concerned about the potential legal consequences of decisions. We refer to the law in this Manual for illustrative purposes only; this should not be taken as a statement of the law or the legal consequences of actions, which can vary by state and country. Physicians must develop and maintain an adequate knowledge of key components of the laws and regulations that affect their patients and practices.

Medical and professional ethics often establish positive duties (that is, what one should do) to a greater extent than the law. Current understanding of medical ethics is based on the principles from which positive duties emerge (**Table 1**). These principles include beneficence (the duty to promote good and act in the best interest of the patient) and nonmaleficence (the duty to do no harm to the patient). Also included is respect for patient autonomy–the duty to protect and foster a patient's free, uncoerced choices (7). From the principle of respect for autonomy are derived the rules for truth-telling. The relative weight granted to these principles and the conflicts among them often account

See also:

Editorial comment 133

Web-Only
CME/MOC activity

* Members of the Ethics, Professionalism and Human Rights Committee, 2016-2018, who contributed to the development of this seventh edition of the Manual: Carrie A. Horwitch, MD, MPH (*Chair*, 2016-2017); Thomas A. Bledsoe, MD (*Chair*, 2017-2018); Omar T. Atiq, MD (*Vice Chair*); John R. Ball, MD, JD; John B. Bundrick, MD; Ricky Z. Cui, MD; Nitin S. Damle, MD, MS; Douglas M. DeLong, MD; Lydia S. Dugdale, MD; Jack Ende, MD; Susan Thompson Hingle, MD; Pooja Jaeel, MD; Lauris C. Kaldjian, MD, PhD; Daniel B. Kimball Jr., MD; Lisa S. Lehmann, MD, PhD; Ana Mar a L pez, MD, MPH; Susan Lou, MD; Paul S. Mueller, MD; Alexandra Norcott, MD; Sima Suhas Pendharkar, MD, MPH; Julie R. Rosenbaum, MD; Molly B. Southworth, MD, MPH; and Thomas G. Tape, MD.
Approved by the ACP Board of Regents on 5 June 2018. Readers can cite the Manual as follows: Sulmasy LS, Bledsoe TA; ACP Ethics, Professionalism and Human Rights Committee. American College of Physicians ethics manual. Seventh edition. Ann Intern Med. 2019;170:S1-S32. doi:10.7326/M18-2160

Box 2. Definition of *profession* as used in the Manual.

A profession is characterized by a specialized body of knowledge that its members must teach and expand; by a code of ethics and a duty of service that in medicine, puts patient care above self-interest; and by the privilege of self-regulation granted by society.

PROFESSIONALISM

"The practice of medicine is an art, not a trade; a calling, not a business; a calling in which your heart will be exercised equally with your head," said William Osler (9). Medicine is not, as Francis Peabody said, "a trade to be learned, but a profession to be entered" (1). A profession is characterized by a specialized body of knowledge that its members must teach and expand; by a code of ethics and a duty of service that, in medicine, puts patient care above self-interest; and by the privilege of self-regulation granted by society (10). Physicians must individually and collectively fulfill the duties of the profession. The ethical foundations of the profession must remain in sharp focus despite outside influences on medicine, individuals. and the patient-physician relationship (11, 12).

The definition of *profession* is noted in Box 2.

THE PHYSICIAN AND THE PATIENT

The patient-physician relationship entails special obligations for the physician to serve the patient's interest because of the specialized knowledge that physicians possess, the confidential nature of the relationship, the vulnerability brought on by illness, and the imbalance of expertise and power between patient and physician. Physicians publicly profess that they will use their skills for the benefit of patients, not for other reasons, including their own benefit (13). Physicians must uphold this declaration, as should their professional associations as communities of physicians that put patient welfare first (13).

The physician's primary commitment must always be to the patient's welfare and best interests, whether in preventing or treating illness or helping patients to cope with illness, disability, and death. The physician must respect the dignity of all persons and respect their uniqueness. The interests of the patient should always be promoted regardless of financial arrangements; the health care setting; or patient characteristics, such as decision-making capacity, behavior, or social status. Although the physician should be fairly compensated for medical services, a sense of duty to the patient should take precedence over concern about compensation.

Initiating and Discontinuing the Patient–Physician Relationship

At the beginning of and throughout the patient-physician relationship, the physician must work toward an understanding of the patient's health problems, concerns, values, goals, and expectations. After patient and physician agree on the problem and the goals of care, the physician presents one or more courses of action, with a specific recommendation for the patient. The patient may authorize the physician to initiate a course of action; the physician can then accept that responsibility. The relationship has mutual obligations. The physician must be professionally competent, act responsibly, seek consultation when necessary, and treat the patient with compassion and respect, and the patient should participate responsibly in the care including through informed decision making, giving consent to or declining treatment as the case might be.

Effective communication is critical to a strong patient-physician relationship. The physician has a duty to promote patient understanding and should be aware of barriers, including health literacy issues for the patient. Communication through e-mail or other electronic means can supplement in-person encounters; however, it must be done under appropriate guidelines (14). E-mail or other electronic communications should only be used by physicians in an established patient-physician relationship and with patient consent (15). Documentation about patient care communications should be included in the patient's medical record.

Guidance on patient-physician e-communication is noted in Box 3.

Aspects of a patient-physician relationship, such as the physician's responsibilities to the patient, remain operative even in the absence of in-person contact between the physician and patient (16). "Issuance of a prescription or other forms of treatment, based only on an online questionnaire or phone-based consultation does not constitute an acceptable standard of care" (16). Exceptions to this may include on-call situations in which the patient has an established relationship with another clinician in the practice and certain urgent public health situations, such as the diagnosis and treatment of communicable infectious diseases. An example is the Centers for Disease Control and Prevention-endorsed practice of expedited partner therapy for certain sexually transmitted infections.

Care and respect should guide the performance of the physical examination. The location and degree of privacy should be appropriate for the examination being performed, with chaperone services as an option.

Box 3. Patient-physician e-communication.

Effective communication is critical to a strong patient–physician relationship.

Communication through e-mail or other electronic means can supplement in-person encounters but must be done under appropriate guidelines.

E-communications should only be used by physicians in an established patient–physician relationship and with patient consent.

Documentation about all patient care communications should be in the patient's medical record.

Aspects of a patient–physician relationship, such as the physician's responsibilities to the patient, remain operative.

Box 4. Telemedicine and ethics.

There must be a valid patient–physician relationship for a professionally responsible telemedicine service to take place.

A telemedicine encounter itself can establish a patient–physician relationship through real-time, technically appropriate audiovisual technology.

In the absence of direct previous contact or an existing relationship before a telemedicine encounter, the physician must take appropriate steps to establish a relationship based on the standard of care required for an in-person visit, or consult with another physician who does have a relationship with the patient.

The benefits of increased access to care through telemedicine must be balanced with risks from the loss of the in-person encounter—for example, misdiagnosis potential; overprescribing; absent in-person interactions, including the therapeutic value of touch, and body language; and continuity of care.

An appropriate setting and sufficient time should be allocated to encourage exploration of aspects of the patient's life pertinent to health, including habits, relationships, sexuality, vocation, culture, religion, and spirituality.

In the context of telemedicine, there must be a valid patient-physician relationship for a professionally responsible telemedicine service to take place (17). A telemedicine encounter itself can establish a patient-physician relationship through real-time, technically appropriate audiovisual technology. When there has been no direct previous contact or existing relationship with a patient before a telemedicine encounter, the physician must take appropriate steps to establish a relationship based on the standard of care required for an in-person visit, or consult with another physician who does have a relationship with the patient. The benefits of opportunities for increased access to care through telemedicine "must be balanced according to the nature of the particular encounter and the risks from the loss of the in-person encounter (such as the potential for misdiagnosis; inappropriate testing or prescribing; and the loss of personal interactions that include the therapeutic value of touch, communications with body language, and continuity of care)" (17).

Guidance on telemedicine is noted in Box 4.

By history, tradition, and professional oath, physicians have a moral obligation to provide care for ill persons. Although this obligation is collective, each individual physician is obliged to do his or her fair share to ensure that all ill persons receive appropriate treatment (18). A physician may not discriminate against a class or category of patients.

An individual patient-physician relationship is formed on the basis of mutual agreement. In the absence of a preexisting relationship, the physician is not ethically obliged to provide care to an individual person unless no other physician is available, as is the case in some isolated communities, or when emergency treatment is required. Under these circumstances, the physician is ethically bound to provide care and, if necessary, to arrange for proper follow-up. Physicians may also be bound by contract to provide care to beneficiaries of health plans in which they participate.

Physicians and patients may have different concepts of or cultural beliefs about the meaning and resolution of medical problems. The care of the patient and satisfaction of both parties are best served if physician and patient discuss their expectations and concerns. Although the physician must address the patient's concerns, he or she is not required to violate fundamental personal values, standards of medical care or ethical practice, or the law. When the patient's beliefs–religious, cultural, or otherwise–run counter to medical recommendations, the physician is obliged to try to understand clearly the beliefs and viewpoints of the patient. If the physician cannot carry out the patient's wishes after seriously attempting to resolve differences, the physician should discuss with the patient his or her option to seek care from another physician.

The physician's responsibility is to serve the best interests of the patient. Under rare circumstances, the physician may elect to discontinue the professional relationship, provided that adequate care is available elsewhere and the patient's health is not jeopardized in the process (19, 20). The physician should notify the patient in writing, offer to transfer the medical records to another physician with patient approval, and comply with applicable laws. Continuity of care must be assured. Physician-initiated termination is a serious event, especially if the patient is acutely ill, and should be undertaken only after genuine attempts to understand and resolve differences. Abandonment is unethical and a cause of action under the law. A patient is free to change physicians at any time and is entitled to the information contained in the medical records.

Third-Party Evaluations

Performing a limited assessment of an individual on behalf of a third party, for example, as an industry-employed physician or an independent medical examiner, raises distinct ethical issues regarding the patient-physician relationship. The physician should disclose to the patient that an examination is being undertaken on behalf of a third party that therefore raises inherent conflicts of interest; ensure that the patient is aware that traditional aspects of the patient-physician relationship, including confidentiality, might not apply; obtain the examinee's consent to the examination and to the disclosure of the results to the third party; exercise appropriate independent medical judgment, free from the influence of the third party; and inform the examinee of the examination results and encourage her or him to see another physician if those results suggest the need for follow-up care (21, 22).

Confidentiality

Confidentiality is a fundamental tenet of medical care. It is increasingly difficult to maintain in this era of electronic health records and electronic data processing, patient portals, e-mail, texting, faxing of patient information, third-party payment for medical services, and sharing of patient care among numerous health

KimLink_SWA_Professional Counselors_SB 402
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Position: FWA

Maryland
DEPARTMENT OF HEALTH
Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

Board of Professional Counselors and Therapists
4201 Patterson Avenue
Baltimore, MD 21215
Phone: 410-764-4732

2020 SESSION
POSITION PAPER

BILL NO: **SENATE BILL 402**
COMMITTEE: **EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS**
POSITION: **SUPPORT WITH AMENDMENTS**

TITLE: Health Care Practitioners - Telehealth

BILL ANALYSIS: SB 402 allows certain health care providers to establish a practitioner - client relationship through synchronous or asynchronous telehealth interactions.

POSITION AND RATIONALE: The Maryland Board of Professional Counselors and Therapists (the "Board") supports the Bill with amendment. The Bill applies to a wide range of health care providers. It includes providers of medical health care such as physicians, as well as behavioral health providers, such as professional counselors and therapists. Under the Bill, behavioral health providers would be permitted to provide services solely via asynchronous telehealth interactions. The Board strongly asserts that the use of asynchronous teletherapy services, such as text messaging, does not comport with best practices for clinical counseling or therapy. The Board maintains that competent behavioral health practitioners cannot provide clinical services through asynchronous communications because synchronous interaction between the counselor and the client is vital to the establishment and maintenance of the therapeutic relationship.

The Board's proposed amendment to exclude behavioral health care providers in SB 402 is listed at the end of this position paper. The Board respectfully requests a favorable report on SB 402 with the requested amendment.

If you would like more information, please contact the Board's Executive Director, Kim Link, at (410) 764-4732 or kimberly.link@maryland.gov.

The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.

Amendment

On page 2, in line 11, after “ARTICLE” insert: **AND PROVIDES MEDICAL HEALTH CARE SERVICES”**.

Kaiser Permanente_Allison Taylor_FWA_SB0402
Uploaded by: Taylor, Allison
Position: FWA

KAISER PERMANENTE®

Mid-Atlantic Permanente Medical Group, P.C.
Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc
2101 East Jefferson Street
Rockville, Maryland 20852

February 13, 2020

The Honorable Paul G. Pinsky
Education, Health, and Environmental Affairs Committee
2 West, Miller Senate Office Building
11 Bladen Street
Annapolis, Maryland 21401

RE: SB 402 – Support with Amendment

Dear Chair Pinsky and Members of the Committee:

Kaiser Permanente is pleased to support and offer an amendment to SB 402, Health Care Practitioners – Telehealth.

Kaiser Permanente is the largest private integrated health care delivery system in the United States, delivering health care to over 12 million members in eight states and the District of Columbia.[1] Kaiser Permanente of the Mid-Atlantic States, which operates in Maryland, provides and coordinates complete health care services for approximately 755,000 members. In Maryland, we deliver care to over 430,000 members.

This bill allows a health care practitioner to establish a practitioner-patient relationship through either a synchronous or asynchronous telehealth interaction. A healthcare practitioner providing telehealth services must be held to the same standards of practice that are applicable to in-person health care settings. The bill also requires a healthcare practitioner to 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.

Kaiser Permanente is a strong proponent of telehealth technologies. KP provides e-visits for an expanding set of low acuity conditions, like cold symptoms, dysuria, and pink eye, and a birth control e-visit will be available later in 2020. However, KP wants to ensure that if a health care provider uses synchronous or asynchronous telehealth interaction to perform a clinical evaluation, the health care provider, or another provider in the practice, is available to perform a follow-up clinical evaluation for the patient as needed. For this reason, we request the amendment provided below.

[1] Kaiser Permanente comprises Kaiser Foundation Health Plan, Inc., the nation's largest not-for-profit health plan, and its health plan subsidiaries outside California and Hawaii; the not-for-profit Kaiser Foundation Hospitals, which operates 39 hospitals and over 650 other clinical facilities; and the Permanente Medical Groups, self-governed physician group practices that exclusively contract with Kaiser Foundation Health Plan and its health plan subsidiaries to meet the health needs of Kaiser Permanente's members.

Thank you for the opportunity to comment. Please feel free to contact Wayne Wilson at Wayne.D.Wilson@kp.org or (301) 816-5991 with questions.

Sincerely,

Wayne D. Wilson
Vice President, Government Programs and External Relations
Kaiser Foundation Health Plan of Mid-Atlantic States, Inc.

AMENDMENT TO SENATE BILL 402
(First Reading File Bill)

On page 3, in line 17, after "**SUBSECTION**" insert "**IF THE HEALTH CARE PRACTITIONER, OR ANOTHER HEALTH CARE PRACTITIONER IN THE SAME PRACTICE, IS ABLE TO PERFORM A FOLLOW-UP CLINICAL EVALUATION AS NEEDED BY THE PATIENT**".

Chris Bishop_Psychology Board__UNF_SB 402
Uploaded by: Bishop, Chris
Position: UNF

Maryland
DEPARTMENT OF HEALTH
Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

Boards of Examiners of Psychologists
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Phone: 410-764-4787
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February 13, 2020

The Honorable Paul G. Pinsky, Chair
Education, Health, and Environmental Affairs
2 West Miller Senate Office Building
Annapolis, Maryland 21401

RE: SB 402 - Health Care Practitioners – Telehealth - Letter of Concern

Dear Chairman Pinsky and Committee Members,

The Maryland Board of Examiners of Psychologists (the "Board") is submitting this **Letter of Concern** regarding *SB 402 - Health Care Practitioners – Telehealth.*

This bill allows health care practitioners to establish a practitioner-patient relationship through a synchronous or asynchronous telehealth interaction (occurs in real-time/occurs not in real-time); allows practitioners to perform clinical evaluations using synchronous or asynchronous interactions; allows texting as a service delivery modality; and prohibits boards from establishing separate standards of care for telehealth.

The role of behavioral health professionals as teletherapists includes performing assessments of psychological and social problems, developing comprehensive treatment plans, and treating patients with both normal and abnormal functioning. In order to successfully perform these tasks, the Board believes that synchronous (real-time) audio-visual interactions are necessary.

Establishing a trusting and productive practitioner-patient relationship while assessing the appropriateness of teletherapy requires that the exchange of information occurs in real-time. Real-time audiovisual interactions allow the therapist and patient to see and respond to each other's cues, like facial expressions, body language, and tone of voice. Similarly, synchronous interaction is required in order to perform an accurate clinical evaluation. Conducting a clinical evaluation requires assessing an individual's behavior, personality, and cognitive abilities, by using a variety of devices, starting with a face-to-face interview with the patient. The more accurate the evaluation, the greater the likelihood of success for any subsequent intervention.

SB 402
Letter of Concern
MD Board of Examiners of Psychologists

Asynchronous teletherapy interactions can be useful, depending on the circumstance. For example, when following up with a patient or gathering additional information, asynchronous interactions may be more than sufficient. Additionally, texting can be useful when used in the same way emails are used (e.g., scheduling, checking on progress, etc.), but texting as a service delivery modality is not a viable alternative when working with people experiencing mental and emotional problems. A major concern of the board is that a text message from the patient may not reach the provider at the time when the patient needs help most (e.g. a person confronting domestic violence; a suicidal patient; a substance abuser).

Thank you for your consideration. If you have questions about this matter you may contact Lorraine Smith, Executive Director, at 410-764-4786 or at lorraine.smith@maryland.gov.

Respectfully Submitted,
Christopher Bishop, Psy.D.
Chair, MD Board of Examiners of Psychologists

The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.

StanWeinstein_Social Work Board_UNF_SB 402
Uploaded by: Weinstein, Stan
Position: UNF

Maryland
DEPARTMENT OF HEALTH
Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Robert R. Neall, Secretary

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2020 SESSION
POSITION PAPER

BILL NO: **SB 402**
COMMITTEE: **EDUCATION, HEALTH, AND ENVIRONMENTAL AFFAIRS**
POSITION: **OPPOSE**

TITLE: Health Care Practitioners - Telehealth

BILL ANALYSIS: SB 402 allows health care practitioners to establish a practitioner-patient relationship through a synchronous or asynchronous telehealth interaction (occurs in real-time/occurs not in real-time); allows practitioners to perform clinical evaluations using synchronous or asynchronous interactions; allows texting as a service delivery modality; and prohibits boards from establishing separate standards of care for telehealth.

POSITION AND RATIONALE: The Maryland Board of Social Work Examiners opposes SB 402 – Health Care Practitioners – Telehealth. The role of behavioral health professionals as teletherapists includes performing assessments of psychological and social problems, developing comprehensive treatment plans, and treating patients with both normal and abnormal functioning. In order to successfully perform these tasks, the Board believes that synchronous (real-time) audio-visual interactions are necessary.

Establishing a trusting and productive practitioner-patient relationship while assessing the appropriateness of teletherapy requires that the exchange of information occurs in real-time. Real-time audiovisual interactions allow the therapist and patient to see and respond to each other's cues, like facial expressions, body language, and tone of voice. Similarly, synchronous interaction is required in order to perform an accurate clinical evaluation. Conducting a clinical evaluation requires assessing an individual's behavior, personality, and cognitive abilities, by using a variety of devices, starting with a face-to-face interview with the patient. The more accurate the evaluation, the greater the likelihood of success for any subsequent intervention.

Asynchronous teletherapy interactions can be useful, depending on the circumstance. For example, when following up with a patient or gathering additional information, asynchronous

interactions may be more than sufficient. And texting can be useful when used in the same way emails are used, e.g., scheduling, checking on progress, etc. But texting as a service delivery modality is not a viable alternative when working with people experiencing mental and emotional problems. Because a text message from the patient may not reach the provider at the time when the patient most needs help (e.g. a person confronting domestic violence; a suicidal patient; a substance abuser).

For these reasons, the Maryland Board of Social Work Examiners respectfully requests an unfavorable report on SB 402.

Thank you for your consideration. If you have questions about this matter you may contact Stanley Weinstein, Executive Director, at 410-764-4788 or stanley.weinstein@maryland.gov.

The opinion of the Board expressed in this document does not necessarily reflect that of the Department of Health or the Administration.

MDAFP_Steve Wise_UNF_SB0402
Uploaded by: Wise, Steve
Position: UNF

MARYLAND ACADEMY OF FAMILY PHYSICIANS

ABLE, RESPONSIVE FAMILY PHYSICIANS SERVING THEIR COMMUNITIES

TO: The Honorable Paul G. Pinsky, Chair

Members, Senate Education, Health, and Environmental Affairs Committee

The Honorable Cheryl C. Kagan

FROM: MD Academy of Family Physicians, Mozella Williams, M.D., President

DATE: February 13, 2020

RE: **OPPOSE** – Senate Bill 402 – *Health Care Practitioners – Telehealth*

On behalf of the Maryland Academy of Family Physicians ("Academy"), I am writing in opposition to Senate Bill 402—Health Care Practitioners--Telehealth. The Academy is the largest professional medical specialty society in Maryland, with over 1,200 members who are practicing family physicians, family physicians in training and medical students. The Academy requests your opposition to this legislation for the reasons set forth below.

SB 402 allows for a provider to utilize "asynchronous" telehealth. Regulations adopted by the Board of Physicians in 2019 broadly allow the use of telehealth but limit the use of asynchronous methods to interpretive services such as reading and analyzing images, and subsequent interactions with a physician. In the view of the Academy, the regulations properly require that a synchronous patient evaluation occur before providing treatment of prescribing medication.

Telehealth holds promise for the future and offers the benefits of access and convenience to patients. However, it also holds perils in that there is no substitute for a physician or other provider seeing a patient with her own eyes and using the information that visual provides to inform the diagnosis and treatment.

For these reasons, the Academy requests that the Committee oppose SB 402 and allow the existing regulations adopted by the Board in 2019 to remain in effect.

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MedChi_Steve Wise_UNF_SB0402
Uploaded by: Wise, Steve
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TO: The Honorable Paul G. Pinsky, Chair
Members, Senate Education, Health, and Environmental Affairs Committee
The Honorable Cheryl C. Kagan

FROM: J. Steven Wise
Pamela Metz Kasemeyer
Danna L. Kauffman
Richard A. Tabuteau

DATE: February 13, 2020

RE: **OPPOSE** – Senate Bill 402 – *Health Care Practitioners – Telehealth*

The Maryland State Medical Society (MedChi), the largest physician organization in Maryland, **opposes** Senate Bill 402.

In August of 2019, the Board of Physicians finalized adoption of comprehensive regulations on telehealth, which is the use of telecommunications technologies to provide health care. COMAR 10.32.05. The regulations were in development for years and were the product of a stakeholder group which included physicians. In the end, the main and maybe only issue of contention was over whether "asynchronous" telehealth should be allowed, and if so, under what circumstances. "Asynchronous" telehealth occurs when communications between a provider and patient do not occur at the same time; instead, they exchange health information through technologies that let the patient self-report information through, for example, a phone app. The app uses algorithms to obtain results which are later reviewed to decipher an illness or condition. The regulations restricted the use of these asynchronous applications, and Senate Bill 402 seeks to allow them without limitation, subject to the provider observing standards of care.

MedChi strongly supports the use of telehealth. Among other reasons, it provides access to care to patients who are not near medical facilities or have mobility issues, and it can speed up the transmission of information. However, asynchronous applications require no face to face interaction with patients and may deprive the physician of the ability to ask more detailed questions of the patient and observe their behavior and appearance. MedChi is concerned that the algorithms used to supplant this interaction, even when followed by a physician or physician-extender's review of the information, may result in bad outcomes that could have been prevented had the provider and the patient had at least one face to face or synchronous encounter, as the 2019 regulations require.

A June 13, 2019 study in Current Dermatological Reports (8:85–90) entitled "Artificial Intelligence in Teledermatology" states well the tension between traditional face to face visits and the promise of new technology:

> The expansion in teledermatology programs over the past decade is driven by efforts to lower cost of care, expand access to underserved areas, and improve the monitoring of chronic conditions. Although long-distance diagnosis still underperforms relative to traditional, in-person diagnosis, deep learning technologies have demonstrated the potential to achieve results on par with face-to-face care. Current mobile app diagnosis systems rely on unproven technologies which do not achieve the same standard of accuracy. Over the next few years, research in teledermatology must refine deep learning methods to work with highly variable smartphone images in order to achieve functional long-distance diagnoses.

The technologies in this area are new, and patients are new to them. MedChi believes it would be wise for the State to allow those technologies to develop further, and to use the results that come with that development to inform the laws and regulations that are adopted. In short, the State should take the more cautious approach followed by the 2019 regulations, which limit, at least for now, the use of asynchronous interactions.

For these reasons, MedChi opposes Senate Bill 402 in its current form.

For more information call:
J. Steven Wise
Pamela Metz Kasemeyer
Danna L. Kauffman
Richard A. Tabuteau
410-244-7000