HB 1042

Department of Legislative Services

Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE
Revised

House Bill 1042 (Delegate Smigiel, *et al.*)
Health and Government Operations Finance

Hospitals - Credentialing and Privileging Process - Telemedicine

This bill authorizes a hospital, in its credentialing and privileging process for a physician who provides medical services to patients at the hospital only by "telemedicine" from a distant-site hospital or telemedicine entity, to rely on the credentialing and privileging decisions made for the physician by the distant-site hospital or telemedicine entity, as authorized under specified federal regulations. A hospital may do so only if (1) the physician holds a license to practice medicine in Maryland and (2) the medical staff of the hospital approves and recommends the credentialing and privileging decisions to the hospital's governing body.

Fiscal Summary

State Effect: The bill does not directly affect governmental operations or finances.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: "Telemedicine" means the use of interactive audio, video, or other telecommunications or electronic technology by a physician in the practice of medicine outside the physical presence of the patient. "Telemedicine" does not include audio-only telephone calls, email messages, or communications via fax.

Current Law: As a condition of licensure, each hospital must establish a credentialing process for physicians who are employed by or who have staff privileges at the hospital

and use the uniform standard credentialing form as the initial application of a physician seeking to be credentialed. Minimum standards for a credentialing process must include (1) a formal written appointment documenting the physician's education, clinical expertise, licensure history, insurance history, medical history, claims history, and professional experience; (2) a requirement that an initial appointment to staff not be complete until the physician has successfully completed a probationary period; and (3) a formal, written reappointment process to be completed at least every two years. The reappointment process must document the physician's pattern of performance by analyzing (1) claims filed against the physician; (2) data dealing with utilization, quality, and risk; (3) clinical skills; (4) adherence to hospital bylaws, policies, and procedures; (5) compliance with continuing education requirements; (6) mental and physical status; and (7) the results of a specified practitioner performance evaluation.

If requested by the Department of Health and Mental Hygiene, a hospital must provide documentation that, prior to granting or renewing privileges or employment to a physician, the hospital has complied with these requirements. If a hospital fails to establish or maintain the required credentialing process, the Secretary of Health and Mental Hygiene may delicense the hospital or impose a $500 penalty for each day the violation continues.

Chapters 579 and 580 of 2012 (SB 781/HB 1149) require insurers, nonprofit health service plans, and health maintenance organizations to cover and reimburse for health care services appropriately delivered through telemedicine. Carriers may impose cost-sharing requirements for services delivered through telemedicine. Carriers may also undertake utilization review, including preauthorization, to determine the appropriateness of a health care service – whether delivered in person or through telemedicine – if the appropriateness of the service is determined in the same manner.

Federal rules (42 C.F.R. Part 482) require hospitals, as a condition of participation in Medicare, to meet specified requirements, including having an organized medical staff. Section 482.22 authorizes a hospital to rely upon the credentialing and privileging decisions made by a distant-site telemedicine entity when making its own decisions on privileges for the distant-site physicians and practitioners providing such services. A hospital must ensure, through a written agreement with the distant-site telemedicine entity, that the distant-site telemedicine entity's medical staff credentialing and privileging process and standards meet or exceed specified federal standards.

Background: In June 2010, the Maryland Health Quality and Cost Council approved the creation of the Maryland Telemedicine Task Force. A final report to the council was issued in December 2011. The task force's clinical advisory group noted challenges around credentialing, privileging, and licensing. With regards to hospital-based care, federal and State regulations have traditionally required that telemedicine providers be

credentialed and privileged at the facilities on *both ends* of a telemedicine encounter: the originating site, where the patient is located, and the remote site, where the provider is located. However, the Joint Commission, the national organization that accredits and certifies hospitals, intends to change its standards regarding telemedicine to conform to the new federal Centers for Medicare and Medicaid Services (CMS) credentialing and privileging rules. Based on these findings, the task force's recommendations include implementing changes in the credentialing and privileging of providers to facilitate the adoption of telemedicine. Specifically, the task force recommended that regulations should be aligned with CMS rules that permit privileging and credentialing by proxy.

Additional Comments: According to the University of Maryland Medical System, hospitals receiving telemedicine services from distant-site physicians must undergo an extensive, time-consuming, and costly credentialing process for each physician, even though the physician is already credentialed and privileged by the distant-site entity where he or she is employed. This creates an operational burden by delaying patients from receiving prompt and effective telemedicine services and increases the cost of providing health care. The bill provides hospitals the option to credential by proxy, which will streamline the credentialing and privileging process, reduce costs, and eliminate delays.

Additional Information

Prior Introductions: A nearly identical bill, HB 1399 of 2012, received an unfavorable report from the House Health and Government Operations Committee.

Cross File: SB 798 (Senator Middleton, *et al.*) - Finance.

Information Source(s): *Telemedicine Recommendations: A Report Prepared for the Maryland Health Quality and Cost Council*, December 2011; Department of Health and Mental Hygiene; University of Maryland Medical System; Department of Legislative Services

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