

# HOUSE BILL 1103

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By: **Delegates Reznik, McKay, and Valentino-Smith**

Introduced and read first time: February 11, 2016

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Practitioners – Use of Teletherapy**

3 FOR the purpose of authorizing certain health care practitioners to use teletherapy for a  
4 certain patient under certain circumstances; establishing certain requirements for  
5 the technology a health care practitioner uses for teletherapy; requiring a health care  
6 practitioner to make a certain identification and establish certain safety protocols  
7 before a certain teletherapy session; requiring a health care practitioner and a  
8 patient to execute an informed consent agreement that includes certain information  
9 and establish certain protocols to be used under certain circumstances before a  
10 certain teletherapy session; requiring certain health occupations boards to adopt  
11 certain regulations on or before a certain date; defining certain terms; and generally  
12 relating to the use of teletherapy by health care practitioners.

13 BY adding to

14 Article – Health Occupations

15 Section 1–901 through 1–904 to be under the new subtitle “Subtitle 9. Teletherapy”

16 Annotated Code of Maryland

17 (2014 Replacement Volume and 2015 Supplement)

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

20 **Article – Health Occupations**

21 **SUBTITLE 9. TELETHERAPY.**

22 **1–901.**

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

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (B) "HEALTH CARE PRACTITIONER" MEANS AN INDIVIDUAL WHO:

2 (1) PROVIDES CLINICAL BEHAVIORAL HEALTH SERVICES TO A  
3 PATIENT IN THE STATE; AND

4 (2) IS LICENSED BY:

5 (I) THE STATE BOARD OF NURSING;

6 (II) THE STATE BOARD OF PHYSICIANS;

7 (III) THE STATE BOARD OF PROFESSIONAL COUNSELORS AND  
8 THERAPISTS;

9 (IV) THE STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS; OR

10 (V) THE STATE BOARD OF SOCIAL WORK EXAMINERS.

11 (C) (1) "TELETHERAPY" MEANS THE USE OF INTERACTIVE AUDIO, VIDEO,  
12 OR OTHER TELECOMMUNICATIONS OR ELECTRONIC TECHNOLOGY BY A HEALTH  
13 CARE PRACTITIONER TO DELIVER TO A PATIENT CLINICAL BEHAVIORAL HEALTH  
14 SERVICES THAT ARE WITHIN THE SCOPE OF PRACTICE OF THE HEALTH CARE  
15 PRACTITIONER AT A SITE OTHER THAN THE SITE AT WHICH THE PATIENT IS  
16 LOCATED.

17 (2) "TELETHERAPY" INCLUDES THE ASSESSMENT, DIAGNOSIS, AND  
18 TREATMENT OF A PATIENT AND CONSULTATION WITH A PATIENT.

19 (3) "TELETHERAPY" DOES NOT INCLUDE:

20 (I) AN AUDIO-ONLY TELEPHONE CONVERSATION BETWEEN A  
21 HEALTH CARE PRACTITIONER AND A PATIENT;

22 (II) AN ELECTRONIC MAIL MESSAGE BETWEEN A HEALTH CARE  
23 PRACTITIONER AND A PATIENT;

24 (III) A FACSIMILE TRANSMISSION BETWEEN A HEALTH CARE  
25 PRACTITIONER AND A PATIENT; OR

26 (IV) A TEXT MESSAGE OR OTHER TYPE OF MESSAGE SENT  
27 BETWEEN A HEALTH CARE PRACTITIONER AND A PATIENT BY A SHORT MESSAGE  
28 SERVICE OR MULTIMEDIA MESSAGING SERVICE.

1 **1-902.**

2 **A HEALTH CARE PRACTITIONER MAY USE TELETHERAPY IF:**

3 **(1) THE HEALTH CARE PRACTITIONER HAS RECEIVED TRAINING IN**  
4 **THE TECHNOLOGY USED FOR THE TELETHERAPY; AND**

5 **(2) THE HEALTH CARE PRACTITIONER COMPLIES WITH THE**  
6 **PROVISIONS OF THIS SUBTITLE AND ANY REGULATIONS ADOPTED UNDER THIS**  
7 **SUBTITLE.**

8 **1-903.**

9 **(A) THE TECHNOLOGY A HEALTH CARE PRACTITIONER USES FOR**  
10 **TELETHERAPY SHALL:**

11 **(1) BE COMPLIANT WITH THE HEALTH INSURANCE PORTABILITY**  
12 **AND ACCOUNTABILITY ACT;**

13 **(2) HAVE A SECURE AND PRIVATE CONNECTION; AND**

14 **(3) INCLUDE REAL-TIME TWO-WAY AUDIO AND VIDEO**  
15 **COMMUNICATIONS.**

16 **(B) BEFORE THE FIRST TELETHERAPY SESSION BETWEEN A HEALTH CARE**  
17 **PRACTITIONER AND A PATIENT:**

18 **(1) THE HEALTH CARE PRACTITIONER SHALL MAKE A POSITIVE**  
19 **IDENTIFICATION OF THE PATIENT THROUGH:**

20 **(I) IF POSSIBLE, AN INITIAL FACE-TO-FACE MEETING; OR**

21 **(II) THE USE OF GOVERNMENT-ISSUED PHOTOGRAPHIC**  
22 **IDENTIFICATION;**

23 **(2) THE HEALTH CARE PRACTITIONER SHALL ESTABLISH SAFETY**  
24 **PROTOCOLS TO BE USED IN THE CASE OF AN EMERGENCY OR A CRISIS, INCLUDING**  
25 **THE LOCAL TELEPHONE NUMBERS AND CONTACTS AT THE PATIENT'S LOCATION**  
26 **FOR:**

27 **(I) POLICE OR EMERGENCY MEDICAL SERVICES;**

1 (II) THE LOCAL HOSPITAL, EMERGENCY ROOM, OR CRISIS  
2 INTERVENTION TEAM; AND

3 (III) APPROPRIATE BEHAVIORAL HEALTH EMERGENCY  
4 SERVICES;

5 (3) THE HEALTH CARE PRACTITIONER AND THE PATIENT SHALL  
6 EXECUTE AN INFORMED CONSENT AGREEMENT THAT INCLUDES:

7 (I) REQUIREMENTS FOR PRIVACY SUCH THAT ONLY THE  
8 HEALTH CARE PRACTITIONER AND THE PATIENT CAN PARTICIPATE IN OR BE  
9 PRESENT DURING A TELETHERAPY SESSION UNLESS OTHERWISE AGREED TO BY THE  
10 HEALTH CARE PRACTITIONER AND THE PATIENT;

11 (II) ACTIONS TO BE TAKEN IF THE TECHNOLOGY USED FOR THE  
12 TELETHERAPY SESSION IS DISCONNECTED OR OTHER TECHNICAL DIFFICULTIES  
13 OCCUR;

14 (III) EMERGENCY PROTOCOLS; AND

15 (IV) THE NAME AND TELEPHONE NUMBER OF AN EMERGENCY  
16 CONTACT AS PROVIDED BY THE PATIENT; AND

17 (4) THE HEALTH CARE PRACTITIONER AND THE PATIENT SHALL  
18 ESTABLISH PROTOCOLS TO BE USED IF:

19 (I) PRIVACY IS COMPROMISED;

20 (II) THE CONDITIONS OF A TELETHERAPY SESSION BECOME  
21 UNSAFE; OR

22 (III) A TELETHERAPY SESSION IS BASED ON COERCION, FORCE,  
23 OR UNAUTHORIZED THIRD-PARTY INVOLVEMENT.

24 1-904.

25 EACH HEALTH OCCUPATIONS BOARD LISTED IN § 1-901(B)(2) OF THIS  
26 SUBTITLE SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

27 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before April 1, 2017,  
28 the State Board of Nursing, the State Board of Physicians, the State Board of Professional  
29 Counselors and Therapists, the State Board of Examiners of Psychologists, and the State  
30 Board of Social Work Examiners shall adopt regulations for the use of teletherapy by health

1 care practitioners in accordance with §§ 1–901 through 1–903 of the Health Occupations  
2 Article, as enacted by Section 1 of this Act.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2016.