

# SENATE BILL 402

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CF HB 448

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By: **Senators Kagan and Lam**

Introduced and read first time: January 27, 2020

Assigned to: Finance

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## A BILL ENTITLED

1 AN ACT concerning

2 **Health Care Practitioners – Telehealth**

3 FOR the purpose of authorizing certain health care practitioners to establish a  
4 practitioner–patient relationship through certain telehealth interactions under  
5 certain circumstances; requiring a health care practitioner providing telehealth  
6 services to be held to certain standards of practice; requiring a health care  
7 practitioner to perform a certain clinical evaluation before providing certain  
8 treatment or issuing a prescription through telehealth; providing that a health care  
9 practitioner who prescribes a controlled dangerous substance through telehealth is  
10 subject to certain laws; requiring a health care practitioner to document certain  
11 information in a patient’s medical record using certain documentation standards;  
12 providing that certain laws regarding confidentiality and a patient’s right to health  
13 information apply to telehealth interactions in a certain manner; requiring a health  
14 care practitioner performing services through telehealth to be licensed in the State  
15 under certain circumstances; authorizing health occupations boards to adopt certain  
16 regulations; defining certain terms; and generally relating to telehealth and health  
17 care practitioners.

18 BY adding to

19 Article – Health Occupations

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

22 Annotated Code of Maryland

23 (2014 Replacement Volume and 2019 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,

25 That the Laws of Maryland read as follows:

26 **Article – Health Occupations**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## SUBTITLE 10. TELEHEALTH.

## 1-1001.

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

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

(C) "HEALTH CARE PRACTITIONER" MEANS AN INDIVIDUAL WHO IS LICENSED UNDER THIS ARTICLE.

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

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

(2) "TELEHEALTH" INCLUDES SYNCHRONOUS AND ASYNCHRONOUS INTERACTIONS.

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

## 1-1002.

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

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

(2) DISCLOSES TO THE PATIENT THE HEALTH CARE PRACTITIONER'S

1 NAME, CONTACT INFORMATION, AND THE TYPE OF HEALTH OCCUPATION LICENSE  
2 HELD BY THE HEALTH CARE PRACTITIONER; AND

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

6 1-1003.

7 (A) A HEALTH CARE PRACTITIONER PROVIDING TELEHEALTH SERVICES  
8 SHALL BE HELD TO THE SAME STANDARDS OF PRACTICE THAT ARE APPLICABLE TO  
9 IN-PERSON HEALTH CARE SETTINGS.

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

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

18 (C) A HEALTH CARE PRACTITIONER WHO THROUGH TELEHEALTH  
19 PRESCRIBES A CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5-101 OF  
20 THE CRIMINAL LAW ARTICLE, IS SUBJECT TO ANY APPLICABLE REGULATION,  
21 LIMITATION, AND PROHIBITION IN FEDERAL AND STATE LAW RELATING TO THE  
22 PRESCRIPTION OF CONTROLLED DANGEROUS SUBSTANCES.

23 1-1004.

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

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

32 1-1005.

1           **A HEALTH CARE PRACTITIONER PROVIDING HEALTH CARE SERVICES**  
2 **THROUGH TELEHEALTH MUST BE LICENSED IN THE STATE IF THE HEALTH CARE**  
3 **SERVICES ARE BEING PROVIDED TO A PATIENT LOCATED IN THE STATE.**

4 **1-1006.**

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

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

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

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

16           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July**  
17 **1, 2020.**