

# HOUSE BILL 731

J1, J2, C3

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CF SB 567

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By: **The Speaker (By Request – Administration)**

Introduced and read first time: January 26, 2021

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Telehealth Services – Expansion**

3 FOR the purpose of altering the health care services the Maryland Medical Assistance  
4 Program is required to provide through telehealth; altering the circumstances under  
5 which the Program is required to provide health care services through telehealth;  
6 requiring the Maryland Department of Health to apply to the Centers for Medicare  
7 and Medicaid Services for a certain amendment to certain waivers to implement  
8 certain requirements of this Act; repealing a certain requirement that the  
9 Department apply for a certain amendment to certain waivers to implement a  
10 certain pilot program relating to the provision of certain telehealth services;  
11 repealing a requirement that the Department administer the pilot program, collect  
12 certain data, and submit certain reports to the General Assembly; altering the  
13 definition of telehealth in certain provisions of law applicable to certain health care  
14 practitioners; altering a provision of law requiring certain insurers, nonprofit health  
15 service plans, and health maintenance organizations to reimburse certain health  
16 care services provided through telehealth to require reimbursement to be provided  
17 in a certain manner and at a certain rate; prohibiting certain insurers, nonprofit  
18 health service plans, and health maintenance organizations from imposing, as a  
19 condition of reimbursement of a health care service delivered through telehealth,  
20 that the health care service be provided by a certain health care provider; repealing  
21 the termination date of certain provisions of law relating to the Maryland Medical  
22 Assistance Program and coverage for telehealth; defining certain terms; altering  
23 certain definitions; providing for the application of this Act; and generally relating  
24 to the coverage and reimbursement of health care services delivered through  
25 telehealth.

26 BY repealing and reenacting, without amendments,  
27 Article – Health – General  
28 Section 15–103(a)(1)  
29 Annotated Code of Maryland  
30 (2019 Replacement Volume and 2020 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
 2 Article – Health – General  
 3 Section 15–103(a)(2)(xv) and 15–141.2  
 4 Annotated Code of Maryland  
 5 (2019 Replacement Volume and 2020 Supplement)

6 BY repealing and reenacting, with amendments,  
 7 Article – Health Occupations  
 8 Section 1–1001  
 9 Annotated Code of Maryland  
 10 (2014 Replacement Volume and 2020 Supplement)

11 BY repealing and reenacting, with amendments,  
 12 Article – Insurance  
 13 Section 15–139  
 14 Annotated Code of Maryland  
 15 (2017 Replacement Volume and 2020 Supplement)

16 BY repealing and reenacting, with amendments,  
 17 Chapter 17 of the Acts of the General Assembly of 2020  
 18 Section 4

19 BY repealing and reenacting, with amendments,  
 20 Chapter 18 of the Acts of the General Assembly of 2020  
 21 Section 4

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

24 **Article – Health – General**

25 15–103.

26 (a) (1) The Secretary shall administer the Maryland Medical Assistance  
 27 Program.

28 (2) The Program:

29 (xv) Shall provide[, subject to the limitations of the State budget,  
 30 mental] health CARE services appropriately delivered through telehealth to a patient in  
 31 [the patient’s home setting] ACCORDANCE WITH § 15–141.2 OF THIS SUBTITLE; and

32 15–141.2.

33 (a) [(1) In this section, “telehealth” means a mode of delivering health care  
 34 services through the use of telecommunications technologies by a health care practitioner

1 to a patient at a different physical location than the health care practitioner.]

2 (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS  
3 INDICATED.

4 (2) “DISTANT SITE” MEANS A SITE AT WHICH THE DISTANT SITE  
5 HEALTH CARE PRACTITIONER IS LOCATED AT THE TIME THE HEALTH CARE SERVICE  
6 IS PROVIDED THROUGH TELEHEALTH.

7 (3) “DISTANT SITE PROVIDER” MEANS THE HEALTH CARE  
8 PRACTITIONER WHO PROVIDES MEDICALLY NECESSARY SERVICES TO A PATIENT AT  
9 AN ORIGINATING SITE FROM A DIFFERENT PHYSICAL LOCATION THAN THE  
10 LOCATION OF THE PATIENT.

11 (4) “HEALTH CARE PRACTITIONER” MEANS A PERSON WHO IS  
12 LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED BY LAW TO PROVIDE HEALTH  
13 CARE SERVICES UNDER THE HEALTH OCCUPATIONS ARTICLE.

14 (5) “ORIGINATING SITE” MEANS THE LOCATION OF THE PROGRAM  
15 RECIPIENT AT THE TIME THE HEALTH CARE SERVICE IS PROVIDED THROUGH  
16 TELEHEALTH.

17 (6) “REMOTE PATIENT MONITORING SERVICES” MEANS THE USE OF  
18 SYNCHRONOUS OR ASYNCHRONOUS DIGITAL TECHNOLOGIES THAT COLLECT OR  
19 MONITOR MEDICAL AND OTHER FORMS OF HEALTH CARE DATA FOR PROGRAM  
20 RECIPIENTS AT AN ORIGINATING SITE AND ELECTRONICALLY TRANSMIT THAT DATA  
21 TO A DISTANCE SITE PROVIDER TO ENABLE THE DISTANT SITE PROVIDER TO ASSESS,  
22 DIAGNOSE, CONSULT, TREAT, EDUCATE, PROVIDE CARE MANAGEMENT, SUGGEST  
23 SELF-MANAGEMENT, OR MAKE RECOMMENDATIONS REGARDING THE PROGRAM  
24 RECIPIENT’S HEALTH CARE.

25 [(2)] (7) (I) “TELEHEALTH” MEANS THE DELIVERY OF  
26 MEDICALLY NECESSARY SOMATIC, DENTAL, OR BEHAVIORAL HEALTH SERVICES TO  
27 A PATIENT AT AN ORIGINATING SITE BY A DISTANT SITE PROVIDER THROUGH THE  
28 USE OF TECHNOLOGY-ASSISTED COMMUNICATION.

29 (II) “Telehealth” includes [synchronous]:

30 1. SYNCHRONOUS and asynchronous interactions;

31 2. AUDIO-ONLY CONVERSATIONS BETWEEN A HEALTH  
32 CARE PRACTITIONER AND PATIENT USING TELECOMMUNICATIONS TECHNOLOGY;  
33 AND

**3. REMOTE PATIENT MONITORING SERVICES.**

~~[(3)]~~ **(III)** “Telehealth” does not include the provision of health care services solely through ~~[audio-only calls,]~~ e-mail messages, or facsimile transmissions.

**(b)** (1) On or before December 1, 2020, the Department shall apply to the Centers for Medicare and Medicaid Services for an amendment to any of the State’s § 1115 waivers necessary to implement a pilot program to provide telehealth services to Program recipients regardless of the Program recipient’s location at the time telehealth services are provided.

(2) Telehealth services available under the pilot program shall be limited to chronic condition management services.

(c) If the amendment applied for under subsection (b) of this section is approved, the Department shall administer the pilot program.

(d) The Department shall collect outcomes data on recipients of telehealth services under the pilot program to evaluate the effectiveness of the pilot program.

(e) On or before December 1, 2020, and every 6 months thereafter until the application described under subsection (b) of this section is approved, the Department shall submit a report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the status of the application.

(f) If the amendment applied for under subsection (b) of this section is approved, on or before December 1 each year following the approval, the Department shall submit a report to the General Assembly, in accordance with § 2-1257 of the State Government Article, on the status of the pilot program.]

**(B) THE PROGRAM SHALL:**

**(1) PROVIDE HEALTH CARE SERVICES APPROPRIATELY DELIVERED THROUGH TELEHEALTH TO PROGRAM RECIPIENTS REGARDLESS OF THE LOCATION OF THE PROGRAM RECIPIENT AT THE TIME THE TELEHEALTH SERVICES ARE PROVIDED; AND**

**(2) ALLOW A DISTANT SITE PROVIDER TO PROVIDE HEALTH CARE SERVICES TO A PROGRAM RECIPIENT FROM ANY LOCATION AT WHICH THE HEALTH CARE SERVICES MAY BE APPROPRIATELY DELIVERED THROUGH TELEHEALTH.**

**(C) THE DEPARTMENT SHALL APPLY TO THE CENTERS FOR MEDICARE AND MEDICAID SERVICES FOR AN AMENDMENT TO ANY OF THE STATE’S § 1115 WAIVERS NECESSARY TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.**

1 **Article – Health Occupations**

2 1–1001.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) “Asynchronous telehealth interaction” means an exchange of information  
5 between a patient and a health care practitioner that does not occur in real time, including  
6 the secure collection and transmission of a patient’s medical information, clinical data,  
7 clinical images, laboratory results, and self–reported medical history.

8 (c) “Health care practitioner” means an individual who is licensed, certified, or  
9 otherwise authorized by law to provide health care services under this article.

10 (d) “Synchronous telehealth interaction” means an exchange of information  
11 between a patient and a health care practitioner that occurs in real time.

12 (e) (1) “Telehealth” means a mode of delivering health care services through  
13 the use of telecommunications technologies by a health care practitioner to a patient at a  
14 different physical location than the health care practitioner.

15 (2) “Telehealth” includes synchronous and asynchronous interactions.

16 (3) “Telehealth” does not include the provision of health care services solely  
17 through [audio–only calls,] e–mail messages[,] or facsimile transmissions.

18 **Article – Insurance**

19 15–139.

20 (a) (1) In this section, “telehealth” means, as it relates to the delivery of health  
21 care services, the use of interactive audio, video, or other telecommunications or electronic  
22 technology by a [licensed] health care provider **LICENSED, CERTIFIED, OR OTHERWISE**  
23 **AUTHORIZED BY LAW** to deliver a health care service within the scope of practice of the  
24 health care provider at a location other than the location of the patient.

25 (2) “Telehealth” includes:

26 (I) the delivery of mental health care services to a patient in the  
27 patient’s home setting; **AND**

28 (II) **AN AUDIO–ONLY CONVERSATION BETWEEN A HEALTH CARE**  
29 **PROVIDER AND A PATIENT USING TELECOMMUNICATIONS TECHNOLOGY.**

30 (3) “Telehealth” does not include:

1 (i) [an audio-only telephone conversation between a health care  
2 provider and a patient;

3 (ii)] an electronic mail message between a health care provider and a  
4 patient; or

5 [(iii)] **(II)** a facsimile transmission between a health care provider  
6 and a patient.

7 (b) This section applies to:

8 (1) insurers and nonprofit health service plans that provide hospital,  
9 medical, or surgical benefits to individuals or groups on an expense-incurred basis under  
10 health insurance policies or contracts that are issued or delivered in the State; and

11 (2) health maintenance organizations that provide hospital, medical, or  
12 surgical benefits to individuals or groups under contracts that are issued or delivered in  
13 the State.

14 (c) (1) An entity subject to this section:

15 (i) shall provide coverage under a health insurance policy or  
16 contract for health care services appropriately delivered through telehealth; and

17 (ii) may not exclude from coverage a health care service solely  
18 because it is provided through telehealth and is not provided through an in-person  
19 consultation or contact between a health care provider and a patient.

20 (2) The health care services appropriately delivered through telehealth  
21 shall include counseling for substance use disorders.

22 (d) An entity subject to this section:

23 (1) shall reimburse a health care provider for the diagnosis, consultation,  
24 and treatment of an insured patient for a health care service:

25 **(I)** covered under a health insurance policy or contract that can be  
26 appropriately provided through telehealth; **AND**

27 **(II) WHEN APPROPRIATELY PROVIDED THROUGH TELEHEALTH,**  
28 **ON THE SAME BASIS AND AT THE SAME RATE AS IF THE HEALTH CARE SERVICE WERE**  
29 **DELIVERED BY THE HEALTH CARE PROVIDER IN PERSON;**

30 (2) is not required to:

1 (i) reimburse a health care provider for a health care service  
2 delivered in person or through telehealth that is not a covered benefit under the health  
3 insurance policy or contract; or

4 (ii) reimburse a health care provider who is not a covered provider  
5 under the health insurance policy or contract; and

6 (3) (i) may impose a deductible, copayment, or coinsurance amount on  
7 benefits for health care services that are delivered either through an in-person consultation  
8 or through telehealth;

9 (ii) may impose an annual dollar maximum as permitted by federal  
10 law; and

11 (iii) may not impose a lifetime dollar maximum.

12 **(E) SUBJECT TO SUBSECTION (D)(2) OF THIS SECTION, AN ENTITY SUBJECT**  
13 **TO THIS SECTION MAY NOT IMPOSE AS A CONDITION OF REIMBURSEMENT OF A**  
14 **HEALTH CARE SERVICE DELIVERED THROUGH TELEHEALTH THAT THE HEALTH**  
15 **CARE SERVICE BE PROVIDED BY A HEALTH CARE PROVIDER DESIGNATED BY THE**  
16 **ENTITY.**

17 **[(e)] (F)** An entity subject to this section may undertake utilization review,  
18 including preauthorization, to determine the appropriateness of any health care service  
19 whether the service is delivered through an in-person consultation or through telehealth  
20 if the appropriateness of the health care service is determined in the same manner.

21 **[(f)] (G)** A health insurance policy or contract may not distinguish between  
22 patients in rural or urban locations in providing coverage under the policy or contract for  
23 health care services delivered through telehealth.

24 **[(g)] (H)** A decision by an entity subject to this section not to provide coverage  
25 for telehealth in accordance with this section constitutes an adverse decision, as defined in  
26 § 15-10A-01 of this title, if the decision is based on a finding that telehealth is not medically  
27 necessary, appropriate, or efficient.

## 28 Chapter 17 of the Acts of 2020

29 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency  
30 measure, is necessary for the immediate preservation of the public health or safety, has  
31 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
32 each of the two Houses of the General Assembly. [Sections 2 and 3] **SECTION 3** shall  
33 remain effective through June 30, 2025, and, at the end of June 30, 2025, [Sections 2 and  
34 3] **SECTION 3**, with no further action required by the General Assembly, shall be abrogated  
35 and of no further force and effect.

1 **Chapter 18 of the Acts of 2020**

2 SECTION 4. AND BE IT FURTHER ENACTED, That this Act is an emergency  
3 measure, is necessary for the immediate preservation of the public health or safety, has  
4 been passed by a yea and nay vote supported by three-fifths of all the members elected to  
5 each of the two Houses of the General Assembly. [Sections 2 and 3] SECTION 3 shall  
6 remain effective through June 30, 2025, and, at the end of June 30, 2025, [Sections 2 and  
7 3] SECTION 3, with no further action required by the General Assembly, shall be abrogated  
8 and of no further force and effect.

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to all  
10 policies, contracts, and health benefit plans issued, delivered, or renewed in the State on or  
11 after January 1, 2022.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
13 1, 2021.