



Board of Physicians

Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Damean W.E. Freas, D.O., Chair

2021 SESSION POSITION PAPER

BILL NO: HB 732
COMMITTEE: Health and Government Operations
POSITION: Support with Amendments

TITLE: Health Care Practitioners - Telehealth - Out-of-State Health Care Practitioners

BILL ANALYSIS: HB 732 will allow out-of-state health care practitioners, who meet the criteria set forth in the bill, to provide health care services to Marylanders, using telehealth, as an exception to licensure. Registration with the appropriate health occupational board would be required.

POSITION AND RATIONALE: The Maryland Board of Physicians, (the “Board”) supports efforts to create greater access to health care providers for Marylanders, particularly during the current state of emergency. Full licensure through the Board’s regular licensure process or through the Compact assures that practitioners have met certain minimum qualifications to practice in Maryland. The Board has worked diligently in recent years to create more options and opportunities for expedited licensure for practitioners. The Board currently allows licensure by reciprocity in limited circumstances, licensure through the Interstate Medical Licensure Compact (Compact), and is currently working to develop a regional reciprocal licensure agreement with nearby states that maintains consistent licensure standards. The Board has concerns about registrants who are permitted to practice through HB 732 without requiring the same level of scrutiny as the licensure process by either the Board or Compact states. Additionally, the Board is concerned about the impact of HB 732 on the Compact, which was meant to maintain high licensure standards while increasing access through expedited licensure and portability and might be undermined by a waiver of licensure requirements for telehealth.

Ultimately, however, the Board supports HB 732 because it increases public access to telehealth while allowing the Board to maintain a registration requirement to assure a certain level of quality and Board oversight. HB 732 allows the Board to identify who is providing telehealth care in Maryland, and the authority to discipline when appropriate. HB 732 will further the Board’s mission of public protection by authorizing the Board to have some level of scrutiny of practitioners seeking to provide telehealth services to residents of Maryland. Equally important is the Board’s authority to discipline a practitioner, if necessary.

SB 732 also requires amendments to authorize additional disciplinary measures for the Board, options that exist for all other providers; such as the Board’s authority to issue a cease and desist

order or discipline a practitioner for misrepresentation as a registered provider in the State. Lastly, the exception to licensure for physicians is in the wrong section, and the allied health care practitioners regulated by the Board in Title 14 also need the licensure exception language.

A key restriction in HB 732 is the prohibition on prescribing controlled dangerous substances (CDS). The limitation on CDS prescribing and dispensing in SB 732 is crucial to protect Maryland from unscrupulous pill mills especially in light of the opioid epidemic.

The Board Supports HB 732 with amendments to resolve the issues raised above.

HB 732 Amendments Maryland Board of Physicians

Amendment 1: Page 5, line 18, after “LICENSE” add “AND ORDERED TO CEASE AND DESIST FROM PRACTICE”.

Amendment 2: Page 5, line 19, after “(III)” insert AN UNREGISTERED OUT-OF-STATE HEALTH CARE PRACTITIONER WHO REPRESENTS TO A PATIENT LOCATED IN THE STATE THAT THEY ARE REGISTERED WITH A HEALTH OCCUPATIONS BOARD TO PRACTICE MAY BE SUBJECT TO DISCIPLINARY ACTION FOR MISREPRESENTATION AND ORDERED TO CEASE AND DESIST FROM MAKING MISREPRESENTATIONS. Then add (IV) for the previous (III).

Rationale for Amendments 1 and 2: The majority of Health Occupational boards have language to discipline a health care practitioner for misrepresentation in addition to practicing without a license. This is to be able to enforce practitioners who may represent to the public that they can practice in Maryland when they haven't registered. Also, most Boards have authority (in addition to discipline) to issue a cease and desist order to prevent unlicensed people from continuing to practice while their disciplinary action is being litigated. A similar provision seems appropriate for those unregistered

Amendment 3: Page 12, lines 24 and 25, delete the new language.

Rationale: This is in the incorrect section.

Amendment 4: Page 12, after line 26, insert:

14-302(6) AN OUT-OF-STATE HEALTH CARE PRACTITIONER REGISTERED BY THE BOARD UNDER § 1-1005 OF THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES THROUGH TELEHEALTH.

Rationale: The correct placement for an exception to licensure for physicians.

Amendment 5: Page 12, after line 26, insert:

- 14-5A-08(b)(4) AN OUT-OF-STATE HEALTH CARE PRACTITIONER REGISTERED BY THE BOARD UNDER § 1-1005 OF THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES THROUGH TELEHEALTH.

- 14-5B-08(b)(3) AN OUT-OF-STATE HEALTH CARE PRACTITIONER REGISTERED BY THE BOARD UNDER § 1-1005 OF THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES THROUGH TELEHEALTH.
- 14-5C-08(d) THIS SECTION DOES NOT APPLY TO AN OUT-OF-STATE HEALTH CARE PRACTITIONER REGISTERED BY THE BOARD UNDER § 1-1005 OF THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES THROUGH TELEHEALTH.
- 14-5D-07(b)(4) AN OUT-OF-STATE HEALTH CARE PRACTITIONER REGISTERED BY THE BOARD UNDER § 1-1005 OF THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES THROUGH TELEHEALTH.
- 14-5E-08(c) THIS SECTION DOES NOT APPLY TO AN OUT-OF-STATE HEALTH CARE PRACTITIONER REGISTERED BY THE BOARD UNDER § 1-1005 OF THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES THROUGH TELEHEALTH.
- 14-5F-10(b)(5) AN OUT-OF-STATE HEALTH CARE PRACTITIONER REGISTERED BY THE BOARD UNDER § 1-1005 OF THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES THROUGH TELEHEALTH.

Rationale: To be consistent with proposed changes to the other health occupational boards, there should be an exception to licensure for all practitioners in Title 14. In addition to physicians, there are 6 allied health professions regulated by the Board in 14-5A through 14-5F.

For more information, please contact Wynee Hawk, Manager, Policy and Legislation, Maryland Board of Physicians, 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.