

SENATE BILL 1106

J2, J1

7lr3670
CF HB 352

By: **Senator Zucker**

Introduced and read first time: February 17, 2017

Assigned to: Rules

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; prohibiting a health occupations board from refusing to
11 issue a certain license or certificate to a certain individual who intends to provide
12 certain services to a certain patient only by using teletherapy if the individual
13 satisfies certain requirements; requiring certain health occupations boards to adopt
14 certain regulations on or before a certain date; defining certain terms; and generally
15 relating to the use of teletherapy by health care practitioners.

16 BY adding to

17 Article – Health Occupations

18 Section 1–901 through 1–905 to be under the new subtitle “Subtitle 9. Teletherapy”

19 Annotated Code of Maryland

20 (2014 Replacement Volume and 2016 Supplement)

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

23 **Article – Health Occupations**

24 **SUBTITLE 9. TELETHERAPY.**

25 **1–901.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

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

6 (2) IS LICENSED BY:

7 (I) THE STATE BOARD OF NURSING;

8 (II) THE STATE BOARD OF PHYSICIANS;

9 (III) THE STATE BOARD OF PROFESSIONAL COUNSELORS AND
10 THERAPISTS;

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

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

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

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

21 (3) "TELETHERAPY" DOES NOT INCLUDE:

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

24 (II) AN ELECTRONIC MAIL MESSAGE BETWEEN A HEALTH CARE
25 PRACTITIONER AND A PATIENT;

26 (III) A FACSIMILE TRANSMISSION BETWEEN A HEALTH CARE
27 PRACTITIONER AND A PATIENT; OR

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

1-902.

A HEALTH CARE PRACTITIONER MAY USE TELETHERAPY IF:

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

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

1-903.

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

(1) BE COMPLIANT WITH THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT;

(2) HAVE A SECURE AND PRIVATE CONNECTION; AND

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

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

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

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

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

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

1 (I) POLICE OR EMERGENCY MEDICAL SERVICES;

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

4 (III) APPROPRIATE BEHAVIORAL HEALTH EMERGENCY
5 SERVICES;

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

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

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

15 (III) EMERGENCY PROTOCOLS; AND

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

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

20 (I) PRIVACY IS COMPROMISED;

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

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

25 1-904.

26 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A HEALTH OCCUPATIONS
27 BOARD MAY NOT REFUSE TO ISSUE A LICENSE OR CERTIFICATE TO AN INDIVIDUAL
28 WHO INTENDS TO PROVIDE BEHAVIORAL HEALTH CARE SERVICES TO A PATIENT IN
29 THE STATE ONLY BY USING TELETHERAPY IF THE INDIVIDUAL SATISFIES THE

1 REQUIREMENTS ESTABLISHED UNDER THIS ARTICLE FOR THE LICENSURE OR
2 CERTIFICATION.

3 1-905.

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

6 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before April 1, 2018,
7 the State Board of Nursing, the State Board of Physicians, the State Board of Professional
8 Counselors and Therapists, the State Board of Examiners of Psychologists, and the State
9 Board of Social Work Examiners shall adopt regulations for the use of teletherapy by health
10 care practitioners in accordance with §§ 1-901 through 1-904 of the Health Occupations
11 Article, as enacted by Section 1 of this Act.

12 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
13 October 1, 2017.