

SENATE BILL 1106

J2, J1

7lr3670
CF HB 352

By: **Senator Zucker**

Introduced and read first time: February 17, 2017

Assigned to: Rules

Re-referred to: Education, Health, and Environmental Affairs, February 22, 2017

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2017

CHAPTER _____

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; providing for
15 a delayed effective date for certain provisions of this Act; and generally relating to
16 the use of teletherapy by health care practitioners.

17 BY adding to

18 Article – Health Occupations

19 Section 1–901 through ~~1–905~~ 1–903 to be under the new subtitle “Subtitle 9.

20 Teletherapy”

21 Annotated Code of Maryland

22 (2014 Replacement Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

Article – Health Occupations

SUBTITLE 9. TELETHERAPY.

1–901.

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

(B) “HEALTH CARE PRACTITIONER” MEANS AN INDIVIDUAL WHO:

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

(2) IS LICENSED IN THE STATE BY:

(I) THE STATE BOARD OF NURSING;

(II) THE STATE BOARD OF PHYSICIANS;

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

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

(V) THE STATE BOARD OF SOCIAL WORK EXAMINERS.

(C) (1) “TELETHERAPY” MEANS TELEMEDICINE, AS DEFINED IN § 15–139
OF THE INSURANCE ARTICLE, USED TO DELIVER BEHAVIORAL HEALTH SERVICES.
~~THE USE OF INTERACTIVE AUDIO, VIDEO, OR OTHER TELECOMMUNICATIONS OR
ELECTRONIC TECHNOLOGY BY A HEALTH CARE PRACTITIONER TO DELIVER TO A
PATIENT CLINICAL BEHAVIORAL HEALTH SERVICES THAT ARE WITHIN THE SCOPE
OF PRACTICE OF THE HEALTH CARE PRACTITIONER AT A SITE OTHER THAN THE SITE
AT WHICH THE PATIENT IS LOCATED.~~

~~(2) “TELETHERAPY” INCLUDES THE ASSESSMENT, DIAGNOSIS, AND
TREATMENT OF A PATIENT AND CONSULTATION WITH A PATIENT.~~

~~(3) “TELETHERAPY” DOES NOT INCLUDE:~~

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

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

~~(III) A FACSIMILE TRANSMISSION BETWEEN A HEALTH CARE 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; AND~~

(2) THE HEALTH CARE PRACTITIONER:

(I) ESTABLISHES A PATIENT-PRACTITIONER RELATIONSHIP WITH THE PATIENT FOR WHOM TELETHERAPY IS BEING USED;

(II) PROVIDES FOR THE PRIVACY OF COMMUNICATIONS MADE THROUGH TELETHERAPY; AND

(III) ADDRESSES, TO THE EXTENT PRACTICABLE, THE NEED TO MAINTAIN THE SAFETY AND WELL-BEING OF PATIENTS FOR WHOM TELETHERAPY IS BEING USED.

~~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:~~

~~(I) POLICE OR EMERGENCY MEDICAL SERVICES;~~

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

~~(III) APPROPRIATE BEHAVIORAL HEALTH EMERGENCY SERVICES;~~

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

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

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

~~(III) EMERGENCY PROTOCOLS; AND~~

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

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

~~(I) PRIVACY IS COMPROMISED;~~

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

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

~~1-904.~~

~~NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A HEALTH OCCUPATIONS
BOARD MAY NOT REFUSE TO ISSUE A LICENSE OR CERTIFICATE TO AN INDIVIDUAL
WHO INTENDS TO PROVIDE BEHAVIORAL HEALTH CARE SERVICES TO A PATIENT IN
THE STATE ONLY BY USING TELETHERAPY IF THE INDIVIDUAL SATISFIES THE
REQUIREMENTS ESTABLISHED UNDER THIS ARTICLE FOR THE LICENSURE OR
CERTIFICATION.~~

~~1-905. 1-903.~~

EACH HEALTH OCCUPATIONS BOARD LISTED IN § 1-901(B)(2) OF THIS
SUBTITLE SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE THAT, TO THE
EXTENT PRACTICABLE, ARE UNIFORM AND NOT RELATED TO SCOPE OF PRACTICE.

SECTION 2. AND BE IT FURTHER ENACTED, That, on or before April 1, 2018,
the State Board of Nursing, the State Board of Physicians, the State Board of Professional
Counselors and Therapists, the State Board of Examiners of Psychologists, and the State
Board of Social Work Examiners shall adopt regulations that, to the extent practicable, are
uniform and not related to scope of practice for the use of teletherapy by health care
practitioners in accordance with §§ 1-901 ~~through 1-904~~ and 1-902 of the Health
Occupations Article, as enacted by Section 1 of this Act.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall take
effect October 1, ~~2017~~ 2018.

SECTION 4. AND BE IT FURTHER ENACTED, That, except as provided in Section
3 of this Act, this Act shall take effect October 1, 2017.