

SENATE BILL 398

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CF HB 421

By: **The President (By Request – Administration) and Senators Bailey, Carozza, Cassilly, Corderman, Eckardt, Edwards, Gallion, Griffith, Hershey, Hough, Jennings, Ready, Salling, Simonaire, and West**

Introduced and read first time: January 24, 2022

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Out-of-State Health Care Practitioners – Provision of Behavioral Health**
3 **Services via Telehealth – Authorization**

4 FOR the purpose of authorizing a health care practitioner who is not licensed in the State
5 to provide behavioral health services via telehealth to a patient in the State under
6 certain circumstances; and generally relating to telehealth and the provision of
7 behavioral health services by out-of-state health care practitioners.

8 BY repealing and reenacting, with amendments,
9 Article – Health Occupations
10 Section 1–1005
11 Annotated Code of Maryland
12 (2021 Replacement Volume)

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

15 **Article – Health Occupations**

16 1–1005.

17 **(A) [A] SUBJECT TO SUBSECTION (B) OF THIS SECTION, A** health care
18 practitioner providing health care services through telehealth must be licensed, certified,
19 or otherwise authorized by law to provide health care services in the State if the health
20 care services are being provided to a patient located in the State.

21 **(B) (1) IN THIS SUBSECTION, “HEALTH CARE PRACTITIONER” MEANS A**
22 **PERSON WHO PROVIDES HEALTH CARE SERVICES FOR WHICH A LICENSE IS**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **REQUIRED UNDER THIS ARTICLE WHEN THE SERVICES ARE PROVIDED IN PERSON**
2 **TO A PATIENT LOCATED IN THE STATE.**

3 **(2) A HEALTH CARE PRACTITIONER WHO IS NOT LICENSED IN THE**
4 **STATE MAY PROVIDE BEHAVIORAL HEALTH SERVICES VIA TELEHEALTH TO A**
5 **PATIENT LOCATED IN THE STATE IN ACCORDANCE WITH THE REQUIREMENTS AND**
6 **LIMITATIONS OF THIS SUBSECTION.**

7 **(3) TO PROVIDE BEHAVIORAL HEALTH SERVICES VIA TELEHEALTH**
8 **TO A PATIENT LOCATED IN THE STATE, A HEALTH CARE PRACTITIONER WHO IS NOT**
9 **LICENSED IN THE STATE:**

10 **(I) MUST HOLD A CURRENT, VALID, AND UNRESTRICTED**
11 **LICENSE ISSUED BY AN APPLICABLE HEALTH CARE LICENSING AUTHORITY IN A**
12 **STATE, DISTRICT, OR TERRITORY OF THE UNITED STATES;**

13 **(II) EXCEPT FOR A DISCIPLINARY ACTION RELATING TO THE**
14 **NONPAYMENT OF FEES RELATING TO A LICENSE, MAY NOT BE THE SUBJECT OF ANY**
15 **PAST DISCIPLINARY ACTION TAKEN BY OR PENDING DISCIPLINARY PROCEEDING OF**
16 **AN APPLICABLE HEALTH CARE LICENSING AUTHORITY IN A STATE, DISTRICT, OR**
17 **TERRITORY OF THE UNITED STATES;**

18 **(III) MUST ACT IN FULL COMPLIANCE WITH ALL APPLICABLE**
19 **LAWS, RULES, AND REGULATIONS IN THE STATE, INCLUDING THE REQUIREMENTS**
20 **OF THIS ARTICLE AND THE APPLICABLE RULES AND REGULATIONS OF A HEALTH**
21 **OCCUPATIONS BOARD IN THE STATE WITH AUTHORITY OVER THE PRACTICE OF THE**
22 **HEALTH CARE OCCUPATION OF THE HEALTH CARE PRACTITIONER IN THE STATE;**

23 **(IV) MUST ACT IN COMPLIANCE WITH ANY STATE**
24 **REQUIREMENTS REGARDING THE MAINTENANCE OF LIABILITY INSURANCE FOR THE**
25 **PRACTICE OF THE HEALTH CARE OCCUPATION OF THE HEALTH CARE**
26 **PRACTITIONER;**

27 **(V) MUST CONSENT TO THE JURISDICTION OF THE RELEVANT**
28 **HEALTH OCCUPATIONS BOARD AND THE COURTS OF THE STATE; AND**

29 **(VI) IF APPLICABLE, MUST HOLD A CONTROLLED SUBSTANCE**
30 **LICENSE OR PERMIT THAT HAS NEVER BEEN SUSPENDED OR REVOKED BY A STATE,**
31 **DISTRICT, OR TERRITORY OF THE UNITED STATES OR THE UNITED STATES DRUG**
32 **ENFORCEMENT ADMINISTRATION.**

33 **(4) AN OUT-OF-STATE HEALTH CARE PRACTITIONER WHO PROVIDES**
34 **BEHAVIORAL HEALTH SERVICES VIA TELEHEALTH TO A PATIENT LOCATED IN THE**

1 STATE SHALL BE HELD TO THE SAME STANDARDS OF PRACTICE THAT ARE
2 APPLICABLE TO IN-PERSON HEALTH CARE SETTINGS IN THE STATE.

3 (5) (I) A HEALTH CARE PRACTITIONER WHO FAILS TO COMPLY
4 WITH APPLICABLE LAWS, RULES, AND REGULATIONS IN THE STATE SHALL BE
5 SUBJECT TO INVESTIGATION AND DISCIPLINARY ACTION BY A HEALTH
6 OCCUPATIONS BOARD IN THE STATE WITH AUTHORITY OVER THE PRACTICE OF THE
7 HEALTH CARE OCCUPATION OF THE HEALTH CARE PRACTITIONER IN THE STATE.

8 (II) DISCIPLINARY ACTION BY A HEALTH OCCUPATIONS BOARD
9 IN THE STATE MAY INCLUDE:

10 1. REVOCATION OF THE HEALTH CARE PRACTITIONER'S
11 MARYLAND PRACTICE PRIVILEGES; AND

12 2. REFERRAL OF THE MATTER TO LICENSING
13 AUTHORITIES IN ANY STATE, DISTRICT, OR TERRITORY OF THE UNITED STATES
14 WHERE THE HEALTH CARE PRACTITIONER POSSESSES A LICENSE TO PRACTICE THE
15 HEALTH OCCUPATION.

16 (6) VENUE FOR A CIVIL OR ADMINISTRATIVE ACTION INITIATED
17 AGAINST AN OUT-OF-STATE HEALTH CARE PRACTITIONER BY THE DEPARTMENT, A
18 HEALTH OCCUPATIONS BOARD IN THE STATE, OR A PATIENT WHO RECEIVES
19 BEHAVIORAL HEALTH SERVICES VIA TELEHEALTH FROM THE HEALTH CARE
20 PRACTITIONER SHALL BE LOCATED IN:

21 (I) THE PATIENT'S COUNTY OF RESIDENCE; OR

22 (II) IN ANY OTHER COUNTY IN THE STATE WHERE VENUE MAY
23 BE ESTABLISHED UNDER § 6-201 OF THE COURTS ARTICLE.

24 (7) THIS SUBSECTION MAY NOT BE CONSTRUED TO SHIELD A HEALTH
25 CARE PRACTITIONER FROM:

26 (I) PERSONAL JURISDICTION IN THE STATE; OR

27 (II) PRIVACY SAFEGUARDS UNDER THE HEALTH INSURANCE
28 PORTABILITY AND ACCOUNTABILITY ACT OF 1996.

29 (8) A HEALTH OCCUPATIONS BOARD MAY ADOPT REGULATIONS TO
30 CARRY OUT THIS SUBSECTION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
2 1, 2022.