

Department of Legislative Services
 Maryland General Assembly
 2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 492

(Senator Kagan)

Education, Energy, and the Environment

Ways and Means

Public Schools - Student Telehealth Appointments - State Guidelines, Policies, and Access

This bill requires the Maryland State Department of Education (MSDE) and the Maryland Department of Health (MDH), by December 31, 2024, to develop State guidelines for school health services regarding the availability for student participation in telehealth appointments during the school day on the premises of public middle and high schools. In developing the guidelines, MSDE and MDH must consult with a broad range of stakeholders and consider operational, legal, and financial issues. The State Board of Education must adopt the State guidelines as developed by MSDE and MDH, and, before the start of the 2025-2026 school year, each local board of education must adopt and implement a policy in accordance with the State guidelines. Each local board must ensure that the local school system publishes the student telehealth policy in the student handbook and makes school personnel aware of student telehealth policy objectives and requirements. On request, MSDE must provide technical assistance to local boards to establish telehealth policies. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: MSDE general fund expenditures increase by \$100,000 in FY 2025 only for contractual support, as discussed below. MSDE can provide technical assistance to local boards to establish telehealth policies with existing budgeted resources. Revenues are not affected.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	100,000	0	0	0	0
Net Effect	(\$100,000)	\$0	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease=

Local Effect: Local boards of education can adopt and implement policies in accordance with MSDE and MDH guidelines using existing budgeted resources; local school systems may face operational challenges, as discussed below. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: “Telehealth” means a mode of delivering health care services through the use of telecommunications technologies by a health care practitioner to a patient at a different physical location than the health care practitioner.

MSDE and MDH must consult with a broad range of stakeholders, including (1) local school systems; (2) middle and high school principals; (3) school nurses, other school-based health and behavioral health providers, and other support personnel; (4) health care providers of various practice areas; (5) parents; and (6) the Maryland Consortium on Coordinated Community Supports.

In developing the guidelines, MSDE and MDH must consider operational, legal, and financial issues, including:

- equity and prioritization of access;
- student and parental rights and responsibilities, including student privacy, informed consent, parental consent, and communications with parents;
- school system rights and responsibilities;
- the role and responsibilities of health care providers providing telehealth services, including informed consent, collection of medical history and insurance information, follow-up care, and patient communications;
- the role and responsibilities of school nurses and other school-based health, behavioral health, and other support personnel;
- the role of the student health plan;
- telehealth services related to a student’s individualized education program or Section 504 plan;
- protocols to provide in-person support if telehealth appointments create a challenge to a student returning to the classroom, especially relating to mental health counseling or treatment;
- protocols for missed instruction due to standing or consistently scheduled appointments;
- operational issues, including coordination of services, approval and verification of appointments (including appointments without parental knowledge or consent), school resource allocation, and the use of treatment space;
- school system, parent, and health care provider liability;
- health insurance, including Medicaid;

- the feasibility of designating a school building space that is private and safe to allow for confidential conversation between a health care provider and a student, has Internet access, includes at least one seating option with a flat surface and a nearby electrical outlet to accommodate placement of a laptop device, and is not a bathroom or closet; and
- any other issues determined to be relevant by MSDE, MDH, or a stakeholder.

The bill may not be construed to (1) require a school to construct an addition to or a new space in a school building to provide a private space to comply with the student telehealth policy or (2) alter the responsibilities of a health care provider regarding the disclosure of medical records under current law, including the authority to disclose a medical record in the case of an emergency.

Current Law: Chapters 15 and 16 of 2020 authorize a health care practitioner to establish a practitioner-patient relationship through either a synchronous telehealth interaction or an asynchronous telehealth interaction, if the health care practitioner (1) verifies the identity of the patient receiving health care services through telehealth; (2) discloses to the patient the health care practitioner's name, contact information, and the type of health occupation license held by the health care practitioner; and (3) obtains oral or written consent from the patient (or the patient's parent or guardian if required).

A health care practitioner must perform a clinical evaluation (which can be through a synchronous or an asynchronous telehealth interaction) that is appropriate for the patient and the condition with which the patient presents before providing treatment or issuing a prescription through telehealth.

The Acts prohibit regulations adopted by a health occupations board from establishing a separate standard of care for telehealth and specify that such regulations must allow for the establishment of a practitioner-patient relationship through a synchronous or an asynchronous telehealth interaction provided by a health care practitioner who is complying with the health care practitioner's standard of care.

School-based health centers (SBHCs) are health centers located in a school or on a school campus that provide on-site comprehensive preventive and primary health services. Services may also include behavioral health, oral health, ancillary, and supportive services. Chapter 384 of 2021 expanded the authorization of SBHCs to provide telehealth services.

State Expenditures: MSDE advises that it has limited staff with appropriate expertise to consult with stakeholders as required under the bill. Therefore, general fund expenditures increase by \$100,000 in fiscal 2025 only to retain contractual services to coordinate stakeholder engagement, conduct research, facilitate meetings, and develop final materials for the State telehealth guidelines by December 31, 2024.

MDH similarly advises that the department requires additional resources to engage stakeholders in the creation of guidelines – specifically, one part-time contractual nursing program consultant in fiscal 2025 only at a total cost of \$39,865 (for a six-month period as the guidelines must be developed by December 31, 2024). However, the Department of Legislative Services advises that, since MSDE plans to contract for additional support to engage stakeholders in the completion of guidelines, MDH can rely on the contractual support hired by MSDE such that any impact to MDH is likely absorbable within existing budgeted resources.

Local Expenditures: Local boards can adopt and implement telehealth policies with existing budgeted resources. Likewise, local school systems can make school personnel aware of the new telehealth policies developed by the board with existing budgeted resources. However, depending on the guidelines adopted by MSDE and MDH relating to the feasibility of designating space for telehealth appointments, local school systems may face operational challenges in designating an appropriate space and implementing measures to ensure the safety and privacy of students participating in a telehealth appointment.

For example, Anne Arundel County Public Schools, Baltimore County Public Schools, and St. Mary’s County Public Schools advise that significant expenditures may be incurred to hire additional staff to supervise students on telehealth calls and prevent situations where a student enters crisis during a telehealth appointment. However, school systems can likely meet the bill’s requirement to implement a policy in accordance with MSDE and MDH guidelines without hiring additional staff, and any staffing costs are dependent on the exact guidelines established by MSDE and MDH and policies subsequently adopted by each local board.

Further, Baltimore City Public Schools and St. Mary’s County Public Schools advise that, while the bill does not require the construction of additional space for telehealth appointments, some schools may be particularly challenged in finding sufficient and appropriate space for telehealth appointments.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 878 of 2023.

Designated Cross File: HB 522 (Delegate D. Jones, *et al.*) - Ways and Means.

Information Source(s): Maryland Association of County Health Officers; Maryland State Department of Education; Maryland Department of Health; Baltimore City Public Schools;

Baltimore County Public Schools; Anne Arundel County Public Schools;
St. Mary's County Public Schools; Department of Legislative Services

Fiscal Note History: First Reader - February 5, 2024
js/jc Third Reader - April 5, 2024
Revised - Amendment(s) - April 5, 2024

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