

Telehealth and COVID-19: What Providers Need to Know

Overview

Telehealth experienced rapid growth during the COVID-19 public health emergency (PHE). Health care providers (physicians, nurse practitioners, behavioral health professionals, clinical social workers, etc.) used telehealth as a safe and convenient way to provide medical services to remote patients.

This document highlights some key policy changes in response to COVID-19. This is not an exhaustive list; policy changes are fluid and subject to change on or before the PHE ends. Health care providers are encouraged to consult with the applicable licensing board(s) in the state(s) where they and their patients are located as well as payers on telehealth use requirements and policy variations across plan types (e.g., self-funded).

Privacy and Security

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) governs privacy and security of health information. HIPAA does not have specific requirements for telehealth; privacy and security provisions are the same as services delivered in-person.¹

Key COVID-19 Policy Change: During the COVID-19 PHE, the Department of Health and Human Services, Office for Civil Rights (OCR) is exercising² enforcement discretion and will not impose penalties for noncompliance with HIPAA.

Technologies

Live video conferencing (synchronous)

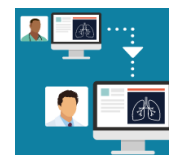


■ The exchange of information in real-time using audio-video telecommunications technology between providers and patients

- **Example:** Video conferencing for consultative, diagnostic, and treatment services

Store-and-forward (asynchronous)

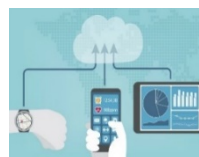
- The exchange of information (e.g., lab results, images, etc.) that does not occur in real-time; information is securely collected and transmitted to a provider



- **Example:** X-rays, MRIs, or digital photos sent to a specialist for review at a later time

Remote patient monitoring (RPM)

- Patient-collected health data typically from home transmitted to a provider using mobile health technology



- **Example:** WiFi or Bluetooth-enabled wearables that automatically send patient vitals to providers

Key COVID-19 Policy Change: During the COVID-19 PHE, OCR is permitting use of nonpublic-facing applications (e.g., Google Hangout, Skype, etc.) under certain conditions.³

¹ Maryland law builds on protections established by HIPAA and places certain requirements and restrictions pertaining to the confidentiality, maintenance, use, disclosure and redisclosure, patient access, and scope of health information in any form (oral, written, and electronic) collected by providers and health organizations. More information available at: health.maryland.gov/psych/pdfs/Medicalreports.pdf.

² Department of Health & Human Services, Notification of Enforcement Discretion for Telehealth Remote Communications During the COVID-19 Nationwide Public Health Emergency, March 2020. Available at: hhs.gov/hipaa/for-professionals/special-topics/emergency-preparedness/notification-enforcement-discretion-telehealth/index.html.

³ U.S. Department of Health and Human Services Office for Civil Rights, FAQs on Telehealth and HIPAA during the COVID-19 nationwide public health emergency. Available at: www.hhs.gov/sites/default/files/telehealth-faqs-508.pdf.

Other Considerations

Standard of Care: Telehealth (for diagnosis, treatment, consultation, education, etc.) must abide by the same standard of care as in-person visits.

Patient Consent: Oral or written acknowledgement of telehealth services must be obtained.

Documentation: Telehealth visits should be documented, preferably in the electronic health record system.

Payer Mix: Telehealth coverage and reimbursement vary among different payers (i.e, government and private) and plan types (e.g., self-insured).⁴

Dedicated Space: Reserve a private space to conduct telehealth visits free from distractions.⁵

Professional Liability: The extent of telehealth practice covered under a professional liability policy should be verified with the insurance carrier.

Licensing: Generally, providers must be licensed in Maryland to treat patients in Maryland⁶; licensing requirements for other states vary.

Additional Resources

Maryland Board of Physicians COVID-19 Telehealth
Frequently Asked Questions

mbp.state.md.us/forms/TelehealthFAQs03262020.pdf

MHCC Telehealth Virtual Resource Center
mhcc.maryland.gov/mhcc/Pages/hit/hit_telemedicine/hit_telemedicine_virtual_resource.aspx

MHCC Telehealth Readiness Assessment Tool

mhcctelehealthtool.herokuapp.com/

HIPAA and Telehealth

www.telehealthtechnology.org/sites/default/files/documents/HIPAA%20for%20TRCs%202014.pdf

Questions?

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⁴ Maryland Health Care Commission, *Understanding Eligibility and Billing for Telehealth*, March 2020. Available at: mhcc.maryland.gov/mhcc/pages/hit/hit/documents/HIT_Payer_Coverage_Billing_Expansion_COVID_19.pdf.

⁵ Maryland Health Care Commission, *Making the Virtual Visit a Success – Provider Tips for Telehealth*, April 2020. Available at: mhcc.maryland.gov/mhcc/pages/hit/hit/documents/HIT_Telehealth_Visit_Flyer.pdf.

⁶ COMAR 10.32.03 Delegation of Duties by a Licensed Physician — Physician Assistant. Available at: www.dsd.state.md.us/COMAR/SubtitleSearch.aspx?search=10.32.03.*