

DRAFT-VERSION 1

INTERSTATE TELEHEALTH WORKGROUP

Discussion Items

TASK: The House Health and Government Operations Committee (HGO Committee) requested the Maryland Health Care Commission (MHCC) conduct an interstate telehealth study (study) by convening a workgroup composed of stakeholders that may be affected by or have an effect on expanded interstate telehealth practice. The study scope was informed by House Bill 670, *Maryland Health Care Commission – Study on Expansion of Interstate Telehealth*, which bill sponsors elected to withdraw during the 2022 legislative session. A final report detailing study findings, recommendations, and supporting rationale is due to the HGO Committee by December 1, 2023.

APPROACH: Discussion items that follow were requested by the HGO Committee and serve as a guide for the workgroup in formulating potential solutions to address barriers to expanding interstate telehealth. For purposes of discussion, key areas of focus are underlined. Noted barriers are factors that impact expansion of interstate telehealth, some of which are perceived to be general barriers to telehealth. Potential solutions are ideas aimed at addressing the barriers identified and will inform development of recommendations for the HGO Committee.

1. How to address the health insurance coverage and medical liability issues associated with the use of out-of-state practitioners through telehealth?

Barriers	Potential Solutions	Notes/Parking Lot*
<p><u>PROVIDERS</u></p> <ul style="list-style-type: none"> • Recognition of out of state practitioners as in-network providers • Payers’ capital investments in their own online telehealth products • Network adequacy requirements • Variation in payer enrollment processes • Maryland Medicaid requirements – Maryland license, registration with SDAT • Lack of a mandate requiring coverage for interstate telehealth services in risk-based contracts • Immunity protections – medical and cyber liability laws vary across states • State requirements on the minimum level of malpractice insurance • Use of regional liability carriers (lack of or limited multistate presence) 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
<p><u>PAYERS</u></p> <ul style="list-style-type: none"> • Uncertainty about quality of care • Concerns about the potential for overutilization 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •

<p><u>CONSUMERS</u></p> <ul style="list-style-type: none"> • Cost of using out-of-network providers • Uncertainty of (interstate) telehealth insurance coverage (cost-sharing, network requirements, etc.) • Ability for treating out of state providers to share information/coordinate with care team • Concerns about privacy and security that affect consumer trust 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
<p><u>LIABILITY INSURERS</u></p> <ul style="list-style-type: none"> • Different underwriting standards • Varying state laws • Patient safety and risk management – Standard of care for telehealth, clinician burnout, misdiagnosis, delays in care, etc. 		<ul style="list-style-type: none"> •

2. Are interstate health compacts sufficient for expanding the use of interstate telehealth?

Potential Barriers	Potential Solutions	Notes/Parking Lot*
<p><u>PROVIDERS</u></p> <ul style="list-style-type: none"> • Cost and time (several weeks) to process applications • Do not address medical liability • Requirements for continuing medical education credits for multiple licenses • Processes to conduct criminal background investigations that require fingerprinting • Not broadly implemented by all states • Awareness of compacts and what is required • Physician compact (IMLC) operates less expeditiously as compared to other compacts 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
<p><u>PAYERS</u></p> <ul style="list-style-type: none"> • Existing licensure processes impacts available supply of network providers 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
<p><u>CONSUMERS</u></p> <ul style="list-style-type: none"> • Limits supply of network providers impacting access to care and continuity of care 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
<p><u>LIABILITY INSURERS</u></p> <ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •

3. Whether Maryland should alter its licensure practitioner requirements to further the availability of telehealth services while continuing to protect patients and, if so, how?

Potential Barriers	Potential Solutions	Notes/Parking Lot*
<p><u>PROVIDERS</u></p> <ul style="list-style-type: none"> • Costs – direct (administrative burdens) and indirect (preventing physicians from practicing, especially where need is greatest) • Navigating multiple licensing systems and requirements • Issues around prescribing (e.g., practitioners must be licensed in Maryland and have a Maryland address before applying for a CDS permit and Maryland DEA license) • Limited reciprocity agreements with other states 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
<p><u>PAYERS</u></p> <ul style="list-style-type: none"> • Existing licensure processes impact available supply of network providers 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •
<p><u>CONSUMERS</u></p> <ul style="list-style-type: none"> • Delayed, interrupted, or cancelled care due to providers that are not licensed in Maryland (e.g., when COVID-19 waivers were rescinded) • Higher cost of care when having to travel to different states to seek specialty care in person, and the impacts on immobile and fragile patients whom should remain in place 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •

<ul style="list-style-type: none">• Limiting access to care due to licensing boards' concerns about patient safety and quality of out of state providers and boards' ability to take disciplinary action and monitor fraud and abuse		
<p><u>LIABILITY INSURERS</u></p> <ul style="list-style-type: none">•	<ul style="list-style-type: none">•	<ul style="list-style-type: none">•

4. What impact will promoting out-of-state telehealth have on Maryland practitioners?		
Potential Barriers	Potential Solutions	Notes/Parking Lot*
<p><u>PROVIDERS</u></p> <ul style="list-style-type: none"> Information sharing and the impact on care management, including continuity and coordination Documentation and communication issues (e.g., no records of prescribed medications, care delivered) that create information gaps and increase risk Increased competition could force private practice physicians to leave the State and/or leave private practice Bandwidth to manage increases in referrals or required follow up care 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
<p><u>PAYERS</u></p> <ul style="list-style-type: none"> Reduced oversight and disciplinary authority of State boards could increase potential for insurance fraud and abuse by out-of-state practitioners 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
<p><u>CONSUMERS</u></p> <ul style="list-style-type: none"> 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
<p><u>LIABILITY INSURERS</u></p> <ul style="list-style-type: none"> 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">

5. Other policy issues that the workgroup considers relevant to expanding access to telehealth services.

Potential Barriers	Potential Solutions	Notes/Parking Lot*
<p><u>PROVIDERS</u></p> <ul style="list-style-type: none"> Physicians have provisions in State law that allow consultation or temporary arrangements, but those arrangements do not apply to other practitioners (APNs, behavioral health practitioners, etc.). 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
<p><u>PAYERS</u></p> <ul style="list-style-type: none"> 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
<p><u>CONSUMERS</u></p> <ul style="list-style-type: none"> 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
<p><u>LIABILITY INSURERS</u></p> <ul style="list-style-type: none"> 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">