Interstate Telehealth Expansion Study

SEPTEMBER 21, 2023

Overview

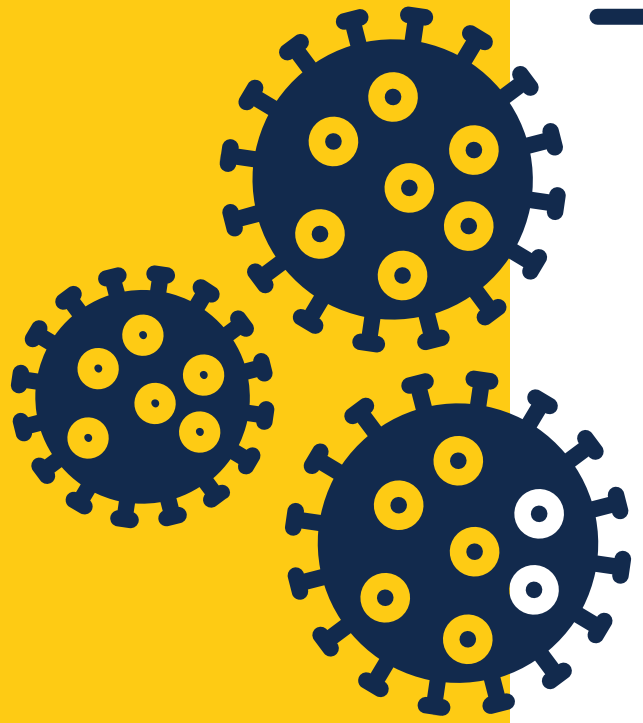
- In May 2022, the Health and Government Operations (HGO) Committee requested MHCC study the ways interstate telehealth can be expanded to provide more options for State residents to receive telehealth services from out-of-state providers
    - Study questions were informed by House Bill 670, *Maryland Health Care Commission - Study on Expansion of Interstate Telehealth*, which was withdrawn by bill sponsors during the 2022 session
- A workgroup* convened (January - March 2023) to discuss barriers and opportunities to expanding the delivery of telehealth services across state lines
- Recommendations for expanding interstate telehealth are due to the HGO Committee by December 1, 2023

**See appendix for more information about the workgroup*

Study Questions

1. How to address the health insurance coverage and medical liability issues associated with the use of out-of-state practitioners through telehealth?
2. Are interstate health compacts sufficient for expanding the use of interstate telehealth?
3. Should Maryland alter its licensure practitioner requirements to further the availability of telehealth services while continuing to protect patients and, if so, how?
4. What impact will promoting out-of-state telehealth have on Maryland practitioners?
5. Other policy issues that the workgroup considers relevant to expanding access to telehealth services.

COVID-19 Telehealth Waivers
Takeaways



- Emergency declarations with temporary licensing flexibilities enabled out-of-state providers to deliver care without a state specific license if the provider had a license in good standing in their home state
  - Alleviated challenges related to workforce shortages, maldistribution, and maintaining continuity of care
  - Improved options for health care consumers seeking care, most notably, a more diverse behavioral health workforce
- Interstate telehealth occurs more often between patients and providers with an established relationship
  - Accounted for <1 percent of all outpatient visits and 5 percent of all telehealth visits (based on national data, 2017-2020)

Recommendations and Notable Considerations

REMARKS:

The nine recommendations and five notable considerations that follow were developed in collaboration with the workgroup

HGO study questions are italicized; blue text in parenthesis indicates need for legislation, regulation, or policy changes to support expansion of interstate telehealth

Health Insurance Coverage and Medical Liability

Q1: How to address the health insurance coverage and medical liability issues associated with the use of out-of-state practitioners through telehealth?

RECOMMENDATION AND SUPPORTING JUSTIFICATION

a. Payers should continue to expand consumer awareness efforts on potential out-of-pocket costs for in and out-of-network providers when seeking services in-person or by telehealth (policy)
   - Use of an out-of-state provider who may be out-of-network can result in higher out-of-pocket costs (i.e., deductibles, copayments, and coinsurance) for health care consumers
   - In certain states, including Maryland, use of out-of-network providers for behavioral health services is about 10 times more common

b. Health occupation boards should require medical liability coverage for out-of-state providers who do not have an existing medical liability insurance policy through employment or by contract with an in-State hospital, facility, program, practice, carrier, or managed care organization licensed or certified under Maryland law (policy)
   - Uneven requirements for provider liability insurance; not required by federal law, and about 30 states (including Maryland) do not mandate coverage

Interstate Health Compacts

Q2: Are interstate heath compacts sufficient for expanding the use of interstate telehealth?

RECOMMENDATION AND SUPPORTING JUSTIFICATION

a. The General Assembly should continue to adopt interstate compacts with contiguous states for improving patient access to providers in communities experiencing a practitioner shortage – uncodified language in Chapter 15/HB 448, *Health Care Practitioners – Telehealth and Shortage* (2020) (regulation)

- Compacts are viewed as one approach to advance interstate telehealth with about 40 states, including Maryland*, having passed legislation to support implementation of one or more interstate compacts.
- Select states, not including Maryland, passed legislation to participate in four new compacts (advance practice nurses, social workers, physician assistants, dentists/dental hygienists)

**Maryland has enacted legislation for seven compacts (i.e., nurses, physicians, psychologists, physical therapists, counselors, occupational therapists, and audiologists/speech-language pathologists); see appendix for more information about the implementation of compacts*

Interstate Health Compacts (*continued…*)

Q2: Are interstate heath compacts sufficient for expanding the use of interstate telehealth?

RECOMMENDATION AND SUPPORTING JUSTIFICATION

b. Health occupation boards should develop new pathways to licensure; continue to begin/renew conversations regarding the development of licensure by reciprocity and endorsement agreements between Maryland and contiguous states (regulation)

- Compacts are not broadly adopted by all states, and some limitations exist (e.g., the Interstate Medical Licensure Compact can be cost prohibitive for physicians since it's the only compact requiring applicants to complete all state specific licensing requirements and pay fees to the applicable state(s) and compact)

- The Maryland Board of Physicians now offers licensure by endorsement (as of January 2023, all states) and licensure by reciprocity (as of March 2023, Virginia and Washington D.C.)

Practitioner Licensure Requirements

Q3: Whether Should Maryland should alter its licensure practitioner requirements to further the availability of telehealth services while continuing to protect patients and, if so, how?

RECOMMENDATION AND SUPPORTING JUSTIFICATION

a. Allow the adoption of a mutual recognition for licensure by health occupation boards consistent with the Nurse Licensure Compact where the board recognizes the home state license; disciplinary action notifications are pushed to participating boards; any board can investigate and discipline a provider practicing in the State; and any participating board can discipline a provider based on findings in another state except where prohibited by State law (legislation)

   - Coordinate health care licensing processes across state lines to support access to care and ease some administrative requirements

Practitioner Licensure Requirements *(continued…)*

Q3: Whether Maryland should alter its licensure practitioner requirements to further the availability of telehealth services while continuing to protect patients and, if so, how?

RECOMMENDATIONS AND SUPPORTING JUSTIFICATION

b. The General Assembly should enact legislation to allow health occupation boards to adopt a limited use telehealth out-of-state license (legislation)

   - Supports alternative approaches to licensure for providers that practice in contiguous states and meet certain conditions (e.g., agreeing to not open an office in the state); about a dozen states have laws for a telehealth-specific license or registration process

c. Health occupation boards should permit providers with an active unencumbered license in another state to deliver telehealth services to preserve continuity of care for existing patients (legislation)

   - Minimize gaps in care in certain circumstances (e.g., follow up care, second opinions, and specialty assessments)

Practitioner Licensure Requirements (*continued…*)

Q3: Whether Maryland should alter its licensure practitioner requirements to further the availability of telehealth services while continuing to protect patients and, if so, how?

RECOMMENDATION AND SUPPORTING JUSTIFICATION

d. The General Assembly should enact legislation to allow an out-of-state health care entity* under common ownership with an in-State entity to deliver telehealth services to preserve the continuity of care for existing patients (legislation)

- Need for shared decision-making when a valid treatment relationship exists
- Credentialling processes among health care organizations are generally viewed as sufficient for ensuring providers meet and maintain certain qualifications and standards; processes review many of the same documents required for licensure (e.g., education, training, licensure, registrations and certifications, sanctions, work history, and peer references)

* *Includes hospitals and organizations that deliver health care services through a broad array of coverage arrangements or other relationships with practitioners, either by employing them directly or through contractual or other arrangements*

Promoting Out-of-State Telehealth

Q4: What impact will promoting out-of-state telehealth have on Maryland practitioners?

RECOMMENDATION AND SUPPORTING JUSTIFICATION

Health occupation boards should require out-of-state health care providers who treat Maryland residents to access and securely share patient health information electronically with primary care providers, except where prohibited by law (legislation)

- Electronic health data sharing using a health information exchange such as CRISP is critical to ensure providers can make informed decisions about patient care and support continuity of care

Related Matters

Q5: Other policy issues that the workgroup considers relevant to expanding interstate-telehealth services

RECOMMENDATIONS AND SUPPORTING JUSTIFICATION

a. Require payors to exclude care delivered outside of the medical home for attributed patients in calculating quality performance and practice incentives for practitioners (policy)

   - Reliable linkages between practices and patients supports value-based care

b. Where practical, health occupation boards should maintain comparable education and training requirements

   - Minimize potential patient safety issues as licensure standards and processes vary among state health occupation boards

c. Encourage health occupation boards to increase licensure digitization processes (policy)

   - Improve licensure application processes that reduce burden and increase efficiencies

Related Matters (*continued…*)

Q5: Other policy issues that the workgroup considers relevant to expanding interstate-telehealth services

RECOMMENDATIONS AND SUPPORTING JUSTIFICATION

d. Improve processes related to Maryland licensure requirements for service members, veterans, or military spouses (policy)

   - Military-related moves between states pose significant challenges for families; higher unemployment among military spouses as compared to the general population largely due to mobility of military life

e. Encourage the Maryland Department of Public Safety and Correctional Services (DPSCS) to identify an alternative pathway to accept electronic background record checks from out-of-state vendors recognized in their state of origin (policy)

   - Background checks discourage out-of-state providers from seeking a Maryland license since fingerprinting must be completed at select Maryland sites or after written request for a fingerprinting card to be mailed to their address

Commission Action

Staff proposes the Commission accept the draft report for the interstate telehealth expansion study as final

Q & A

Appendix

Interstate Telehealth Workgroup

- The workgroup consisted of 57 representatives from Maryland health professional licensing boards, providers, payers, consumers, professional associations, professional liability insurance carriers, and State agencies
- Ongoing feedback from participants guided development of statutory, regulatory, or policy-based recommendations

Compacts

Compact Name/Provider Type	# of States Enacted *(as of May 2023)*	D.C. and Contiguous Sates
Interstate Medical Licensure Compact (IMLC)* Physicians	38	D.C., DE, PA, WV
Nurse Licensure Compact (NLC)* Registered Nurses, Licensed Practical Nurses	40	DE, VA, PA, WV
Physical Therapy Compact (PT Compact)*Physical Therapists	33	D.C., DE, VA, WV
Psychology Interjurisdictional Compact (PSYPACT)* Psychologists	38	D.C., DE, PA, VA, WV
Counseling Compact** Counselors	26	DE, VA, WV
Occupational Therapy Compact (OT Compact)** Occupational Therapists	25	DE, VA, WV
Audiology & Speech-Language Pathology Interstate Compact (ASLP-IC)** Audiologists, Speech-Language Pathologists	25	DE, VA, WV

** Established: Maryland providers can apply for licenses or privileges to practice in other member states and Maryland can issue licenses or privileges to practice to providers in member states*

*** Pending Implementation: Maryland has enacted legislation to join the compact, but the compact administrative infrastructure and processes are still in development (a process that takes about two years after a requisite number of states pass compact legislation)*

# of states includes member states actively issuing and accepting compact licenses/privileges to practice and states that have enacted compact legislation, but implementation is pending

States Implementing Telehealth-Only Registration/License Systems (2015-2022)

2015-2019

Maine (2015) – *consulting physicians only*

Louisiana (2016)

Florida (2019)

2021

Arizona

Delaware – *excludes providers in states that are members of a compact that DE participates in*

Kansas

Minnesota – *physicians only*

New Mexico – *physicians only*

Tennessee – *osteopathic physicians only*

West Virginia

2022

Connecticut – *temporary order for behavioral health providers only*

Vermont – *limits on # of patients, duration of treatment*