

Department of Legislative Services  
Maryland General Assembly  
2017 Session

FISCAL AND POLICY NOTE  
First Reader

Senate Bill 1106 (Senator Zucker)  
Education, Health, and Environmental Affairs

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Health Care Practitioners - Use of Teletherapy

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This bill authorizes health care practitioners who provide clinical behavioral health services and are licensed by the State boards of Nursing, Physicians, Professional Counselors and Therapists, Psychologists, and Social Workers to use teletherapy. Health care practitioners must have received training in the technology used for teletherapy and comply with specified requirements. A health occupations board may not refuse to issue a license or certificate to an individual who intends to provide behavioral health care services to a patient in Maryland only by using teletherapy if the individual satisfies the requirements for licensure or certification. By April 1, 2018, the boards must adopt regulations for the use of teletherapy in accordance with the bill.

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Fiscal Summary

**State Effect:** Teletherapy regulations can be adopted by the respective boards using existing budgeted resources. Revenues are not affected.

**Local Effect:** None.

**Small Business Effect:** Meaningful for health care practitioners authorized to use teletherapy under the bill.

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Analysis

**Bill Summary:** “Teletherapy” means the use of interactive audio, video, or other telecommunications or electronic technology by a health care practitioner to deliver clinical behavioral health services at a site other than the site at which the patient is located. “Teletherapy” includes the assessment, diagnosis, and treatment of a patient and

consultation with a patient. “Teletherapy” does not include an audio-only telephone conversation, electronic mail message, text message, or fax transmission between a health care practitioner and a patient.

The technology used for teletherapy must (1) be compliant with the federal Health Insurance Portability and Accountability Act; (2) have a secure and private connection; and (3) include real-time two-way audio and video communications. Prior to the first teletherapy session, the health care practitioner must make a positive identification of the patient through an initial face-to-face meeting or the use of government-issued photo identification. The health care practitioner must establish safety protocols to be used in the case of an emergency or a crisis. The health care practitioner and the patient must execute an informed consent agreement and establish protocols to be used if (1) privacy is compromised; (2) the conditions of teletherapy become unsafe; or (3) a teletherapy session is based on coercion, force, or unauthorized third-party involvement.

**Current Law:** Chapters 579 and 580 of 2012 require insurers, nonprofit health service plans, and health maintenance organizations to cover and reimburse for health care services appropriately delivered through telemedicine. Telemental health services are provided under the Maryland Medicaid program and the public mental health system. Several private providers also offer mental health services via telemedicine.

**Background:** The use of telecommunications technologies in the provision of mental health therapy has increased in recent years due to ongoing development of new technologies and the expansion of payment for telemedicine services. Industry associations, such as the American Psychological Association and the American Telemedicine Association, have developed guidelines for the provision of such services. These guidelines address such issues as the competence of practitioners, patient safety, standards of care, informed consent, confidentiality/security/disposal of data and information, testing and assessment, and interjurisdictional practice.

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### **Additional Information**

**Prior Introductions:** HB 1103 of 2016, a substantially similar bill, was heard by the House Health and Government Operations Committee but was later withdrawn.

**Cross File:** HB 352 (Delegate Reznik, *et al.*) - Health and Government Operations.

**Information Source(s):** American Psychological Association; American Telemedicine Association; Department of Health and Mental Hygiene; Department of Legislative Services

**Fiscal Note History:** First Reader - March 10, 2017  
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