The State of Maryland

Executive Department

ORDER

OF THE

GOVERNOR OF THE STATE OF MARYLAND

NUMBER 20-04-01-01

AMENDING AND RESTATING ORDER NO. 20-03-20-01

TO FURTHER AUTHORIZE ADDITIONAL TELEHEALTH SERVICES

WHEREAS, A state of emergency and catastrophic health emergency was proclaimed on March 5, 2020, and renewed on March 17, 2020, to control and prevent the spread of COVID-19 within the state, and the state of emergency and catastrophic health emergency continue to exist;

WHEREAS, The currently known and available scientific evidence and best practices support social distancing to prevent exposures to and transmissions of COVID-19, and to reduce the threat to especially vulnerable populations, including older individuals and those with chronic health conditions;

WHEREAS, Health care practitioners are needed to respond to the state of emergency and catastrophic health emergency;

WHEREAS, To respond to the state of emergency and catastrophic health emergency, health care practitioners must be permitted to deliver health care services at sites other than the sites at which patients are located;

WHEREAS, Marylanders require access to health care services during the catastrophic health emergency, but compliance with social distancing guidelines may make it difficult for Marylanders to safely obtain those health care services in-person;

WHEREAS, To protect the public health, welfare, and safety, prevent the transmission of the novel coronavirus, control the spread of COVID-19, and save lives, it is necessary to minimize the movement of individuals in Maryland, including those seeking health care services;

WHEREAS, It is necessary that health care practitioners licensed, certified, or otherwise authorized by law to provide health care services be permitted in Maryland to provide those services through the use of telecommunications technologies ("telehealth"), including audio-only calls or conversations, while complying with the same standards of practice that are applicable to in-person health care settings;

WHEREAS, To expand the use of telehealth and the delivery of health care services through audio-only calls and conversations, and protect the public health, welfare, and safety, it is necessary to suspend certain State and local statutes, rules, and regulations regarding confidentiality during use of various video and telecommunications applications and products;

WHEREAS, It is necessary during the state of emergency and catastrophic health emergency that health care practitioners be authorized to, through telehealth and audio-only calls or conversations, perform clinical evaluations, refer patients to health care services, provide treatment, and issue prescriptions; and

WHEREAS, Authorizing health care practitioners to use telehealth and audio-only calls or conversations under appropriate circumstances will help Marylanders continue to receive needed health care services during the catastrophic health emergency;

NOW, THEREFORE, I, LAWRENCE J. HOGAN, JR., GOVERNOR OF THE STATE OF MARYLAND, BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE CONSTITUTION AND LAWS OF MARYLAND, INCLUDING BUT NOT LIMITED TO TITLE 14 OF THE PUBLIC SAFETY ARTICLE, AND IN AN EFFORT TO CONTROL AND PREVENT THE SPREAD OF COVID-19 WITHIN THE STATE, DO HEREBY ORDER:

I. Order No. 20-03-20-01 of the Governor of the State of Maryland is further amended and restated in its entirety as set forth herein.

II. Subject to paragraphs III, IV, and V of this Order, the Secretary of Health may, through directives, rules, or guidelines, authorize a health care practitioner to deliver health care services through the use of telecommunications technologies ("telehealth"), as well as audio-only calls or conversations, to a patient at a different physical location than the health care practitioner, provided that:

   a. The health care services delivered are:

      i. Clinically appropriate; and

      ii. Within the scope of practice of the health care practitioner; and

   b. The health care practitioner:

i. Is licensed, certified, or otherwise authorized by law to provide health care services in the state;

ii. Complies with the same standards of practice that are applicable to the provision of health care services in in–person health care settings;

iii. Documents in a patient's medical record the health care services provided through telehealth or audio-only calls or conversations, according to the same documentation standards used for in-patient health care services; and

iv. If using audio-only calls or conversations, can interact with the patient at the time the health care service is provided.

III. A health care practitioner authorized to use telehealth or audio-only calls or conversations may establish a practitioner–patient relationship through an exchange of information between a patient and a health care practitioner, if:

a. The health care practitioner:

i. Verifies the identity of the patient receiving health care services through telehealth or audio-only calls or conversations;

ii. 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;

iii. Obtains oral or written consent from the patient or from the patient's parent or guardian if state law requires the consent of a parent or guardian; and

b. Any audio-only calls or conversation occur in real time.

IV. Before providing treatment or issuing a prescription through telehealth or audio-only calls or conversations, the health care practitioner shall perform a clinical evaluation that is appropriate for the patient and the condition with which the patient presents.

V. A health care practitioner who through telehealth or audio-only calls or conversations prescribes a controlled dangerous substance, as defined in § 5–101 of the Criminal Law article of the Maryland Code, is subject to any applicable regulation, limitation, and prohibition in federal and state law relating to the prescription of controlled dangerous substances.

VI. The Maryland Medical Assistance Program shall not reimburse, in accordance with the requirements of Title 15, Subtitle 1 of the Health-General Article of the Maryland Code ("HG"), health care practitioners for health care services provided through telehealth or audio-only calls or conversations if the health care practitioner has violated this Order.

VII. The Behavioral Health Administration shall not reimburse, in accordance with the requirements of HG Title 7.5, Subtitle 2, health care practitioners for health care services

provided through telehealth or audio-only calls or conversations if the health care practitioner has violated this Order.

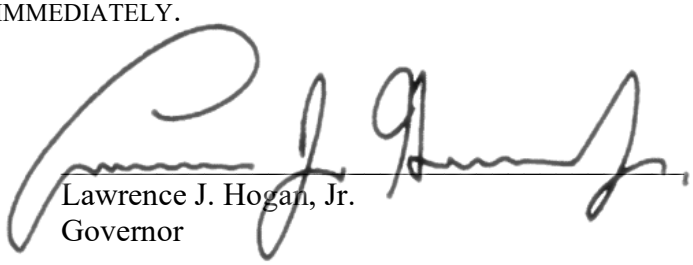
VIII. The effect of any statute, rule, or regulation of an agency of the State or a political subdivision inconsistent with this order, including HG § 15-105.2, is hereby suspended.

IX. The effect of HG §§ 4-301 to 4-309 is hereby suspended in connection with the provision of health care services through telehealth, audio-only calls or conversations, or telemedicine as defined in HG § 15-105.2.

X. Subject to paragraphs VIII and IX of this Order, all others laws and regulations regarding the confidentiality of health information and a patient's right to the patient's health information apply to telehealth interactions or audio-only calls or conversations in the same manner as the laws apply to in–person health care interactions.

XI. This Order remains effective until the state of emergency has been terminated and the proclamation of the catastrophic health emergency has been rescinded, or until rescinded, superseded, amended, or revised by additional orders.

ISSUED UNDER MY HAND THIS 1ST DAY OF APRIL, 2020, AND EFFECTIVELY IMMEDIATELY.



Lawrence J. Hogan, Jr.
Governor