

## COVID-19 Executive Orders Concerning Telehealth

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### Issue

Summarize the governor's COVID-19 executive orders (EO) concerning telehealth.

### Summary

In response to the COVID-19 pandemic, Governor Lamont recently issued several EOs that modify the practice of telehealth in the state to ensure that residents have continued access to health care services. “Telehealth” is a method for delivering health care services in which a health care provider uses telecommunications technology to provide services to a patient at a different geographic location.



Among other things, the EOs (1) expand the types of health care providers authorized to provide telehealth services, (2) expand service delivery methods for certain providers to include audio-only technologies and third-party video communication applications (e.g., Apple FaceTime or Facebook Messenger), (3) temporarily suspend provider licensure and certifications requirements, and (4) specify requirements for provider payments.

## Telehealth Providers

### *Authorized Telehealth Providers Expanded*

Connecticut's telehealth law allows the following health care providers to provide health care services using telehealth technology within their profession's scope of practice and standard of care ([CGS § 19a-906\(a\)\(11\)](#)).

<ul style="list-style-type: none"><li>• Advanced Practice Registered Nurses</li></ul>	<ul style="list-style-type: none"><li>• Clinical and Master Social Workers</li></ul>	<ul style="list-style-type: none"><li>• Pharmacists</li></ul>	<ul style="list-style-type: none"><li>• Psychologists</li></ul>
<ul style="list-style-type: none"><li>• Alcohol and Drug Counselors</li></ul>	<ul style="list-style-type: none"><li>• Marital and Family Therapists</li></ul>	<ul style="list-style-type: none"><li>• Physicians</li></ul>	<ul style="list-style-type: none"><li>• Registered Nurses</li></ul>
<ul style="list-style-type: none"><li>• Audiologists</li></ul>	<ul style="list-style-type: none"><li>• Naturopaths</li></ul>	<ul style="list-style-type: none"><li>• Physician Assistants</li></ul>	<ul style="list-style-type: none"><li>• Respiratory Care Practitioners</li></ul>
<ul style="list-style-type: none"><li>• Certified Dietician-Nutritionists</li></ul>	<ul style="list-style-type: none"><li>• Occupational or Physical Therapists</li></ul>	<ul style="list-style-type: none"><li>• Podiatrists</li></ul>	<ul style="list-style-type: none"><li>• Speech and Language Pathologists</li></ul>
<ul style="list-style-type: none"><li>• Chiropractors</li></ul>	<ul style="list-style-type: none"><li>• Optometrists</li></ul>	<ul style="list-style-type: none"><li>• Professional Counselors</li></ul>	<ul style="list-style-type: none"><li>• Paramedics</li></ul>

In April, the governor issued an order that expands this list of authorized telehealth providers to include art therapists, behavior analysts, dentists, genetic counselors, music therapists, and veterinarians ([EO 7DD](#), § 1, Apr. 22, 2020).

### *Licensure and Certification Requirements*

The governor issued two EOs that allow authorized telehealth providers to continue to provide services if their license or certification cannot be renewed during the declared public health and civil preparedness emergencies.

These orders also suspend licensure, certification, and registration requirements for telehealth providers who are Medicaid providers or in-network providers for fully-insured private health insurance plans, in accordance with any related Department of Public Health (DPH) orders. [DPH issued a March 30<sup>th</sup>](#) order that suspends licensure renewal requirements for all health professionals that the department regulates until six months after the declared emergencies end.

Additionally, the EOs allow out-of-state health professionals to practice telehealth in Connecticut by temporarily suspending licensure requirements for up to 60 days for out-of-state health

professionals who work in Connecticut during the declared emergencies ([EO 7G](#), § 5(b), Mar. 19, 2020; [EO 7DD](#), § 2(b), Apr. 22, 2020).

## Service Delivery

### *Delivery Methods*

The governor issued EOs in March and April that expanded the manner in which health providers may provide telehealth services. The orders allow telehealth providers who are (1) Medicaid providers or (2) in-network providers for fully-insured private health insurance plans that cover telehealth services to provide these services to patients via audio-only telephone. Under Connecticut's telehealth law, telehealth does not include using fax, audio-only telephone, texting, or email ([CGS 19a-906\(a\)\(10\)](#)).

### *What is Telehealth?*

*Under Connecticut law, telehealth practices include:*

*(1) interactions between a patient at an originating site and the telehealth provider at a distant site and*

*(2) synchronous (real-time) interactions, asynchronous store and forward transfers (transmitting medical information from the patient to the telehealth provider for review at a later time), or remote patient monitoring ([CGS 19a-906\(a\)\(10\)](#)).*

The orders also waive regulatory requirements that telehealth services be provided from a provider's licensed facility, thereby allowing service delivery from alternate locations ([EO 7G](#), § 5(a), Mar. 19, 2020; [EO 7DD](#), § 2(a), Apr. 22, 2020; [EO 7FF](#), § 1, Apr. 24, 2020)

### *Expanded Medicaid Coverage*

By law, the Department of Social Services (DSS) must provide Medicaid coverage for telehealth services that the commissioner determines are (1) clinically appropriate to provide via telehealth, (2) cost-effective for the state, and (3) likely to expand access to medical necessary services. In March, the governor issued an EO that authorizes the DSS commissioner to cover applicable telehealth services provided through audio-only telehealth services ([EO 7F](#), § 3, Mar. 18, 2020).

### *HIPAA Compliance*

By law, health care providers who are subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA) must comply with HIPAA rules regarding the privacy and security of protected health information. The governor issued EOs in March and April modifying this requirement to allow these telehealth providers to use additional information and communication technologies. They must do so in accordance with HIPAA requirements for remote communication as directed by the federal Department of Health and Human Services' Office of Civil Rights during the COVID-19 pandemic. These [requirements](#) generally allow the use of certain third-party video communication

applications, such as Apple FaceTime, Skype, or Facebook Messenger ([EO 7G](#), § 5(c), Mar. 19, 2020; [EO 7DD](#), § 2(c), Apr. 22, 2020).

## **Payment for Telehealth Services**

Connecticut's telehealth law generally requires health insurance policies to cover medical advice, diagnosis, care, or treatment provided through telehealth technology to the extent that they cover the services through in-person visits between an insured person and a health care provider. It subjects telehealth coverage to the same terms and conditions that apply to other benefits under the policy ([CGS §§ 38a-499a](#) and [38a-526a](#)).

The governor recently issued EOs that require health providers who provide telehealth services to patients covered by plans other than Medicaid or a fully-insured private health plan (e.g., self-insured plans) to determine if the patient has coverage for telehealth services before providing services.

A provider who receives payment under these other health plans is prohibited from billing patients any additional charges beyond the reimbursement received under the plans.

If payment is unavailable under another health plan or the patient is uninsured, the EOs require providers to accept the Medicare reimbursement rate for telehealth services as payment in full. Providers must also offer financial assistance to patients who are uninsured or otherwise unable to pay, to the extent required under state and federal law ([EO 7G](#), § 5(d), Mar. 19, 2020; [EO 7DD](#), § 2(d), Apr. 22, 2020)

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