

Recent Changes to Connecticut's Telehealth Law

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Issue

This report describes recent changes to Connecticut's requirements for the delivery of telehealth services, as enacted in [PA 21-9](#). It updates OLR Report [2020-R-0226](#).

Summary

Connecticut law establishes requirements for health care providers who choose to deliver services through telehealth ([CGS § 19a-906](#)). In response to the COVID-19 pandemic, Governor Lamont issued several executive orders in the spring of 2020 modifying these telehealth requirements to ensure residents had continued access to care. (For more information on these executive orders, see OLR Report [2020-R-0138](#)). In July 2020, the legislature enacted a law that temporarily codified several provisions of the governor's orders until March 15, 2021 ([PA 20-2, July Special Session](#)).

In the 2021 legislative session the legislature enacted [PA 21-9](#) (as amended by [PA 21-133](#), §§ 3 & 4), which extends these telehealth provisions until June 30, 2023. Among other things, the act continues to: (1) expand the types of health providers authorized to provide telehealth services and service delivery methods; (2) establish requirements for telehealth providers seeking payment from uninsured or underinsured patients; and (3) authorize the Department of Public Health (DPH) commissioner to temporarily modify, waive, or suspend certain regulatory requirements as she deems necessary to reduce the spread of COVID-19 and protect the public health.

The act's provisions apply only to authorized telehealth providers who are (1) in-network providers for fully insured health plans or (2) Connecticut Medical Assistance Program providers ("CMAP," i.e., Medicaid and HUSKY B).

The act also temporarily replaces existing law's requirements for insurance coverage of telehealth services with similar but more expansive requirements during this period. For more information on these insurance provisions, see OLR Report [2021-R-0199](#).

Telehealth Requirements Until June 30, 2023

Telehealth Definition

Under the act, "telehealth" is a way of delivering health care services through information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management, and self-management of a patient's physical, oral, and mental health. It excludes fax, texting, and email, as well as audio-only telephone for out-of-network providers. (Existing law, which [PA 21-9](#), expands upon, excludes all audio-only telephone from the definition.)

Telehealth includes:

1. interaction 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.

Telehealth Providers

The act expands the list of providers authorized to conduct telehealth services under existing law by including art therapists, athletic trainers, behavior analysts, dentists, genetic counselors, music therapists, nurse mid-wives, and occupational or physical therapist assistants.

Thus, the act authorizes the following certified, licensed, or registered health care providers to provide health care services using telehealth: advanced practice registered nurses, alcohol and drug counselors, art therapists, athletic trainers, audiologists, behavior analysts, chiropractors, clinical and master social workers, dentists, dietician-nutritionists, genetic counselors, marital and family therapists, music therapists, naturopaths, nurse mid-wives, occupational or physical therapists, occupational or physical therapist assistants, optometrists, paramedics, pharmacists, physicians, physician assistants, podiatrists, professional counselors, psychologists, registered nurses, respiratory care practitioners, and speech and language pathologists.

Under the act, authorized telehealth providers also include any of the above listed providers who (1) are appropriately certified, licensed, or registered in another U.S. state or territory, or the District of Columbia; (2) are authorized to practice telehealth under any relevant order issued by the DPH commissioner; and (3) maintain professional liability insurance or other indemnity against

professional malpractice liability in an amount equal to or greater than that required for Connecticut health providers.

Connecticut entities or providers who contract with an out-of-state telehealth provider must verify that the provider meets the professional credential and liability insurance requirements listed above.

As under existing law, authorized telehealth providers must provide telehealth services within their profession's scope of practice and standard of care.

Telehealth Service Delivery

Under existing law, a telehealth provider can provide telehealth services to a patient only when the provider has met certain requirements, such as (1) having access to, or knowledge of, the patient's medical history and health record and (2) conforming to his or her professional standard of care expected for in-person care appropriate for the patient's age and presenting condition. [PA 21-9](#) requires that the provider also determine whether (1) the patient has health coverage that is fully insured, not fully insured, or provided through CMAP and (2) the coverage includes telehealth services.

The act, as amended by [PA 21-133](#), also allows telehealth providers to provide telehealth services from any location, regardless of any state licensing standards and in compliance with all applicable federal requirements.

Initial Telehealth Interactions

Existing law requires a telehealth provider, at the first telehealth interaction with a patient, to document in the patient's medical record that the provider obtained the patient's consent after informing him or her about telehealth methods and limitations. Under [PA 21-9](#), this must also include information on the limited duration of the act (e.g., that using audio-only telephone is only permitted through June 30, 2023).

Using Additional Communication Technologies

By law, telehealth services and health records must comply with the Health Insurance Portability and Accountability Act (HIPAA). [PA 21-9](#) modifies this requirement by allowing telehealth providers to use additional information and communication technologies in accordance with HIPAA [requirements](#) for remote communication as directed by the federal Department of Health and Human Services' Office of Civil Rights. Thus, the act authorizes telehealth providers to use certain third-party video communication applications, such as Apple FaceTime, Skype, or Facebook Messenger.

Expanded CMAP Coverage

By law, the Department of Social Services (DSS) must provide CMAP coverage for categories of telehealth services, if the commissioner determines they are (1) clinically appropriate to be provided via telehealth, (2) cost effective for the state, and (3) likely to expand access in certain circumstances ([CGS § 17b-245e](#)). [PA 21-133](#) also requires the commissioner to provide CMAP reimbursement for telehealth services to the same extent as services provided in person.

Additionally, the act requires the commissioner to cover audio-only telehealth services under CMAP (without a sunset date) when (1) she determines doing so is clinically appropriate; (2) providing comparable covered audiovisual telehealth services is not possible; and (3) audio-only services are provided to people who are unable to use or access comparable, covered audiovisual services. (Both requirements apply to the extent federal law allows.)

Payment for Uninsured and Underinsured Patients

[PA 21-9](#) establishes payment requirements for telehealth providers who provide services to uninsured or underinsured patients. Providers must determine whether the patient has health coverage for any telehealth services provided and accept the following as payment in full for telehealth services:

1. for patients who do not have health insurance coverage for telehealth services, an amount equal to the Medicare reimbursement rate for telehealth services or
2. for patients with health insurance coverage, the amount the carrier reimburses for telehealth services and any cost sharing (e.g., copay, coinsurance, deductible) or other out-of-pocket expense imposed by the health plan.

Under the act, a telehealth provider who determines that a patient is unable to pay for telehealth services must offer the patient financial assistance to the extent required under federal or state law.

DPH Regulatory Requirements

The act authorizes the DPH commissioner to waive, modify, or suspend regulatory requirements adopted by DPH or state licensing boards and commissions regarding health care professions, health care facilities, emergency medical services, and other specified topics. Until June 30, 2023, she may take these actions as she deems necessary to reduce the spread of COVID-19 and protect the public health.

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