

## Recent Changes to Connecticut's Telehealth Law

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### Issue

Describe recent changes to Connecticut's requirements for the delivery of telehealth services, as enacted in [PA 20-2](#), July Special Session (JSS).

### Summary

Connecticut law establishes requirements for health care providers who choose to deliver services through telehealth ([CGS § 19a-906](#)). Recently, the legislature enacted a law that temporarily modifies these requirements from July 31, 2020, through March 15, 2021 ([PA 20-2, JSS](#)). The act temporarily codifies several provisions in recent executive orders issued by Governor Lamont in response to the COVID-19 pandemic. (For more information on these executive orders, see OLR Report [2020-R-0138](#)).

Among other things, [PA 20-2, JSS](#) (1) expands the types of health providers authorized to provide telehealth services and service delivery methods; (2) authorizes 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; and (3) establishes requirements for telehealth providers seeking payment from uninsured or underinsured patients. 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 [2020-R-0212](#).

# Telehealth Requirements until March 15, 2021

## *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 20-2, JSS](#), 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 under existing law to conduct telehealth services 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.

The act also authorizes as telehealth providers 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 20-2, JSS](#), 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 also allows telehealth providers to provide telehealth services from any location.

### ***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 20-2, JSS](#) this must include information on the limited duration of the act (e.g., that audio-only telephone is only permitted through March 15, 2021).

### ***Using Additional Communication Technologies***

By law, telehealth services and health records must comply with the Health Insurance Portability and Accountability Act (HIPAA). [PA 20-2, JSS](#) 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***

The act authorizes the Department of Social Services commissioner, to the extent allowed under federal law, to enable the Connecticut Medical Assistance Program to cover applicable services provided through audio-only telephone.

## ***Payment for Uninsured and Underinsured Patients***

[PA 20-2, JSS](#) establishes payment requirements for telehealth providers who provide services to uninsured or underinsured patients. It requires a telehealth provider to 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 March 15, 2021, 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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