

## **Informed Consent and Other Requirements of Connecticut State Statutes regarding Telehealth**

This is provided by the Connecticut Chiropractic Association to inform you of the law as it impacts you in your practice and is not a substitute for legal advice.

Telehealth is allowed by chiropractors in CT State Statute Sec. 19a-906. Telehealth services. (see full text below)

The law requires “communicating through real-time, interactive, two-way communication technology or store and forward technologies”.

Payment parity is required by CT State statute in Sec.38a-499a. Coverage for telehealth services. (see below)  
Actual coverage must be verified for each patient’s policy.

The telehealth law has specific requirements regarding prior knowledge of the patient and access to the patient’s health record.

It also requires informed consent during the first telehealth interaction: “(2) At the time of the telehealth provider's first telehealth interaction with a patient, the telehealth provider shall inform the patient concerning the treatment methods and limitations of treatment using a telehealth platform and, after providing the patient with such information, obtain the patient's consent to provide telehealth services...”(see full text below)

Also required during the first interaction: “ask the patient whether the patient consents to the telehealth provider's disclosure of records concerning the telehealth interaction to the patient's primary care provider. If the patient consents to such disclosure, the telehealth provider shall provide records of all telehealth interactions to the patient's primary care provider, in a timely manner, in accordance with the provisions of sections 20-7b to 20-7e, inclusive.”

Specific legal questions may be addressed to our General Counsel:

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### **Connecticut State Statutes**

#### **Sec. 19a-906. Telehealth services.** (a) As used in this section:

(1) “Asynchronous” means any transmission to another site for review at a later time that uses a camera or other technology to capture images or data to be recorded.

(2) “Facility fee” has the same meaning as in section 19a-508c.

(3) “Health record” means the record of individual, health-related information that may include, but need not be limited to, continuity of care documents, discharge summaries and other information or data relating to a patient's demographics, medical history, medication, allergies, immunizations, laboratory test results, radiology or other diagnostic images, vital signs and statistics.

(4) “Medical history” means information, including, but not limited to, a patient's past illnesses, medications, hospitalizations, family history of illness if known, the name and address of the patient's primary care provider if known and other matters relating to the health condition of the patient at the time of a telehealth interaction.

(5) “Medication-assisted treatment” means the use of medications approved by the federal Food and Drug Administration, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders.

(6) “Originating site” means a site at which a patient is located at the time health care services are provided to the patient by means of telehealth.

(7) “Peripheral devices” means the instruments a telehealth provider uses to perform a patient exam, including, but not limited to, stethoscope, otoscope, ophthalmoscope, sphygmomanometer, thermometer, tongue depressor and reflex hammer.

(8) “Remote patient monitoring” means the personal health and medical data collection from a patient in one location via electronic communication technologies that is then transmitted to a telehealth provider located at a distant site for the purpose of health care monitoring to assist the effective management of the patient's treatment, care and related support.

(9) “Store and forward transfer” means the asynchronous transmission of a patient's medical information from an originating site to the telehealth provider at a distant site.

(10) “Synchronous” means real-time interactive technology.

(11) “Telehealth” means the mode of delivering health care or other health services via information and communication technologies to facilitate the diagnosis, consultation and treatment, education, care management and self-management of a patient's physical and mental health, and includes (A) interaction between the patient at the originating site and the telehealth provider at a distant site, and (B) synchronous interactions, asynchronous store and forward transfers or remote patient monitoring. Telehealth does not include the use of facsimile, audio-only telephone, texting or electronic mail.

(12) “Telehealth provider” means any physician licensed under chapter 370, physical therapist licensed under chapter 376, chiropractor licensed under chapter 372, naturopath licensed under chapter 373, podiatrist licensed under chapter 375, occupational therapist licensed under chapter 376a, optometrist licensed under chapter 380, registered nurse or advanced practice registered nurse licensed under chapter 378, physician assistant licensed under chapter 370, psychologist licensed under chapter 383, marital and family therapist licensed under chapter 383a, clinical social worker or master social worker licensed under chapter 383b, alcohol and drug counselor licensed under chapter 376b, professional counselor licensed under chapter 383c, dietitian-nutritionist certified under chapter 384b, speech and language pathologist licensed under chapter 399, respiratory care practitioner licensed under chapter 381a, audiologist licensed under chapter 397a or pharmacist licensed under chapter 400j, who is providing health care or other health services through the use of telehealth within such person's scope of practice and in accordance with the standard of care applicable to the profession.

(b) (1) A telehealth provider shall only provide telehealth services to a patient when the telehealth provider: (A) Is communicating through real-time, interactive, two-way communication technology or store and forward technologies; (B) has access to, or knowledge of, the patient's medical history, as provided by the patient, and the patient's health record, including the name and address of the patient's primary care provider, if any; (C) conforms to the standard of care applicable to the telehealth provider's profession and expected for in-person care as appropriate to the patient's age and presenting condition, except when the standard of care requires the use of diagnostic testing and performance of a physical examination, such testing or examination may be carried out through the use of peripheral devices appropriate to the patient's condition; and (D) provides the patient with the telehealth's provider license number and contact information.

(2) At the time of the telehealth provider's first telehealth interaction with a patient, the telehealth provider shall inform the patient concerning the treatment methods and limitations of treatment using a telehealth platform and, after providing the patient with such information, obtain the patient's consent to provide telehealth services. The telehealth provider shall document such notice and consent in the patient's health record. If a patient later revokes such consent, the telehealth provider shall document the revocation in the patient's health record.

(c) Notwithstanding the provisions of this section or title 20, no telehealth provider shall prescribe any schedule I, II or III controlled substance through the use of telehealth, except a schedule II or III controlled substance other than an opioid drug, as defined in section 20-14o, in a manner fully consistent with the Ryan Haight Online Pharmacy Consumer Protection Act, 21 USC 829(e), as amended from time to time, for the treatment of a person with a psychiatric disability or substance use disorder, as defined in section 17a-458, including, but not limited to, medication-assisted treatment. A telehealth provider using telehealth to prescribe a schedule II or III controlled substance pursuant to this subsection shall electronically submit the prescription pursuant to section 21a-249.

(d) Each telehealth provider shall, at the time of the initial telehealth interaction, ask the patient whether the patient consents to the telehealth provider's disclosure of records concerning the telehealth interaction to the patient's primary care provider. If the patient consents to such disclosure, the telehealth provider shall provide records of all telehealth interactions to the patient's primary care provider, in a timely manner, in accordance with the provisions of sections 20-7b to 20-7e, inclusive.

(e) Any consent required under this section shall be obtained from the patient, or the patient's legal guardian, conservator or other authorized representative, as applicable.

(f) The provision of telehealth services and health records maintained and disclosed as part of a telehealth interaction shall comply with the provisions of the Health Insurance Portability and Accountability Act of 1996 P.L. 104-191, as amended from time to time.

(g) Nothing in this section shall prohibit: (1) A health care provider from providing on-call coverage pursuant to an agreement with another health care provider or such health care provider's professional entity or employer; (2) a health care provider from consulting with another health care provider concerning a patient's care; (3) orders of health care providers for hospital outpatients or inpatients; or (4) the use of telehealth for a hospital inpatient, including for the purpose of ordering any medication or treatment for such patient in accordance with Ryan Haight Online Pharmacy

Consumer Protection Act, 21 USC 829(e), as amended from time to time. For purposes of this subsection, “health care provider” means a person or entity licensed or certified pursuant to chapter 370, 372, 373, 375, 376 to 376b, inclusive, 378, 379, 380, 381a, 383 to 383c, inclusive, 384b, 397a, 399 or 400j, or licensed or certified pursuant to chapter 368d or 384d.

(h) No telehealth provider shall charge a facility fee for telehealth services.

(P.A. 15-88, S. 1; P.A. 16-25, S. 1, 2; P.A. 18-148, S. 1.)

History: P.A. 16-25 amended Subsec. (a)(11) by adding references to speech and language pathologist, respiratory care practitioner and audiologist, and amended Subsec. (f) by adding references to chapters 376 to 376b, 380, 381a, 383 to 383c, 384b, 397a and 399; P.A. 18-148 amended Subsec. (a) by adding new Subdiv. (2) re definition of “facility fee”, redesignating existing Subdiv. (2) re definition of “health record” as Subdiv. (3), deleting former Subdiv. (3) re definition of “facility fee”, adding new Subdiv. (5) re definition of “medication-assisted treatment”, redesignating existing Subdivs. (5) to (11) as Subdivs. (6) to (12), and amending redesignated Subdiv. (12) by adding references to registered nurse and pharmacist, amended Subsec. (b)(2) by adding provision re patient revoking consent, amended Subsec. (c) by adding provision re exception for schedule II or III controlled substance other than opioid drug, and amended Subsec. (d) by replacing “each telehealth interaction” with “the initial telehealth interaction”, added new Subsec. (e) re consent required under section, redesignated existing Subsecs. (e) to (g) as Subsecs. (f) to (h), and amended redesignated Subsec. (g) by adding Subdiv. (4) re use of telehealth for a hospital inpatient, and adding reference to Ch. 400j, and made technical changes, effective July 1, 2018.

**Sec. 38a-499a. Coverage for telehealth services.** (a) As used in this section, “telehealth” has the same meaning as provided in section 19a-906.

(b) Each individual health insurance policy providing coverage of the type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-469 of the general statutes delivered, issued for delivery, renewed, amended or continued in this state shall provide coverage for medical advice, diagnosis, care or treatment provided through telehealth, to the extent coverage is provided for such advice, diagnosis, care or treatment when provided through in-person consultation between the insured and a health care provider. Such coverage shall be subject to the same terms and conditions applicable to all other benefits under such policy.

(c) No such policy shall: (1) Exclude a service for coverage solely because such service is provided only through telehealth and not through in-person consultation between the insured and a health care provider, provided telehealth is appropriate for the provision of such service; or (2) be required to reimburse a treating or consulting health care provider for the technical fees or technical costs for the provision of telehealth services.

(d) Nothing in this section shall prohibit or limit a health insurer, health care center, hospital service corporation, medical service corporation or other entity from conducting utilization review for telehealth services, provided such utilization review is conducted in the same manner and uses

the same clinical review criteria as a utilization review for an in-person consultation for the same service.

(P.A. 15-88, S. 2; P.A. 17-15, S. 55.)

History: P.A. 15-88 effective January 1, 2016; P.A. 17-15 made a technical change in Subsec. (a).

See Sec. 38a-526a for similar provisions re group policies.