

Massachusetts Healthcare Legislation: What It Means for Your Organization

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On January 1, 2021, Governor Charlie Baker signed into law **Chapter 260 of the Acts of 2020**. The intent of this comprehensive legislation is to promote a resilient healthcare system that prioritizes patient needs. While this legislation addresses many facets of the healthcare delivery system, three key provisions are expected to significantly affect organizations in the weeks and months to come.

Telehealth Parity – Over the past several months, telehealth use has expanded substantially. The new law requires payers to cover telehealth services as they would the same services delivered in-person when telehealth services are appropriate. As a result, it is expected that the use of/demand for telehealth services will increase significantly in the months ahead. Organizations can prepare for this increased demand by considering the following when planning, developing, and implementing a telehealth policy:

[Click here for additional telehealth resources](#)

- **Get the right technology and equipment.** Whether patients receive care in a hospital, a doctor's office, or a home environment, liability risks will always exist with technology and equipment. Ensure suitable resources are in place to secure, manage, and maintain networks, hardware, and software. Have a backup plan that allows for patient care in the event of an equipment malfunction.
- **Ensure privacy and security.** Guard against privacy and security risks. Password-protected screensavers, encryption, and other safety measures can help keep information safe, while unsecured devices and systems, such as cell phones, laptops, and email, can result in security weaknesses. Adherence to the HIPAA Security Rule is essential.
- **Document well.** Good documentation is essential in healthcare, and this holds true when delivering virtual telemedicine services. A virtual encounter should be documented as thoroughly as any other encounter. Document all verbal, audiovisual, and written communication in the patient's medical record.
- **Obtain informed consent.** When providing remote care, the physician who is responsible for the care of the patient should obtain written informed consent. The informed consent discussion should include disclosure of information about the telemedicine system, the potential risks and benefits of telemedicine, and equipment and technology limitations.
- **Develop guidelines for remote monitoring.** While telemedicine offers a viable medium during this outbreak, it does have limitations. As an example, clinicians may not be able to listen to a patient's lungs without specialized equipment. It is vital to have a plan already in place regarding which conditions practitioners are comfortable treating remotely and which require in-person visits. A process and plan for when and how to escalate treatment to a face-to-face visit is also key.
- **Provide training.** Training on technology use, equipment, and "webside" manner is essential. Clinicians should be comfortable using a telemedicine platform and operating the equipment before communicating with patients. Some organizations offering training in virtual telemedicine

[Click here to view a telemedicine sample consent form](#)

include the [American Medical Association](#), the [American Telemedicine Association](#) and [Thomas Jefferson University](#).

Expanded Scope of Practice – The new legislation, intended to increase access to healthcare service, will allow clinical nurse specialists and advanced practice registered nurses (APPs) to prescribe independently without a supervising physician. These roles and responsibilities should be expanded with thought and planning in order to minimize risk to the organization. Consider the following when preparing for this practice expansion at your organization:

- **Screen, credential, and privilege.** Like other providers, APPs should be screened, credentialed, and privileged to be sure they have the necessary credentials, technical skills, and capabilities. Assign responsibilities to APPs and ensure they receive levels of oversight that are consistent with what the practice and providers are willing to accept. Continually evaluate APP performance and compliance with procedures, policies, and protocols.
- **Know the law.** Understand state requirements for each type of APP the practice intends to employ. Incorporate these requirements into the facility's policies and procedures or medical staff bylaws.
- **Implement written collaboration agreements.** Outline the APP's scope of practice in a collaborative practice agreement. In addition to the scope of practice, ensure that the plan/agreement clearly defines roles and addresses the practice setting, patient management strategy, credentialing, privileges, prescriptive authority, and primary and secondary collaborating physicians. Require the APP and physician to sign and date the agreement. Periodically review written collaboration agreements and consult with your organization's attorney to ensure they comply with state laws and regulations.
- **Institute a clinical review process.** Institute regularly scheduled clinical care reviews between the supervising/collaborating physician and APP. Clinical care reviews should include general chart reviews and specific case reviews.

Surprise Medical Bills – The new state law will make nonemergency healthcare pricing more transparent, rendering “surprise” medical billing a thing of the past. “Out of network” or “[surprise](#)” medical billing occurs when a patient is treated at an in-network hospital but seen by an out-of-network provider. Typically, the patient is “balance billed” or billed for the amount the insurer did not cover, which can be substantial in some cases. The new law requires all providers and hospitals to disclose costs and network status to patients so they can avoid these types of bills. Consider the following when implementing the new rules:

- **Know the law.** The new Massachusetts law is similar to the federal No Surprises Act. Both laws target the same issue, which may create confusion in some cases. Consult an experienced health care attorney to ensure you understand these regulations and the ways they interact.
- **Educate patients.** The best way to ensure that the law has the intended effect is by educating the public about hospital/provider pricing. The [American Hospital Association](#) has developed patient education on this topic that can be provided to patients on the facility website or when a procedure is scheduled.
- **Inform patients of their rights.** At the time of admission or scheduling, advise patients of their rights under federal and state law. Update your existing patient brochure to include the newly enacted provisions regarding billing.
- **Train the staff.** The requirements of the new law are very specific about the billing information you must provide the patient. Develop a policy and procedure that incorporates all of these elements and train staff on how to counsel patients regarding billing. Monitor for compliance at regular intervals.

Additional Resources:

- [Coverys COVID Resource Center-Telehealth](#)
- [Coverys Ambulatory Care Manual Advanced Practice Professionals](#)
- [Coverys APRN Collaborative Agreement-SAMPLE](#)

We hope you found this Risk Alert helpful. If you have questions or would like further resources on this

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