

## **Senate Bill 150: Emergency COVID-19 Relief**

The following is a summary of the health care provisions in SB 150. The measure passed the House 82-0 and the Senate 30-0 and awaits the Governor's signature.

### **• Telehealth Encounters and Reimbursement**

- Unless specifically prohibited or limited by federal law, a provider who establishes a relationship with a patient in Kentucky may remotely provide health care services through telemedicine so long as:
  - Provider and patient are at an "appropriate site;" and
  - Remote care is in compliance with HIPAA.
- Provider is not required to have previously conducted an in-person examination, and the encounter may be a new patient examination.
- Provider must also:
  - have an unencumbered license for a health care profession in another state, D.C., or territory;
  - Never been disciplined by a licensing agency in any state or federal jurisdiction;
  - Never had his/her license or permit for controlled substances suspended or revoked;
  - Must register with the relevant state agency; and
  - Offer only clinically appropriate, medically necessary services.
- Insurers must provide coverage for such services that are rendered to insureds in Kentucky.
- Reimbursement rates for the service shall not be more than for the same services delivered in-person and shall be determined between insurers and providers.

### **• Elective Procedures**

- A provider is considered in compliance with Executive Orders and Directives from CHFS regarding elective procedures if the provider complies with recommendations from CMS and:
  - Provider in his/her professional judgment deems the procedure emergent or urgent; or
  - Procedure is ordered by a physician and provided by:
    - Physical therapists;
    - Occupational therapists;
    - Speech-language pathologists;
    - Pain management facilities;
    - Alcohol and drug abuse treatment programs; and
    - SUD programs licensed as Chemical Dependency Treatment Services.
  - "Emergent" means if procedure or service is not provided within 24-hours there is a high-risk of serious or irreparable harm.
  - "Urgent" means if procedure or service is not provided within 24-hours to 30 days there is a high-risk of serious or irreparable harm.

### **• Liability Defense for COVID-19 Emergency**

- A provider will have a defense to civil liability for ordinary negligence for any personal injury resulting from the care or treatment of a COVID-19 patient.
  - Provider must act in good faith.
  - Applies only to care and treatment of a COVID-19 patient.
  - Available only for care and treatment rendered during the state of emergency.

- Covers any act or failure to act in providing or arranging further medical treatment if the provider acts as an ordinary, reasonable, and prudent provider would have acted under the same or similar circumstances.
  - Defense is available to:
    - Prescribing or dispensing medicines off-label in accordance with the federal Right to Try Act;
    - Providing services upon request that are outside the provider's professional scope of practice; or
    - Using equipment or supplies outside of the product's normal use.
- **Waivers and Modifications by the KBML, KBEMS, and KBN**
  - The KBML, KBEMS, and KBN may waive or modify state statutes or administrative regulations relating to their respective professions on the following subjects:
    - To allow licensure or certification of provider licensed in other states;
    - To relax scope of practice requirements;
    - To allow physicians to supervise a greater number of provider and to do so using remote or telephonic means;
    - To allow for rapid certification or licensure (or re-certification or re-licensure);
    - To allow medical students to conduct triage, diagnose, and treat patients under supervision of a licensed provider;
    - To waiver or modify standards that are not necessary for the applicable standards of care to establish a patient-provider relationship, diagnose, and deliver treatment recommendations using telehealth; and
    - To reactive licenses of inactive or retired providers.