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BILL



ANALYSIS

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Senate Bill 753 (as introduced 2-9-16)
Sponsor: Senator Peter MacGregor
Committee: Health Policy

Date Completed: 2-16-16

CONTENT

The bill would amend the Public Health Code to do the following:

- **Require a health professional to obtain a patient's informed consent before providing a health care service via telecommunication technology ("telehealth").**
- **Require a health professional providing telehealth services to refer a patient for geographically accessible health care services, if necessary, and make himself or herself available to provide follow-up services in a timely manner.**
- **Allow a health professional providing a telehealth service to prescribe a drug if certain conditions were met.**
- **Authorize a disciplinary subcommittee to restrict the ability of a health professional to provide telehealth services if he or she violated the bill's requirements.**
- **Authorize the Department of Licensing and Regulatory Affairs to promulgate rules to implement certain provisions of the bill.**
- **Provide that the bill would not require new or additional third-party reimbursement of services rendered by a professional through telehealth.**

Specifically, the bill would prohibit a health professional from providing a telehealth service without first obtaining the patient's informed consent. The patient could provide the required consent in writing, which could be electronically transmitted, or orally if the health professional could visibly observe the patient at the time he or she provided the consent.

"Health professional" would mean an individual who is engaging in the practice of a health profession. "Telehealth service" would mean a health care service that is provided through telehealth. "Telehealth" would mean the use of interactive audio, video, or other telecommunication technology to deliver health care services between a distant site and an originating site for the treatment of a patient. "Distant site" would mean the location of the health professional when providing a telehealth service to the patient. "Originating site" would mean the location of the patient when receiving a telehealth service from the health professional.

A health professional providing telehealth services would have to do comply with all applicable standards of care. If the health professional considered it medically necessary, he or she would have to give the patient a referral for other health care services, including emergency services, that were geographically accessible to the patient. After providing a telehealth service, the health professional would have to make himself or herself available to provide follow-up health care services to the patient in a timely manner.

A health professional who was providing a telehealth service could prescribe the patient a drug if the health professional were a prescriber and the drug were not a controlled substance. "Prescriber" would mean that term as defined in Section 17708 of the Code. Under that section, "prescriber" means a licensed dentist; licensed doctor of medicine, osteopathic medicine and surgery, or podiatric medicine and surgery; a licensed optometrist certified to administer and prescribe therapeutic pharmaceutical agents; a licensed veterinarian; or another licensed health professional acting under the delegation and using, recording, or otherwise indicating the name of the delegating licensed doctor of medicine or osteopathic medicine and surgery.)

In a manner consistent with and in addition to the provisions set forth in Part 161 (General Provisions) of the Code, a disciplinary subcommittee could place restrictions or conditions on a health professional's ability to provide telehealth services if the subcommittee found that a health professional had violated the bill's provisions.

The Department of Licensing and Regulatory Affairs, in consultation with a health profession licensing board, could promulgate rules to implement the bill's provisions regarding informed consent, requirements applicable to a health professional providing telehealth services, and drug prescription.

The bill would take effect 90 days after enactment.

Proposed MCL 333.13283-333.16289

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have a minor, but likely negative fiscal impact on the Department of Licensing and Regulatory Affairs (LARA), and no fiscal impact on local units of government. The Bureau of Community and Health Services within LARA would incur some minor administrative costs associated with administration of the bill and promulgation of rules regarding telehealth services. To the extent that telehealth services could generate additional complaints against health care professionals, the Bureau would incur costs associated with investigation of those complaints.

Telehealth services are used by the State's Medicaid program. It appears that the bill would not alter the ability of Medicaid providers to use telehealth methods, so the bill should have no fiscal impact on the State's Medicaid program.

Fiscal Analyst: Steve Angelotti
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.