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Senate Bill 753 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Peter MacGregor
Committee: Health Policy

Date Completed: 5-23-16

RATIONALE

As technology advances, the use of electronic information systems and telecommunication technologies in the delivery of health care, or telehealth, is becoming increasingly common. These technologies now allow a number of opportunities for health care providers to conduct office visits remotely and monitor their patients at home. Many believe telehealth has significant capacity to reduce health care costs, expand access to care, and improve patient outcomes. Along with the potential benefits, however, some people have raised concerns about patient privacy and the quality of care individuals receive, and have suggested that the State should enact some patient protections as the health care field evolves further in the direction of telehealth.

CONTENT

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

- Require a health professional to consult with a patient or obtain the patient's consent before providing a telehealth service.**
- 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 (LARA) to promulgate rules to implement the bill's provisions.**
- Provide that the bill would not require new or additional third-party reimbursement of services rendered by a professional through telehealth, limit the provision of a health care service otherwise allowed by law, or authorize a health care service otherwise prohibited by law.**

The bill would define "telehealth" as the use of electronic information and telecommunication technologies to support or promote long-distance clinical health care, patient and professional health-related education, public health, or health administration. The term would include telemedicine as defined in Section 3476 of the Insurance Code. (Under that section, "telemedicine" means the use of an electronic medium to link patients with health care professionals in different locations. The health care professional must be able to examine the patient via a real-time, interactive audio and/or video telecommunications system and the patient must be able to interact with the offsite health care professional at the time the services are provided.)

"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.

The bill would prohibit a health professional from providing a telehealth service without first consulting with the patient about receiving the service or obtaining the patient's consent to receive the service. This provision would not apply to a health profession who was providing a telehealth

service to an inmate who was under the jurisdiction of the Department of Corrections and was housed in a correctional facility.

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, i.e., 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.

The bill would take effect 90 days after enactment.

Proposed MCL 333.16283-333.16288

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The increased use of telehealth promotes more efficient, effective, and patient-centered care. In addition to direct interaction with patients for treatment and education purposes, telehealth can facilitate health care professional training and consultation between providers. Through the use of telecommunication technology, patients may avoid traveling long distances to see their doctors or waiting for hours in an emergency room. Health professionals can more easily provide crucial services in traditionally underserved areas, such as rural communities. Furthermore, the cost of a telehealth session generally is significantly lower than the cost of an in-person doctor's appointment. As a result of the reduced cost and increased convenience of telehealth, patients may develop a stronger connection with their providers and become more engaged in their own health, and practitioners and health care systems may direct more of their resources to patient care.

As technology advances, movement toward greater adoption of telehealth is inevitable. In such a rapidly changing environment, it is important to define telehealth in statute and ensure that safeguards are in place for patients' safety and privacy. The bill would establish a basic regulatory framework to guide navigation of this promising field.

Opposing Argument

As consumers are already experiencing reduced costs and the other benefits of telehealth, the legislation is not needed to protect their interests. The bill's requirements applicable to health care providers and authorization for LARA to institute further regulation through the rule-making process would hinder access to telehealth services, impede innovation, and otherwise dampen the potential benefits. Rather than imposing new regulatory burdens, the State should focus on removing barriers so health care providers can practice medicine more effectively.

Response: The bill appropriately would ensure that LARA had oversight of providers rendering service through telehealth and that controlled substances were not prescribed improperly.

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, and no fiscal impact on local units of government. The Bureau of Community and Health Systems within LARA would incur some minor administrative costs associated with administration of the bill's provisions 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: Steven 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.