Legislative Analysis

Phone: (517) 373-8080
http://www.house.mi.gov/hfa

Analysis available at
http://www.legislature.mi.gov

TELEHEALTH SERVICES

Senate Bill 753 (reported from House committee as H-1)
Sponsor: Sen. Peter MacGregor
House Committee: Health Policy
Senate Committee: Health Policy
Complete to 10-26-16

BRIEF SUMMARY: Senate Bill 753 would add six sections to the Public Health Code to require that a health professional obtain the patient's consent before providing telehealth services; prescribe certain standards for drug prescription and provision of telehealth services; authorize the Department of Licensing and Regulatory Affairs (LARA) to promulgate rules regarding telehealth; and define key terms. These new telehealth provisions would not require new or additional third party reimbursement for telehealth services, or limit or authorize a health care service beyond current law. The bill would take effect 90 days after enactment.

FISCAL IMPACT: The bill would likely have a small, though negative fiscal impact on the Department of Licensing and Regulatory Affairs. The department will likely experience increases in administrative costs associated with the promulgation of rules regulating telehealth services and the administration of certain provisions contained within the bill. Additionally, the Bureau of Professional Licensing may see increased costs associated with investigations of alleged violations of the Public Health Code and disciplinary action taken for violations. The bill would likely have no fiscal impact on local units of government.

This bill should not have a fiscal impact on the state's Medicaid program, as telehealth is already a covered service.

THE APPARENT PROBLEM:

Telemedicine is an emerging industry that allows health professionals to provide clinical health care from a distance. By using a webcam on a computer or a smartphone, a patient can consult with a health care professional, using the camera to show as well as describe symptoms. The patient may even deliver medical information to the doctor in real time via Bluetooth-connected medical devices (such as a blood pressure cuff or otoscope, which shows the interior of the ear).

According to the American Telemedicine Association, more than 15 million Americans received some kind of medical care "remotely" in 2015, and those numbers are expected to grow by 30% in 2016. The bill is intended as a foundation for the practice of telemedicine in Michigan.

THE CONTENT OF THE BILL:

Senate Bill 753 would add six sections to the Public Health Code to telehealth services, and does the following.

Consent: A telehealth professional may only provide telehealth services after directly or indirectly obtaining the patient's consent for treatment. This does not apply to an inmate in the state corrections system.

Prescribing: A health professional who is providing a telehealth service may prescribe the patient a drug if the health professional is a prescriber and the drug is not a controlled substance.

- A ***prescriber*** would mean that term as defined in Section 17708 of the Public Health Code: a licensed dentist, a licensed doctor of medicine, a licensed doctor of osteopathic medicine and surgery, a licensed doctor of podiatric medicine and surgery, a licensed optometrist certified under Part 174 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 licensed doctor of osteopathic medicine and surgery.

Discipline for violation: A disciplinary subcommittee may place restrictions or conditions on a health professional's ability to provide a telehealth service if it finds that the person has violated the consultation/consent or prescribing rules listed above.

Rules to be promulgated by LARA: LARA, in consultation with a board, may promulgate rules to implement the consultation/consent and prescribing rules listed above.

Definitions:

- The bill defines ***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. Telehealth may include, but is not limited to, telemedicine.

- Section 3476 of the Insurance Code defines ***telemedicine*** as the use of an electronic media to link patients with health care professionals in different locations. To be considered telemedicine under this section, the health care professional must be able to examine the patient via a real-time, interactive audio or video (or both) telecommunications system and the patient must be able to interact with the off-site health care professional at the time the services are provided.

Proposed MCL 333.16283 to 333.16288

HOUSE COMMITTEE ACTION:

The H-1 substitute replaces the Senate's requirement for consultation or consent before providing a telehealth service with the requirement that before providing the service the professional must "directly or indirectly" obtain the patient's consent.

BACKGROUND:

Earlier in the 2015-2016 session, the House Health Policy committee reported out a bill which would add Michigan to an "Interstate Medical Licensure Compact." The compact is intended to aid the practice of telemedicine by allowing physicians to practice medicine without regard to state boundaries. Compact legislation been enacted in 17 states and has been introduced in Michigan and Pennsylvania. The following website tracks the compact's progress: http://www.licenseportability.org/

The Michigan compact legislation—House Bill 4582—is currently being considered by the Senate Health Policy committee.

ARGUMENTS:

For:

Telemedicine promotes increased access to medical care, especially for those in rural or underserved areas, or without access to transportation, say supporters. Currently, a patient might spend a few hours driving to the closest hospital and waiting to be seen by a medical professional, in order to attend a 10-minute long follow-up appointment. Telehealth would drastically reduce the time expended.

Proponents also argue that telemedicine keeps costs down. According to testimony, a cough/cold consult typically costs over $300 for an urgent care visit or $100 for an office visit; a telehealth consult would cost $45. By lowering the cost of care, and ensuring that price is less of a concern for patients, telemedicine could detect small problems before they become big problems, and result in more positive health outlooks overall.

Telemedicine also addresses shortages in medical staffing, by ensuring that patient care hours are maximized, and that a single provider may be able to provide care at numerous locations. For instance, rather than employing a full-time school nurse at each school in a district, a district may be able to employ a single nurse who would consult whenever and wherever needed.

Against:

Opponents argue that telemedicine has already been thriving in Michigan without legislation, and that this bill is unnecessary.

Response:

The bill is intentionally broad, so that it does not stifle what is already working, but lays the groundwork for what is clearly an emerging and booming business.

Against:

Critics also argue that the quality of care is not keeping pace with the expansion of the industry. It is much easier for a doctor to disregard a patient's concerns, or to fail to notice a subtle symptom, when the two are not communicating face-to-face. Moreover, today's technology simply does not allow for a complete medical examination remotely. Even in the case of a relatively minor upper respiratory infection, a doctor consulting remotely is not able to listen to the patient's heart, culture the throat, or feel the swollen glands.

POSITIONS:

The following organizations support this bill:
Economic Alliance for Michigan (9-13-16)
American Association of Retired Persons (9-13-16)
Michigan Pharmacists Association (9-13-16)
Spectrum Health System (9-13-16)
Michigan Association of Health Plans (9-13-16)
Michigan Health and Hospital Association (9-13-16)
Michigan Manufacturers Association (9-13-16)
Ascension Michigan (9-13-16)
ERISA Industry Committee (9-13-16)
Michigan State Medical Society (9-20-16)
American Heart Association (9-20-16)
American College of Cardiology (9-20-16)

Legislative Analyst: Jenny McInerney
Fiscal Analysts: Marcus Coffin
Kevin Koorstra

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.