

PRESCRIBING CONTROLLED SUBSTANCES VIA TELEHEALTH

Phone: (517) 373-8080
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Senate Bill 213 (S-1) as passed by the Senate
Sponsor: Sen. Peter MacGregor
House Committee: Health Policy
Senate Committee: Health Policy
Complete to 3-13-17

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

SUMMARY:

Senate Bill 213 would amend the Public Health Code (MCL 333.16285 and 333.16287), to provide that a health professional acting within the appropriate scope of practice may prescribe a controlled substance via telehealth, provided that the health professional:

- Provides the patient with a referral for other health care services that are geographically accessible, including emergency services, if the health professional deems it medically necessary;
- Makes himself or herself available to provide follow-up health care to the patient or refers the patient to another health professional for follow-up care, after providing the telehealth service; and
- Meets the other requirements for prescribing controlled substances under the Code.

(Currently, a health professional providing telehealth services to a patient can prescribe a drug if it is not a controlled substance and the professional is an eligible prescriber.)

The bill also says the Department of Licensing and Regulatory Affairs "shall" promulgate rules to implement telehealth provisions; currently, the act says LARA "may" promulgate rules.

The bill would take effect March 29, 2017.

Telehealth is defined in Public Act 359 of 2016 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.

BACKGROUND:

Public Act 359 of 2016 (originally Senate Bill 753)¹ provided a framework for telehealth in the Public Health Code, requiring that a health professional obtain the patient's consent

¹ <http://www.legislature.mi.gov/documents/2015-2016/billanalysis/House/pdf/2015-HLA-0753-6B614C58.pdf>

before providing telehealth services, prescribing certain standards for drug prescription and provision of telehealth services, and authorizing the Department of Licensing and Regulatory Affairs (LARA) to promulgate rules regarding telehealth. PA 359 will take effect March 29, 2017.

However, according to the sponsor of that bill and SB 213, the initial bill inadvertently failed to account for the unique needs of community mental health and substance abuse disorder clinics. For example, some of the clinics are open 24 hours a day and require the prescription of controlled substances for alcohol and drug detoxification, using telehealth communications, at all hours of the day. Accordingly, SB 213 is intended to make necessary accommodations, and, if enacted, would take effect on the same date as the original bill.

FISCAL IMPACT:

Senate Bill 213 would likely have a nominal, though negative, fiscal impact on the Department of Licensing and Regulatory Affairs. The bill would require the department to promulgate rules regarding the provision of telehealth services, specifically with respect to obtaining consent for treatment and for prescribing of drugs. The rules promulgation would result in minor administrative costs for the department. The bill would not have significant fiscal impacts on other units of state or local government.

Legislative Analyst: Jenny McInerney
Fiscal Analyst: Marcus Coffin

■ 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.