



# Senate

General Assembly

**File No. 693**

*January Session, 2015*

Substitute Senate Bill No. 467

*Senate, April 16, 2015*

The Committee on Public Health reported through SEN. GERRATANA of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING THE FACILITATION OF TELEHEALTH.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2015*) (a) As used in this  
2 section:

3 (1) "Asynchronous" means any transmission to another site for  
4 review at a later time that uses a camera or other technology to capture  
5 images or data to be recorded.

6 (2) "Facility fee" has the same meaning as in section 19a-508c of the  
7 general statutes.

8 (3) "Medical history" means information, including, but not limited  
9 to, a patient's past illnesses, medications, hospitalizations, family  
10 history of illness if known, the name and address of the patient's  
11 primary care physician if known and other matters relating to the  
12 health condition of the patient at the time of a telehealth interaction.

13 (4) "Originating site" means a site at which a patient is located at the  
14 time health care services are provided to the patient by means of  
15 telehealth.

16 (5) "Peripheral devices" means the instruments a telehealth provider  
17 may use to perform a patient exam, including, but not limited to,  
18 stethoscope, otoscope, ophthalmoscope, sphygmomanometer,  
19 thermometer, tongue depressor and reflex hammer.

20 (6) "Remote patient monitoring" means the personal health and  
21 medical data collection from a patient in one location via electronic  
22 communication technologies that is then transmitted to a telehealth  
23 provider located at a distant site for the purpose of health care  
24 monitoring to assist the effective management of the patient's  
25 treatment, care and related support.

26 (7) "Store and forward transfer" means the asynchronous  
27 transmission of a patient's medical information from an originating site  
28 to the telehealth provider at a distant site.

29 (8) "Synchronous" means real-time interactive technology.

30 (9) "Telehealth" means the mode of delivering health care or other  
31 health services via information and communication technologies to  
32 facilitate the diagnosis, consultation and treatment, education, care  
33 management and self-management of a patient's physical and mental  
34 health, and includes (A) interaction between the patient at the  
35 originating site and the telehealth provider at a distant site, and (B)  
36 synchronous interactions, asynchronous store and forward transfers  
37 and remote patient monitoring. Telehealth does not include the use of  
38 facsimile, audio-only telephone or electronic mail.

39 (10) "Telehealth provider" means any physician licensed under  
40 chapter 370 of the general statutes, psychiatrist licensed under chapter  
41 370 of the general statutes, advanced practice registered nurse licensed  
42 under chapter 378 of the general statutes, physician assistant licensed  
43 under chapter 370 of the general statutes, psychologist licensed under

44 chapter 383 of the general statutes, marital and family therapist  
45 licensed under chapter 383a of the general statutes, clinical social  
46 worker or master social worker licensed under chapter 383b of the  
47 general statutes, alcohol and drug counselor licensed under chapter  
48 376b of the general statutes, professional counselor licensed under  
49 chapter 383c of the general statutes or dietitian-nutritionist certified  
50 under chapter 384b of the general statutes, who is providing health  
51 care or other health services through the use of telehealth within such  
52 person's scope of practice and in accordance with the standard of care  
53 applicable to the profession.

54 (b) (1) A telehealth provider shall only provide telehealth services to  
55 a patient when the telehealth provider: (A) Is communicating through  
56 real-time, interactive, two-way communication technology or store and  
57 forward technologies; (B) has access to, or knowledge of, the patient's  
58 medical history, as provided by the patient, or the patient's medical  
59 record, including the name and address of the patient's primary care  
60 physician; (C) conforms to the standard of care applicable to the  
61 telehealth provider's profession and expected for in-person care as  
62 appropriate to the patient's age and presenting condition, except when  
63 the standard of care requires the use of diagnostic testing and  
64 performance of a physical examination, such testing or examination  
65 may be carried out through the use of peripheral devices appropriate  
66 to the patient's condition; and (D) provides the patient with the  
67 telehealth's provider license number and contact information.

68 (2) At the time of the telehealth provider's first telehealth interaction  
69 with a patient, the telehealth provider shall inform the patient  
70 concerning the treatment methods and limitations of treatment using a  
71 telehealth platform and, after providing the patient with such  
72 information, obtain the patient's consent to provide telehealth services.  
73 The telehealth provider shall document such notice and consent in the  
74 patient's medical record.

75 (c) Notwithstanding the provisions of this section or title 20 of the  
76 general statutes, no telehealth provider shall prescribe schedule I, II or

77 III controlled substances through the use of telehealth.

78 (d) Each telehealth provider shall, upon the patient's request,  
79 provide records of any telehealth interaction between such provider  
80 and such patient to the patient, in a timely manner, in accordance with  
81 the provisions of sections 20-7b to 20-7e, inclusive, of the general  
82 statutes.

83 (e) The provision of telehealth services and medical records  
84 maintained and disclosed as part of a telehealth interaction shall  
85 comply with the provisions of the Health Insurance Portability and  
86 Accountability Act of 1996 P.L. 104-191, as amended from time to time.

87 (f) Nothing in this section shall prohibit: (1) A health care provider  
88 from providing on-call coverage pursuant to an agreement with  
89 another health care provider or such health care provider's  
90 professional entity or employer; (2) a health care provider from  
91 consulting with another health care provider concerning a patient's  
92 care; or (3) orders of health care providers for hospital outpatients or  
93 inpatients. For purposes of this subsection, "health care provider"  
94 means a person or entity licensed or certified pursuant to chapter 370,  
95 372, 373, 375, 378 or 379 of the general statutes or licensed or certified  
96 pursuant to chapter 368d or 384d of the general statutes.

97 (g) No telehealth provider shall charge a facility fee for telehealth  
98 services.

99 Sec. 2. (NEW) (*Effective January 1, 2016*) (a) As used in this section,  
100 "telehealth" has the same meaning provided in section 1 of this act.

101 (b) Each individual health insurance policy providing coverage of  
102 the type specified in subdivisions (1), (2), (4), (11) and (12) of section  
103 38a-469 of the general statutes delivered, issued for delivery, renewed,  
104 amended or continued in this state shall provide coverage for medical  
105 advice, diagnosis, care or treatment provided through telehealth, to the  
106 extent coverage is provided for such advice, diagnosis, care or  
107 treatment when provided through in-person consultation between the

108 insured and a health care provider. Such coverage shall be subject to  
109 the same terms and conditions applicable to all other benefits under  
110 such policy.

111 (c) No such policy shall: (1) Exclude a service for coverage solely  
112 because such service is provided only through telehealth and not  
113 through in-person consultation between the insured and a health care  
114 provider, provided telehealth is appropriate for the provision of such  
115 service; or (2) be required to reimburse a treating or consulting health  
116 care provider for the technical fees or technical costs for the provision  
117 of telehealth services.

118 (d) Nothing in this section shall prohibit or limit a health insurer,  
119 health care center, hospital service corporation, medical service  
120 corporation or other entity from conducting utilization review for  
121 telehealth services, provided such utilization review is conducted in  
122 the same manner and uses the same clinical review criteria as a  
123 utilization review for an in-person consultation for the same service.  
124 No such insurer, center, corporation or other entity shall require  
125 preauthorization for emerging telehealth services.

126 Sec. 3. (NEW) (*Effective January 1, 2016*) (a) As used in this section,  
127 "telehealth" has the same meaning provided in section 1 of this act.

128 (b) Each group health insurance policy providing coverage of the  
129 type specified in subdivisions (1), (2), (4), (11) and (12) of section 38a-  
130 469 of the general statutes delivered, issued for delivery, renewed,  
131 amended or continued in this state shall provide coverage for medical  
132 advice, diagnosis, care or treatment provided through telehealth, to the  
133 extent coverage is provided for such advice, diagnosis, care or  
134 treatment when provided through in-person consultation between the  
135 insured and a health care provider. Such coverage shall be subject to  
136 the same terms and conditions applicable to all other benefits under  
137 such policy.

138 (c) No such policy shall: (1) Exclude a service for coverage solely  
139 because such service is provided only through telehealth and not

140 through in-person consultation between the insured and a health care  
 141 provider, provided telehealth is appropriate for the provision of such  
 142 service; or (2) be required to reimburse a treating or consulting health  
 143 care provider for the technical fees or technical costs for the provision  
 144 of telehealth services.

145 (d) Nothing in this section shall prohibit or limit a health insurer,  
 146 health care center, hospital service corporation, medical service  
 147 corporation or other entity from conducting utilization review for  
 148 telehealth services, provided such utilization review is conducted in  
 149 the same manner and uses the same clinical review criteria as a  
 150 utilization review for an in-person consultation for the same service.  
 151 No such insurer, center, corporation or other entity shall require  
 152 preauthorization for emerging telehealth services.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	New section
Sec. 2	January 1, 2016	New section
Sec. 3	January 1, 2016	New section

**Statement of Legislative Commissioners:**

In Section 1(a)(1), the definition of "asynchronous" was rewritten for clarity; and in Section 1(d), "20-7c" was changed to "20-7b" for accuracy of reference.

**PH**            *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## OFA Fiscal Note

### State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
State Comptroller - Fringe Benefits (State Employees and Retiree Health Accounts)	GF, TF - Uncertain	See Below	See Below

Note: GF=General Fund and TF = Transportation Fund

### Municipal Impact:

Municipalities	Effect	FY 16 \$	FY 17 \$
Various Municipalities	Uncertain	See Below	See Below

### Explanation

There may be a fiscal impact to the state from requiring the state employee and retiree health plan to provide coverage for telehealth to the same extent as in-person services. The state plan does not currently provide telehealth services or have a telehealth reimbursement policy.<sup>1</sup> The impact will depend on (1) the extent to which employees and retirees utilize telehealth services and the cost differential between telehealth and in-person services, (2) the impact of telehealth on total overall utilization of services covered by the plan, and (3) patient outcomes.<sup>2</sup> The bill prohibits a provider from requiring an insurer to reimburse the provider for technical fees or costs related to telehealth. Lastly, the bill establishes requirements for health care providers who provide services through the use of telehealth which do not result in a

<sup>1</sup> The state employee and retiree health plan is currently self-insured and therefore exempt from state health mandates. However, the state health plan has traditionally adopted all state health mandates. Total number of covered lives as of January 2015 was 208,745.

<sup>2</sup> The State Innovation Model (SIM), which includes the state employee and retiree health plan, is reviewing telemedicine (which is similar to telehealth).

fiscal impact.

As of February 2015, there were 28,619 members in the state's Health Enhancement Program (HEP) identified as having one of the five chronic disease state's named specifically for the program.<sup>3,4</sup> Various case studies have suggested net health care savings from telemonitoring, primarily resulting from reduced hospital readmission, particularly for individuals with chronic diseases. It is important to note, it is uncertain from the following case studies what the upfront technology and personnel costs were and the time lag before a return on investment was realized through a reduction in overall health care costs.

**Case 1:** The Partners HealthCare program out of the Center for Connected Health did a study on their telehealth/telemonitoring program for individuals with cardiac disease and reported net savings over a seven year period of approximately \$10 million for 1,265 patients (net savings per patient of \$8,155).<sup>5</sup> The Partners' program savings may not be representative of potential savings for commercial plans as the program included participants predominately enrolled in public programs (e.g. Medicare, Medicaid and the state's safety net program) who may have disproportionately lower health outcomes.

**Case 2:** The Veterans Health Administration (VHA) started its telehealth program as a multisite pilot program and as of 2010 had over 300,000 lives in its Care Coordination/Home Telehealth Program.<sup>6</sup> The VHA reported cumulative net benefits of \$3 billion since the program's inception in 1990. Savings are attributable to a

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<sup>3</sup> Source: Office of the State Comptroller, February, 2015.

<sup>4</sup> The Revised SEBAC 2011 Agreement listed the following chronic disease state's for the HEP program: Diabetes (Type I and II), Asthma and COPD, Heart Failure/Disease, Hyperlipidemia, and Hypertension.

<sup>5</sup>Source: Broderick, A., (2013). *Partners HealthCare: Connecting Heart Failure Patients to Providers Through Remote Monitoring*. Case Studies in Telehealth and Adoption; The Commonwealth Fund.

<sup>6</sup> Source: Broderick, A., (2013). *The Veterans Health Administration: Taking Home Telehealth to Scale Nationally*. Case Studies in Telehealth and Adoption; The Commonwealth Fund.

reduction in redundant services and improved quality and health outcomes. The VHA program provides biometric information to remote monitoring care coordinators for individuals with various conditions, including heart failure, diabetes and Post Traumatic Stress Disorder (PTSD). The VHA reports annual costs per patient of \$1,600.

The bill's telehealth coverage requirements may result in a fiscal impact to certain fully insured municipalities who do not currently provide the coverage specified in the bill. The coverage requirements may impact premium costs for the municipality when they enter into new health insurance contracts after January 1, 2016. Due to federal law, municipalities with self-insured plans are exempt from state health insurance mandates.

Lastly, many municipal plans may be recognized as "grandfathered"<sup>7</sup> plans under the federal Affordable Care Act (ACA). It is uncertain what the effect of this mandate will have on the grandfathered status of those municipal plans.

For the purposes of the ACA the coverage provision included in the bill is not considered an additional mandate and therefore will not result in an additional state cost related to reimbursement for the mandate for those covered through the exchange plans.

### ***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

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<sup>7</sup> Grandfathered plans include most group health insurance plans and some individual plans created or purchased on or before March 23, 2010.

**OLR Bill Analysis****sSB 467*****AN ACT CONCERNING THE FACILITATION OF TELEHEALTH.*****SUMMARY:**

This bill establishes requirements for health care providers who provide medical services through the use of telehealth. Among other things, a telehealth provider must obtain a patient's informed consent, at the first telehealth interaction, to provide telehealth services.

The bill also requires certain health insurance policies to cover medical services provided through telehealth to the extent that they cover the services through in-person visits between an insured person and a health care provider.

**EFFECTIVE DATE:** October 1, 2015, except for the insurance coverage provisions, which are effective January 1, 2016.

**TELEHEALTH PROVIDER REQUIREMENTS*****Definitions***

The bill defines a "telehealth provider" as any of the following who provides health care services through the use of telehealth within his or her scope of practice and in accordance with the profession's standard of care: a licensed physician, psychiatrist, advanced practice registered nurse, physician assistant, psychologist, marital and family therapist, clinical or master social worker, alcohol and drug counselor, or professional counselor or a certified dietitian-nutritionist.

It defines "telehealth" as delivering health care services through information and communication technologies to facilitate the diagnosis, consultation, treatment, education, care management, and self-management of a patient's physical and mental health. It includes:

1. interaction between a patient at an originating site and the telehealth provider at a distant site and
2. synchronous (real-time) interactions, asynchronous store and forward transfers (transmitting medical information from the patient to the telehealth provider for review at a later time), and remote patient monitoring.

Telehealth does not include fax, audio-only telephone, or e-mail.

**Requirements**

Under the bill, a telehealth provider can provide telehealth services to a patient only when the provider:

1. is communicating through real time, interactive, two-way communication technology or store and forward technologies;
2. has access to, or knowledge of, the patient's medical history, as provided by the patient, or the patient's medical record, including the patient's primary care physician's name and address;
3. gives the patient his or her provider license number and contact information; and
4. conforms to the standard of care for his or her profession and expected for in-person care as appropriate for the patient's age and presenting condition. But when the standard of care requires the use of diagnostic testing and a physical examination, the provider may perform the testing or examination through appropriate peripheral devices (i.e., instruments he or she may use to examine a patient).

The bill requires a telehealth provider, at his or her first telehealth interaction with a patient, to (1) inform the patient about the treatment methods and limitations of treating a person through telehealth and (2) obtain the patient's consent to provide telehealth services. The provider must document the notice and consent in the patient's

medical record.

### ***Prohibitions***

The bill prohibits a telehealth provider from (1) prescribing schedule I, II, or III controlled substances through the use of telehealth or (2) charging a facility fee for telehealth services.

By law, a “facility fee” is any fee a hospital or health system charges or bills for outpatient hospital services provided in a hospital-based facility that is (1) intended to compensate the hospital or health system for its operational expenses and (2) separate and distinct from a professional fee, which is any fee charged or billed by a provider for professional medical services provided in a hospital-based facility.

### ***Records and HIPAA Compliance***

The bill requires a telehealth provider, upon a patient’s request, to provide records of a telehealth interaction in a timely manner and in accordance with the standard access to health records law. Providers must maintain and disclose records of telehealth interactions and provide telehealth services in compliance with the federal Health Insurance Portability and Accountability Act (HIPAA).

### ***Allowable Transactions***

The bill allows a licensed or certified health care provider to (1) provide on-call coverage for another provider, (2) consult with another provider about a patient’s care, or (3) issue orders for hospital patients.

## **INSURANCE COVERAGE REQUIREMENTS**

### ***Coverage Required***

The bill requires certain health insurance policies to cover medical advice, diagnosis, care, or treatment provided through telehealth to the extent that they cover those services through in-person visits between an insured person and a health care provider. It subjects telehealth coverage to the same terms and conditions that apply to other benefits under the policy.

Under the bill, insurers and related entities (e.g., HMOs) may

conduct utilization review for telehealth services in the same manner as it is conducted for in-person services, including using the same clinical review criteria.

### ***Prohibitions***

The bill prohibits health insurance policies from:

1. excluding coverage solely because a service is provided through telehealth, provided telehealth is appropriate for the service;
2. having to reimburse a treating or consulting health care provider for any technical fees or costs associated with providing telehealth services; or
3. requiring preauthorization for “emerging telehealth services.” (The bill does not define an emerging telehealth service.)

### ***Applicability***

The bill applies to individual and group health insurance policies delivered, issued, renewed, amended, or continued in Connecticut that cover (1) basic hospital expenses; (2) basic medical-surgical expenses; (3) major medical expenses; or (4) hospital or medical services, including coverage provided to subscribers of a health care center (i.e., HMO). Due to the federal Employee Retirement Income Security Act (ERISA), state insurance benefit mandates do not apply to self-insured benefit plans.

## **BACKGROUND**

### ***Related Bills***

SB 5, reported favorably by the Insurance and Real Estate Committee, requires certain health insurance policies to cover medical services provided through telemedicine to the extent they cover services through in-person visits between an insured person and a health care provider.

SB 73, reported favorably by the Public Health Committee, expands the fees health care providers and institutions may charge for

supplying a health record.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 25 Nay 0 (03/30/2015)