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## **OLR Bill Analysis**

### **sSB 302 (File 420, as amended by Senate "A")\***

#### ***AN ACT CONCERNING TELEHEALTH SERVICES.***

#### **SUMMARY**

This bill modifies requirements for health care providers who provide medical services through the use of telehealth. Among other things, it:

1. allows telehealth providers to prescribe non-opioid Schedule II or III controlled substances using telehealth to treat a psychiatric disability or substance use disorder, if certain conditions are met;
2. modifies requirements for telehealth providers to obtain and document patient consent to provide telehealth services and disclose related records; and
3. adds registered nurses and pharmacists to the list of health care providers authorized to provide telehealth services (see BACKGROUND).

The bill specifies that its provisions do not prevent a licensed or certified health care provider from using telehealth to order medication or treatment for hospital inpatients in accordance with the federal Ryan Haight Online Pharmacy Consumer Protection Act (see BACKGROUND).

The bill also makes technical and conforming changes.

\*Senate Amendment "A" replaces the original bill with similar provisions. In doing so, it (1) allows telehealth providers to prescribe a non-opioid Schedule II or III controlled substance, instead of any Schedule I, II, or II controlled substance, to treat a psychiatric or substance use disorder; (2) requires such prescribing to be done electronically and in accordance with federal law; and (3) allows the

use of telehealth to treat hospital inpatients.

EFFECTIVE DATE: July 1, 2018

## **TELEHEALTH REQUIREMENTS**

### ***Prescribing Controlled Substances***

The bill allows telehealth providers to prescribe a non-opioid Schedule II or III controlled substance using telehealth to treat a psychiatric disability or substance use disorder, including medication-assisted treatment (i.e., the use of federal Food and Drug Administration-approved medication in combination with counseling and behavioral therapies).

Under the bill, providers may only do this (1) in a manner consistent with the federal Ryan Haight Online Pharmacy Consumer Protection Act; (2) if it is allowed under their current scope of practice; and (3) if they submit the prescription electronically, in accordance with existing law. Current law prohibits telehealth providers from prescribing any Schedule I, II, or III controlled substances using telehealth.

### ***Patient Consent***

By law, at the first telehealth interaction with a patient, a telehealth provider must document in the patient's medical record that the provider (1) informed the patient about telehealth methods and limitations and (2) obtained the patient's consent to provide telehealth services. Under the bill, if the patient later revokes his or her consent, the telehealth provider must document it in the patient's medical record.

Additionally, current law requires a telehealth provider to ask for the patient's consent to disclose telehealth records to his or her primary care provider. The bill requires the provider to do this only at the initial telehealth interaction, instead of at every such interaction as under current law. If the patient consents, the telehealth provider must give the primary care provider records of all telehealth interactions.

Under the bill, consent for providing telehealth services or records disclosure may be obtained from the patient or the patient's legal

guardian, conservator, or other authorized representative.

## **BACKGROUND**

### ***Ryan Haight Online Pharmacy Consumer Protection Act (“Haight Act”)***

The 2008 Haight Act established standards for dispensing and prescribing controlled substances via the internet (e.g., online pharmacies and telehealth). Among other things, the act prohibits dispensing controlled substances via the internet without a valid prescription. For a prescription to be valid, it must be issued for a legitimate medical purpose in the usual course of a health care provider’s professional practice. It requires providers to conduct at least one medical evaluation before prescribing a person a controlled substance in-person or, if specified conditions are met, via telehealth. The federal Drug Enforcement Agency enforces the act’s provisions.

### ***Authorized Telehealth Providers***

Existing law allows the following health care providers to provide health care services using telehealth: physicians, advanced practice registered nurses, physician assistants, occupational and physical therapists, naturopaths, chiropractors, optometrists, podiatrists, psychologists, marital and family therapists, clinical or master social workers, alcohol and drug counselors, professional counselors, dietician-nutritionists, speech and language pathologists, respiratory care practitioners, and audiologists.

By law, these providers must provide telehealth services within their profession’s scope of practice and standard of care (CGS § 19a-906).

## **COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 20 Nay 7 (03/23/2018)