



# Senate

General Assembly

**File No. 420**

February Session, 2018

Substitute Senate Bill No. 302

*Senate, April 11, 2018*

The Committee on Public Health reported through SEN. GERRATANA of the 6th Dist. and SEN. SOMERS of the 18th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

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

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

1 Section 1. Section 19a-906 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2018*):

3 (a) As used in this section:

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

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

8 [(2)] (3) "Health record" means the record of individual, health-  
9 related information that may include, but need not be limited to,  
10 continuity of care documents, discharge summaries and other  
11 information or data relating to a patient's demographics, medical  
12 history, medication, allergies, immunizations, laboratory test results,

13 radiology or other diagnostic images, vital signs and statistics.

14 [(3) "Facility fee" has the same meaning as in section 19a-508c.]

15 (4) "Medical history" means information, including, but not limited  
16 to, a patient's past illnesses, medications, hospitalizations, family  
17 history of illness if known, the name and address of the patient's  
18 primary care provider if known and other matters relating to the  
19 health condition of the patient at the time of a telehealth interaction.

20 (5) "Medication-assisted treatment" means the use of medications  
21 approved by the federal Food and Drug Administration, in  
22 combination with counseling and behavioral therapies, to provide a  
23 whole-patient approach to the treatment of substance use disorders.

24 [(5)] (6) "Originating site" means a site at which a patient is located  
25 at the time health care services are provided to the patient by means of  
26 telehealth.

27 [(6)] (7) "Peripheral devices" means the instruments a telehealth  
28 provider uses to perform a patient exam, including, but not limited to,  
29 stethoscope, otoscope, ophthalmoscope, sphygmomanometer,  
30 thermometer, tongue depressor and reflex hammer.

31 [(7)] (8) "Remote patient monitoring" means the personal health and  
32 medical data collection from a patient in one location via electronic  
33 communication technologies that is then transmitted to a telehealth  
34 provider located at a distant site for the purpose of health care  
35 monitoring to assist the effective management of the patient's  
36 treatment, care and related support.

37 [(8)] (9) "Store and forward transfer" means the asynchronous  
38 transmission of a patient's medical information from an originating site  
39 to the telehealth provider at a distant site.

40 [(9)] (10) "Synchronous" means real-time interactive technology.

41 [(10)] (11) "Telehealth" means the mode of delivering health care or

42 other health services via information and communication technologies  
43 to facilitate the diagnosis, consultation and treatment, education, care  
44 management and self-management of a patient's physical and mental  
45 health, and includes (A) interaction between the patient at the  
46 originating site and the telehealth provider at a distant site, and (B)  
47 synchronous interactions, asynchronous store and forward transfers or  
48 remote patient monitoring. Telehealth does not include the use of  
49 facsimile, audio-only telephone, texting or electronic mail.

50 [(11)] (12) "Telehealth provider" means any physician licensed under  
51 chapter 370, physical therapist licensed under chapter 376,  
52 chiropractor licensed under chapter 372, naturopath licensed under  
53 chapter 373, podiatrist licensed under chapter 375, occupational  
54 therapist licensed under chapter 376a, optometrist licensed under  
55 chapter 380, registered nurse or advanced practice registered nurse  
56 licensed under chapter 378, physician assistant licensed under chapter  
57 370, psychologist licensed under chapter 383, marital and family  
58 therapist licensed under chapter 383a, clinical social worker or master  
59 social worker licensed under chapter 383b, alcohol and drug counselor  
60 licensed under chapter 376b, professional counselor licensed under  
61 chapter 383c, dietitian-nutritionist certified under chapter 384b, speech  
62 and language pathologist licensed under chapter 399, respiratory care  
63 practitioner licensed under chapter 381a, [or] audiologist licensed  
64 under chapter 397a or pharmacist licensed under chapter 400j, who is  
65 providing health care or other health services through the use of  
66 telehealth within such person's scope of practice and in accordance  
67 with the standard of care applicable to the profession.

68 (b) (1) A telehealth provider shall only provide telehealth services to  
69 a patient when the telehealth provider: (A) Is communicating through  
70 real-time, interactive, two-way communication technology or store and  
71 forward technologies; (B) has access to, or knowledge of, the patient's  
72 medical history, as provided by the patient, and the patient's health  
73 record, including the name and address of the patient's primary care  
74 provider, if any; (C) conforms to the standard of care applicable to the  
75 telehealth provider's profession and expected for in-person care as

76 appropriate to the patient's age and presenting condition, except when  
77 the standard of care requires the use of diagnostic testing and  
78 performance of a physical examination, such testing or examination  
79 may be carried out through the use of peripheral devices appropriate  
80 to the patient's condition; and (D) provides the patient with the  
81 telehealth's provider license number and contact information.

82 (2) At the time of the telehealth provider's first telehealth interaction  
83 with a patient, the telehealth provider shall inform the patient  
84 concerning the treatment methods and limitations of treatment using a  
85 telehealth platform and, after providing the patient with such  
86 information, obtain the patient's consent to provide telehealth services.  
87 The telehealth provider shall document such notice and consent in the  
88 patient's health record. If a patient later revokes such consent, the  
89 telehealth provider shall document the revocation in the patient's  
90 health record.

91 (c) Notwithstanding the provisions of this section or title 20, no  
92 telehealth provider shall prescribe any schedule I, II or III controlled  
93 [substances] substance through the use of telehealth, except for the  
94 treatment of a psychiatric disorder, including, but not limited to,  
95 medication-assisted treatment.

96 (d) Each telehealth provider shall, at the time of [each] the initial  
97 telehealth interaction, ask the patient whether the patient consents to  
98 the [telehealth's provider] telehealth provider's disclosure of records  
99 concerning the telehealth interaction to the patient's primary care  
100 provider. If the patient consents to such disclosure, the telehealth  
101 provider shall provide [such] records of all telehealth interactions to  
102 the patient's primary care provider, in a timely manner, in accordance  
103 with the provisions of sections 20-7b to 20-7e, inclusive.

104 (e) Any consent required under this section shall be obtained from  
105 the patient, or the patient's legal guardian, conservator or other  
106 authorized representative, as applicable.

107 [(e)] (f) The provision of telehealth services and health records

108 maintained and disclosed as part of a telehealth interaction shall  
109 comply with the provisions of the Health Insurance Portability and  
110 Accountability Act of 1996 P.L. 104-191, as amended from time to time.

111 [(f)] (g) Nothing in this section shall prohibit: (1) A health care  
112 provider from providing on-call coverage pursuant to an agreement  
113 with another health care provider or such health care provider's  
114 professional entity or employer; (2) a health care provider from  
115 consulting with another health care provider concerning a patient's  
116 care; or (3) orders of health care providers for hospital outpatients or  
117 inpatients. For purposes of this subsection, "health care provider"  
118 means a person or entity licensed or certified pursuant to chapter 370,  
119 372, 373, 375, 376 to 376b, inclusive, 378, 379, 380, 381a, 383 to 383c,  
120 inclusive, 384b, 397a, [or] 399 or 400j, or licensed or certified pursuant  
121 to chapter 368d or 384d.

122 [(g)] (h) No telehealth provider shall charge a facility fee for  
123 telehealth services.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2018	19a-906

**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 19 \$	FY 20 \$
Consumer Protection, Dept.	GF - Cost	93,667	93,667
State Comptroller - Fringe Benefits <sup>1</sup>	GF - Cost	30,664	30,664
Consumer Protection, Dept.	GF - Potential Revenue Gain	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

This bill allows telehealth providers to prescribe schedule I, II, and III controlled substances through the use of telehealth for treatment of a psychiatric disorder and results in a cost and potential revenue gain to the state.

The bill increases the number of providers prescribing controlled substances into the state including those who may reside outside of the state, which makes investigations more complicated due to the challenge of obtaining behavioral health records. The Department of Consumer Protection (DCP) is responsible for investigating and monitoring the prescribing of schedule I, II, and III controlled substances and would need to hire a Drug Control Agent (\$84,405 salary, \$30,664 fringe benefits, and \$9,262 in associated other expenses)

<sup>1</sup>The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 36.33% of payroll in FY 19 and FY 20.

due to the increased investigation and monitoring responsibilities.

The bill also results in a potential revenue gain to the extent that fines are assessed by DCP for non-compliance with schedule I, II, and III prescription drug regulations. The Commissioner of DCP may impose a fine of up to \$1,000 per violation.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the number of fines assessed by DCP.

**OLR Bill Analysis****sSB 302*****AN ACT CONCERNING TELEHEALTH SERVICES.*****SUMMARY**

This bill allows telehealth providers to prescribe a Schedule I, II, or III controlled substance using telehealth for treatment of a psychiatric disorder, including medication-assisted treatment (i.e., the use of federal Food and Drug Administration-approved medication in combination with counseling and behavioral therapies). Providers may do this only if it is allowed under their current scope of practice. Current law prohibits telehealth providers from prescribing any Schedule I, II, or III controlled substances using telehealth.

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 bill requires the telehealth provider to 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.



Finally, the bill adds registered nurses and pharmacists to the list of health care providers authorized to provide health care services using telehealth. Under the bill, they must provide telehealth services within their profession’s scope of practice and standard of care, just as other telehealth providers must do under existing law.

Existing law already 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.

EFFECTIVE DATE: July 1, 2018

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 20 Nay 7 (03/23/2018)