
OLR Bill Analysis

sHB 5198 (as amended by House "A")*

AN ACT CONCERNING TELEHEALTH.

SUMMARY

This bill makes permanent certain temporary expanded requirements for telehealth service delivery and insurance coverage enacted under PA 21-9 and PA 22-81 that will sunset under current law on June 30, 2024. Among other things, these provisions include:

1. allowing authorized telehealth providers to use audio-only telephone to provide services;
2. allowing authorized providers to provide telehealth services from any location to patients at any location, subject to applicable state and federal requirements;
3. prohibiting providers from charging uninsured patients more than the Medicare reimbursement rate for telehealth services; and
4. prohibiting health carriers (e.g., insurers and HMOs) from reducing the amount of reimbursement they pay to telehealth providers for covered services appropriately provided through telehealth instead of in-person.

Among other changes, the bill also expands the list of authorized telehealth providers to include all Connecticut licensed health care providers and pharmacists.

Additionally, the bill repeals a provision in current law that permanently allows out-of-state mental or behavioral health services providers to practice telehealth in Connecticut under certain conditions. It instead temporarily allows them to do so, until June 30, 2025, if they

meet certain requirements, such as registering with the Department of Public Health (DPH) and obtaining a Connecticut license within a specified timeframe. It requires Connecticut providers or entities that engage or contract with these out-of-state providers to verify that they registered with DPH.

The bill also repeals a provision in current law permitting the DPH commissioner to issue an order authorizing out-of-state telehealth providers to practice in Connecticut.

Lastly, the bill makes technical and conforming changes, including repealing corresponding provisions in PA 21-9 and PA 22-81. It also specifies that existing laws on health insurance coverage of telehealth services remain applicable only to the following licensed health care providers: APRNs, alcohol and drug counselors, audiologists, certified dietician-nutritionists, chiropractors, clinical and master social workers, marital and family therapists, naturopaths, occupational and physical therapists, optometrists, paramedics, pharmacists, physicians, physician assistants, podiatrists, professional counselors, psychologists, registered nurses, respiratory care practitioners, and speech and language pathologists.

*House Amendment "A" replaces the underlying bill (File 124) and (1) expands the list of authorized telehealth providers to include all state licensed health care providers and pharmacists; (2) eliminates the ability of all out-of-state providers to permanently practice telehealth in the state, thereby only allowing them to do so if they obtain a Connecticut credential; (3) allows out-of-state mental or behavioral health providers to practice telehealth in the state temporarily, until June 30, 2025, if they register with DPH and obtain a Connecticut license within specified timeframes; (4) repeals a provision allowing DPH to issue an order authorizing out-of-state providers to practice telehealth in Connecticut; (5) requires DPH to report certain information on out-of-state telehealth providers to the Public Health Committee; and (6) eliminates a provision authorizing the social services commissioner to cover Connecticut Medical Assistance Program services via telehealth (existing law already allows this).

EFFECTIVE DATE: Upon passage, except that conforming changes to two insurance provisions take effect July 1, 2024 (§§ 5 & 7).

TELEHEALTH PROVIDERS

Authorized Telehealth Providers

The bill expands the list of authorized telehealth providers to include all Connecticut-licensed health care providers and pharmacists.

Current law allows the following licensed health care providers to provide health care services using telehealth: APRNs, alcohol and drug counselors, audiologists, certified dietician-nutritionists, chiropractors, clinical and master social workers, marital and family therapists, naturopaths, occupational and physical therapists, optometrists, paramedics, pharmacists, physicians, physician assistants, podiatrists, professional counselors, psychologists, registered nurses, respiratory care practitioners, and speech and language pathologists. (Art therapists, athletic trainers, behavior analysts, dentists, genetic counselors, music therapists, nurse midwives, and occupational and physical therapist assistants may also do so temporarily, until June 30, 2024.)

Under current law, unchanged by the bill, authorized telehealth providers must provide telehealth services within their profession's scope of practice and standard of care.

Out-of-State Mental and Behavioral Health Providers

Temporary Authorization. PA 22-81 permanently allows out-of-state behavioral or mental health providers to practice telehealth in the state without a Connecticut license under certain conditions. The bill instead temporarily allows them to do so, until June 30, 2025, if the provider:

1. is appropriately licensed, certified, or registered in another U.S. state or territory or the District of Columbia as a physician, naturopath, registered nurse, APRN, physician assistant, psychologist, marital and family therapist, clinical or master social worker, alcohol and drug counselor, professional

- counselor, dietician-nutritionist, nurse-midwife, behavior analyst, or music or art therapist;
2. has professional liability insurance or other indemnity against professional malpractice liability in an amount at least equal to that required for Connecticut health providers;
 3. provides mental or behavioral health care services through telehealth within his or her scope of practice and in accordance with applicable professional standards of care; and
 4. registers with DPH before providing telehealth services to patients in Connecticut (see below).

It also eliminates the requirement under PA 21-9 and PA 22-81 that an out-of-state provider be authorized to practice telehealth under any relevant order issued by DPH.

DPH Registration. The bill requires out-of-state mental or behavioral telehealth providers to register with DPH, as the commissioner prescribes, before providing telehealth to patients in Connecticut. They must also apply to DPH for a Connecticut license, certificate, or registration within 60 days after registering as a telehealth provider and complete the credentialing application process within 60 days after submitting the application. The department must then issue a decision on the application within 45 days after the provider completes the application process.

Additionally, the bill requires any Connecticut entity, institution, or provider who engages or contracts with an out-of-state telehealth provider who is not also credentialed in Connecticut to verify that the provider registered with DPH as described above. It also requires the department to:

1. verify the provider's credentials to ensure the provider is certified, licensed, or registered and in good standing in his or her home jurisdiction and
2. confirm the telehealth provider has professional liability

insurance or other indemnity against professional malpractice liability in an amount at least equal to that required for Connecticut health providers.

Excluded Providers. Regardless of the above requirements, the bill prohibits a mental or behavioral health provider who is not credentialed in Connecticut from providing telehealth services in the state if the provider is on the federal Department of Health and Human Services' list of people excluded from participating in federally funded health programs, such as Medicare and Medicaid (i.e., "List of Excluded Individuals/Entities").

If the provider does not comply with the bill's requirements or state health provider licensure laws, it also allows DPH to (1) prohibit a mental or behavioral health provider who is not credentialed in Connecticut from registering with the department as a telehealth provider, or (2) suspend or revoke an existing registration.

Provider Data. The bill requires DPH to collect the following data on out-of-state providers:

1. the number of mental or behavioral health providers who (a) registered with DPH as telehealth providers, (b) applied for a Connecticut license, and (c) received a license through the process described above and
2. the number of out-of-state health care providers who apply for a Connecticut license.

Under the bill, DPH must report this information to the Public Health Committee by January 1, 2025, and again by July 1, 2025.

SERVICE DELIVERY

Audio-Only Telephone

The bill allows authorized telehealth providers to provide telehealth services via audio-only telephone. Under the bill and existing law, "telehealth" excludes fax, texting, and email. 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), or remote patient monitoring.

Location

The bill allows telehealth providers to provide telehealth services from any location to patients in any location subject to compliance with applicable federal requirements, state licensing standards, state telehealth laws, or related regulations.

PAYMENT FOR UNINSURED AND UNDERINSURED PATIENTS

The bill requires a telehealth provider, before providing services, to determine whether the patient (1) has health insurance coverage for any of the services to be provided, and (2) if so, plans to use the coverage to pay for all or part of the services or will pay for them directly (self-pay). The provider must disclose the cost of the services to patients who choose to pay for them in part with health insurance coverage or directly.

Under the bill, the provider who agrees to provide telehealth services must accept the following as payment in full:

1. for patients who do not have health insurance coverage for telehealth services, an amount equal to the Medicare reimbursement rate for those services;
2. for patients with health insurance coverage, the amount the carrier reimburses for telehealth services and any cost sharing (e.g., copay, coinsurance, deductible) or other out-of-pocket expense imposed by the health plan, unless the patient elects not to use this coverage, in which case the provider and patient may mutually agree to a different amount; or
3. an amount mutually agreed to by the patient and provider.

Under the bill, a telehealth provider who determines that a patient is unable to pay for telehealth services must offer the patient financial assistance to the extent required under federal or state law.

The bill expressly provides that its requirements do not prohibit a patient from paying a telehealth provider directly for services without seeking health insurance coverage for them.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 37 Nay 0 (03/11/2024)