

LEGISLATIVE FISCAL ESTIMATE
SENATE SUBSTITUTE FOR
SENATE, No. 291
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: JULY 14, 2017

SUMMARY

Synopsis: Authorizes health care providers to engage in telemedicine and telehealth.

Type of Impact: Indeterminate annual net impact on the State and local governments.

Agencies Affected: Certain State professional boards in the Department of Law and Public Safety, Department of Health, Department of Human Services, Department of the Treasury, Department of Banking and Insurance, certain local governmental entities.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Cost	Indeterminate net impact – See comments below.
State Revenue	Indeterminate increase – See comments below.
Local Cost	Indeterminate net impact – See comments below.

- The Office of Legislative Services (OLS) cannot quantify the annual fiscal impacts of the bill’s several provisions concerning the authorization and regulation of telemedicine and telehealth services in New Jersey.
- The OLS estimates that this bill may result in greater access to health care services, which may result in more frequent use of medical providers and short-term increases in costs for health care paid through the School Employees’ Health Benefits Plan, the State Health Benefits Plan, Medicaid, and NJ FamilyCare, and for local governments.
- The OLS also estimates that the implementation of telemedicine may result in decreased employee health care expenditures in the long-term due to improved management and coordination of treatment for chronic diseases.
- Annual State administrative expenditures may increase from the creation of the temporary Telemedicine and Telehealth Review Commission; the licensing and regulation of out-of-State health care providers who would become newly licensed in New Jersey to practice

telemedicine; and the promulgation, application, and enforcement of implementing rules and regulations.

- The State may also experience an indeterminate increase in annual licensing revenue through an increased number of New Jersey licenses being granted to out-of-State health care professionals who desire to deliver health care services in New Jersey via telemedicine.

BILL DESCRIPTION

This bill authorizes health care providers to remotely provide health care services to patients through the use of telemedicine, and engage in telehealth as may be necessary to support and facilitate the provision of health care services to patients.

The bill requires any health care provider who uses telemedicine or engages in telehealth to: (1) be validly licensed, certified, or registered to provide such services in New Jersey; (2) remain subject to regulation by the appropriate New Jersey State licensing board or professional regulatory entity; (3) act in compliance with existing requirements regarding the maintenance of liability insurance; and (4) remain subject to New Jersey jurisdiction if either the patient or the provider is located in New Jersey at the time services are provided. The bill also stipulates requirements concerning recordkeeping, review of medical records, standards of care, and the establishment of a provider-patient relationship.

The bill requires each telemedicine or telehealth organization operating in the State to annually register with and submit a report to the Department of Health (DOH). A telemedicine or telehealth organization that fails to register or submit the annual report will be subject to disciplinary action. The DOH will be required to compile the reported information to generate Statewide data concerning telemedicine and telehealth services provided in New Jersey. The DOH is to share the Statewide data on an annual basis with the Legislature; the Department of Human Services; the Department of Banking and Insurance; various State boards or other entities responsible for the professional licensure, certification, or registration of health care providers; and the Telemedicine and Telehealth Review Commission. The DOH will also be required to report annually to the Legislature and the Telemedicine and Telehealth Review Commission on rules and regulations adopted concerning telemedicine and telehealth.

The bill establishes, six months after the bill's effective date, the seven-member Telemedicine and Telehealth Review Commission in the DOH, which will be required to review the information reported by telemedicine and telehealth organizations and make recommendations as may be necessary and appropriate to promote and improve the quality, efficiency, and effectiveness of telemedicine and telehealth services. Members of the commission will serve without compensation but may be reimbursed for necessary travel expenses incurred in the performance of their duties within the limits of funds made available for that purpose. The commission will be required to report its findings and recommendations to the Governor, the DOH, health care professional regulatory boards, and the Legislature no later than two years after the date of the commission's first meeting. The commission will expire upon submission of its report.

The bill specifies that Medicaid, NJ FamilyCare, and certain health insurance providers, including the carriers of health benefits plans, the State Health Benefits Commission, and the School Employees' Health Benefits Commission, are each to provide coverage and payment for services provided through telemedicine and telehealth on the same basis as, and at a provider reimbursement rate that does not exceed the provider reimbursement rate that is applicable, when the services are delivered in-person in New Jersey.

Lastly, the following State entities will be required to draft and adopt implementing rules and regulations: professional licensing and certification boards in the Department of Law and Public Safety in regard to health care providers; the Department of Banking and Insurance in regard to health insurance carriers; and the State Health Benefits Commission and School Employees' Health Benefits Commission in the Department of the Treasury.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

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The OLS estimates that the bill's telemedicine and telehealth provisions may increase in the short-term, but decrease in the long-term, the annual expenditures of the State and local governments for employee health benefits. In addition, annual State administrative expenditures may increase from the creation of the temporary Telemedicine and Telehealth Review Commission; the licensing and regulation of out-of-State health care providers who would become newly licensed in New Jersey to practice telemedicine; and the promulgation, application, and enforcement of implementing rules and regulations. Annual revenue collections of certain State professional boards may also increase as out-of-State health care providers would become newly licensed in New Jersey to practice telemedicine. The OLS, however, lacks sufficient information to quantify the several likely fiscal impacts.

The OLS estimates that this bill may result in greater access to health care services which may result in short-term minimal increases in costs for health care from the General Fund and for local entities that provide health care benefits to their employees through the School Employees' Health Benefits Plan or the State Health Benefits Plan. However, telemedicine may also result in long-term cost savings due to better management of certain chronic health conditions and more efficient use of existing health care resources. Additionally, short-term savings may be found in reduced transportation costs, particularly in the Medicaid program. Current research on the fiscal impact of telemedicine is not consistent or applicable to this legislation and thus, it is not possible for the OLS to determine with any certainty the possible short-term cost increases or the possible long-term cost savings.

The bill provides that the reimbursement rate of health care services delivered through the use of telemedicine must be no greater than the reimbursement rate provided for in-person services. This provision allows for an incentive of shifting to telemedicine primarily to save costs. Over time, if adoption of telemedicine lowers providers' average costs, reimbursement rates for all services may be likewise reduced.

Current research on the long-term fiscal impact of a widespread telemedicine program as is provided pursuant to this legislation is not available. However, there are several studies that look at telemedicine and its impact as applied to certain chronic disease populations. For example, from July 2003 through December 2007, the Veterans Health Administration (VHA) implemented a health informatics, home telehealth, and disease management program to support veterans with chronic conditions, such as diabetes, hypertension, and congestive heart failure. An analysis of data from the program indicates that there was a 25 percent reduction in the number of bed-days of care, a 19 percent reduction in the number of hospital admissions and a

mean satisfaction score rating of 86 percent after enrolment in the program. The cost for the program was substantially less than alternative forms of care for these participants, and the VHA has continued to expand the program.

It is possible that if this bill is enacted, telemedicine programs will be adopted by many of the New Jersey insurance providers, and the telemedicine programs will increase accessibility to health care services. The increased accessibility may increase costs in the short-term as more people access services. But, the increased accessibility may not necessarily result in overall increased costs in the long-term, if telemedicine permits better management of chronic diseases and early diagnosis and treatment. In certain instances, services may be performed more cost-effectively than the individual visiting an emergency room or waiting for services until a condition has progressed and is more costly to treat.

The State costs will be through increased services provided through the Medicaid (NJ FamilyCare) program, for which the State is responsible for approximately 66 percent of the cost on average. Increased State costs may also result from telemedicine programs offered through the State-supported State Health Benefits Plan provided to State employees. The fiscal impact to the Medicaid (NJ FamilyCare) program expenditures and the State Health Benefits plan expenditures cannot be determined with any certainty.

Local entities may also experience a cost impact due to increased telemedicine benefits available to local employees who receive benefits through the locally supported School Employees' Health Benefits Plan or the State Health Benefits Plan. The fiscal impact to local entities cannot be determined with any certainty.

The State may also experience an increase in licensing revenue through an increased number of New Jersey licenses being granted to out-of-State physicians, nurse practitioners, psychologists, psychiatrists, psychoanalysts, licensed clinical social workers, physician assistants, and any other health care professional acting within the scope of a valid license or certification issued pursuant to Title 45 of the Revised Statutes – to deliver health care services, and establish a practitioner-patient relationship, through the use of telemedicine. As any increases in the number of licensees will rely on the type of telemedicine programs implemented and the behavior of health care professionals in seeking New Jersey licensure, it is not possible for the OLS to quantify additional revenue that may be generated.

In addition, the following State entities will incur increased administrative expenses related to the promulgation, application, and enforcement of implementing rules and regulations: State boards or other entities that are responsible for the licensure, certification, or registration of health care providers in the State; the Department of Banking and Insurance in regard to the regulation of health insurance carriers; and the State Health Benefits Commission and School Employees' Health Benefits Commission in the Department of the Treasury.

Lastly, the State may also incur additional minimal one-time costs related to the establishment of the seven-member Telemedicine and Telehealth Review Commission in the DOH. The seven commission members will serve without compensation and will only be reimbursed for the expenses they incur in the performance of their duties. The commission will be required to report its findings and recommendations to the Governor, the DOH, health care professional regulatory boards, and the Legislature no later than two years after the date of the commission's first meeting. The commission will expire upon submission of its report.

Section: Human Services

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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).