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# OHIO LEGISLATIVE SERVICE COMMISSION

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## Synopsis of Senate Committee Amendments

(This synopsis does not address amendments that may have been adopted on the Senate Floor.)

### H.B. 122 of the 134<sup>th</sup> General Assembly

#### Senate Health

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#### Telehealth providers

Includes the following additional health care professionals among those that the House version of the bill authorized to provide telehealth services and have them covered by a health plan issuer and Medicaid: (1) certified Ohio behavior analysts<sup>1</sup> and (2) school psychologists licensed under rules adopted by the Department of Education. (The House version already included school psychologists licensed by the State Board of Psychology.)<sup>2</sup>

In addition to the authority of a federally qualified health center (FQHC) to submit claims for Medicaid payment for providing telehealth services, as granted by the House, permits an FQHC look-alike to do so.<sup>3</sup>

#### Rulemaking

##### Medicaid coverage

Qualifies the House-passed provisions regarding Medicaid coverage of telehealth services by specifying that the coverage is limited to the extent permitted by state Medicaid rules and applicable federal law.<sup>4</sup>

##### Standard of care

Adds a provision under which any rules adopted by a health care licensing board regarding the provision of telehealth services must establish a standard of care for telehealth services that is equal to the standard of care for in-person services.<sup>5</sup>

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<sup>1</sup> R.C. 4783.20, 4743.09(A)(3)(p), and 5164.95(C)(1)(r).

<sup>2</sup> R.C. 3319.2212, 4743.09(A)(3)(f) and (A)(4)(f), and 5164.95(C)(1)(b).

<sup>3</sup> R.C. 5164.95(C)(2)(c).

<sup>4</sup> R.C. 5164.95(C)(1) and (2).

## **In-person visits for initial schedule II prescriptions**

Adds a provision permitting a health care professional licensing board to adopt rules that require an initial in-person visit before a health care professional may prescribe a schedule II controlled substance to a new patient, equivalent to applicable state and federal requirements. (However, an initial in-person visit cannot be required if one of the following is the case: (1) the patient's medical record indicates that the patient is receiving hospice or palliative care, (2) the patient is receiving medication-assisted treatment or any other medication for opioid-use disorder, (3) the patient has a mental health condition, or (4) the patient is in an emergency situation, as determined by the clinical judgment of a health care professional.)<sup>6</sup>

## **Pharmacists providing telehealth services**

Regarding the House-passed authority of pharmacists to provide telehealth services, specifies that a pharmacist is prohibited from using telehealth mechanisms or other virtual means to perform any of the actions involved in dispensing a dangerous drug unless the action is authorized under rules adopted by the State Board of Pharmacy.<sup>7</sup>

## **Exemption from rule reduction**

Exempts telehealth rules adopted by a health care professional licensing board under the bill from the current law requirement that a state agency eliminate two existing rules for every new rule adopted.<sup>8</sup> (The House included comparable provisions for rules regarding insurance, Medicaid, and mental health and addiction services.<sup>9</sup>)

## **Suspension of existing rules**

Adds a provision permitting a health care professional licensing board to suspend the enforcement of any its existing rules regarding telehealth and in-person services, and requirements for the prescribing of controlled substances, while the board amends or adopts new rules that are consistent with the bill's provisions.<sup>10</sup>

## **Charging fees**

Prohibits a health care professional providing telehealth services from charging a patient any of the following: (1) a facility fee, (2) an origination fee, or (3) any fee associated with the

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<sup>5</sup> R.C. 4743.09(B)(2)(a).

<sup>6</sup> R.C. 4743.09(B)(2)(b) and (B)(2)(c)(i).

<sup>7</sup> R.C. 4729.285.

<sup>8</sup> R.C. 4743.09(B)(1).

<sup>9</sup> R.C. 3902.30(F), 5119.368(J), and 5164.95(B).

<sup>10</sup> Section 6.

cost of equipment used at the provider site to provide telehealth services. (Under both existing law and the House version, the same fees cannot be charged to a health plan issuers.)<sup>11</sup>

### **Practice of dentistry**

Adds a specification that the bill's provisions are not to be interpreted as altering any law related to the practice of dentistry or rule adopted by the State Dental Board that is in effect on the bill's effective date.<sup>12</sup>

### **Legislative intent**

Adds a declaration that the General Assembly's intent, in enacting the bill's telehealth provisions, is to expand access to and investment in telehealth services in congruence with the expansion and investment in telehealth services made during the COVID-19 pandemic.<sup>13</sup>

### **Recommending medical marijuana**

Adds the following provisions regarding telehealth and the existing Medical Marijuana Control Program:

--Permits a physician with the authority to recommend medical marijuana to use telehealth services as an alternative when conducting the patient examination required before medical marijuana may be recommended;<sup>14</sup>

--For purposes of rules adopted by a health care professional licensing board that require an in-person visit prior to prescribing a schedule II controlled substance to a new patient, specifies that medical marijuana is not considered to be such a drug.<sup>15</sup>

### **Medicaid provider credentialing program**

Adds a requirement for the Department of Medicaid to establish a credentialing program that includes a credentialing committee to review the competence, professional conduct, and quality of care provided by Medicaid providers.<sup>16</sup>

### **State Medical Board One-Bite Program**

Adds revisions to the law governing the State Medical Board's One-Bite Program for monitoring and treatment of practitioners impaired by substance use disorders, as follows:<sup>17</sup>

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<sup>11</sup> R.C. 4743.09(E)(1).

<sup>12</sup> R.C. 4715.438.

<sup>13</sup> R.C. 4743.09(G).

<sup>14</sup> R.C. 4731.30(C)(1)(b)(i) and (D)(2).

<sup>15</sup> R.C. 4743.09(B)(2)(c)(ii).

<sup>16</sup> R.C. 5164.291.

<sup>17</sup> R.C. 4731.251, 4731.252, 4731.253, and 4731.254.

--Permits certain applicants for licensure to participate in the program, rather than only licensed practitioners;

--Specifies that an applicant for licensure participating in the program who discloses to the Board previous impairment and satisfies certain conditions is not subject to discipline for that impairment;

--Requires the Board, if it grants an applicant participating in the program a license to practice, to refer the practitioner to the monitoring organization that conducts the program and requires the practitioner to enter into a monitoring agreement with that organization.

### **Suspension of open enrollment and other insurance programs**

Adds a provision that extends to January 1, 2026 (from January 1, 2022), the existing law under which the operation of the following insurance-related programs are suspended:<sup>18</sup>

--Ohio's Open Enrollment Program;

--Ohio's Health Reinsurance Program;

--Option for conversion from a group to individual contract under an existing contract with a health insuring corporation (HIC);

--Option for conversion from a nongroup contract to a contract issued on a direct payment basis under an existing contract with a HIC;

--Option for conversion from a group policy to an individual policy under an existing policy with a sickness and accident insurer.

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<sup>18</sup> Sections 3 and 4.