

CONFERENCE COMMITTEE REPORT

HB 570

2016 Regular Session

Schroder

May 24, 2016

To the Honorable Speaker and Members of the House of Representatives and the Honorable President and Members of the Senate.

Ladies and Gentlemen:

We, the conferees appointed to confer over the disagreement between the two houses concerning House Bill No. 570 by Representative Schroder, recommend the following concerning the Engrossed bill:

1. That the set of Senate Committee Amendments by the Committee on Health and Welfare (#2374) be adopted.
2. That the set of amendments by the Legislative Bureau (#2653) be adopted.
3. That Senate Floor Amendments Nos. 1 and 3 by Senator Claitor (#2811) be adopted.
4. That Senate Floor Amendment No. 2 by Senator Claitor (#2811) be rejected.
5. That the following amendments to the Engrossed bill be adopted:

AMENDMENT NO. 1

On page 1, line 2, after "reenact" delete the remainder of the line and insert in lieu thereof "R.S. 37:1271(B)(2)(b) and (4) and R.S. 40:1223.3(5) and 1223.4(A) and to enact R.S. 37:1271(B)(6) and R.S. 40:1223.5,"

AMENDMENT NO. 2

On page 1, at the beginning of line 3, delete "37:1271(B)(2)(b)(iii),"

AMENDMENT NO. 3

In Amendment No. 3 by the Senate Committee on Health and Welfare (#2374), on page 1, line 9, after "referrals;" delete the remainder of the line and insert in lieu thereof the following:

"to provide for venue in suits involving care rendered via telehealth or telemedicine;" and after "regulations;" and before "and" insert "to provide for an effective date;"

AMENDMENT NO. 4

In Amendment No. 3 by the Senate Committee on Health and Welfare (#2374), on page 1, delete line 10 in its entirety

AMENDMENT NO. 5

In Amendment No. 7 by the Senate Committee on Health and Welfare (#2374), on page 2, delete lines 6 through 8 in their entirety and insert in lieu thereof the following:

"Venue in any suit filed involving care rendered via telehealth pursuant to the provisions of this Part or telemedicine pursuant to the provisions of R.S. 37:1271(B) shall be proper and instituted before the district court of the judicial district in which the patient resides or in the district court having jurisdiction in the parish where the

patient was physically located during the provision of the telehealth or telemedicine service."

AMENDMENT NO. 6

In Amendment No. 7 by the Senate Committee on Health and Welfare (#2374), on page 2, at the beginning of line 9, delete "encounter."

AMENDMENT NO. 7

In Amendment No. 4 by the Legislative Bureau (#2653), on line 13, delete "No. 2" and insert in lieu thereof "No. 4"

AMENDMENT NO. 8

In Amendment No. 5 by the Legislative Bureau (#2653), on line 17, delete "No. 2" and insert in lieu thereof "No. 4"

AMENDMENT NO. 9

In Senate Floor Amendment No. 3 by Senator Claitor (#2811), on line 10, after "R.S. 37:1271(B)(2)(b)" delete the remainder of the line and insert in lieu thereof "and (4) are hereby amended and reenacted and R.S. 37:1271(B)(6) is hereby enacted to read as"

AMENDMENT NO. 10

In Senate Floor Amendment No. 3 by Senator Claitor (#2811), on line 29, delete "Provides" and insert in lieu thereof "If necessary, provides"

AMENDMENT NO. 11

In Senate Floor Amendment No. 3 by Senator Claitor (#2811), on line 30, delete "if necessary"

AMENDMENT NO. 12

In Senate Floor Amendment No. 3 by Senator Claitor (#2811), between lines 38 and 39, insert the following:

** * *

(6) Venue in any suit filed involving care rendered via telemedicine shall be in accordance with the provisions of R.S. 40:1223.5."

Respectfully submitted,

Representative John M. Schroder

Senator Dan Claitor

Representative Frank A. Hoffmann

Senator Fred Mills

Representative J. Kevin Pearson

Senator Conrad Appel

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

CONFERENCE COMMITTEE REPORT DIGEST

HB 570

2016 Regular Session

Schroder

Keyword and oneliner of the instrument as it left the House

HEALTH SERVICES: Provides relative to the practice of telemedicine

Report adopts Senate amendments to:

1. Restore present law within the La. Telehealth Access Act (R.S. 40:1223.1 et seq.) which defines "synchronous interaction", in part, as entailing interaction via two-way video and audio transmissions simultaneously.
2. Require that physicians who practice telemedicine do all of the following:
 - (a) Create a medical record on each patient and make the record available to the board upon request.
 - (b) If necessary, provide a referral to a physician in this state or arrange for follow-up care in this state as may be indicated.
3. Authorize physicians practicing telemedicine and healthcare providers delivering telehealth services to utilize interactive audio without the requirement of video in cases in which, after review of the patient's medical records, the physician or other healthcare provider determines that he is able to meet the same standard of care as if the care was provided in person.
4. Provide that venue in any lawsuit filed involving care rendered via telemedicine shall be proper in the district court for the parish in which the patient resides or in the district court for the parish where the patient was physically located during the telemedicine encounter; stipulating that the patient is considered physically located at the originating site as defined in present law.
5. Provide that proposed law becomes effective upon signature of the governor or lapse of time for gubernatorial action.
6. Make technical changes.

Report rejects Senate amendments which would have:

1. Amended title citations.

Report amends the bill to:

1. Correct title citations.
2. Revise proposed law relative to venue in lawsuits involving care rendered via certain methods to provide that venue in lawsuits involving care rendered via telehealth or telemedicine shall be proper in the district court for the parish in which the patient resides, or in the district court for the parish where the patient was physically located during the provision of the telehealth or telemedicine service.

3. Make technical changes.

Digest of the bill as proposed by the Conference Committee

Present law relative to the practice of medicine (R.S. 37:1261 et seq.) requires that a physician practicing practice telemedicine in La. do all of the following:

- (1) Use the same standard of care as he does in person.
- (2) Possess an unrestricted license to practice medicine in Louisiana.
- (3) Upon the patient's consent, has access to his records.
- (4) Maintain a physical office within the state or an arrangement with a physician who maintains a physical office within the state, for the purpose of referrals and follow up visits when necessary.

Proposed law deletes the requirement that a physician maintain an office in La. or an arrangement with a physician who maintains an office within the state. Otherwise, retains present law, and adds a requirement that a physician practicing practice telemedicine in La. do all of the following:

- (1) Create a medical record on each patient and make the record available to the La. State Board of Medical Examiners upon request.
- (2) If necessary, provide a referral to a physician in this state or arrange for follow-up care in this state as may be indicated.

Present law relative to telehealth access (R.S. 40:1223.1 et seq.) authorizes each state agency and professional or occupational licensing board or commission that regulates the practice of healthcare providers other than physicians to promulgate administrative rules necessary to provide for, promote, and regulate the use of telehealth in the delivery of healthcare services. Proposed law requires that such rules be consistent with and no more restrictive than present law.

Proposed law authorizes physicians practicing telemedicine and healthcare providers delivering telehealth services to utilize interactive audio without the requirement of video in cases in which, after review of the patient's medical records, the physician or other healthcare provider determines that he is able to meet the same standard of care as if the care was provided in person.

Proposed law provides that venue in any lawsuit filed involving care rendered via telehealth or telemedicine shall be proper in the district court for the parish in which the patient resides or in the district court for the parish where the patient was physically located during the provision of the telehealth or telemedicine service. Stipulates that the patient is considered physically located at the originating site as defined in present law.

Effective upon signature of governor or upon lapse of time for gubernatorial action.

(Amends R.S. 37:1271(B)(2)(b) and (4) and R.S. 40:1223.3(5) and 1223.4(A); Adds R.S. 37:1271(B)(6) and R.S. 40:1223.5)