Senate Health and Human Services Committee

Sophie Walsh 271-3469

SB 252, relative to criteria for providing certain medical care through telemedicine.

Hearing Date: March 12, 2025

Time Opened: 9:47 a.m. **Time Closed**: 10:17 a.m.

Members of the Committee Present: Senators Rochefort, Avard, Birdsell, Prentiss and Long

Members of the Committee Absent: None

Bill Analysis: This bill modifies the requirements for the use of telemedicine to prescribe non-opioids and opioids classified in schedules II through IV and for the issuing of prescriptions for spectacle lenses or contact lenses.

Sponsors:

Sen. Prentiss	Sen. Fenton	Sen. Watters
Sen. Long	Sen. Altschiller	Sen. Perkins Kwoka
Sen. Rosenwald	Rep. Nagel	Rep. Hakken-Phillips

Who supports the bill: 148 people signed in support of the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (Sophie.Walsh@gc.nh.gov).

Who opposes the bill: 2 people signed in opposition of the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (Sophie.Walsh@gc.nh.gov).

Who is neutral on the bill: 1 person signed in neutral to the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (Sophie.Walsh@gc.nh.gov).

Summary of testimony presented:

Senator Suzanne Prentiss, Senate District 5

- Senator Prentiss stated that this bill will help build access to health care for incarcerated individuals through telehealth and telemedicine.
- There are inmates who have care while incarcerated, but do not have an established care mechanism upon release.

- When people have access to health care, they are able to address their health care needs, take care of themselves, get back to work, and lead productive lives.
- The incarcerated are a high utilization population. There are substance use disorder issues, mental health issues, and a number of medical conditions that individuals come into incarceration with or develop while incarcerated.
- The purpose of this bill is to establish a relationship while individuals are incarcerated, so when they are released, they have a point of contact to continue their health care.
- When people don't have health care, they go to emergency departments for care. While they may be in an emergency, this emergency could have been prevented with proper health care. Thus, implementing this will save costs for the overall health care system over time.
- Senator Prentiss explained that a commission has been established to work through this, and they have identified findings directly relevant to this proposal.
- They have heard from nurse practitioners, who would like to be a part of this effort. They have not talked to physician assistants, but it makes sense to include them as well.
- Senator Prentiss explained that she is looking to remove Section 2 Lines 12-17 regarding telemedicine in eye care. She explained it would be prudent to remove this section because there is an exception here, as one needs to have a physical exam for eye care.

Jonathan Ballard, MD, Department of Health and Human Services

- Dr. Ballard stated that he is DHHS's Chief Medical Officer and also served as Chair of the Commission to Study Telehealth Services. He submitted the Commission's final report to the Committee.
- Dr. Ballard explained that during the pandemic, the federal government established flexibilities still in effect today to allow the prescription of controlled medications and the overall practice of telehealth to be performed.
- The Commission to Study Telehealth Services heard from a number of representatives, patients, and providers. They heard many complaints about New Hampshire law being more strict than federal law. Evidence that the practice of telehealth is safe and effective for many conditions was presented.
- The Commission's final report includes data on how telehealth took off during the pandemic and is still maintaining. It maintains access in rural areas, for homebound individuals, and those who must remain at work.
- Dr. Ballard explained that the Commission had essentially one recommendation, which was to amend current New Hampshire statute that prohibits the prescribing of controlled medications via telehealth without the need for an in-person visit, and to align state statute with federal laws and regulations.

- Senator Prentiss emphasized the importance of the patient-provider relationship and reiterated that the in-person nature of those relationships has not been forgotten. However, it is important to look at the Commission's findings and see if a balance can be found.
- Senator Birdsell emphasized that she is not concerned about telemedicine, but she does have some concerns about taking out language about establishing a physician-patient relationship. She asked if they should have at least an interview before they start seeing a telemedicine doctor who prescribes opioids.
- Dr. Ballard explained that the Commission heard from many psychiatrists and substance use disorder treatment providers on the non-opioid side that when that window opens for an individual, the easy access for engaging is a good tool for patients.
- The Commission heard from hospice providers on the opioid side that it was very difficult for them to prescribe what is necessary to alleviate their patients' suffering.
- Dr. Ballard emphasized that providers must still follow standards of care in these situations.
- Senator Birdsell asked if this typically is happening in hospice.
- Dr. Ballard explained that the provider who came forward to the Commission spoke about how they could not leave their office to treat their homebound, elderly patient who was on a small amount of opioids. It was cumbersome and physically painful for that patient to come into the office.
- Senator Birdsell emphasized that she is not saying that the patient-provider relationship cannot form over telemedicine, and asked if Dr. Ballard thinks they should at least have a first conversation before authorizing the use of opioids.
- Dr. Ballard confirmed and said that would be the standard practice.
- Dr. Ballard noted that they could eliminate the opioid prescribing through telehealth without the in-person follow-up by just leaving the non-opioid language in the bill.
- Senator Long asked if Dr. Ballard could define what a small amount is.
- Dr. Ballard explained that in that particular scenario, it was small in both quantity and dose.
- Senator Rochefort referenced the Ryan Haight Act of 2008 and asked how this is affected by the temporary rules.
- Dr. Ballard explained that according to the Ryan Haight Act, an in-person visit is needed to prescribe a controlled medication.
- In 2020, there was an initial relaxation of this law, which was then extended twice.
- The federal Department of Health and Human Services and the Drug Enforcement Administration then established rules around the practice of

telemedicine while balancing patient access. This flexibility was ultimately extended through December 2025.

- While new rules may be published anytime between now and the end of 2025, New Hampshire statute is currently more strict than federal regulations.
- Dr. Ballard noted that in New Hampshire there is a mandatory community re-entry benefit for Medicaid. New Hampshire also received a waiver to allow Medicaid beginning 30-45 days before an individual is released from incarceration.
- Senator Avard asked if this disproportionately affects those in hospice.
- Dr. Ballard explained this is the law for all providers. If an individual was in need of a controlled medication and they could only do a telemedicine visit, they would not be able to be prescribed it.

Jim Monahan, New Hampshire Nurse Practitioners

- Mr. Monahan stated that Senator Prentiss' work on this is timely and he would be happy to continue this work through amendments.
- Mr. Monahan explained that the work on updating telehealth in statute has most commonly been done is RSA 329, with additional updates in RSA 326, also known as the Nurse Practice Act.
- In order to be consistent with the work already done, Mr. Monahan suggests that amendment to RSA 326 be included in this as well.
- Mr. Monahan emphasized the need for alignment between state and federal law, as the disparities can be confusing for patients and providers.
- Mr. Monahan referenced prior testimony about limiting this to non-opioids and emphasized that we should be careful with this. He suggested talking with substance use disorder providers to see what the impact would be on them, particularly in rural areas.
- Mr. Monahan referenced line 10 of the bill and explained that physician assistants are covered by this, as they are regulated under RSA 329.
- Senator Rochefort asked if amendment language could be provided for the inclusion of RSA 326, and Mr. Monahan confirmed.
- Senator Prentiss explained that she is aware of the inclusion of physician assistants in RSA 329 and emphasized that she wants to be clear in statute, so she will reach out to the physician assistants.

Erin Thorvaldson, Council of State Governments Justice Center

- Ms. Thorvaldson stated that she is speaking in support of this bill because it is a crucial step toward improving health care access for a vulnerable population.
- The Council of State Governments' (CSG) findings show that individuals releasing from prison overwhelmingly rely on Medicaid for behavioral health

services, with 95% of Medicaid beneficiaries using Medicaid for substance use disorder and mental health treatments between FY2014-FY2023.

- Expanding telemedicine services will provide a necessary bridge to individuals facing barriers upon release.
- Ms. Thorvaldson stated that one of the most critical aspects of this bill is the expansion of telemedicine for prescribing non-opioid and opioid controlled substances.
- In February 2024, the New Hampshire Department of Corrections reported that 32% of incarcerated individuals were receiving medications for opioid use disorder and 80% of people with opioid use disorder were on such medications.
- However, access to these medications often become disrupted upon release. This increases risk of relapse, overdose, and justice system involvement.
- CSG's findings show that individuals post-release frequently utilize emergency department services with substance use disorder related conditions, mental health crises, and opioid related overdoses.
- Telemedicine plays a crucial role in reducing these costly and preventable hospital visits because they provide timely access to care before conditions escalate.
- CSG also found that of released Medicaid beneficiaries, 71% use Medicaid within one month of release. This demonstrates the urgent need for medical services upon re-entry, which could be efficiently addressed through telemedicine-based consultations.

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Date Hearing Report completed: March 18, 2025