

SENATE BILL NO. 619
(Second Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 619 (Second Reprint) with my recommendations for reconsideration.

This bill permits, for a period of 270 days following the bill's enactment, vulnerable patients, including patients with a developmental disability, patients residing in long-term care facilities, and patients receiving hospice care to receive authorization or continued authorization via telehealth and telemedicine for the use of medical cannabis. Thereafter, the bill permits all other patients to receive continued authorization via telehealth and telemedicine for the use of medical cannabis, provided that the patient has had at least one previous in-office consultation with a health care practitioner prior to the patient's initial authorization and the patient continues to have at least one in-office consultation on an annual basis for as long as the authorization continues.

To minimize exposure to Coronavirus disease 2019 ("COVID-19"), and under the authority of P.L.2020, c.3, which authorized the Director of the Division of Consumer Affairs ("Director") to waive any requirement of State law or regulation that may be necessary to facilitate the provision of health care services using telemedicine and telehealth during the Public Health Emergency declared in response to COVID-19, the Director issued Administrative Order 2020-15 on August 11, 2020. The Administrative Order permits a physician issuing a certification for the use of medical cannabis to utilize a telemedicine encounter to satisfy the prescribing requirements, provided it is consistent with the standard of care and that certain other conditions are satisfied. Administrative Order 2020-15 took effect immediately

and remains in place through the end of the Public Health Emergency and State of Emergency declared in Executive Order No. 103 (2020), or the end of the telemedicine allowance designated by the United States Secretary of Health and Human Services, whichever occurs first.

I commend the bill's sponsors for working to facilitate access to medical cannabis for those who need it and I agree that telehealth authorization should continue even after the emergencies in response to COVID-19 are lifted. I am concerned, however, that the bill places undue limitations on the use of telehealth in this context that are overly restrictive and unnecessary for patient safety. For example, the bill would immediately, and for a period of nine months, disqualify many patients who have been successfully utilizing telehealth and telemedicine services in accordance with the authorization provided by the Director's Administrative Order. These patients would subsequently be required to submit to mandatory in-person office visits when their eligibility resumes. I do not agree with resurrecting old barriers to access, particularly as the pandemic continues.

I am therefore recommending revisions that will mirror the broad telehealth and telemedicine authorization granted in the Administrative Order. My amendments will authorize telehealth and telemedicine for all patients, provided it is otherwise consistent with the standard of care. Importantly, my revisions allow practitioners to require in-person visits either as part of the initial consultation or the continued authorization, when the practitioner determines an in-person visit is necessary for a particular patient.

Accordingly, I herewith return Senate Bill No. 619

(Second Reprint) and recommend that it be amended as follows:

Page 2, Section 1, Line 28:

Delete "For a period of 270 days following the effective date of" and insert "A health care practitioner may initially authorize any qualifying patient for the medical use of cannabis using telemedicine or telehealth, provided that the use of telemedicine or telehealth, rather than an in-person visit, is consistent with the standard of care required for assessment and treatment of the patient's condition. Following the initial authorization, the practitioner may provide continued authorization for the use of medical cannabis via telemedicine or telehealth if the practitioner determines that an in-person visit is not required, consistent with the standard of care. The practitioner may require in-office consultations if additional consultations are necessary to continue to authorize the patient's use of medical cannabis."

Page 2, Section 1, Lines 29-44:

Delete in their entirety

Page 3, Section 1, Lines 1-11:

Delete in their entirety

[seal]

Respectfully,

/s/ Philip D. Murphy

Governor

Attest:

/s/ Parimal Garg

Chief Counsel to the Governor