
SENATE BILL 5175

State of Washington

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By Senators Becker, Frockt, Angel, Rivers, Cleveland, Dammeier, Keiser, Fain, Parlette, Darneille, Pedersen, Habib, Kohl-Welles, and Mullet

Read first time 01/15/15. Referred to Committee on Health Care.

1 AN ACT Relating to telemedicine; amending RCW 70.41.020 and
2 70.41.230; adding a new section to chapter 41.05 RCW; adding a new
3 section to chapter 48.43 RCW; adding a new section to chapter 74.09
4 RCW; creating new sections; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
7 recognize the application of telemedicine as a reimbursable service
8 by which an individual receives medical services from a health care
9 provider without in person contact with the provider. It is also the
10 intent of the legislature to reduce the compliance requirements on
11 hospitals when granting privileges or associations to telemedicine
12 physicians.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05
14 RCW to read as follows:

15 (1) A health plan offered to employees and their covered
16 dependents under this chapter issued or renewed on or after the
17 effective date of this section shall reimburse a provider for a
18 health care service provided to a covered person through telemedicine
19 or store and forward technology if:

1 (a) The plan provides coverage of the health care service when
2 provided in-person by the provider; and

3 (b) The health care service is medically necessary.

4 (2)(a) If the service is provided through store and forward
5 technology there must be an associated office visit between the
6 covered person and the referring health care provider. Nothing in
7 this section prohibits the use of telemedicine for the associated
8 office visit.

9 (b) For purposes of this section, reimbursement of store and
10 forward technology is available only for those covered services
11 specified in the negotiated agreement between the health plan and
12 health care provider.

13 (3) An originating site for a telemedicine health care service
14 subject to subsection (1) of this section includes a:

15 (a) Hospital;

16 (b) Rural health clinic;

17 (c) Federally qualified health center;

18 (d) Physician's or other health care provider's office;

19 (e) Community mental health center;

20 (f) Skilled nursing facility; or

21 (g) Renal dialysis center, except an independent renal dialysis
22 center.

23 (4) Any originating site under subsection (3) of this section may
24 charge a facility fee for infrastructure and preparation of the
25 patient. Reimbursement must be subject to a negotiated agreement
26 between the originating site and the health plan. A distant site or
27 any other site not identified in subsection (3) of this section may
28 not charge a facility fee.

29 (5) The plan may not distinguish between originating sites that
30 are rural and urban in providing the coverage required in subsection
31 (1) of this section.

32 (6) The plan may subject coverage of a telemedicine or store and
33 forward technology health service under subsection (1) of this
34 section to all terms and conditions of the plan, including, but not
35 limited to, utilization review, prior authorization, deductible,
36 copayment, or coinsurance requirements that are applicable to
37 coverage of a comparable health care service provided in-person.

38 (7) This section does not require the plan to reimburse:

39 (a) An originating site for professional fees;

1 (b) A provider for a health care service that is not a covered
2 benefit under the plan; or

3 (c) An originating site or health care provider when the site or
4 provider is not a contracted provider under the plan.

5 (8) For purposes of this section:

6 (a) "Distant site" means the site at which a physician or other
7 licensed provider, delivering a professional service, is physically
8 located at the time the service is provided through telemedicine;

9 (b) "Health care service" has the same meaning as in RCW
10 48.43.005;

11 (c) "Hospital" means a facility licensed under chapter 70.41,
12 71.12, or 72.23 RCW;

13 (d) "Originating site" means the physical location of a patient
14 receiving health care services through telemedicine;

15 (e) "Provider" has the same meaning as in RCW 48.43.005;

16 (f) "Store and forward technology" means use of an asynchronous
17 transmission of a covered person's medical information from an
18 originating site to the health care provider at a distant site which
19 results in medical diagnosis and management of the covered person,
20 and does not include the use of audio-only telephone, facsimile, or
21 electronic mail; and

22 (g) "Telemedicine" means the delivery of health care services
23 through the use of interactive audio and video technology, permitting
24 real-time communication between the patient at the originating site
25 and the provider, for the purpose of diagnosis, consultation, or
26 treatment. For purposes of this section only, "telemedicine" does not
27 include the use of audio- only telephone, facsimile, or electronic
28 mail.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.43
30 RCW to read as follows:

31 (1) For health plans issued or renewed on or after the effective
32 date of this section, a health carrier shall reimburse a provider for
33 a health care service provided to a covered person through
34 telemedicine store and forward technology if:

35 (a) The plan provides coverage of the health care service when
36 provided in-person by the provider; and

37 (b) The health care service is medically necessary.

38 (2)(a) If the service is provided through store and forward
39 technology there must be an associated office visit between the

1 covered person and the referring health care provider. Nothing in
2 this section prohibits the use of telemedicine for the associated
3 office visit.

4 (b) For purposes of this section, reimbursement of store and
5 forward technology is available only for those covered services
6 specified in the negotiated agreement between the health carrier and
7 the health care provider.

8 (3) An originating site for a telemedicine health care service
9 subject to subsection (1) of this section includes a:

10 (a) Hospital;

11 (b) Rural health clinic;

12 (c) Federally qualified health center;

13 (d) Physician's or other health care provider's office;

14 (e) Community mental health center;

15 (f) Skilled nursing facility; or

16 (g) Renal dialysis center, except an independent renal dialysis
17 center.

18 (4) Any originating site under subsection (3) of this section may
19 charge a facility fee for infrastructure and preparation of the
20 patient. Reimbursement must be subject to a negotiated agreement
21 between the originating site and the health carrier. A distant site
22 or any other site not identified in subsection (3) of this section
23 may not charge a facility fee.

24 (5) A health carrier may not distinguish between originating
25 sites that are rural and urban in providing the coverage required in
26 subsection (1) of this section.

27 (6) A health carrier may subject coverage of a telemedicine or
28 store and forward technology health service under subsection (1) of
29 this section to all terms and conditions of the plan in which the
30 covered person is enrolled, including, but not limited to,
31 utilization review, prior authorization, deductible, copayment, or
32 coinsurance requirements that are applicable to coverage of a
33 comparable health care service provided in-person.

34 (7) This section does not require a health carrier to reimburse:

35 (a) An originating site for professional fees;

36 (b) A provider for a health care service that is not a covered
37 benefit under the plan; or

38 (c) An originating site or health care provider when the site or
39 provider is not a contracted provider under the plan.

40 (8) For purposes of this section:

1 (a) "Distant site" means the site at which a physician or other
2 licensed provider, delivering a professional service, is physically
3 located at the time the service is provided through telemedicine;

4 (b) "Health care service" has the same meaning as in RCW
5 48.43.005;

6 (c) "Hospital" means a facility licensed under chapter 70.41,
7 71.12, or 72.23 RCW;

8 (d) "Originating site" means the physical location of a patient
9 receiving health care services through telemedicine;

10 (e) "Provider" has the same meaning as in RCW 48.43.005;

11 (f) "Store and forward technology" means use of an asynchronous
12 transmission of a covered person's medical information from an
13 originating site to the health care provider at a distant site which
14 results in medical diagnosis and management of the covered person,
15 and does not include the use of audio-only telephone, facsimile, or
16 electronic mail; and

17 (g) "Telemedicine" means the delivery of health care services
18 through the use of interactive audio and video technology, permitting
19 real-time communication between the patient at the originating site
20 and the provider, for the purpose of diagnosis, consultation, or
21 treatment. For purposes of this section only, "telemedicine" does not
22 include the use of audio-only telephone, facsimile, or electronic
23 mail.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.09
25 RCW to read as follows:

26 (1) Upon initiation or renewal of a contract with the Washington
27 state health care authority to administer a medicaid managed care
28 plan, a managed health care system shall reimburse a provider for a
29 health care service provided to a covered person through telemedicine
30 store and forward technology if:

31 (a) The medicaid managed care plan in which the covered person is
32 enrolled provides coverage of the health care service when provided
33 in-person by the provider; and

34 (b) The health care service is medically necessary.

35 (2)(a) If the service is provided through store and forward
36 technology there must be an associated visit between the covered
37 person and the referring health care provider. Nothing in this
38 section prohibits the use of telemedicine for the associated office
39 visit.

1 (b) For purposes of this section, reimbursement of store and
2 forward technology is available only for those services specified in
3 the negotiated agreement between the managed health care system and
4 health care provider.

5 (3) An originating site for a telemedicine health care service
6 subject to subsection (1) of this section includes a:

7 (a) Hospital;

8 (b) Rural health clinic;

9 (c) Federally qualified health center;

10 (d) Physician's or other health care provider's office;

11 (e) Community mental health center;

12 (f) Skilled nursing facility; or

13 (g) Renal dialysis center, except an independent renal dialysis
14 center.

15 (4) Any originating site under subsection (3) of this section may
16 charge a facility fee for infrastructure and preparation of the
17 patient. Reimbursement must be subject to a negotiated agreement
18 between the originating site and the managed health care system. A
19 distant site or any other site not identified in subsection (3) of
20 this section may not charge a facility fee.

21 (5) A managed health care system may not distinguish between
22 originating sites that are rural and urban in providing the coverage
23 required in subsection (1) of this section.

24 (6) A managed health care system may subject coverage of a
25 telemedicine or store and forward technology health service under
26 subsection (1) of this section to all terms and conditions of the
27 plan in which the covered person is enrolled, including, but not
28 limited to, utilization review, prior authorization, deductible,
29 copayment, or coinsurance requirements that are applicable to
30 coverage of a comparable health care service provided in-person.

31 (7) This section does not require a managed health care system to
32 reimburse:

33 (a) An originating site for professional fees;

34 (b) A provider for a health care service that is not a covered
35 benefit under the plan; or

36 (c) An originating site or health care provider when the site or
37 provider is not a contracted provider under the plan.

38 (8) For purposes of this section:

1 (a) "Distant site" means the site at which a physician or other
2 licensed provider, delivering a professional service, is physically
3 located at the time the service is provided through telemedicine;

4 (b) "Health care service" has the same meaning as in RCW
5 48.43.005;

6 (c) "Hospital" means a facility licensed under chapter 70.41,
7 71.12, or 72.23 RCW;

8 (d) "Managed health care system" means any health care
9 organization, including health care providers, insurers, health care
10 service contractors, health maintenance organizations, health
11 insuring organizations, or any combination thereof, that provides
12 directly or by contract health care services covered under this
13 chapter and rendered by licensed providers, on a prepaid capitated
14 basis and that meets the requirements of section 1903(m)(1)(A) of
15 Title XIX of the federal social security act or federal demonstration
16 waivers granted under section 1115(a) of Title XI of the federal
17 social security act;

18 (e) "Originating site" means the physical location of a patient
19 receiving health care services through telemedicine;

20 (f) "Provider" has the same meaning as in RCW 48.43.005;

21 (g) "Store and forward technology" means use of an asynchronous
22 transmission of a covered person's medical information from an
23 originating site to the health care provider at a distant site which
24 results in medical diagnosis and management of the covered person,
25 and does not include the use of audio-only telephone, facsimile, or
26 electronic mail; and

27 (h) "Telemedicine" means the delivery of health care services
28 through the use of interactive audio and video technology, permitting
29 real-time communication between the patient at the originating site
30 and the provider, for the purpose of diagnosis, consultation, or
31 treatment. For purposes of this section only, "telemedicine" does not
32 include the use of audio-only telephone, facsimile, or electronic
33 mail.

34 (8) To measure the impact on access to care for underserved
35 communities and costs to the state and the medicaid managed health
36 care system for reimbursement of telemedicine services, the
37 Washington state health care authority, using existing data and
38 resources, shall provide a report to the appropriate policy and
39 fiscal committees of the legislature no later than December 31, 2018.

1 **Sec. 5.** RCW 70.41.020 and 2010 c 94 s 17 are each amended to
2 read as follows:

3 Unless the context clearly indicates otherwise, the following
4 terms, whenever used in this chapter, shall be deemed to have the
5 following meanings:

6 (1) "Department" means the Washington state department of health.

7 (2) "Emergency care to victims of sexual assault" means medical
8 examinations, procedures, and services provided by a hospital
9 emergency room to a victim of sexual assault following an alleged
10 sexual assault.

11 (3) "Emergency contraception" means any health care treatment
12 approved by the food and drug administration that prevents pregnancy,
13 including but not limited to administering two increased doses of
14 certain oral contraceptive pills within seventy-two hours of sexual
15 contact.

16 (4) "Hospital" means any institution, place, building, or agency
17 which provides accommodations, facilities and services over a
18 continuous period of twenty-four hours or more, for observation,
19 diagnosis, or care, of two or more individuals not related to the
20 operator who are suffering from illness, injury, deformity, or
21 abnormality, or from any other condition for which obstetrical,
22 medical, or surgical services would be appropriate for care or
23 diagnosis. "Hospital" as used in this chapter does not include
24 hotels, or similar places furnishing only food and lodging, or simply
25 domiciliary care; nor does it include clinics, or physician's offices
26 where patients are not regularly kept as bed patients for twenty-four
27 hours or more; nor does it include nursing homes, as defined and
28 which come within the scope of chapter 18.51 RCW; nor does it include
29 birthing centers, which come within the scope of chapter 18.46 RCW;
30 nor does it include psychiatric hospitals, which come within the
31 scope of chapter 71.12 RCW; nor any other hospital, or institution
32 specifically intended for use in the diagnosis and care of those
33 suffering from mental illness, intellectual disability, convulsive
34 disorders, or other abnormal mental condition. Furthermore, nothing
35 in this chapter or the rules adopted pursuant thereto shall be
36 construed as authorizing the supervision, regulation, or control of
37 the remedial care or treatment of residents or patients in any
38 hospital conducted for those who rely primarily upon treatment by
39 prayer or spiritual means in accordance with the creed or tenets of
40 any well recognized church or religious denominations.

1 (5) "Person" means any individual, firm, partnership,
2 corporation, company, association, or joint stock association, and
3 the legal successor thereof.

4 (6) "Secretary" means the secretary of health.

5 (7) "Sexual assault" has the same meaning as in RCW 70.125.030.

6 (8) "Victim of sexual assault" means a person who alleges or is
7 alleged to have been sexually assaulted and who presents as a
8 patient.

9 (9) "Distant site" means the site at which a physician or other
10 licensed provider, delivering a professional service, is physically
11 located at the time the service is provided through telemedicine.

12 (10) "Originating site" means the physical location of a patient
13 receiving health care services through telemedicine.

14 (11) "Telemedicine" means the delivery of health care services
15 through the use of interactive audio and video technology, permitting
16 real-time communication between the patient at the originating site
17 and the provider, for the purpose of diagnosis, consultation, or
18 treatment. "Telemedicine" does not include the use of audio-only
19 telephone, facsimile, or electronic mail.

20 **Sec. 6.** RCW 70.41.230 and 2013 c 301 s 3 are each amended to
21 read as follows:

22 (1) Except as provided in subsection (3) of this section, prior
23 to granting or renewing clinical privileges or association of any
24 physician or hiring a physician, a hospital or facility approved
25 pursuant to this chapter shall request from the physician and the
26 physician shall provide the following information:

27 (a) The name of any hospital or facility with or at which the
28 physician had or has any association, employment, privileges, or
29 practice during the prior five years: PROVIDED, That the hospital may
30 request additional information going back further than five years,
31 and the physician shall use his or her best efforts to comply with
32 such a request for additional information;

33 (b) Whether the physician has ever been or is in the process of
34 being denied, revoked, terminated, suspended, restricted, reduced,
35 limited, sanctioned, placed on probation, monitored, or not renewed
36 for any professional activity listed in (b)(i) through (x) of this
37 subsection, or has ever voluntarily or involuntarily relinquished,
38 withdrawn, or failed to proceed with an application for any
39 professional activity listed in (b)(i) through (x) of this subsection

1 in order to avoid an adverse action or to preclude an investigation
2 or while under investigation relating to professional competence or
3 conduct:

4 (i) License to practice any profession in any jurisdiction;

5 (ii) Other professional registration or certification in any
6 jurisdiction;

7 (iii) Specialty or subspecialty board certification;

8 (iv) Membership on any hospital medical staff;

9 (v) Clinical privileges at any facility, including hospitals,
10 ambulatory surgical centers, or skilled nursing facilities;

11 (vi) Medicare, medicaid, the food and drug administration, the
12 national institute of health (office of human research protection),
13 governmental, national, or international regulatory agency, or any
14 public program;

15 (vii) Professional society membership or fellowship;

16 (viii) Participation or membership in a health maintenance
17 organization, preferred provider organization, independent practice
18 association, physician-hospital organization, or other entity;

19 (ix) Academic appointment;

20 (x) Authority to prescribe controlled substances (drug
21 enforcement agency or other authority);

22 (c) Any pending professional medical misconduct proceedings or
23 any pending medical malpractice actions in this state or another
24 state, the substance of the allegations in the proceedings or
25 actions, and any additional information concerning the proceedings or
26 actions as the physician deems appropriate;

27 (d) The substance of the findings in the actions or proceedings
28 and any additional information concerning the actions or proceedings
29 as the physician deems appropriate;

30 (e) A waiver by the physician of any confidentiality provisions
31 concerning the information required to be provided to hospitals
32 pursuant to this subsection; and

33 (f) A verification by the physician that the information provided
34 by the physician is accurate and complete.

35 (2) Except as provided in subsection (3) of this section, prior
36 to granting privileges or association to any physician or hiring a
37 physician, a hospital or facility approved pursuant to this chapter
38 shall request from any hospital with or at which the physician had or
39 has privileges, was associated, or was employed, during the preceding
40 five years, the following information concerning the physician:

1 (a) Any pending professional medical misconduct proceedings or
2 any pending medical malpractice actions, in this state or another
3 state;

4 (b) Any judgment or settlement of a medical malpractice action
5 and any finding of professional misconduct in this state or another
6 state by a licensing or disciplinary board; and

7 (c) Any information required to be reported by hospitals pursuant
8 to RCW 18.71.0195.

9 (3) In lieu of the requirements of subsections (1) and (2) of
10 this section, when granting or renewing privileges or association of
11 any physician providing telemedicine services, an originating site
12 hospital may rely on a distant site hospital's decision to grant or
13 renew clinical privileges or association of the physician if the
14 originating site hospital obtains reasonable assurances, through a
15 written agreement with the distant site hospital, that all of the
16 following provisions are met:

17 (a) The distant site hospital providing the telemedicine services
18 is a medicare participating hospital;

19 (b) Any physician providing telemedicine services at the distant
20 site hospital will be fully privileged to provide such services by
21 the distant site hospital;

22 (c) Any physician providing telemedicine services will hold and
23 maintain a valid license to perform such services issued or
24 recognized by the state of Washington; and

25 (d) With respect to any distant site physician who holds current
26 privileges at the originating site hospital whose patients are
27 receiving the telemedicine services, the originating site hospital
28 has evidence of an internal review of the distant site physician's
29 performance of these privileges and sends the distant site hospital
30 such performance information for use in the periodic appraisal of the
31 distant site physician. At a minimum, this information must include
32 all adverse events, as defined in RCW 70.56.010, that result from the
33 telemedicine services provided by the distant site physician to the
34 originating site hospital's patients and all complaints the
35 originating site hospital has received about the distant site
36 physician.

37 (4) The medical quality assurance commission shall be advised
38 within thirty days of the name of any physician denied staff
39 privileges, association, or employment on the basis of adverse
40 findings under subsection (1) of this section.

1 ~~((4))~~ (5) A hospital or facility that receives a request for
2 information from another hospital or facility pursuant to subsections
3 ~~(1) ((and—(2)))~~ through (3) of this section shall provide such
4 information concerning the physician in question to the extent such
5 information is known to the hospital or facility receiving such a
6 request, including the reasons for suspension, termination, or
7 curtailment of employment or privileges at the hospital or facility.
8 A hospital, facility, or other person providing such information in
9 good faith is not liable in any civil action for the release of such
10 information.

11 ~~((5))~~ (6) Information and documents, including complaints and
12 incident reports, created specifically for, and collected, and
13 maintained by a quality improvement committee are not subject to
14 discovery or introduction into evidence in any civil action, and no
15 person who was in attendance at a meeting of such committee or who
16 participated in the creation, collection, or maintenance of
17 information or documents specifically for the committee shall be
18 permitted or required to testify in any civil action as to the
19 content of such proceedings or the documents and information prepared
20 specifically for the committee. This subsection does not preclude:
21 (a) In any civil action, the discovery of the identity of persons
22 involved in the medical care that is the basis of the civil action
23 whose involvement was independent of any quality improvement
24 activity; (b) in any civil action, the testimony of any person
25 concerning the facts which form the basis for the institution of such
26 proceedings of which the person had personal knowledge acquired
27 independently of such proceedings; (c) in any civil action by a
28 health care provider regarding the restriction or revocation of that
29 individual's clinical or staff privileges, introduction into evidence
30 information collected and maintained by quality improvement
31 committees regarding such health care provider; (d) in any civil
32 action, disclosure of the fact that staff privileges were terminated
33 or restricted, including the specific restrictions imposed, if any
34 and the reasons for the restrictions; or (e) in any civil action,
35 discovery and introduction into evidence of the patient's medical
36 records required by regulation of the department of health to be made
37 regarding the care and treatment received.

38 ~~((6))~~ (7) Hospitals shall be granted access to information held
39 by the medical quality assurance commission and the board of
40 osteopathic medicine and surgery pertinent to decisions of the

1 hospital regarding credentialing and recredentialing of
2 practitioners.

3 ~~((7))~~ (8) Violation of this section shall not be considered
4 negligence per se.

5 NEW SECTION. **Sec. 7.** The medical quality assurance commission,
6 the nursing care quality assurance commission, and the board of
7 osteopathic medicine and surgery shall inform the health committees
8 of the legislature on recommended or adopted criteria under which
9 health care providers from outside of Washington state would be
10 permitted to deliver telemedicine services to Washington state
11 residents that will ensure the quality of services delivered and the
12 safety of those patients receiving those services. By December 1,
13 2014, the board and commissions shall provide an update to the
14 appropriate committees of the legislature on the progress of these
15 efforts.

16 NEW SECTION. **Sec. 8.** Sections 2 through 4 of this act take
17 effect January 1, 2017.

18 NEW SECTION. **Sec. 9.** The legislature encourages health plans to
19 adopt the requirements of sections 2 through 4 of this act prior to
20 January 1, 2017. Therefore, nothing in this act prohibits a plan from
21 adopting the requirements of sections 2 through 4 of this act prior
22 to January 1, 2017.

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