
SENATE BILL 6519

State of Washington

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2016 Regular Session

By Senators Becker, Cleveland, Dammeier, Frockt, Brown, Angel, Rivers, Bailey, Keiser, Conway, Fain, Carlyle, Rolfes, Chase, and Parlette

Read first time 01/22/16. Referred to Committee on Health Care.

1 AN ACT Relating to expanding patient access to health services
2 through telemedicine and establishing a collaborative for the
3 advancement of telemedicine; amending RCW 48.43.735, 41.05.700,
4 74.09.325, and 70.41.230; creating new sections; and providing an
5 effective date.

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

7 NEW SECTION. **Sec. 1.** The legislature recognizes telemedicine
8 will play an increasingly important role in the health care system.
9 Telemedicine is a meaningful and efficient way to treat patients and
10 control costs while improving access to care. The expansion of the
11 use of telemedicine should be thoughtfully and systematically
12 considered in Washington state in order to maximize its application
13 and expand access to care. Therefore, it is the intent of the
14 legislature to broaden the reimbursement opportunities for health
15 care services and establish a collaborative for the advancement of
16 telemedicine to provide guidance, research, and recommendations for
17 the benefit of professionals providing care through telemedicine.

18 NEW SECTION. **Sec. 2.** (1) The collaborative for the advancement
19 of telemedicine is created to enhance the understanding and use of
20 health services provided through telemedicine and other similar

1 models in Washington state. The collaborative shall be hosted by the
2 University of Washington telehealth services and shall be comprised
3 of representatives from the academic community, hospitals, clinics,
4 and health care providers in primary care and specialty practices,
5 carriers, and other interested parties.

6 (2) By July 1, 2016, the collaborative shall be convened. The
7 collaborative shall develop recommendations on improving
8 reimbursement and access to services, including originating site
9 restrictions, provider to provider consultative models, and
10 technologies and models of care not currently reimbursed; identify
11 the existence of telemedicine best practices, guidelines, billing
12 requirements, and fraud prevention developed by recognized medical
13 and telemedicine organizations; and explore other priorities
14 identified by members of the collaborative. After review of existing
15 resources, the collaborative shall explore and make recommendations
16 on whether to create a technical assistance center to support
17 providers in implementing or expanding services delivered through
18 telemedicine technologies.

19 (3) The collaborative must submit an initial progress report by
20 December 1, 2016, with follow-up policy reports including
21 recommendations by December 1, 2017, and December 1, 2018. The
22 reports shall be shared with the relevant professional associations,
23 governing boards or commissions, and the health care committees of
24 the legislature.

25 (4) The meetings of the board shall be open public meetings, with
26 meeting summaries available on a web page.

27 (5) The future of the collaborative shall be reviewed by the
28 legislature with consideration of ongoing technical assistance needs
29 and opportunities. The collaborative terminates December 31, 2018.

30 **Sec. 3.** RCW 48.43.735 and 2015 c 23 s 3 are each amended to read
31 as follows:

32 (1) For health plans issued or renewed on or after January 1,
33 2017, a health carrier shall reimburse a provider for a health care
34 service provided to a covered person through telemedicine (~~(for)~~) or
35 store and forward technology if:

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

38 (b) The health care service is medically necessary; and

1 (c) The health care service is a service recognized as an
2 essential health benefit under section 1302(b) of the federal patient
3 protection and affordable care act in effect on January 1, 2017.

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 carrier and
12 the 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) Home; or

22 (h) Renal dialysis center, except an independent renal dialysis
23 center.

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

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

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

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

- 1 (a) An originating site for professional fees;
- 2 (b) A provider for a health care service that is not a covered
3 benefit under the plan; or
- 4 (c) An originating site or health care provider when the site or
5 provider is not a contracted provider under the plan.
- 6 (8) For purposes of this section:
- 7 (a) "Distant site" means the site at which a physician or other
8 licensed provider, delivering a professional service, is physically
9 located at the time the service is provided through telemedicine;
- 10 (b) "Health care service" has the same meaning as in RCW
11 48.43.005;
- 12 (c) "Hospital" means a facility licensed under chapter 70.41,
13 71.12, or 72.23 RCW;
- 14 (d) "Originating site" means the physical location of a patient
15 receiving health care services through telemedicine;
- 16 (e) "Provider" has the same meaning as in RCW 48.43.005;
- 17 (f) "Store and forward technology" means use of an asynchronous
18 transmission of a covered person's medical information from an
19 originating site to the health care provider at a distant site which
20 results in medical diagnosis and management of the covered person,
21 and does not include the use of audio-only telephone, facsimile, or
22 email; and
- 23 (g) "Telemedicine" means the delivery of health care services
24 through the use of interactive audio and video technology, permitting
25 real-time communication between the patient at the originating site
26 and the provider, for the purpose of diagnosis, consultation, or
27 treatment. For purposes of this section only, "telemedicine" does not
28 include the use of audio-only telephone, facsimile, or email.

29 **Sec. 4.** RCW 41.05.700 and 2015 c 23 s 2 are each amended to read
30 as follows:

31 (1) A health plan offered to employees and their covered
32 dependents under this chapter issued or renewed on or after January
33 1, 2017, shall reimburse a provider for a health care service
34 provided to a covered person through telemedicine or store and
35 forward technology if:

- 36 (a) The plan provides coverage of the health care service when
37 provided in person by the provider;
- 38 (b) The health care service is medically necessary; and

1 (c) The health care service is a service recognized as an
2 essential health benefit under section 1302(b) of the federal patient
3 protection and affordable care act in effect on January 1, 2017.

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) Home; or

22 (h) Renal dialysis center, except an independent renal dialysis
23 center.

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

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

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

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

40 (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 (~~(9)~~~~(8)~~) (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 email; 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 email.

28 **Sec. 5.** RCW 74.09.325 and 2015 c 23 s 4 are each amended to read
29 as follows:

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

35 (a) The medicaid managed care plan in which the covered person is
36 enrolled provides coverage of the health care service when provided
37 in person by the provider;

38 (b) The health care service is medically necessary; and

1 (c) The health care service is a service recognized as an
2 essential health benefit under section 1302(b) of the federal patient
3 protection and affordable care act in effect on January 1, 2017.

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

9 (b) For purposes of this section, reimbursement of store and
10 forward technology is available only for those services specified in
11 the negotiated agreement between the managed health care system 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) Home; or

22 (h) Renal dialysis center, except an independent renal dialysis
23 center.

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

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

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

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

3 (a) An originating site for professional fees;

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

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

8 (8) For purposes of this section:

9 (a) "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 (b) "Health care service" has the same meaning as in RCW
13 48.43.005;

14 (c) "Hospital" means a facility licensed under chapter 70.41,
15 71.12, or 72.23 RCW;

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

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

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

29 (g) "Store and forward technology" means use of an asynchronous
30 transmission of a covered person's medical information from an
31 originating site to the health care provider at a distant site which
32 results in medical diagnosis and management of the covered person,
33 and does not include the use of audio-only telephone, facsimile, or
34 email; and

35 (h) "Telemedicine" means the delivery of health care services
36 through the use of interactive audio and video technology, permitting
37 real-time communication between the patient at the originating site
38 and the provider, for the purpose of diagnosis, consultation, or
39 treatment. For purposes of this section only, "telemedicine" does not
40 include the use of audio-only telephone, facsimile, or email.

1 (9) To measure the impact on access to care for underserved
2 communities and costs to the state and the medicaid managed health
3 care system for reimbursement of telemedicine services, the
4 Washington state health care authority, using existing data and
5 resources, shall provide a report to the appropriate policy and
6 fiscal committees of the legislature no later than December 31, 2018.

7 **Sec. 6.** RCW 70.41.230 and 2015 c 23 s 6 are each amended to read
8 as follows:

9 (1) Except as provided in subsection (3) of this section, prior
10 to granting or renewing clinical privileges or association of any
11 physician or hiring a physician, a hospital or facility approved
12 pursuant to this chapter shall request from the physician and the
13 physician shall provide the following information:

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

20 (b) Whether the physician has ever been or is in the process of
21 being denied, revoked, terminated, suspended, restricted, reduced,
22 limited, sanctioned, placed on probation, monitored, or not renewed
23 for any professional activity listed in (b)(i) through (x) of this
24 subsection, or has ever voluntarily or involuntarily relinquished,
25 withdrawn, or failed to proceed with an application for any
26 professional activity listed in (b)(i) through (x) of this subsection
27 in order to avoid an adverse action or to preclude an investigation
28 or while under investigation relating to professional competence or
29 conduct:

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

31 (ii) Other professional registration or certification in any
32 jurisdiction;

33 (iii) Specialty or subspecialty board certification;

34 (iv) Membership on any hospital medical staff;

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

37 (vi) Medicare, medicaid, the food and drug administration, the
38 national institute of health (office of human research protection),

1 governmental, national, or international regulatory agency, or any
2 public program;

3 (vii) Professional society membership or fellowship;

4 (viii) Participation or membership in a health maintenance
5 organization, preferred provider organization, independent practice
6 association, physician-hospital organization, or other entity;

7 (ix) Academic appointment;

8 (x) Authority to prescribe controlled substances (drug
9 enforcement agency or other authority);

10 (c) Any pending professional medical misconduct proceedings or
11 any pending medical malpractice actions in this state or another
12 state, the substance of the allegations in the proceedings or
13 actions, and any additional information concerning the proceedings or
14 actions as the physician deems appropriate;

15 (d) The substance of the findings in the actions or proceedings
16 and any additional information concerning the actions or proceedings
17 as the physician deems appropriate;

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

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

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

29 (a) Any pending professional medical misconduct proceedings or
30 any pending medical malpractice actions, in this state or another
31 state;

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

35 (c) Any information required to be reported by hospitals pursuant
36 to RCW 18.71.0195.

37 (3) In lieu of the requirements of subsections (1) and (2) of
38 this section, when granting or renewing privileges or association of
39 any physician providing telemedicine or store and forward services,
40 an originating site hospital may rely on a distant site hospital's

1 decision to grant or renew clinical privileges or association of the
2 physician if the originating site hospital obtains reasonable
3 assurances, through a written agreement with the distant site
4 hospital, that all of the following provisions are met:

5 (a) The distant site hospital providing the telemedicine or store
6 and forward services is a medicare participating hospital;

7 (b) Any physician providing telemedicine or store and forward
8 services at the distant site hospital will be fully privileged to
9 provide such services by the distant site hospital;

10 (c) Any physician providing telemedicine or store and forward
11 services will hold and maintain a valid license to perform such
12 services issued or recognized by the state of Washington; and

13 (d) With respect to any distant site physician who holds current
14 privileges at the originating site hospital whose patients are
15 receiving the telemedicine or store and forward services, the
16 originating site hospital has evidence of an internal review of the
17 distant site physician's performance of these privileges and sends
18 the distant site hospital such performance information for use in the
19 periodic appraisal of the distant site physician. At a minimum, this
20 information must include all adverse events, as defined in RCW
21 70.56.010, that result from the telemedicine or store and forward
22 services provided by the distant site physician to the originating
23 site hospital's patients and all complaints the originating site
24 hospital has received about the distant site physician.

25 (4) The medical quality assurance commission or the board of
26 osteopathic medicine and surgery shall be advised within thirty days
27 of the name of any physician denied staff privileges, association, or
28 employment on the basis of adverse findings under subsection (1) of
29 this section.

30 (5) A hospital or facility that receives a request for
31 information from another hospital or facility pursuant to subsections
32 (1) through (3) of this section shall provide such information
33 concerning the physician in question to the extent such information
34 is known to the hospital or facility receiving such a request,
35 including the reasons for suspension, termination, or curtailment of
36 employment or privileges at the hospital or facility. A hospital,
37 facility, or other person providing such information in good faith is
38 not liable in any civil action for the release of such information.

39 (6) Information and documents, including complaints and incident
40 reports, created specifically for, and collected, and maintained by a

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

26 (7) Hospitals shall be granted access to information held by the
27 medical quality assurance commission and the board of osteopathic
28 medicine and surgery pertinent to decisions of the hospital regarding
29 credentialing and recredentialing of practitioners.

30 (8) Violation of this section shall not be considered negligence
31 per se.

32 NEW SECTION. **Sec. 7.** Sections 3 through 5 of this act take
33 effect January 1, 2018.

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