Z-0327.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SENATE BILL 5481**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 68th Legislature 2023 Regular Session**

**By** Senators Cleveland and Pedersen; by request of Uniform Law Commission

AN ACT Relating to the uniform telemedicine act; and adding a new chapter to Title 18 RCW.

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

NEW SECTION. **Sec.**  SHORT TITLE. This act may be known and cited as the uniform telemedicine act.

NEW SECTION. **Sec.**  DEFINITIONS. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Disciplining authority" means an entity to which a state has granted the authority to license, certify, or discipline individuals who provide health care.

(2) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(3) "Health care" means care, treatment, or a service or procedure, to maintain, monitor, diagnose, or otherwise affect an individual's physical or behavioral health, injury, or condition.

(4) "Health care practitioner" means:

(a) A physician licensed under chapter 18.71 RCW;

(b) An osteopathic physician or surgeon licensed under chapter 18.57 RCW;

(c) A podiatric physician and surgeon licensed under chapter 18.22 RCW;

(d) An advanced registered nurse practitioner licensed under chapter 18.79 RCW;

(e) A naturopath licensed under chapter 18.36A RCW;

(f) A physician assistant licensed under chapter 18.71A RCW; or

(g) A person who is otherwise authorized to practice a profession regulated under the authority of RCW 18.130.040 or authorized through the registration process established under section 7 of this act, to provide health care in this state.

(5) "Out-of-state health care practitioner" means an individual licensed, certified, or otherwise authorized by law of another state to provide health care in that state.

(6) "Professional practice standard" includes:

(a) A standard of care;

(b) A standard of professional ethics; and

(c) A practice requirement imposed by a disciplining authority.

(7) "Registered health care practitioner" means an out-of-state health care practitioner registered under section 7 of this act.

(8) "Scope of practice" means the extent of a health care practitioner's authority to provide health care.

(9) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any other territory or possession subject to the jurisdiction of the United States. The term includes a federally recognized Indian tribe.

(10) "Telecommunication technology" means technology that supports communication through electronic means. The term is not limited to regulated technology or technology associated with a regulated industry.

(11) "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment.

(12) "Telemedicine services" means health care provided through telemedicine.

NEW SECTION. **Sec.**  SCOPE. (1) This chapter applies to the provision of telemedicine services to a patient located in this state.

(2) This chapter does not apply to the provision of telemedicine services to a patient located outside this state.

NEW SECTION. **Sec.**  TELEMEDICINE AUTHORIZATION. (1) A health care practitioner may provide telemedicine services to a patient located in this state if the services are consistent with the health care practitioner's scope of practice in this state, applicable professional practice standards in this state, and requirements and limitations of federal law and law of this state.

(2) This chapter does not authorize provision of health care otherwise regulated by federal law or law of this state, unless the provision of health care complies with the requirements, limitations, and prohibitions of the federal law or law of this state.

NEW SECTION. **Sec.**  PROFESSIONAL PRACTICE STANDARD. A health care practitioner who provides telemedicine services to a patient located in this state shall provide the services in compliance with the professional practice standards applicable to a health care practitioner who provides comparable in-person health care in this state. Professional practice standards and law applicable to the provision of health care in this state, including standards and law relating to prescribing medication or treatment, identity verification, documentation, informed consent, confidentiality, privacy, and security, apply to the provision of telemedicine services in this state.

NEW SECTION. **Sec.**  OUT-OF-STATE HEALTH CARE PRACTITIONER. (1) An out-of-state health care practitioner may provide telemedicine services to a patient located in this state if the out-of-state health care practitioner:

(a) Holds a current license or certification required to provide health care in this state or is otherwise authorized to provide health care in this state, including through a multistate compact of which this state is a member;

(b) Registers under section 7 of this act with the disciplining authority responsible for licensing or certifying health care practitioners who provide the type of health care the out-of-state health care practitioner provides; or

(c) Provides the telemedicine services:

(i) In consultation with a health care practitioner who has a practitioner-patient relationship with the patient; or

(ii) In the form of a specialty assessment, diagnosis, or recommendation for treatment.

(2) A requirement for licensure or certification of an out-of-state health care practitioner who supervises an out-of-state health care practitioner providing telemedicine services may be satisfied through registration under section 7 of this act.

NEW SECTION. **Sec.**  REGISTRATION OF OUT-OF-STATE HEALTH CARE PRACTITIONER. (1) A disciplining authority listed under RCW 18.130.040, including the secretary of health, shall register, for the purpose of providing telemedicine services in this state, an out-of-state health care practitioner not licensed, certified, or otherwise authorized to provide health care in this state if the health care practitioner:

(a) Submits a completed application in the form prescribed by the disciplining authority;

(b) Holds an active, unrestricted license or certification in another state that is substantially equivalent to a license or certification issued by the disciplining authority to provide health care;

(c) Is not subject to a pending disciplinary investigation or action by a disciplining authority;

(d) Has not been disciplined by a disciplining authority during the five-year period immediately before submitting the application, other than discipline relating to a fee payment or continuing education requirement addressed to the satisfaction of the disciplining authority that took the disciplinary action;

(e) Never has been disciplined on a ground that the disciplining authority determines would be a basis for denying a license or certification in this state;

(f) Consents to personal jurisdiction in this state for an action arising out of the provision of a telemedicine service in this state;

(g) Appoints an agent for service of process in this state in accordance with other law of this state and identifies the agent in the form prescribed by the disciplining authority;

(h) Has professional liability insurance that includes coverage for telemedicine services provided to patients located in this state in an amount not less than the amount required for a health care practitioner providing the same services in this state; and

(i) Pays the registration fee under subsection (5) of this section.

(2) A disciplining authority may not register an out-of-state health care practitioner under this chapter if the health care practitioner does not satisfy all requirements of subsection (1) of this section.

(3) A disciplining authority shall require a registered out-of-state health care practitioner to renew their registration with the same frequency as the disciplining authority requires for a practitioner licensed or registered to practice in this state.

(4) A disciplining authority shall create an application for registration under subsection (1) of this section and a form for identifying the agent under subsection (1)(g) of this section.

(5) A disciplining authority may establish a registration fee that reflects the expected cost of registration under this section and the cost of undertaking investigation, disciplinary action, and other activity relating to registered health care practitioners.

(6) A disciplining authority shall make available to the public information about registered health care practitioners in the same manner it makes available to the public information about licensed or certified health care practitioners authorized to provide comparable health care in this state.

(7) This section does not affect other law of this state relating to an application by an out-of-state health care practitioner for licensure or certification.

NEW SECTION. **Sec.**  DISCIPLINARY ACTION BY A DISCIPLINING AUTHORITY. (1) A disciplining authority may take disciplinary action against a registered health care practitioner who:

(a) Violates this chapter, chapter 18.130 RCW, or any Washington statute or rule governing the conduct of the comparable Washington state health care profession;

(b) Holds a license or certification that has been restricted in a state; or

(c) Has been disciplined by a disciplining authority, other than discipline relating to a fee payment or continuing education requirement addressed to the satisfaction of the disciplining authority that imposed the discipline.

(2) A disciplining authority may take an action under subsection (1) of this section that it is authorized to take against a licensed or certified health care practitioner who provides comparable health care in this state.

(3) Disciplinary action under this section includes suspension or revocation of the registered health care practitioner's registration in accordance with other law of this state applicable to disciplinary action against a health care practitioner who provides comparable health care in this state.

NEW SECTION. **Sec.**  DUTIES OF REGISTERED HEALTH CARE PRACTITIONER. A registered health care practitioner:

(1) Shall notify the disciplining authority not later than 10 days after a disciplining authority in another state notifies the health care practitioner that it has initiated an investigation, placed a restriction on the health care practitioner's license or certification, or taken a disciplinary action against the health care practitioner;

(2) Shall maintain professional liability insurance that includes coverage for telemedicine services provided to patients located in this state in an amount not less than the amount required for a licensed or certified health care practitioner providing the same services in this state; and

(3) May not open an office physically located in this state or provide in-person health care to a patient located in this state.

NEW SECTION. **Sec.**  LOCATION OF CARE—VENUE. (1) The provision of a telemedicine service under this chapter occurs at the patient's location at the time the service is provided.

(2) In a civil action arising out of a health care practitioner's provision of a telemedicine service to a patient under this chapter, brought by the patient or the patient's personal representative, conservator, guardian, or a person entitled to bring a claim under the state's wrongful death statute, venue is proper in the patient's county of residence in this state or in another county authorized by law.

NEW SECTION. **Sec.**  RULE-MAKING AUTHORITY. Disciplining authorities may adopt rules to administer, enforce, implement, or interpret this chapter.

NEW SECTION. **Sec.**  UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this chapter, a court shall consider the promotion of uniformity of the law among jurisdictions that enact the uniform telehealth act.

NEW SECTION. **Sec.**  SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. **Sec.**  Sections 1 through 12 of this act constitute a new chapter in Title 18 RCW.

**--- END ---**