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**ENGROSSED SUBSTITUTE SENATE BILL 5481**

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

**By** Senate Health & Long Term Care (originally sponsored by Senators Cleveland and Pedersen; by request of Uniform Law Commission)

AN ACT Relating to the uniform law commission's uniform telehealth act; amending RCW 28B.20.830; adding a new chapter to Title 18 RCW; creating a new section; and providing an expiration date.

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 telehealth 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 to provide health care in this state.

(5) "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.

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

(7) "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.

(8) "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.

(9) "Telehealth" includes telemedicine and means the use of synchronous or asynchronous telecommunication technology by a practitioner to provide health care to a patient at a different physical location than the practitioner.

(10) "Telehealth services" means health care provided through telehealth.

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

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

NEW SECTION. **Sec.**  TELEHEALTH AUTHORIZATION. (1) A health care practitioner may provide telehealth 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.

(3) A practitioner-patient relationship may be established through telehealth.

NEW SECTION. **Sec.**  PROFESSIONAL PRACTICE STANDARD. (1) A health care practitioner who provides telehealth 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 telehealth services in this state.

(2) A disciplining authority in this state shall not adopt or enforce a rule that establishes a different professional practice standard for telehealth services merely because the services are provided through telehealth or limits the telecommunication technology that may be used for telehealth services.

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

(1) 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; or

(2) Provides the telehealth services:

(a) In the form of a consultation with a health care practitioner who has a practitioner-patient relationship with the patient and who remains responsible for diagnosing and treating the patient in the state; or

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

NEW SECTION. **Sec.**  LOCATION OF CARE—VENUE. (1) The provision of a telehealth 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 telehealth 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.**  Nothing in this act shall be construed to require a health carrier to reimburse for telehealth services that do not meet statutory requirements for reimbursement of telemedicine services.

**Sec.**  RCW 28B.20.830 and 2021 c 157 s 9 are each amended to read as follows:

(1) The collaborative for the advancement of ((~~telemedicine~~)) telehealth is created to enhance the understanding and use of health services provided through ((~~telemedicine~~)) telehealth and other similar models in Washington state. The collaborative shall be hosted by the University of Washington telehealth services and shall be comprised of one member from each of the two largest caucuses of the senate and the house of representatives, and representatives from the academic community, hospitals, clinics, and health care providers in primary care and specialty practices, carriers, and other interested parties.

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

(3) The collaborative must submit an initial progress report by December 1, 2016, with follow-up policy reports including recommendations by December 1, 2017, December 1, 2018, and December 1, 2021. The reports shall be shared with the relevant professional associations, governing boards or commissions, and the health care committees of the legislature.

(4) The collaborative shall study store and forward technology, with a focus on:

(a) Utilization;

(b) Whether store and forward technology should be paid for at parity with in-person services;

(c) The potential for store and forward technology to improve rural health outcomes in Washington state; and

(d) Ocular services.

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

(6) The collaborative must study the need for an established patient/provider relationship before providing audio-only ((~~telemedicine~~)) telehealth, including considering what types of services may be provided without an established relationship. By December 1, 2021, the collaborative must submit a report to the legislature on its recommendations regarding the need for an established relationship for audio-only ((~~telemedicine~~)) telehealth.

(7) The collaborative must review the proposal authored by the uniform law commission for the state to implement a process for out-of-state health care providers to register with the disciplinary authority regulating their profession in this state allowing that provider to provide services through telehealth or store and forward technology to persons located in this state. By December 1, 2024, the collaborative must submit a report to the legislature on its recommendations regarding the proposal.

(8) The future of the collaborative shall be reviewed by the legislature with consideration of ongoing technical assistance needs and opportunities. ((~~The collaborative terminates December 31, 2023.~~))

(9) This section expires July 1, 2025.

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 9 of this act constitute a new chapter in Title 18 RCW.

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