

**ESSB 5481** - H COMM AMD

By Committee on Health Care & Wellness

**ADOPTED 03/01/2024**

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** SHORT TITLE. This act may be known and  
4 cited as the uniform telehealth act.

5 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this  
6 section apply throughout this chapter unless the context clearly  
7 requires otherwise.

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

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

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

17 (4)(a) "Health care practitioner" means:

18 (i) A physician licensed under chapter 18.71 RCW;

19 (ii) An osteopathic physician or surgeon licensed under chapter  
20 18.57 RCW;

21 (iii) A podiatric physician and surgeon licensed under chapter  
22 18.22 RCW;

23 (iv) An advanced registered nurse practitioner licensed under  
24 chapter 18.79 RCW;

25 (v) A naturopath licensed under chapter 18.36A RCW;

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

27 (vii) A person who is otherwise authorized to practice a  
28 profession regulated under the authority of RCW 18.130.040 to provide  
29 health care in this state, to the extent the profession's scope of

1 practice includes health care that can be provided through  
2 telehealth.

3 (b) "Health care practitioner" does not include a veterinarian  
4 licensed under chapter 18.92 RCW.

5 (5) "Professional practice standard" includes:

6 (a) A standard of care;

7 (b) A standard of professional ethics; and

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

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

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

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

19 (9) "Telehealth" includes telemedicine and means the use of  
20 synchronous or asynchronous telecommunication technology by a  
21 practitioner to provide health care to a patient at a different  
22 physical location than the practitioner. "Telehealth" does not  
23 include the use, in isolation, of email, instant messaging, text  
24 messaging, or fax.

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

27 NEW SECTION. **Sec. 3.** SCOPE. (1) This chapter applies to the  
28 provision of telehealth services to a patient located in this state.

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

31 NEW SECTION. **Sec. 4.** TELEHEALTH AUTHORIZATION. (1) A health  
32 care practitioner may provide telehealth services to a patient  
33 located in this state if the services are consistent with the health  
34 care practitioner's scope of practice in this state, applicable  
35 professional practice standards in this state, and requirements and  
36 limitations of federal law and law of this state.

37 (2) This chapter does not authorize provision of health care  
38 otherwise regulated by federal law or law of this state, unless the

1 provision of health care complies with the requirements, limitations,  
2 and prohibitions of the federal law or law of this state.

3 (3) A practitioner-patient relationship may be established  
4 through telehealth. A practitioner-patient relationship may not be  
5 established through email, instant messaging, text messaging, or fax.

6 NEW SECTION. **Sec. 5.** PROFESSIONAL PRACTICE STANDARD. (1) A  
7 health care practitioner who provides telehealth services to a  
8 patient located in this state shall provide the services in  
9 compliance with the professional practice standards applicable to a  
10 health care practitioner who provides comparable in-person health  
11 care in this state. Professional practice standards and law  
12 applicable to the provision of health care in this state, including  
13 standards and law relating to prescribing medication or treatment,  
14 identity verification, documentation, informed consent,  
15 confidentiality, privacy, and security, apply to the provision of  
16 telehealth services in this state.

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

22 NEW SECTION. **Sec. 6.** OUT-OF-STATE HEALTH CARE PRACTITIONER. An  
23 out-of-state health care practitioner may provide telehealth services  
24 to a patient located in this state if the out-of-state health care  
25 practitioner:

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

30 (2) Holds a license or certification in good standing in another  
31 state and provides the telehealth services:

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

36 (b) In the form of a specialty assessment, diagnosis, or  
37 recommendation for treatment. This does not include the provision of  
38 treatment; or

1 (c) In the form of follow up by a primary care practitioner,  
2 mental health practitioner, or recognized clinical specialist to  
3 maintain continuity of care with an established patient who is  
4 temporarily located in this state and received treatment in the state  
5 where the practitioner is located and licensed.

6 NEW SECTION. **Sec. 7.** LOCATION OF CARE—VENUE. (1) The provision  
7 of a telehealth service under this chapter occurs at the patient's  
8 location at the time the service is provided.

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

16 NEW SECTION. **Sec. 8.** RULE-MAKING AUTHORITY. Disciplining  
17 authorities may adopt rules to administer, enforce, implement, or  
18 interpret this chapter.

19 NEW SECTION. **Sec. 9.** UNIFORMITY OF APPLICATION AND  
20 CONSTRUCTION. In applying and construing this chapter, a court shall  
21 consider the promotion of uniformity of the law among jurisdictions  
22 that enact the uniform telehealth act.

23 NEW SECTION. **Sec. 10.** (1) Nothing in this act shall be  
24 construed to require a health carrier as defined in RCW 48.43.005, a  
25 health plan offered under chapter 41.05 RCW, or medical assistance  
26 offered under chapter 74.09 RCW to reimburse for telehealth services  
27 that do not meet statutory requirements for reimbursement of  
28 telemedicine services.

29 (2) This chapter does not permit a health care practitioner to  
30 bill a patient directly for a telehealth service that is not a  
31 permissible telemedicine service under chapter 48.43, 41.05, or 74.09  
32 RCW without receiving patient consent to be billed prior to providing  
33 the telehealth service.

34 **Sec. 11.** RCW 28B.20.830 and 2021 c 157 s 9 are each amended to  
35 read as follows:

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

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

24 (3) The collaborative must submit an initial progress report by  
25 December 1, 2016, with follow-up policy reports including  
26 recommendations by December 1, 2017, December 1, 2018, and December  
27 1, 2021. The reports shall be shared with the relevant professional  
28 associations, governing boards or commissions, and the health care  
29 committees of the legislature.

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

32 (a) Utilization;

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

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

37 (d) Ocular services.

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

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

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

16 (8) The future of the collaborative shall be reviewed by the  
17 legislature with consideration of ongoing technical assistance needs  
18 and opportunities. ((The collaborative terminates December 31,  
19 2023.))

20 (9) This section expires July 1, 2025.

21 NEW SECTION. Sec. 12. SEVERABILITY. If any provision of this  
22 act or its application to any person or circumstance is held invalid,  
23 the remainder of the act or the application of the provision to other  
24 persons or circumstances is not affected.

25 NEW SECTION. Sec. 13. Sections 1 through 10 of this act  
26 constitute a new chapter in Title 18 RCW."

27 Correct the title.

EFFECT: (1) Removes veterinarians from the definition of  
practitioner and limits the definition of practitioner for other  
listed health care practitioners to the extent the profession's scope  
of practice includes health care that can be provided through  
telehealth.

(2) Excludes texts, emails, instant messages, and faxes, in  
insolation, from the definition of telehealth.

(3) Specifies a practitioner-patient relationship may not be  
established through email, instant messaging, text messaging, or fax.

(4) Requires out-of-state practitioners to be licensed and in  
good standing in another state in order to provide authorized  
telehealth services in Washington.

(5) Specifies that the authorization for out-of-state providers to provide telehealth services in Washington in the form of a specialty assessment, diagnosis, or recommendation for treatment, does not include the provision of treatment.

(6) Authorizes an out-of-state primary care practitioner, mental health practitioner, or recognized clinical specialist to maintain continuity of care with an established patient who is temporarily located in this state and received treatment in the state where the practitioner is located and licensed.

(7) Specifies that the act does not permit a health care practitioner to bill a patient directly for a telehealth service that is not a permissible telemedicine service under chapter 48.43, 41.05, or 74.09 RCW without receiving patient consent to be billed prior to providing the telehealth service.

(8) Specifies that the act does not require health plans offered to public and school employees and medical assistance programs to reimburse for telehealth services that do not meet statutory requirements for reimbursement of telemedicine services.

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