

SENATE BILL REPORT

SB 5481

As of February 2, 2023

Title: An act relating to the uniform telemedicine act.

Brief Description: Concerning the uniform telemedicine act.

Sponsors: Senators Cleveland and Pedersen; by request of Uniform Law Commission.

Brief History:

Committee Activity: Health & Long Term Care: 2/02/23.

<p>Brief Summary of Bill</p> <ul style="list-style-type: none">• Creates a registration process for out-of-state health care providers to provide telemedicine services to Washington State residents.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Staff: Greg Attanasio (786-7410)

Background: Telemedicine is 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. A telemedicine visit is considered to take place at the patient location, known as the originating site. An originating site for telemedicine includes a hospital, rural health clinic, federally qualified health center, health care provider's office, community mental health center, skilled nursing center, renal dialysis center, or a home.

The Department of Health (DOH) licenses and certifies health care professionals in a variety of fields. Licensure or certification may entail the adoption of rules, verification of educational attainment and completion of supervised training, completion of a background check and verification of good character requirements, administration of a knowledge or practical skills examination, and collection of license or certification fees. The Uniform

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Disciplinary Act (UDA) provides laws governing the conduct and discipline of license and certification holders, with DOH, or a board or commission within DOH, acting as the disciplining authority.

Summary of Bill: Practice Authorization. An out-of-state health care provider may provide telemedicine services to a patient located in Washington if the out-of-state health care practitioner is registered with the Washington disciplining authority responsible for licensing or certifying health care providers who provide the type of health care the out-of-state health care provider provides.

The disciplining authority must issue a registration to the out-of-state provider if the provider:

- submits a completed application in the form prescribed by the disciplining authority;
- holds an active, unrestricted license or certification in another state that is substantially equivalent to a license or certification issued by the disciplining authority;
- is not subject to a pending disciplinary investigation or action by any disciplining authority;
- has not been disciplined in the past five years, other than resolved discipline relating to a fee payment or continuing education requirement;
- has never been disciplined on a ground that the disciplining authority determines would be a basis for denying a license or certification in this state;
- consents to personal jurisdiction in this state for an action arising out of the provision of a telemedicine service in this state;
- appoints an agent for service of process in this state;
- has professional liability insurance that includes coverage for telemedicine services provided to patients located in this state; and
- pays the registration fee.

A registered out-of-state provider must renew their registration at the same frequency the disciplining authority requires for a provider licensed to practice in this state.

A registered out-of-state provider must provide the telemedicine services in compliance with the professional practice standards applicable to a health care provider who provides comparable in-person health care in this state.

A registered out-of-state provider may not open an office physically located in this state, or provide in-person health care to a patient located in this state.

Disciplinary Action. The disciplining authority may take disciplinary action against a registered out-of-state provider who:

- violates this act, the UDA, or any Washington statute or rule governing the conduct of the comparable Washington State health care profession;
- holds a license or certification that has been restricted in a state; or

- has been disciplined by any other disciplining authority, except for reasons related to a fee payment or continuing education requirement that have been resolved.

A disciplining authority may take any disciplinary action that it is authorized to take against a provider licensed in this state. Disciplinary action includes suspension or revocation of the out-of-state provider's registration.

A registered out-of-state provider must notify the disciplining authority no later than ten days after a disciplining authority in another state notifies the provider it has initiated an investigation, placed a restriction on the provider's license or certification, or taken disciplinary action against the provider.

Appropriation: None.

Fiscal Note: Requested on January 18, 2023.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: The Uniform Law Commission engaged in a two year process to consider this bill language. This has been used in other states without any issues with bad actors. It gives a pathway to practice and will address the provider shortage issue in the state. This bill is particularly important for mental health care. It is important to be technology neutral and include store and forward technology. The bill expands access to healthcare and greater choice of how that care is delivered.

OTHER: Peer to peer consults are already allowed under current law. Registration is not licensure and providers should not be allowed to practice in the state without licensure. Compacts are a preferred path. Timeline for licensure is not a barrier to practice. The telemedicine collaborative should review the registration process. Established relationship needs more consideration. Registered providers are less likely to accept Washington Medicaid patients. Out of state providers wouldn't know what services are available locally.

Persons Testifying: PRO: Senator Annette Cleveland, Prime Sponsor; Mercer May, Teladoc Health; Michele Radosevich, Uniform Law Commission; Tom Mann, ATA Action.

OTHER: Micah Matthews, Washington Medical Commission; Remy Kerr, Washington State Hospital Association; Sean Graham, WA State Medical Association (WSMA).

Persons Signed In To Testify But Not Testifying: No one.