HOUSE BILL REPORT
ESHB 1448

As Passed House:
March 6, 2013

Title: An act relating to telemedicine.

Brief Description: Regarding telemedicine.

Sponsors: House Committee on Health Care & Wellness (originally sponsored by Representatives Bergquist, Ross, Cody, Harris, Green, Rodne, Tharinger, Johnson, Manweller, Magendanz and Morrell).

Brief History:
Committee Activity:
Health Care & Wellness: 2/14/13, 2/22/13 [DPS].
Floor Activity:
Passed House: 3/6/13, 74-23.

Brief Summary of Engrossed Substitute Bill

- Requires health carriers to reimburse for services provided via telemedicine in the same manner they reimburse for in-person services.
- Allows hospitals to rely on the privileging decisions of another hospital when services are being provided via telemedicine.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Cody, Chair; Jinkins, Vice Chair; Clibborn, Green, Moeller, Riccelli, Rodne, Ross, Tharinger and Van De Wege.

Minority Report: Do not pass. Signed by 6 members: Representatives Schmick, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Angel, Manweller, Morrell and Short.

Staff: Jim Morishima (786-7191).

Background:

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

I. Reimbursement for Telemedicine.

Telemedicine is the use of electronic communications to provide health care services to a patient at a distance. Electronic communication is accomplished through audio-visual equipment permitting real-time, interactive interaction between the patient (at the "originating site") and the provider (at the "distant site").

The Uniform Medical Plan covers telemedicine, but only in professional shortage areas as defined by the federal government. The state's Medicaid program also covers telemedicine in certain circumstances. For example, Medicaid reimburses home health agencies for skilled home health visits delivered via telemedicine. Private health carriers are currently not required to cover telemedicine services.

II. Physician Privileging.

Prior to granting privileges to a physician, a hospital must:

- obtain the following information from the physician:
    - the names of any hospital or facility at which the physician had any association, employment, privileges, or practice;
    - information regarding any pending professional medical misconduct proceedings or any pending medical malpractice actions, including the substance of the findings in those actions or proceedings;
    - a confidentiality waiver; and
    - a verification that the information is accurate and complete; and
- obtain the following information from any hospital or facility at which the physician had any association, employment, privileges, or practice:
    - any pending professional misconduct proceedings or any pending medical malpractice actions;
    - any judgment or settlement of a medical malpractice action and any finding of professional misconduct; and
    - any information the hospital or facility is required to report to the Medical Quality Assurance Commission in connection to physician discipline.

Under federal Medicare regulations, when health care services are provided by a physician through telemedicine, the originating site hospital may choose to rely on the privileging decisions made by the distant site hospital if:

- the distant site hospital participates in Medicare;
- the physician is privileged at the distant site hospital;
- the physician is licensed by the state in which the originating site hospital is located; and
- the originating site hospital has evidence of an internal review of the distant site physician's performance and sends the distant site hospital information on the physician's performance for use in the distant site's periodic appraisal of the physician. The information must include all adverse events that result from the telemedicine services and all complaints the originating site hospital has received about the physician.

Summary of Engrossed Substitute Bill:

I. Reimbursement for Telemedicine.

A health carrier, or health plan offered to state employees and their covered dependents, must reimburse a provider for a health care service delivered through telemedicine on the same basis and at the same rate that the health carrier or plan would reimburse for the same service provided in person, and must also reimburse an originating site for the infrastructure and preparation of the patient for telemedicine services, if:

- the plan provides coverage of the health care service when provided in person;
- the health care service is medically necessary; and
- the health care service does not duplicate or supplant a health care service that is available in person.

A health carrier may not distinguish between originating sites that are rural and urban. An originating site for telemedicine includes, but is not limited to, a hospital, a rural health clinic, a federally qualified health center, a physician's office, a community mental health center, a skilled nursing facility, a renal dialysis center, or a site where public health services are provided.

A health carrier may subject telemedicine services to all terms and conditions of the plan applicable to in-person services, including utilization review, deductibles, copayments, or coinsurance. Reimbursement is not required for a health care service that is not a covered benefit, for providers who are not covered under the plan, or for professional fees to the originating site.

"Telemedicine" is defined as the use of interactive audio, video, or electronic media for the purpose of diagnosis, consultation, or treatment. The term does not include the use of audio-only telephone, facsimile, or electronic mail. "Originating site" is defined as the physical location of a patient receiving health care services through telemedicine, which prepares the patient for the telemedicine services and provides the infrastructure for the telemedicine services to occur.

The Medical Quality Assurance Commission (MQAC), the Nursing Care Quality Assurance Commission (NCQAC), and the Board of Osteopathic Medicine and Surgery (BOMS) must develop policies to allow out-of-state health care providers to deliver telemedicine services to Washington residents. The policies must ensure the quality of services delivered and the safety of patients. Throughout the year, the MQAC, the NCQAC, and the BOMS must meet to coordinate their efforts in developing the policies. By December 1, 2013, the Department of Health must provide a progress report to the appropriate committees of the Legislature.

II. Physician Privileging.

An originating site hospital may rely on a distant site hospital's decision to grant or renew the privileges or association of any physician providing telemedicine services if the originating site hospital has a written agreement with the distant site hospital that assures the following:

- the distant site hospital providing the telemedicine services is a Medicare participating hospital;
- any physician providing telemedicine services at the distant site hospital is fully privileged to provide such services by the distant site hospital;

- any physician providing telemedicine services holds and maintains a valid license to perform such services issued or recognized by Washington; and
- the originating site hospital has evidence of an internal review of the distant site physician's performance and sends the distant site hospital performance information for use in the periodic appraisal of the distant site hospital. The information must include all adverse events that result from the telemedicine services and all complaints the originating site hospital has received about the physician.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 1 through 5 requiring reimbursement for telemedicine services, requiring the MQAC, the NCQAC, and the BOMS to develop policies regarding out-of-state providers delivering telemedicine services to Washington residents, and allowing hospitals to rely on the privileging decisions of other hospitals for purposes of telemedicine services, which take effect on January 1, 2014.

Staff Summary of Public Testimony:

(In support) Telemedicine broadens access, improves outcomes, and lowers the costs of care. One of the main barriers to telemedicine is uncertainty about payment. Accepting telemedicine will bring better and faster health care and will support primary care teams in their own settings. This bill is based on an Oregon law and is a balanced approach. Telemedicine is an effective way in which to deliver care, including mental health and pediatric care; studies show parity between telemedicine and services provided in person. The services should therefore be reimbursed at the same rate. Patients want this service. It should not be the responsibility of hospitals to come up with creative ways to finance telemedicine. This bill will help older, poorer, sicker, or mobility challenged patients in rural areas access care; it will also help address provider shortages exacerbated by the Patient Protection and Affordable Care Act. This bill fairly compensates providers for telemedicine. The definition of telemedicine in the bill should be broadened to include telemonitoring.

(In support with concerns) This bill should be expanded to include telephonic communications. This bill currently leaves out patients who do not have adequate technology for video communications. Using the telephone is a viable and important way in which to deliver care.

(With concerns) Many health carriers already reimburse for telemedicine at the same rate as in-person services. However, carriers should have the flexibility to find ways to lower costs and innovate. Requiring parity eats up the savings associated with telemedicine. This bill should not be limited to licensed Washington providers.

(Opposed) None.

Persons Testifying: (In support) Representative Bergquist, prime sponsor; Tammy Cress, Providence Health Services; Mike Glenn, Jefferson Healthcare; Katie Kolan, Washington

State Medical Association; Lucy Homans, Washington State Psychological Association; Katherine Flynn, Seattle Children's Hospital; Jackie Der, University of Washington Medicine; Melissa Johnson, Washington State Nurses Association and ARNPs United; and Leslie Emerick, Home Care Association of Washington, Washington State Hospice and Palliative Care Organization, and Association of Advanced Practice Psychiatric Nurses.

(In support with concerns) Frances Gough, Carena.

(With concerns) Chris Bandoli, Regence Blue Shield; and Len Sorrin, Premera.

Persons Signed In To Testify But Not Testifying: None.