HOUSE BILL REPORT
2ESHB 1448

As Passed House:
February 5, 2014

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.
Floor Activity:
Passed House: 2/5/14, 98-0.

Brief Summary of Second Engrossed Substitute Bill

- Requires health carriers to reimburse for services provided via telemedicine.
- 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; Riccelli, Vice Chair; Clibborn, Green, Jinkins, Moeller, 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).

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.

Background:

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 Second Engrossed Substitute Bill:

I. Reimbursement for Telemedicine.

A health plan offered by a health carrier, a health plan offered to state employees and their covered dependents, or a Medicaid managed care plan must reimburse a provider for a health care service delivered through telemedicine if:

- the plan provides coverage of the health care service when provided in person; and
- the health care service is medically necessary.

A plan may distinguish between originating sites that are rural and urban. An originating site for telemedicine includes 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 (other than an independent renal dialysis center).

An originating site may charge a facility fee for infrastructure and preparation of the patient. Reimbursement for the facility fee is subject to a negotiated agreement between the originating site and the plan. A site that is not an originating site, including a distant site, may not charge a facility fee.

A plan may subject telemedicine services to all terms and conditions of the plan applicable to in-person services, including utilization review, prior authorization, 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. "Distant site" is defined as the site at which a physician or other licensed provider is physically located at the time a service is delivered through telemedicine.

The Medical Quality Assurance Commission (MQAC), the Nursing Care Quality Assurance Commission (NCQAC), and the Board of Osteopathic Medicine and Surgery (BOMS) must inform the health committees of the Legislature on recommended or adopted criteria under which health care providers from outside Washington would be permitted to deliver telemedicine services to Washington residents that will ensure the quality of services delivered and the safety of the patients receiving the services. The MQAC, the NCQAC, and the BOMS must provide a progress report to the appropriate committees of the Legislature by December 1, 2014.

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: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 1 through 7 requiring reimbursement for telemedicine and allowing hospitals to rely on privileging decisions of other hospitals for telemedicine services, which take effect January 1, 2016.

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.