SENATE BILL REPORT
2ESHB 1448

As of February 20, 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: Passed House: 3/06/13, 74-23; 2/05/14, 98-0.
Committee Activity: Health Care: 2/20/14.

SENATE COMMITTEE ON HEALTH CARE

Staff: Mich'l Needham (786-7442)

Background: 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.

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

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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.

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

1. obtain the following information from the physician:
    a. the names of any hospital or facility at which the physician had any association, employment, privileges, or practice;
    b. 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;
    c. a confidentiality waiver; and
    d. a verification that the information is accurate and complete; and
2. obtain the following information from any hospital or facility at which the physician had any association, employment, privileges, or practice:
    a. any pending professional misconduct proceedings or any pending medical malpractice actions;
    b. any judgment or settlement of a medical malpractice action and any finding of professional misconduct; and
    c. any information the hospital or facility is required to report to the Medical Quality Assurance Commission (MQAC) in connection to physician discipline.

Summary of Bill: Health insurance carriers, including health plans offered to state employees and Medicaid-managed care plan enrollees, 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 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 health care provider's office, a community mental health center, a skilled nursing facility, or a renal dialysis center, except an independent renal dialysis center.

The originating sites identified in the bill may charge a facility fee for infrastructure and preparation of the patient. Other sites may participate but not receive the facility fee.

A health carrier 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 and video technology for diagnosis, consultation, or treatment. The term does not include the use of audio-only telephone, facsimile, or electronic mail.

An originating-site hospital may rely on a distant-site hospital's decision to grant or renew the clinical privileges or association of the physician if the originating-site hospital obtains reasonable assurances that the following provisions are met:

- 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 physician.

MQAC, the Nursing Care Quality Assurance Commission, and the Board of Osteopathic Medicine and Surgery must provide recommended criteria that would permit out-of-state health care providers to deliver telemedicine services to Washington residents, while ensuring the quality of services delivered and the safety of patients. By December 1, 2014, the commissions and the board must provide a progress report on these efforts to the appropriate committees of the Legislature.

The Health Care Authority must report to the appropriate committees of the Legislature by December 31, 2018, regarding the impact on access to care for underserved communities and the costs to the state and Medicaid-managed health care systems for reimbursement of telemedicine services.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Sections 1–6 take effect January 1, 2016.

Staff Summary of Public Testimony: PRO: We had this bill last year and there has been a lot of work over the interim with a broad list of stakeholders that are in agreement with this version. It came from the House 98-0. It provides an important tool to ensure access to services in a cost-effective manner. Telemedicine can really improve access to care especially in rural areas that do not have all the specialists nearby. There needs to be clarification that the originating sites listed in the bill are not limited except for purposes of the facility site fee. The technology continues to evolve and there could be an amendment that clarifies the model may evolve to allow more modes of communication. The University of Washington (UW) has not built a robust infrastructure to support telemedicine, but more certainty with reimbursement will allow the infrastructure to be built, and we will be able to assist with more access to care. Research indicates that the expanded access improves health status indicators. We have been able to use telemedicine to provide care to thousands of children with mental health access and provide support services to primary care providers to help them serve their patients. Over time the costs have gone down and it is very cost effective. Access in our rural community has been key to connecting patients with specialists

and reducing critical time lags in stroke care. Every minute counts with stroke care, and remote access to neurologists through our telemedicine robot has saved patient functions. It also has allowed us to significantly reduce transfers to larger facilities and patients can remain in the community for their treatment. It also has potential to help us develop more robust primary care medical homes. The definitions in the bill are tied closely to the Medicare definitions since carriers build policies off the Medicare policies. There is broad consensus with this version and the flexibility that is allowed for us to seek cost efficiencies. The language is very prescriptive and may limit the ability to address barriers to expanding access to telemedicine.

CON: I support the general concept of telemedicine but I am concerned that it does not specifically exclude chemical abortions.

Persons Testifying: PRO: Representative Bergquist, prime sponsor; Rebecca Johnson, Planned Parenthood Votes NW; Sydney Zvara, Assn. of WA Healthcare Plans; Dr. Kathleen Myers, Seattle Children's Hospital; Dr. John Scott, UW; Jennifer Larmer, Lincoln Hospital; Lisa Thatcher, WA State Hospital Assn.; Katie Kolan, WA State Medical Assn.; Gail Kreiger, Health Care Authority, Medicaid Program; Chris Bandoli, Regence; Len Sorrin, Premera; Barbara Donovan, citizen.

CON: Patricia O'Halloran, MD, citizen.