

SSB 6519 - H COMM AMD
By Committee on Appropriations

NOT ADOPTED 03/03/2016

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

3 "NEW SECTION. **Sec. 1.** The legislature recognizes telemedicine
4 will play an increasingly important role in the health care system.
5 Telemedicine is a meaningful and efficient way to treat patients and
6 control costs while improving access to care. The expansion of the
7 use of telemedicine should be thoughtfully and systematically
8 considered in Washington state in order to maximize its application
9 and expand access to care. Therefore, it is the intent of the
10 legislature to broaden the reimbursement opportunities for health
11 care services and establish a collaborative for the advancement of
12 telemedicine to provide guidance, research, and recommendations for
13 the benefit of professionals providing care through telemedicine.

14 NEW SECTION. **Sec. 2.** (1) The collaborative for the advancement
15 of telemedicine is created to enhance the understanding and use of
16 health services provided through telemedicine and other similar
17 models in Washington state. The collaborative shall be hosted by the
18 University of Washington telehealth services and shall be comprised
19 of one member from each of the two largest caucuses of the senate and
20 the house of representatives, and representatives from the academic
21 community, hospitals, clinics, and health care providers in primary
22 care and specialty practices, carriers, and other interested parties.

23 (2) By July 1, 2016, the collaborative shall be convened. The
24 collaborative shall develop recommendations on improving
25 reimbursement and access to services, including originating site
26 restrictions, provider to provider consultative models, and
27 technologies and models of care not currently reimbursed; identify
28 the existence of telemedicine best practices, guidelines, billing
29 requirements, and fraud prevention developed by recognized medical
30 and telemedicine organizations; and explore other priorities
31 identified by members of the collaborative. After review of existing

1 resources, the collaborative shall explore and make recommendations
2 on whether to create a technical assistance center to support
3 providers in implementing or expanding services delivered through
4 telemedicine technologies.

5 (3) The collaborative must submit an initial progress report by
6 December 1, 2016, with follow-up policy reports including
7 recommendations by December 1, 2017, and December 1, 2018. The
8 reports shall be shared with the relevant professional associations,
9 governing boards or commissions, and the health care committees of
10 the legislature.

11 (4) The meetings of the board shall be open public meetings, with
12 meeting summaries available on a web page.

13 (5) The future of the collaborative shall be reviewed by the
14 legislature with consideration of ongoing technical assistance needs
15 and opportunities. The collaborative terminates December 31, 2018.

16 **Sec. 3.** RCW 48.43.735 and 2015 c 23 s 3 are each amended to read
17 as follows:

18 (1) For health plans issued or renewed on or after January 1,
19 2017, a health carrier shall reimburse a provider for a health care
20 service provided to a covered person through telemedicine (~~((for))~~) or
21 store and forward technology if:

22 (a) The plan provides coverage of the health care service when
23 provided in person by the provider;

24 (b) The health care service is medically necessary; (~~and~~)

25 (c) The health care service is a service recognized as an
26 essential health benefit under section 1302(b) of the federal patient
27 protection and affordable care act in effect on January 1, (~~2017~~)
28 2015; and

29 (d) The health care service is determined to be safely and
30 effectively provided through telemedicine or store and forward
31 technology according to generally accepted health care practices and
32 standards, and the technology used to provide the health care service
33 meets the standards required by state and federal laws governing the
34 privacy and security of protected health information.

35 (2)(a) If the service is provided through store and forward
36 technology there must be an associated office visit between the
37 covered person and the referring health care provider. Nothing in
38 this section prohibits the use of telemedicine for the associated
39 office visit.

1 (b) For purposes of this section, reimbursement of store and
2 forward technology is available only for those covered services
3 specified in the negotiated agreement between the health carrier and
4 the health care provider.

5 (3) An originating site for a telemedicine health care service
6 subject to subsection (1) of this section includes a:

7 (a) Hospital;

8 (b) Rural health clinic;

9 (c) Federally qualified health center;

10 (d) Physician's or other health care provider's office;

11 (e) Community mental health center;

12 (f) Skilled nursing facility; (~~or~~)

13 (g) Home; or

14 (h) Renal dialysis center, except an independent renal dialysis
15 center.

16 (4) Except for subsection (3)(g) of this section, any originating
17 site under subsection (3) of this section may charge a facility fee
18 for infrastructure and preparation of the patient. Reimbursement must
19 be subject to a negotiated agreement between the originating site and
20 the health carrier. A distant site or any other site not identified
21 in subsection (3) of this section may not charge a facility fee.

22 (5) A health carrier may not distinguish between originating
23 sites that are rural and urban in providing the coverage required in
24 subsection (1) of this section.

25 (6) A health carrier may subject coverage of a telemedicine or
26 store and forward technology health service under subsection (1) of
27 this section to all terms and conditions of the plan in which the
28 covered person is enrolled, including, but not limited to,
29 utilization review, prior authorization, deductible, copayment, or
30 coinsurance requirements that are applicable to coverage of a
31 comparable health care service provided in person.

32 (7) This section does not require a health carrier to reimburse:

33 (a) An originating site for professional fees;

34 (b) A provider for a health care service that is not a covered
35 benefit under the plan; or

36 (c) An originating site or health care provider when the site or
37 provider is not a contracted provider under the plan.

38 (8) For purposes of this section:

1 (a) "Distant site" means the site at which a physician or other
2 licensed provider, delivering a professional service, is physically
3 located at the time the service is provided through telemedicine;

4 (b) "Health care service" has the same meaning as in RCW
5 48.43.005;

6 (c) "Hospital" means a facility licensed under chapter 70.41,
7 71.12, or 72.23 RCW;

8 (d) "Originating site" means the physical location of a patient
9 receiving health care services through telemedicine;

10 (e) "Provider" has the same meaning as in RCW 48.43.005;

11 (f) "Store and forward technology" means use of an asynchronous
12 transmission of a covered person's medical information from an
13 originating site to the health care provider at a distant site which
14 results in medical diagnosis and management of the covered person,
15 and does not include the use of audio-only telephone, facsimile, or
16 email; and

17 (g) "Telemedicine" means the delivery of health care services
18 through the use of interactive audio and video technology, permitting
19 real-time communication between the patient at the originating site
20 and the provider, for the purpose of diagnosis, consultation, or
21 treatment. For purposes of this section only, "telemedicine" does not
22 include the use of audio-only telephone, facsimile, or email.

23 **Sec. 4.** RCW 41.05.700 and 2015 c 23 s 2 are each amended to read
24 as follows:

25 (1) A health plan offered to employees and their covered
26 dependents under this chapter issued or renewed on or after January
27 1, 2017, shall reimburse a provider for a health care service
28 provided to a covered person through telemedicine or store and
29 forward technology if:

30 (a) The plan provides coverage of the health care service when
31 provided in person by the provider;

32 (b) The health care service is medically necessary; (~~and~~)

33 (c) The health care service is a service recognized as an
34 essential health benefit under section 1302(b) of the federal patient
35 protection and affordable care act in effect on January 1, (~~2017~~)
36 2015; and

37 (d) The health care service is determined to be safely and
38 effectively provided through telemedicine or store and forward
39 technology according to generally accepted health care practices and

1 standards, and the technology used to provide the health care service
2 meets the standards required by state and federal laws governing the
3 privacy and security of protected health information.

4 (2)(a) If the service is provided through store and forward
5 technology there must be an associated office visit between the
6 covered person and the referring health care provider. Nothing in
7 this section prohibits the use of telemedicine for the associated
8 office visit.

9 (b) For purposes of this section, reimbursement of store and
10 forward technology is available only for those covered services
11 specified in the negotiated agreement between the health plan and
12 health care provider.

13 (3) An originating site for a telemedicine health care service
14 subject to subsection (1) of this section includes a:

15 (a) Hospital;

16 (b) Rural health clinic;

17 (c) Federally qualified health center;

18 (d) Physician's or other health care provider's office;

19 (e) Community mental health center;

20 (f) Skilled nursing facility; (~~or~~)

21 (g) Home; or

22 (h) Renal dialysis center, except an independent renal dialysis
23 center.

24 (4) Except for subsection (3)(g) of this section, any originating
25 site under subsection (3) of this section may charge a facility fee
26 for infrastructure and preparation of the patient. Reimbursement must
27 be subject to a negotiated agreement between the originating site and
28 the health plan. A distant site or any other site not identified in
29 subsection (3) of this section may not charge a facility fee.

30 (5) The plan may not distinguish between originating sites that
31 are rural and urban in providing the coverage required in subsection
32 (1) of this section.

33 (6) The plan may subject coverage of a telemedicine or store and
34 forward technology health service under subsection (1) of this
35 section to all terms and conditions of the plan, including, but not
36 limited to, utilization review, prior authorization, deductible,
37 copayment, or coinsurance requirements that are applicable to
38 coverage of a comparable health care service provided in person.

39 (7) This section does not require the plan to reimburse:

40 (a) An originating site for professional fees;

1 (b) A provider for a health care service that is not a covered
2 benefit under the plan; or

3 (c) An originating site or health care provider when the site or
4 provider is not a contracted provider under the plan.

5 (~~(9)~~~~[(8)]~~) (8) For purposes of this section:

6 (a) "Distant site" means the site at which a physician or other
7 licensed provider, delivering a professional service, is physically
8 located at the time the service is provided through telemedicine;

9 (b) "Health care service" has the same meaning as in RCW
10 48.43.005;

11 (c) "Hospital" means a facility licensed under chapter 70.41,
12 71.12, or 72.23 RCW;

13 (d) "Originating site" means the physical location of a patient
14 receiving health care services through telemedicine;

15 (e) "Provider" has the same meaning as in RCW 48.43.005;

16 (f) "Store and forward technology" means use of an asynchronous
17 transmission of a covered person's medical information from an
18 originating site to the health care provider at a distant site which
19 results in medical diagnosis and management of the covered person,
20 and does not include the use of audio-only telephone, facsimile, or
21 email; and

22 (g) "Telemedicine" means the delivery of health care services
23 through the use of interactive audio and video technology, permitting
24 real-time communication between the patient at the originating site
25 and the provider, for the purpose of diagnosis, consultation, or
26 treatment. For purposes of this section only, "telemedicine" does not
27 include the use of audio-only telephone, facsimile, or email.

28 **Sec. 5.** RCW 74.09.325 and 2015 c 23 s 4 are each amended to read
29 as follows:

30 (1) Upon initiation or renewal of a contract with the Washington
31 state health care authority to administer a medicaid managed care
32 plan, a managed health care system shall reimburse a provider for a
33 health care service provided to a covered person through telemedicine
34 (~~(for)~~) or store and forward technology if:

35 (a) The medicaid managed care plan in which the covered person is
36 enrolled provides coverage of the health care service when provided
37 in person by the provider;

38 (b) The health care service is medically necessary; (~~and~~)

1 (c) The health care service is a service recognized as an
2 essential health benefit under section 1302(b) of the federal patient
3 protection and affordable care act in effect on January 1, ((2017))
4 2015; and

5 (d) The health care service is determined to be safely and
6 effectively provided through telemedicine or store and forward
7 technology according to generally accepted health care practices and
8 standards, and the technology used to provide the health care service
9 meets the standards required by state and federal laws governing the
10 privacy and security of protected health information.

11 (2)(a) If the service is provided through store and forward
12 technology there must be an associated visit between the covered
13 person and the referring health care provider. Nothing in this
14 section prohibits the use of telemedicine for the associated office
15 visit.

16 (b) For purposes of this section, reimbursement of store and
17 forward technology is available only for those services specified in
18 the negotiated agreement between the managed health care system and
19 health care provider.

20 (3) An originating site for a telemedicine health care service
21 subject to subsection (1) of this section includes a:

22 (a) Hospital;

23 (b) Rural health clinic;

24 (c) Federally qualified health center;

25 (d) Physician's or other health care provider's office;

26 (e) Community mental health center;

27 (f) Skilled nursing facility; ((~~or~~))

28 (g) Home; or

29 (h) Renal dialysis center, except an independent renal dialysis
30 center.

31 (4) Except for subsection (3)(g) of this section, any originating
32 site under subsection (3) of this section may charge a facility fee
33 for infrastructure and preparation of the patient. Reimbursement must
34 be subject to a negotiated agreement between the originating site and
35 the managed health care system. A distant site or any other site not
36 identified in subsection (3) of this section may not charge a
37 facility fee.

38 (5) A managed health care system may not distinguish between
39 originating sites that are rural and urban in providing the coverage
40 required in subsection (1) of this section.

1 (6) A managed health care system may subject coverage of a
2 telemedicine or store and forward technology health service under
3 subsection (1) of this section to all terms and conditions of the
4 plan in which the covered person is enrolled, including, but not
5 limited to, utilization review, prior authorization, deductible,
6 copayment, or coinsurance requirements that are applicable to
7 coverage of a comparable health care service provided in person.

8 (7) This section does not require a managed health care system to
9 reimburse:

10 (a) An originating site for professional fees;

11 (b) A provider for a health care service that is not a covered
12 benefit under the plan; or

13 (c) An originating site or health care provider when the site or
14 provider is not a contracted provider under the plan.

15 (8) For purposes of this section:

16 (a) "Distant site" means the site at which a physician or other
17 licensed provider, delivering a professional service, is physically
18 located at the time the service is provided through telemedicine;

19 (b) "Health care service" has the same meaning as in RCW
20 48.43.005;

21 (c) "Hospital" means a facility licensed under chapter 70.41,
22 71.12, or 72.23 RCW;

23 (d) "Managed health care system" means any health care
24 organization, including health care providers, insurers, health care
25 service contractors, health maintenance organizations, health
26 insuring organizations, or any combination thereof, that provides
27 directly or by contract health care services covered under this
28 chapter and rendered by licensed providers, on a prepaid capitated
29 basis and that meets the requirements of section 1903(m)(1)(A) of
30 Title XIX of the federal social security act or federal demonstration
31 waivers granted under section 1115(a) of Title XI of the federal
32 social security act;

33 (e) "Originating site" means the physical location of a patient
34 receiving health care services through telemedicine;

35 (f) "Provider" has the same meaning as in RCW 48.43.005;

36 (g) "Store and forward technology" means use of an asynchronous
37 transmission of a covered person's medical information from an
38 originating site to the health care provider at a distant site which
39 results in medical diagnosis and management of the covered person,

1 and does not include the use of audio-only telephone, facsimile, or
2 email; and

3 (h) "Telemedicine" means the delivery of health care services
4 through the use of interactive audio and video technology, permitting
5 real-time communication between the patient at the originating site
6 and the provider, for the purpose of diagnosis, consultation, or
7 treatment. For purposes of this section only, "telemedicine" does not
8 include the use of audio-only telephone, facsimile, or email.

9 (9) To measure the impact on access to care for underserved
10 communities and costs to the state and the medicaid managed health
11 care system for reimbursement of telemedicine services, the
12 Washington state health care authority, using existing data and
13 resources, shall provide a report to the appropriate policy and
14 fiscal committees of the legislature no later than December 31, 2018.

15 **Sec. 6.** RCW 70.41.230 and 2015 c 23 s 6 are each amended to read
16 as follows:

17 (1) Except as provided in subsection (3) of this section, prior
18 to granting or renewing clinical privileges or association of any
19 physician or hiring a physician, a hospital or facility approved
20 pursuant to this chapter shall request from the physician and the
21 physician shall provide the following information:

22 (a) The name of any hospital or facility with or at which the
23 physician had or has any association, employment, privileges, or
24 practice during the prior five years: PROVIDED, That the hospital may
25 request additional information going back further than five years,
26 and the physician shall use his or her best efforts to comply with
27 such a request for additional information;

28 (b) Whether the physician has ever been or is in the process of
29 being denied, revoked, terminated, suspended, restricted, reduced,
30 limited, sanctioned, placed on probation, monitored, or not renewed
31 for any professional activity listed in (b)(i) through (x) of this
32 subsection, or has ever voluntarily or involuntarily relinquished,
33 withdrawn, or failed to proceed with an application for any
34 professional activity listed in (b)(i) through (x) of this subsection
35 in order to avoid an adverse action or to preclude an investigation
36 or while under investigation relating to professional competence or
37 conduct:

38 (i) License to practice any profession in any jurisdiction;

1 (ii) Other professional registration or certification in any
2 jurisdiction;

3 (iii) Specialty or subspecialty board certification;

4 (iv) Membership on any hospital medical staff;

5 (v) Clinical privileges at any facility, including hospitals,
6 ambulatory surgical centers, or skilled nursing facilities;

7 (vi) Medicare, medicaid, the food and drug administration, the
8 national institute of health (office of human research protection),
9 governmental, national, or international regulatory agency, or any
10 public program;

11 (vii) Professional society membership or fellowship;

12 (viii) Participation or membership in a health maintenance
13 organization, preferred provider organization, independent practice
14 association, physician-hospital organization, or other entity;

15 (ix) Academic appointment;

16 (x) Authority to prescribe controlled substances (drug
17 enforcement agency or other authority);

18 (c) Any pending professional medical misconduct proceedings or
19 any pending medical malpractice actions in this state or another
20 state, the substance of the allegations in the proceedings or
21 actions, and any additional information concerning the proceedings or
22 actions as the physician deems appropriate;

23 (d) The substance of the findings in the actions or proceedings
24 and any additional information concerning the actions or proceedings
25 as the physician deems appropriate;

26 (e) A waiver by the physician of any confidentiality provisions
27 concerning the information required to be provided to hospitals
28 pursuant to this subsection; and

29 (f) A verification by the physician that the information provided
30 by the physician is accurate and complete.

31 (2) Except as provided in subsection (3) of this section, prior
32 to granting privileges or association to any physician or hiring a
33 physician, a hospital or facility approved pursuant to this chapter
34 shall request from any hospital with or at which the physician had or
35 has privileges, was associated, or was employed, during the preceding
36 five years, the following information concerning the physician:

37 (a) Any pending professional medical misconduct proceedings or
38 any pending medical malpractice actions, in this state or another
39 state;

1 (b) Any judgment or settlement of a medical malpractice action
2 and any finding of professional misconduct in this state or another
3 state by a licensing or disciplinary board; and

4 (c) Any information required to be reported by hospitals pursuant
5 to RCW 18.71.0195.

6 (3) In lieu of the requirements of subsections (1) and (2) of
7 this section, when granting or renewing privileges or association of
8 any physician providing telemedicine or store and forward services,
9 an originating site hospital may rely on a distant site hospital's
10 decision to grant or renew clinical privileges or association of the
11 physician if the originating site hospital obtains reasonable
12 assurances, through a written agreement with the distant site
13 hospital, that all of the following provisions are met:

14 (a) The distant site hospital providing the telemedicine or store
15 and forward services is a medicare participating hospital;

16 (b) Any physician providing telemedicine or store and forward
17 services at the distant site hospital will be fully privileged to
18 provide such services by the distant site hospital;

19 (c) Any physician providing telemedicine or store and forward
20 services will hold and maintain a valid license to perform such
21 services issued or recognized by the state of Washington; and

22 (d) With respect to any distant site physician who holds current
23 privileges at the originating site hospital whose patients are
24 receiving the telemedicine or store and forward services, the
25 originating site hospital has evidence of an internal review of the
26 distant site physician's performance of these privileges and sends
27 the distant site hospital such performance information for use in the
28 periodic appraisal of the distant site physician. At a minimum, this
29 information must include all adverse events, as defined in RCW
30 70.56.010, that result from the telemedicine or store and forward
31 services provided by the distant site physician to the originating
32 site hospital's patients and all complaints the originating site
33 hospital has received about the distant site physician.

34 (4) The medical quality assurance commission or the board of
35 osteopathic medicine and surgery shall be advised within thirty days
36 of the name of any physician denied staff privileges, association, or
37 employment on the basis of adverse findings under subsection (1) of
38 this section.

39 (5) A hospital or facility that receives a request for
40 information from another hospital or facility pursuant to subsections

1 (1) through (3) of this section shall provide such information
2 concerning the physician in question to the extent such information
3 is known to the hospital or facility receiving such a request,
4 including the reasons for suspension, termination, or curtailment of
5 employment or privileges at the hospital or facility. A hospital,
6 facility, or other person providing such information in good faith is
7 not liable in any civil action for the release of such information.

8 (6) Information and documents, including complaints and incident
9 reports, created specifically for, and collected, and maintained by a
10 quality improvement committee are not subject to discovery or
11 introduction into evidence in any civil action, and no person who was
12 in attendance at a meeting of such committee or who participated in
13 the creation, collection, or maintenance of information or documents
14 specifically for the committee shall be permitted or required to
15 testify in any civil action as to the content of such proceedings or
16 the documents and information prepared specifically for the
17 committee. This subsection does not preclude: (a) In any civil
18 action, the discovery of the identity of persons involved in the
19 medical care that is the basis of the civil action whose involvement
20 was independent of any quality improvement activity; (b) in any civil
21 action, the testimony of any person concerning the facts which form
22 the basis for the institution of such proceedings of which the person
23 had personal knowledge acquired independently of such proceedings;
24 (c) in any civil action by a health care provider regarding the
25 restriction or revocation of that individual's clinical or staff
26 privileges, introduction into evidence information collected and
27 maintained by quality improvement committees regarding such health
28 care provider; (d) in any civil action, disclosure of the fact that
29 staff privileges were terminated or restricted, including the
30 specific restrictions imposed, if any and the reasons for the
31 restrictions; or (e) in any civil action, discovery and introduction
32 into evidence of the patient's medical records required by regulation
33 of the department of health to be made regarding the care and
34 treatment received.

35 (7) Hospitals shall be granted access to information held by the
36 medical quality assurance commission and the board of osteopathic
37 medicine and surgery pertinent to decisions of the hospital regarding
38 credentialing and recredentialing of practitioners.

39 (8) Violation of this section shall not be considered negligence
40 per se.

1 NEW SECTION. **Sec. 7.** Sections 3 through 5 of this act take
2 effect January 1, 2018.

3 NEW SECTION. **Sec. 8.** If specific funding for the purposes of
4 this act, referencing this act by bill or chapter number, is not
5 provided by June 30, 2016, in the omnibus appropriations act, this
6 act is null and void."

7 Correct the title.

EFFECT: Adds a null and void clause. The bill is null and void
unless funded in the budget.

--- END ---