

# HOUSE BILL REPORT

## SSB 5175

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**As Passed House:**  
April 8, 2015

**Title:** An act relating to telemedicine.

**Brief Description:** Regarding telemedicine.

**Sponsors:** Senate Committee on Health Care (originally sponsored by Senators Becker, Frockt, Angel, Rivers, Cleveland, Dammeier, Keiser, Fain, Parlette, Darneille, Pedersen, Habib, Kohl-Welles and Mullet).

**Brief History:**

**Committee Activity:**

Health Care & Wellness: 3/25/15, 3/26/15 [DP].

**Floor Activity:**

Passed House: 4/8/15, 88-9.

**Brief Summary of 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.

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### HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

**Majority Report:** Do pass. Signed by 14 members: Representatives Cody, Chair; Riccelli, Vice Chair; Schmick, Ranking Minority Member; Harris, Assistant Ranking Minority Member; Caldier, Clibborn, Jinkins, Johnson, Moeller, Robinson, Rodne, Short, Tharinger and Van De Wege.

**Staff:** Jim Morishima (786-7191).

**Background:**

I. Reimbursement for Telemedicine.

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*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.*

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"). Similar, but not identical, to telemedicine, "store and forward" technology consists of the storage of clinical information that is subsequently forwarded to a health care provider for diagnosis.

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 (MQAC) in connection to physician discipline.

The MQAC must be advised within 30 days of the name of any physician-denied staff privileges, association, or employment.

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 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 or store and forward technology 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 is recognized as an essential health benefit under the federal Patient Protection and Affordable Care Act.

If the service is provided through store and forward technology, there must be an associated office visit between the covered person and the referring health care provider, which may be accomplished via telemedicine. Reimbursement for store and forward technology is available only for covered services that are specified in the negotiated agreement between the health plan and the health care provider.

A plan may not 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 or other provider's office, a community mental health center, a skilled nursing facility, and 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 or store and forward 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. "Store and forward technology" is defined as the use of an asynchronous transmission of a covered person's medical information from an originating site to the health care provider at a distant site, which results in the medical diagnosis and management of the covered person, and 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 Health Care Authority (HCA), using existing data and resources, must report on the impact on access for underserved communities and the costs to the state and the Medicaid

managed health care system for reimbursement of telemedicine services. The HCA must submit the report to the Legislature no later than December 31, 2018.

## 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.

The Board of Osteopathic Medicine and Surgery must be advised within 30 days of the name of any physician denied staff privileges, association, or employment.

**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 2 through 4, relating to reimbursement for telemedicine and store and forward technology, which take effect January 1, 2017.

### **Staff Summary of Public Testimony:**

(In support) Telemedicine is already being used, but there is no payment methodology for the services. This bill has been thoroughly vetted with the stakeholders. Health care should be equitable, affordable, accessible, and free from harmful mishaps. Chronic diseases, like Amyotrophic lateral sclerosis (ALS), affect many Washingtonians, are one of the leading causes of death, lead to increased health care spending, and is one of the leading causes of emergency room visits. Technology, telecommunications, and telemedicine can improve health care in Washington and empower individuals and families to take back control of their own care. Transformation of the health care system cannot be made through incremental adjustments. Telemedicine is currently focused on patients in rural communities and on care provided in facilities, which leaves out patients and their families. The geographic and facility restrictions on telemedicine services should be removed. Reimbursement should be made for the right technology that links together patients, patients' families, patients' care teams, patients' medical homes, behavioral health providers, patients' specialty providers, and community resources all through one common care plan. Health care may be the only industry in the world where the use of technology has done nothing to reduce costs.

Incentives should be created to get health care systems, government agencies, technology companies, large employers, patients, and their families to voluntarily come together. The main problem in the health care system today is fragmentation. Health plans have their own unique care management systems, but the problem is that patients switch among plans. Expectations of making people well must be raised. Patients should have individualized emotional and motivational support to go along with world-class, personalized health care. Chronic conditions often start with early childhood development issues. Cost sharing should be eliminated for chronic condition management medications. The Legislature should stay engaged on this issue and craft the next generation of telemedicine legislation, which should include access from home or school.

(Opposed) None.

**Persons Testifying:** Senator Becker, prime sponsor; Marc West; Lisa Thatcher, Washington State Hospital Association; Sydney Smith Zvara, Association of Washington Health Care Plans; and Jeanne Cushman, ZoomCare.

**Persons Signed In To Testify But Not Testifying:** None.