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HOUSE BILL 1403

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State of Washington

64th Legislature

2015 Regular Session

By Representatives Bergquist, Schmick, Cody, Johnson, Clibborn, Harris, Robinson, DeBolt, Riccelli, Short, Van De Wege, Jinkins, Tharinger, Tarleton, McBride, and Gregerson

Read first time 01/20/15. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to telemedicine; amending RCW 70.41.020 and  
2 70.41.230; adding a new section to chapter 41.05 RCW; adding a new  
3 section to chapter 48.43 RCW; adding a new section to chapter 74.09  
4 RCW; creating new sections; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** It is the intent of the legislature to  
7 recognize the application of telemedicine as a reimbursable service  
8 by which an individual receives medical services from a health care  
9 provider without in person contact with the provider. It is also the  
10 intent of the legislature to reduce the compliance requirements on  
11 hospitals when granting privileges or associations to telemedicine  
12 physicians.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05  
14 RCW to read as follows:

15 (1) A health plan offered to employees and their covered  
16 dependents under this chapter issued or renewed on or after the  
17 effective date of this section shall reimburse a provider for a  
18 health care service provided to a covered person through telemedicine  
19 or store and forward technology if:

1 (a) The plan provides coverage of the health care service when  
2 provided in-person by the provider; and

3 (b) The health care service is medically necessary.

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) Renal dialysis center, except an independent renal dialysis  
22 center.

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

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

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

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

39 (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 (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 electronic mail; 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 electronic  
28 mail.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.43  
30 RCW to read as follows:

31 (1) For health plans issued or renewed on or after the effective  
32 date of this section, a health carrier shall reimburse a provider for  
33 a health care service provided to a covered person through  
34 telemedicine store and forward technology if:

35 (a) The plan provides coverage of the health care service when  
36 provided in-person by the provider; and

37 (b) The health care service is medically necessary.

38 (2)(a) If the service is provided through store and forward  
39 technology there must be an associated office visit between the

1 covered person and the referring health care provider. Nothing in  
2 this section prohibits the use of telemedicine for the associated  
3 office visit.

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

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

10 (a) Hospital;

11 (b) Rural health clinic;

12 (c) Federally qualified health center;

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

14 (e) Community mental health center;

15 (f) Skilled nursing facility; or

16 (g) Renal dialysis center, except an independent renal dialysis  
17 center.

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

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

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

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

35 (a) An originating site for professional fees;

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

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

40 (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 electronic mail; 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 electronic  
23 mail.

24 NEW SECTION. **Sec. 4.** A new section is added to chapter 74.09  
25 RCW to read as follows:

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

31 (a) The medicaid managed care plan in which the covered person is  
32 enrolled provides coverage of the health care service when provided  
33 in-person by the provider; and

34 (b) The health care service is medically necessary.

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

1 (b) For purposes of this section, reimbursement of store and  
2 forward technology is available only for those services specified in  
3 the negotiated agreement between the managed health care system and  
4 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) Renal dialysis center, except an independent renal dialysis  
14 center.

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

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

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

31 (7) This section does not require a managed health care system to  
32 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) "Managed health care system" means any health care  
9 organization, including health care providers, insurers, health care  
10 service contractors, health maintenance organizations, health  
11 insuring organizations, or any combination thereof, that provides  
12 directly or by contract health care services covered under this  
13 chapter and rendered by licensed providers, on a prepaid capitated  
14 basis and that meets the requirements of section 1903(m)(1)(A) of  
15 Title XIX of the federal social security act or federal demonstration  
16 waivers granted under section 1115(a) of Title XI of the federal  
17 social security act;

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

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

21 (g) "Store and forward technology" means use of an asynchronous  
22 transmission of a covered person's medical information from an  
23 originating site to the health care provider at a distant site which  
24 results in medical diagnosis and management of the covered person,  
25 and does not include the use of audio-only telephone, facsimile, or  
26 electronic mail; and

27 (h) "Telemedicine" means the delivery of health care services  
28 through the use of interactive audio and video technology, permitting  
29 real-time communication between the patient at the originating site  
30 and the provider, for the purpose of diagnosis, consultation, or  
31 treatment. For purposes of this section only, "telemedicine" does not  
32 include the use of audio-only telephone, facsimile, or electronic  
33 mail.

34 (8) To measure the impact on access to care for underserved  
35 communities and costs to the state and the medicaid managed health  
36 care system for reimbursement of telemedicine services, the  
37 Washington state health care authority, using existing data and  
38 resources, shall provide a report to the appropriate policy and  
39 fiscal committees of the legislature no later than December 31, 2018.

1       **Sec. 5.** RCW 70.41.020 and 2010 c 94 s 17 are each amended to  
2 read as follows:

3       Unless the context clearly indicates otherwise, the following  
4 terms, whenever used in this chapter, shall be deemed to have the  
5 following meanings:

6       (1) "Department" means the Washington state department of health.

7       (2) "Emergency care to victims of sexual assault" means medical  
8 examinations, procedures, and services provided by a hospital  
9 emergency room to a victim of sexual assault following an alleged  
10 sexual assault.

11       (3) "Emergency contraception" means any health care treatment  
12 approved by the food and drug administration that prevents pregnancy,  
13 including but not limited to administering two increased doses of  
14 certain oral contraceptive pills within seventy-two hours of sexual  
15 contact.

16       (4) "Hospital" means any institution, place, building, or agency  
17 which provides accommodations, facilities and services over a  
18 continuous period of twenty-four hours or more, for observation,  
19 diagnosis, or care, of two or more individuals not related to the  
20 operator who are suffering from illness, injury, deformity, or  
21 abnormality, or from any other condition for which obstetrical,  
22 medical, or surgical services would be appropriate for care or  
23 diagnosis. "Hospital" as used in this chapter does not include  
24 hotels, or similar places furnishing only food and lodging, or simply  
25 domiciliary care; nor does it include clinics, or physician's offices  
26 where patients are not regularly kept as bed patients for twenty-four  
27 hours or more; nor does it include nursing homes, as defined and  
28 which come within the scope of chapter 18.51 RCW; nor does it include  
29 birthing centers, which come within the scope of chapter 18.46 RCW;  
30 nor does it include psychiatric hospitals, which come within the  
31 scope of chapter 71.12 RCW; nor any other hospital, or institution  
32 specifically intended for use in the diagnosis and care of those  
33 suffering from mental illness, intellectual disability, convulsive  
34 disorders, or other abnormal mental condition. Furthermore, nothing  
35 in this chapter or the rules adopted pursuant thereto shall be  
36 construed as authorizing the supervision, regulation, or control of  
37 the remedial care or treatment of residents or patients in any  
38 hospital conducted for those who rely primarily upon treatment by  
39 prayer or spiritual means in accordance with the creed or tenets of  
40 any well recognized church or religious denominations.



1 (5) "Person" means any individual, firm, partnership,  
2 corporation, company, association, or joint stock association, and  
3 the legal successor thereof.

4 (6) "Secretary" means the secretary of health.

5 (7) "Sexual assault" has the same meaning as in RCW 70.125.030.

6 (8) "Victim of sexual assault" means a person who alleges or is  
7 alleged to have been sexually assaulted and who presents as a  
8 patient.

9 (9) "Distant site" means the site at which a physician or other  
10 licensed provider, delivering a professional service, is physically  
11 located at the time the service is provided through telemedicine.

12 (10) "Originating site" means the physical location of a patient  
13 receiving health care services through telemedicine.

14 (11) "Telemedicine" means the delivery of health care services  
15 through the use of interactive audio and video technology, permitting  
16 real-time communication between the patient at the originating site  
17 and the provider, for the purpose of diagnosis, consultation, or  
18 treatment. "Telemedicine" does not include the use of audio-only  
19 telephone, facsimile, or electronic mail.

20 **Sec. 6.** RCW 70.41.230 and 2013 c 301 s 3 are each amended to  
21 read as follows:

22 (1) Except as provided in subsection (3) of this section, prior  
23 to granting or renewing clinical privileges or association of any  
24 physician or hiring a physician, a hospital or facility approved  
25 pursuant to this chapter shall request from the physician and the  
26 physician shall provide the following information:

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

33 (b) Whether the physician has ever been or is in the process of  
34 being denied, revoked, terminated, suspended, restricted, reduced,  
35 limited, sanctioned, placed on probation, monitored, or not renewed  
36 for any professional activity listed in (b)(i) through (x) of this  
37 subsection, or has ever voluntarily or involuntarily relinquished,  
38 withdrawn, or failed to proceed with an application for any  
39 professional activity listed in (b)(i) through (x) of this subsection

1 in order to avoid an adverse action or to preclude an investigation  
2 or while under investigation relating to professional competence or  
3 conduct:

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

5 (ii) Other professional registration or certification in any  
6 jurisdiction;

7 (iii) Specialty or subspecialty board certification;

8 (iv) Membership on any hospital medical staff;

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

11 (vi) Medicare, medicaid, the food and drug administration, the  
12 national institute of health (office of human research protection),  
13 governmental, national, or international regulatory agency, or any  
14 public program;

15 (vii) Professional society membership or fellowship;

16 (viii) Participation or membership in a health maintenance  
17 organization, preferred provider organization, independent practice  
18 association, physician-hospital organization, or other entity;

19 (ix) Academic appointment;

20 (x) Authority to prescribe controlled substances (drug  
21 enforcement agency or other authority);

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

27 (d) The substance of the findings in the actions or proceedings  
28 and any additional information concerning the actions or proceedings  
29 as the physician deems appropriate;

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

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

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

1 (a) Any pending professional medical misconduct proceedings or  
2 any pending medical malpractice actions, in this state or another  
3 state;

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

7 (c) Any information required to be reported by hospitals pursuant  
8 to RCW 18.71.0195.

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

17 (a) The distant site hospital providing the telemedicine services  
18 is a medicare participating hospital;

19 (b) Any physician providing telemedicine services at the distant  
20 site hospital will be fully privileged to provide such services by  
21 the distant site hospital;

22 (c) Any physician providing telemedicine services will hold and  
23 maintain a valid license to perform such services issued or  
24 recognized by the state of Washington; and

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

37 (4) The medical quality assurance commission shall be advised  
38 within thirty days of the name of any physician denied staff  
39 privileges, association, or employment on the basis of adverse  
40 findings under subsection (1) of this section.

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

11       (~~(5)~~) (6) Information and documents, including complaints and  
12 incident reports, created specifically for, and collected, and  
13 maintained by a quality improvement committee are not subject to  
14 discovery or introduction into evidence in any civil action, and no  
15 person who was in attendance at a meeting of such committee or who  
16 participated in the creation, collection, or maintenance of  
17 information or documents specifically for the committee shall be  
18 permitted or required to testify in any civil action as to the  
19 content of such proceedings or the documents and information prepared  
20 specifically for the committee. This subsection does not preclude:  
21 (a) In any civil action, the discovery of the identity of persons  
22 involved in the medical care that is the basis of the civil action  
23 whose involvement was independent of any quality improvement  
24 activity; (b) in any civil action, the testimony of any person  
25 concerning the facts which form the basis for the institution of such  
26 proceedings of which the person had personal knowledge acquired  
27 independently of such proceedings; (c) in any civil action by a  
28 health care provider regarding the restriction or revocation of that  
29 individual's clinical or staff privileges, introduction into evidence  
30 information collected and maintained by quality improvement  
31 committees regarding such health care provider; (d) in any civil  
32 action, disclosure of the fact that staff privileges were terminated  
33 or restricted, including the specific restrictions imposed, if any  
34 and the reasons for the restrictions; or (e) in any civil action,  
35 discovery and introduction into evidence of the patient's medical  
36 records required by regulation of the department of health to be made  
37 regarding the care and treatment received.

38       (~~(6)~~) (7) Hospitals shall be granted access to information held  
39 by the medical quality assurance commission and the board of  
40 osteopathic medicine and surgery pertinent to decisions of the

1 hospital regarding credentialing and recredentialing of  
2 practitioners.

3 ~~((7))~~ (8) Violation of this section shall not be considered  
4 negligence per se.

5 NEW SECTION. **Sec. 7.** The medical quality assurance commission,  
6 the nursing care quality assurance commission, and the board of  
7 osteopathic medicine and surgery shall inform the health committees  
8 of the legislature on recommended or adopted criteria under which  
9 health care providers from outside of Washington state would be  
10 permitted to deliver telemedicine services to Washington state  
11 residents that will ensure the quality of services delivered and the  
12 safety of those patients receiving those services. By December 1,  
13 2014, the board and commissions shall provide an update to the  
14 appropriate committees of the legislature on the progress of these  
15 efforts.

16 NEW SECTION. **Sec. 8.** Sections 2 through 4 of this act take  
17 effect January 1, 2017.

18 NEW SECTION. **Sec. 9.** The legislature encourages health plans to  
19 adopt the requirements of sections 2 through 4 of this act prior to  
20 January 1, 2017. Therefore, nothing in this act prohibits a plan from  
21 adopting the requirements of sections 2 through 4 of this act prior  
22 to January 1, 2017.

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