

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6519

64th Legislature
2016 Regular Session

Passed by the Senate February 16, 2016
Yeas 49 Nays 0

President of the Senate

Passed by the House March 3, 2016
Yeas 91 Nays 6

Speaker of the House of Representatives

Approved

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6519** as passed by Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6519

Passed Legislature - 2016 Regular Session

State of Washington

64th Legislature

2016 Regular Session

By Senate Health Care (originally sponsored by Senators Becker, Cleveland, Dammeier, Frockt, Brown, Angel, Rivers, Bailey, Keiser, Conway, Fain, Carlyle, Rolfes, Chase, and Parlette)

READ FIRST TIME 02/05/16.

1 AN ACT Relating to expanding patient access to health services
2 through telemedicine and establishing a collaborative for the
3 advancement of telemedicine; amending RCW 48.43.735, 41.05.700,
4 74.09.325, and 70.41.230; creating new sections; and providing an
5 effective date.

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

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

18 NEW SECTION. **Sec. 2.** (1) The collaborative for the advancement
19 of telemedicine is created to enhance the understanding and use of
20 health services provided through telemedicine and other similar

1 models in Washington state. The collaborative shall be hosted by the
2 University of Washington telehealth services and shall be comprised
3 of one member from each of the two largest caucuses of the senate and
4 the house of representatives, and representatives from the academic
5 community, hospitals, clinics, and health care providers in primary
6 care and specialty practices, carriers, and other interested parties.

7 (2) By July 1, 2016, the collaborative shall be convened. The
8 collaborative shall develop recommendations on improving
9 reimbursement and access to services, including originating site
10 restrictions, provider to provider consultative models, and
11 technologies and models of care not currently reimbursed; identify
12 the existence of telemedicine best practices, guidelines, billing
13 requirements, and fraud prevention developed by recognized medical
14 and telemedicine organizations; and explore other priorities
15 identified by members of the collaborative. After review of existing
16 resources, the collaborative shall explore and make recommendations
17 on whether to create a technical assistance center to support
18 providers in implementing or expanding services delivered through
19 telemedicine technologies.

20 (3) The collaborative must submit an initial progress report by
21 December 1, 2016, with follow-up policy reports including
22 recommendations by December 1, 2017, and December 1, 2018. The
23 reports shall be shared with the relevant professional associations,
24 governing boards or commissions, and the health care committees of
25 the legislature.

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

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

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

33 (1) For health plans issued or renewed on or after January 1,
34 2017, a health carrier shall reimburse a provider for a health care
35 service provided to a covered person through telemedicine (~~((for))~~) or
36 store and forward technology if:

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

39 (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 office visit between the
13 covered person and the referring health care provider. Nothing in
14 this section prohibits the use of telemedicine for the associated
15 office visit.

16 (b) For purposes of this section, reimbursement of store and
17 forward technology is available only for those covered services
18 specified in the negotiated agreement between the health carrier and
19 the 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 health carrier. A distant site or any other site not identified
36 in subsection (3) of this section may not charge a facility fee.

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

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

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

9 (a) An originating site for professional fees;

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

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

14 (8) For purposes of this section:

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

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

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

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

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

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

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

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

1 (1) A health plan offered to employees and their covered
2 dependents under this chapter issued or renewed on or after January
3 1, 2017, shall reimburse a provider for a health care service
4 provided to a covered person through telemedicine or store and
5 forward technology if:

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

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

9 (c) The health care service is a service recognized as an
10 essential health benefit under section 1302(b) of the federal patient
11 protection and affordable care act in effect on January 1, (~~2017~~)
12 2015; and

13 (d) The health care service is determined to be safely and
14 effectively provided through telemedicine or store and forward
15 technology according to generally accepted health care practices and
16 standards, and the technology used to provide the health care service
17 meets the standards required by state and federal laws governing the
18 privacy and security of protected health information.

19 (2)(a) If the service is provided through store and forward
20 technology there must be an associated office visit between the
21 covered person and the referring health care provider. Nothing in
22 this section prohibits the use of telemedicine for the associated
23 office visit.

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

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

30 (a) Hospital;

31 (b) Rural health clinic;

32 (c) Federally qualified health center;

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

34 (e) Community mental health center;

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

36 (g) Home; or

37 (h) Renal dialysis center, except an independent renal dialysis
38 center.

39 (4) Except for subsection (3)(g) of this section, any originating
40 site under subsection (3) of this section may charge a facility fee

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

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

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

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

15 (a) An originating site for professional fees;

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

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

20 (~~(9)~~~~[(8)]~~) (8) For purposes of this section:

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

24 (b) "Health care service" has the same meaning as in RCW
25 48.43.005;

26 (c) "Hospital" means a facility licensed under chapter 70.41,
27 71.12, or 72.23 RCW;

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

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

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

37 (g) "Telemedicine" means the delivery of health care services
38 through the use of interactive audio and video technology, permitting
39 real-time communication between the patient at the originating site
40 and the provider, for the purpose of diagnosis, consultation, or

1 treatment. For purposes of this section only, "telemedicine" does not
2 include the use of audio-only telephone, facsimile, or email.

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

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

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

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

14 (c) The health care service is a service recognized as an
15 essential health benefit under section 1302(b) of the federal patient
16 protection and affordable care act in effect on January 1, (~~2017~~)
17 2015; and

18 (d) The health care service is determined to be safely and
19 effectively provided through telemedicine or store and forward
20 technology according to generally accepted health care practices and
21 standards, and the technology used to provide the health care service
22 meets the standards required by state and federal laws governing the
23 privacy and security of protected health information.

24 (2)(a) If the service is provided through store and forward
25 technology there must be an associated visit between the covered
26 person and the referring health care provider. Nothing in this
27 section prohibits the use of telemedicine for the associated office
28 visit.

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

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

35 (a) Hospital;

36 (b) Rural health clinic;

37 (c) Federally qualified health center;

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

39 (e) Community mental health center;

1 (f) Skilled nursing facility; ((~~o~~))

2 (g) Home; or

3 (h) Renal dialysis center, except an independent renal dialysis
4 center.

5 (4) Except for subsection (3)(g) of this section, any originating
6 site under subsection (3) of this section may charge a facility fee
7 for infrastructure and preparation of the patient. Reimbursement must
8 be subject to a negotiated agreement between the originating site and
9 the managed health care system. A distant site or any other site not
10 identified in subsection (3) of this section may not charge a
11 facility fee.

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

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

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

24 (a) An originating site for professional fees;

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

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

29 (8) For purposes of this section:

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

33 (b) "Health care service" has the same meaning as in RCW
34 48.43.005;

35 (c) "Hospital" means a facility licensed under chapter 70.41,
36 71.12, or 72.23 RCW;

37 (d) "Managed health care system" means any health care
38 organization, including health care providers, insurers, health care
39 service contractors, health maintenance organizations, health
40 insuring organizations, or any combination thereof, that provides

1 directly or by contract health care services covered under this
2 chapter and rendered by licensed providers, on a prepaid capitated
3 basis and that meets the requirements of section 1903(m)(1)(A) of
4 Title XIX of the federal social security act or federal demonstration
5 waivers granted under section 1115(a) of Title XI of the federal
6 social security act;

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

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

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

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

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

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

30 (1) Except as provided in subsection (3) of this section, prior
31 to granting or renewing clinical privileges or association of any
32 physician or hiring a physician, a hospital or facility approved
33 pursuant to this chapter shall request from the physician and the
34 physician shall provide the following information:

35 (a) The name of any hospital or facility with or at which the
36 physician had or has any association, employment, privileges, or
37 practice during the prior five years: PROVIDED, That the hospital may
38 request additional information going back further than five years,

1 and the physician shall use his or her best efforts to comply with
2 such a request for additional information;

3 (b) Whether the physician has ever been or is in the process of
4 being denied, revoked, terminated, suspended, restricted, reduced,
5 limited, sanctioned, placed on probation, monitored, or not renewed
6 for any professional activity listed in (b)(i) through (x) of this
7 subsection, or has ever voluntarily or involuntarily relinquished,
8 withdrawn, or failed to proceed with an application for any
9 professional activity listed in (b)(i) through (x) of this subsection
10 in order to avoid an adverse action or to preclude an investigation
11 or while under investigation relating to professional competence or
12 conduct:

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

14 (ii) Other professional registration or certification in any
15 jurisdiction;

16 (iii) Specialty or subspecialty board certification;

17 (iv) Membership on any hospital medical staff;

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

20 (vi) Medicare, medicaid, the food and drug administration, the
21 national institute of health (office of human research protection),
22 governmental, national, or international regulatory agency, or any
23 public program;

24 (vii) Professional society membership or fellowship;

25 (viii) Participation or membership in a health maintenance
26 organization, preferred provider organization, independent practice
27 association, physician-hospital organization, or other entity;

28 (ix) Academic appointment;

29 (x) Authority to prescribe controlled substances (drug
30 enforcement agency or other authority);

31 (c) Any pending professional medical misconduct proceedings or
32 any pending medical malpractice actions in this state or another
33 state, the substance of the allegations in the proceedings or
34 actions, and any additional information concerning the proceedings or
35 actions as the physician deems appropriate;

36 (d) The substance of the findings in the actions or proceedings
37 and any additional information concerning the actions or proceedings
38 as the physician deems appropriate;

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

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

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

12 (a) Any pending professional medical misconduct proceedings or
13 any pending medical malpractice actions, in this state or another
14 state;

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

18 (c) Any information required to be reported by hospitals pursuant
19 to RCW 18.71.0195.

20 (3) In lieu of the requirements of subsections (1) and (2) of
21 this section, when granting or renewing privileges or association of
22 any physician providing telemedicine or store and forward services,
23 an originating site hospital may rely on a distant site hospital's
24 decision to grant or renew clinical privileges or association of the
25 physician if the originating site hospital obtains reasonable
26 assurances, through a written agreement with the distant site
27 hospital, that all of the following provisions are met:

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

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

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

36 (d) With respect to any distant site physician who holds current
37 privileges at the originating site hospital whose patients are
38 receiving the telemedicine or store and forward services, the
39 originating site hospital has evidence of an internal review of the
40 distant site physician's performance of these privileges and sends

1 the distant site hospital such performance information for use in the
2 periodic appraisal of the distant site physician. At a minimum, this
3 information must include all adverse events, as defined in RCW
4 70.56.010, that result from the telemedicine or store and forward
5 services provided by the distant site physician to the originating
6 site hospital's patients and all complaints the originating site
7 hospital has received about the distant site physician.

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

13 (5) A hospital or facility that receives a request for
14 information from another hospital or facility pursuant to subsections
15 (1) through (3) of this section shall provide such information
16 concerning the physician in question to the extent such information
17 is known to the hospital or facility receiving such a request,
18 including the reasons for suspension, termination, or curtailment of
19 employment or privileges at the hospital or facility. A hospital,
20 facility, or other person providing such information in good faith is
21 not liable in any civil action for the release of such information.

22 (6) Information and documents, including complaints and incident
23 reports, created specifically for, and collected, and maintained by a
24 quality improvement committee are not subject to discovery or
25 introduction into evidence in any civil action, and no person who was
26 in attendance at a meeting of such committee or who participated in
27 the creation, collection, or maintenance of information or documents
28 specifically for the committee shall be permitted or required to
29 testify in any civil action as to the content of such proceedings or
30 the documents and information prepared specifically for the
31 committee. This subsection does not preclude: (a) In any civil
32 action, the discovery of the identity of persons involved in the
33 medical care that is the basis of the civil action whose involvement
34 was independent of any quality improvement activity; (b) in any civil
35 action, the testimony of any person concerning the facts which form
36 the basis for the institution of such proceedings of which the person
37 had personal knowledge acquired independently of such proceedings;
38 (c) in any civil action by a health care provider regarding the
39 restriction or revocation of that individual's clinical or staff
40 privileges, introduction into evidence information collected and

1 maintained by quality improvement committees regarding such health
2 care provider; (d) in any civil action, disclosure of the fact that
3 staff privileges were terminated or restricted, including the
4 specific restrictions imposed, if any and the reasons for the
5 restrictions; or (e) in any civil action, discovery and introduction
6 into evidence of the patient's medical records required by regulation
7 of the department of health to be made regarding the care and
8 treatment received.

9 (7) Hospitals shall be granted access to information held by the
10 medical quality assurance commission and the board of osteopathic
11 medicine and surgery pertinent to decisions of the hospital regarding
12 credentialing and recredentialing of practitioners.

13 (8) Violation of this section shall not be considered negligence
14 per se.

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

--- END ---