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## Health Care & Wellness Committee

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### ESSB 5481

**Brief Description:** Concerning the uniform law commission's uniform telehealth act.

**Sponsors:** Senate Committee on Health & Long Term Care (originally sponsored by Senators Cleveland and Pedersen; by request of Uniform Law Commission).

#### Brief Summary of Engrossed Substitute Bill

- Specifies the circumstances in which telehealth services may be provided to patients in Washington.
- Allows a provider-patient relationship to be established through telehealth.
- Renames and extends the Collaborative for the Advancement of Telemedicine (Collaborative) and directs the Collaborative to review a proposal to allow out-of-state providers to register to provide telehealth services to patients in this state.

**Hearing Date:** 2/16/24

**Staff:** Kim Weidenaar (786-7120).

#### **Background:**

##### Telemedicine Reimbursement.

Telemedicine is the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. A telemedicine visit is considered to take place at the patient's location, known as the originating site. An originating site for telemedicine includes a hospital, rural health clinic, federally qualified health center, health care provider's office, community mental health center, skilled nursing center, renal

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dialysis center, or a home.

Health plans offered by a health carrier, the Public Employees Benefits Board, the School Employees Benefits Board, a Medicaid managed care plan, or a behavioral health administrative services organization must reimburse providers for health care services provided through telemedicine or store and forward technology if:

- the health care services are covered services;
- the health care services are medically necessary;
- the health care services are essential health benefits under the federal Patient Protection and Affordable Care Act;
- the health care services are determined to be safely and effectively provided through telemedicine or store and forward technology; and
- the technology meets state and federal standards governing the privacy and security of protected health information.

#### Collaborative for the Advancement of Telemedicine.

In July 2016 the Collaborative for the Advancement of Telemedicine (Collaborative) was established to enhance the understanding and use of health services provided through telemedicine and other similar models in Washington. The Collaborative is hosted by the University of Washington and considers issues related to reimbursement, access, best practices, and technical assistance. The Collaborative expired December 31, 2023.

#### Uniform Law Commission Telehealth Act.

In 2022 the Uniform Law Commission approved and recommended the Uniform Telehealth Act for enactment in all states. The Uniform Telehealth Act includes a registration system that allows out-of-state practitioners who lack a license in the enacting state to provide telehealth services in the same circumstances in which practitioners licensed in the enacting state may provide these services. Registered practitioners are subject to potential disciplinary action in connection with the telehealth services they provide to patients located in the enacting state but are not subject to licensure-related requirements such as continuing education requirements.

#### Health Care Professional Licensure.

The Department of Health (DOH) licenses and certifies health care professionals in a variety of fields. Licensure or certification may entail the adoption of rules, verification of educational attainment and completion of supervised training, completion of a background check and verification of good character requirements, administration of a knowledge or practical skills examination, and collection of license or certification fees. The Uniform Disciplinary Act (UDA) provides laws governing the conduct and discipline of license and certification holders, with DOH, or a board or commission within DOH, acting as the disciplining authority.

#### **Summary of Bill:**

A health care practitioner may provide telehealth services to a patient located in Washington if the services are consistent with the health care practitioner's scope of practice, applicable

professional practice standards, and requirements and limitations of federal law and law of this state. A practitioner-patient relationship may be established through telehealth. A health care practitioner who provides telehealth services to a patient located in Washington must provide the services in compliance with the applicable professional practice standards and all practice standards and laws related to the provision of health care services apply to the provision of telehealth services.

A disciplining authority may not adopt or enforce a rule that establishes a different professional practice standard for telehealth services, merely because the services are provided through telehealth, or limit the telecommunication technology that may be used for telehealth services.

An out-of-state health care practitioner may provide telehealth services to a patient located in Washington, if the practitioner:

- holds a current license or certification required to provide health care in Washington or is otherwise authorized to provide care in Washington; or
- provides telehealth services:
  - in the form of a consultation with a health care practitioner who has a practitioner-patient relationship with the patient and who remains responsible for diagnosing and treating the patient in the state; or
  - in the form of a specialty assessment, diagnosis, or recommendation for treatment.

The provision of a telehealth service occurs at the patient's location at the time the service is provided. In a civil action arising out of a health care practitioner's provision of telehealth services brought by a patient or patient's personal representatives, conservator, guardian, or other person entitled to bring a claim under the state's wrongful death statute, the venue is proper in the patient's county of residence or in another county authorized by law.

The Collaborative is renamed the Collaborative for the Advancement of Telehealth and it is extended until July 1, 2025. The Collaborative must review the proposal authored by the Uniform Law Commission for the state to implement a process for out-of-state health care providers to register with the disciplining authority regulating their profession, allowing that provider to provide services through telehealth or store and forward technology to persons located in Washington. By December 1, 2024, the Collaborative must submit a report to the Legislature on its recommendations regarding the proposal.

A new chapter in Title 18 RCW is created, and the act may be known and cited as the Uniform Telehealth Act. Disciplining authorities may adopt rules to administer, enforce, implement, or interpret this Act. In applying and construing this chapter, a court must consider the promotion of uniformity among jurisdictions that enact the Uniform Telehealth Act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.