

SENATE BILL REPORT

ESSB 5481

As Amended by House, March 1, 2024

Title: An act relating to the uniform law commission's uniform telehealth act.

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 History:

Committee Activity: Health & Long Term Care: 2/02/23, 2/17/23 [DPS, w/oRec].

Floor Activity: Passed Senate: 1/24/24, 49-0.

Passed House: 3/1/24, 94-0.

Brief Summary of Engrossed First Substitute Bill

- Provides the circumstances in which an out-of-state health care providers may provide telehealth services to patients in this state.
- Allows a provider to establish a relationship with a patient through telehealth.
- Directs the Telemedicine Collaborative to review a proposal to allow out-of-state providers to register to provide telehealth services to patients in this state.

SENATE COMMITTEE ON HEALTH & LONG TERM CARE

Majority Report: That Substitute Senate Bill No. 5481 be substituted therefor, and the substitute bill do pass.

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Conway, Dhingra, Holy, Randall and Van De Wege.

Minority Report: That it be referred without recommendation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senator Padden.

Staff: Greg Attanasio (786-7410)

Background: "Telehealth" is the use of synchronous or asynchronous telecommunication technology by a practitioner to provide health care to a patient at a different physical location than the practitioner. A telehealth visit is considered to take place at the patient location, known as the originating site.

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 Engrossed First Substitute Bill: A health care practitioner may provide telehealth services to a patient located in this state if the services are consistent with the health care practitioner's scope of practice in this state, applicable professional practice standards in this state, and requirements and limitations of federal law and law of this state. A practitioner-patient relationship may be established through telehealth.

An out-of-state health care provider may provide telehealth services to a patient located in Washington if the out-of-state health care practitioner holds a current license or certification required to provide health care in this state, or provides the telehealth services in consultation with a provider who has a provider-patient relationship with the patient or in the form of a specialty assessment, diagnosis, or recommendation for treatment.

A disciplining authority may not adopt or enforce a rule that establishes a different 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.

The telemedicine collaborative 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 disciplinary authority regulating their profession in this state allowing that provider to provide services through telemedicine or store and forward technology to persons located in this state and provide a report the Legislature by December 1, 2024.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: *The committee recommended a different version of the bill than what was heard.* PRO: The Uniform Law Commission engaged in a two year process to consider this bill language. This has been used in other states without any issues with bad actors. It gives a pathway to practice and will address the provider shortage issue in the state. This bill is particularly important for mental health care. It is important to be technology neutral and include store and forward technology. The bill expands access to healthcare and greater choice of how that care is delivered.

OTHER: Peer to peer consults are already allowed under current law. Registration is not licensure and providers should not be allowed to practice in the state without licensure. Compacts are a preferred path. Timeline for licensure is not a barrier to practice. The telemedicine collaborative should review the registration process. Established relationship needs more consideration. Registered providers are less likely to accept Washington Medicaid patients. Out of state providers wouldn't know what services are available locally.

Persons Testifying: PRO: Senator Annette Cleveland, Prime Sponsor; Mercer May, Teladoc Health; Michele Radosevich, Uniform Law Commission; Tom Mann, ATA Action.

OTHER: Micah Matthews, Washington Medical Commission; Remy Kerr, Washington State Hospital Association; Sean Graham, WA State Medical Association (WSMA).

Persons Signed In To Testify But Not Testifying: No one.

EFFECT OF HOUSE AMENDMENT(S):

- Removes veterinarians from the definition of practitioner and limits the definition of practitioner for other listed health care practitioners to the extent the profession's scope of practice includes health care that can be provided through telehealth.
- Excludes texts, emails, instant messages, and faxes, in insolation, from the definition of telehealth.
- Specifies a practitioner-patient relationship may not be established through email, instant messaging, text messaging, or fax.
- Requires out-of-state practitioners to be licensed and in good standing in another state in order to provide authorized telehealth services in Washington.
- Specifies that the authorization for out-of-state providers to provide telehealth services in Washington in the form of a specialty assessment, diagnosis, or recommendation for treatment, does not include the provision of treatment.
- Authorizes an out-of-state primary care practitioner, mental health practitioner, or recognized clinical specialist to maintain continuity of care with an established patient who is temporarily located in this state and received treatment in the state where the practitioner is located and licensed.

- Specifies that the act does not permit a health care practitioner to bill a patient directly for a telehealth service that is not a permissible telemedicine service under chapter 48.43, 41.05, or 74.09 RCW without receiving patient consent to be billed prior to providing the telehealth service.
- Specifies that the act does not require health plans offered to public and school employees and medical assistance programs to reimburse for telehealth services that do not meet statutory requirements for reimbursement of telemedicine services.