

Telehealth State/ Federal Updates

MARCH 18, 2024

WashingtonState
Telehealth Collaborative

Alaska Update

- Alaska S.B. 91 would allow out-of-state physicians and members of their multidisciplinary care team to provide telehealth services to Alaska patients without obtaining an Alaska license. The privilege to practice extends only to either of the following circumstances:
 - Ongoing treatment or follow-up care is related to health care services previously provided by the physician to the patient and applies only if:
 - There is an established physician-patient relationship and the physician has previously conducted an in-person visit with the patient
 - A visit with a physician licensed in another state or a member of the physician's multidisciplinary care team regarding a suspected or diagnosed life threatening condition for which both of the following must be met:
 - The patient has been referred to the out-of-state physician or their multidisciplinary care team by a physician licensed in Alaska or licensed in another state – there must be a documented referral
 - The visit involves patient communication regarding diagnostic or treatment plan options or analysis of test results for the life-threatening condition
- Follow the progress of the bill [here](#).
- See bill text [here](#).

State Updates

- New Jersey court case, *MacDonald et al. v. Sabando*, was filed in December 2023 where it involves a pediatric oncologist at Boston Massachusetts General Hospital who was treating a pediatric patient in New Jersey for brain cancer.
 - Dr. MacDonald was overseeing his care without a license in New Jersey and the New Jersey Medical Commission barred her from continuing this telehealth care due to state telehealth licensure restrictions.
 - The patient and the patient's father have sued the New Jersey Medical Commission on grounds that this violates the interstate commerce clause.
 - See more details [here](#).
- H.B. 2295 is an act relating to establishing a regulatory structure for licensed acute care hospitals to provide hospital-at-home services. This program model allows hospitals to provide acute care services in patients' homes as an alternative to hospital admission.
 - The Washington State Department of Health must adopt rules by December 31, 2025 to add hospital-at-home services to the services that a licensed acute care hospital may provide
 - Passed on Monday, March 4th
 - See bill text [here](#).

S.B. 5821 – Audio-Only Telemedicine

- S.B. 5821 establishes a uniform standard for creating an established relationship for the purposes of coverage of audio-only telemedicine services
 - Passed on Wednesday, 2/28
 - See final bill report [here](#).
 - See bill text [here](#).

S.B. 5821 – Audio-Only Telemedicine

“Established relationship” means the provider providing audio-only telemedicine has access to sufficient health records to ensure safe, effective, and appropriate care services and:

- ~~i. For health care services included in the essential health benefits category of mental health and substance use disorder services, including behavioral health treatment:
The covered person has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or~~
- ii. The covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past three years, at least one in-person appointment, or at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine

S.B. 5821 – Audio-Only Telemedicine

~~For any other health care services:~~

- ~~(A) The covered person has had, within the past two years, at least one in-person appointment, or, until July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the provider providing audio-only telemedicine or with a provider employed at the same medical group, at the same clinic, or by the same integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW as the provider providing audio-only telemedicine; or~~
- ~~(B) The covered person was referred to the provider providing audio-only telemedicine by another provider who has had, within the past two years, at least one in-person appointment, or, until July 1, 2024, at least one real-time interactive appointment using both audio and video technology, with the covered person and has provided relevant medical information to the provider providing audio-only telemedicine~~

- Passed on Tuesday, 3/05
- Law is effective 90 days from 3/07

S.B. 5481 - Uniform Telehealth Act

- See final bill report [here](#).
- See bill text [here](#).
- Adopts the following changes:
 - Removes the definitions for “telemedicine,” “store and forward technology,” and “telemedicine services.” Adds definitions for “telehealth” and “telehealth services,” and replaces reference to “telemedicine” with “telehealth”
 - Allows a provider to establish a patient relationship through telehealth
 - The practice of a telehealth service occurs at the patient’s location at the time the service is provided
 - Clarifies that an out-of-state practitioner may use telehealth services to consult with an in-state practitioner regarding a patient, but the in-state practitioner remains responsible for providing the care
 - Prohibits a disciplining authority from adopting practice standards for telehealth that are different from in-person standards
 - Adds that this act does not require reimbursement for telehealth services if they do not meet the reimbursement requirements for telemedicine in statute
 - Updates the due date for the WA State Telehealth Collaborative to review the idea of a registration system for out-of-state practitioners regulating their profession in Washington to allow them to provide telehealth services to patients in Washington. A report is due by 12/01/2024 back to the Legislature.

S.B. 5481 - Uniform Telehealth Act

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

1. Holds a current license or certification required to provide health care in this state or is otherwise authorized to provide health care in this state, including through a multistate compact of which this state is a member; or
2. Holds a license or certification in good standing in another state and provides the telehealth services:
 - a) 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
 - b) In the form of a specialty assessment, diagnosis, or recommendation for treatment. This does not include the provision of treatment; or
 - c) In the form of follow up by a 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.”

S.B. 5481 – Collaborative Task

“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 telehealth or store and forward technology to persons located in this state. By December 1, 2024, the Collaborative must submit a report to the legislature on its recommendations regarding the proposal.”