

Effective 5/9/2017

Chapter 60 Telehealth Act

26-60-101 Title.

This chapter is known as the "Telehealth Act."

Enacted by Chapter 241, 2017 General Session

26-60-102 Definitions.

As used in this chapter:

- (1) "Asynchronous store and forward transfer" means the transmission of a patient's health care information from an originating site to a provider at a distant site.
- (2) "Distant site" means the physical location of a provider delivering telemedicine services.
- (3) "Originating site" means the physical location of a patient receiving telemedicine services.
- (4) "Patient" means an individual seeking telemedicine services.
- (5)
 - (a) "Patient-generated medical history" means medical data about a patient that the patient creates, records, or gathers.
 - (b) "Patient-generated medical history" does not include a patient's medical record that a healthcare professional creates and the patient personally delivers to a different healthcare professional.
- (6) "Provider" means an individual who is:
 - (a) licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection Act;
 - (b) licensed under Title 58, Occupations and Professions, to provide health care; or
 - (c) licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.
- (7) "Synchronous interaction" means real-time communication through interactive technology that enables a provider at a distant site and a patient at an originating site to interact simultaneously through two-way audio and video transmission.
- (8) "Telehealth services" means the transmission of health-related services or information through the use of electronic communication or information technology.
- (9) "Telemedicine services" means telehealth services:
 - (a) including:
 - (i) clinical care;
 - (ii) health education;
 - (iii) health administration;
 - (iv) home health;
 - (v) facilitation of self-managed care and caregiver support; or
 - (vi) remote patient monitoring occurring incidentally to general supervision; and
 - (b) provided by a provider to a patient through a method of communication that:
 - (i)
 - (A) uses asynchronous store and forward transfer; or
 - (B) uses synchronous interaction; and
 - (ii) meets industry security and privacy standards, including compliance with:
 - (A) the federal Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, 110 Stat. 1936, as amended; and

(B) the federal Health Information Technology for Economic and Clinical Health Act, Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.

Amended by Chapter 119, 2020 General Session

26-60-103 Scope of telehealth practice.

- (1) A provider offering telehealth services shall:
 - (a) at all times:
 - (i) act within the scope of the provider's license under Title 58, Occupations and Professions, in accordance with the provisions of this chapter and all other applicable laws and rules; and
 - (ii) be held to the same standards of practice as those applicable in traditional health care settings;
 - (b) if the provider does not already have a provider-patient relationship with the patient, establish a provider-patient relationship during the patient encounter in a manner consistent with the standards of practice, determined by the Division of Professional Licensing in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including providing the provider's licensure and credentials to the patient;
 - (c) in accordance with Title 58, Chapter 82, Electronic Prescribing Act, before providing treatment or prescribing a prescription drug, establish a diagnosis and identify underlying conditions and contraindications to a recommended treatment after:
 - (i) obtaining from the patient or another provider the patient's relevant clinical history; and
 - (ii) documenting the patient's relevant clinical history and current symptoms;
 - (d) be available to a patient who receives telehealth services from the provider for subsequent care related to the initial telemedicine services, in accordance with community standards of practice;
 - (e) be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated;
 - (f) in accordance with any applicable state and federal laws, rules, and regulations, generate, maintain, and make available to each patient receiving telehealth services the patient's medical records; and
 - (g) if the patient has a designated health care provider who is not the telemedicine provider:
 - (i) consult with the patient regarding whether to provide the patient's designated health care provider a medical record or other report containing an explanation of the treatment provided to the patient and the telemedicine provider's evaluation, analysis, or diagnosis of the patient's condition;
 - (ii) collect from the patient the contact information of the patient's designated health care provider; and
 - (iii) within two weeks after the day on which the telemedicine provider provides services to the patient, and to the extent allowed under HIPAA as that term is defined in Section 26-18-17, provide the medical record or report to the patient's designated health care provider, unless the patient indicates that the patient does not want the telemedicine provider to send the medical record or report to the patient's designated health care provider.
- (2) Subsection (1)(g) does not apply to prescriptions for eyeglasses or contacts.
- (3) Except as specifically provided in Title 58, Chapter 83, Online Prescribing, Dispensing, and Facilitation Licensing Act, and unless a provider has established a provider-patient relationship with a patient, a provider offering telemedicine services may not diagnose a patient, provide treatment, or prescribe a prescription drug based solely on one of the following:
 - (a) an online questionnaire;

- (b) an email message; or
 - (c) a patient-generated medical history.
- (4) A provider may not offer telehealth services if:
- (a) the provider is not in compliance with applicable laws, rules, and regulations regarding the provider's licensed practice; or
 - (b) the provider's license under Title 58, Occupations and Professions, is not active and in good standing.

Amended by Chapter 119, 2020 General Session

26-60-104 Enforcement.

- (1) The Division of Occupational and Professional Licensing created in Section 58-1-103 is authorized to enforce the provisions of Section 26-60-103 as it relates to providers licensed under Title 58, Occupations and Professions.
- (2) The department is authorized to enforce the provisions of Section 26-60-103 as it relates to providers licensed under this title.
- (3) The Department of Human Services created in Section 62A-1-102 is authorized to enforce the provisions of Section 26-60-103 as it relates to providers licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

Enacted by Chapter 241, 2017 General Session

26-60-105 Study by Public Utilities, Energy, and Technology Interim Committee and Health Reform Task Force.

The Legislature's Public Utilities, Energy, and Technology Interim Committee and Health Reform Task Force shall receive the reports required in Sections 26-18-13.5 and 49-20-414 and, during the 2019 interim, study:

- (1) the result of the reimbursement requirement described in Sections 26-18-13.5 and 49-20-414;
- (2) practices and efforts of private health care facilities, health care providers, self-funded employers, third-party payors, and health maintenance organizations to reimburse for telehealth services;
- (3) existing and potential uses of telehealth and telemedicine services;
- (4) issues of reimbursement to a provider offering telehealth and telemedicine services; and
- (5) potential rules or legislation related to:
 - (a) providers offering and insurers reimbursing for telehealth and telemedicine services; and
 - (b) increasing access to health care, increasing the efficiency of health care, and decreasing the costs of health care.

Amended by Chapter 249, 2019 General Session