

TELEHEALTH AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: Allen M. Christensen

LONG TITLE

General Description:

This bill amends the Medical Assistance Act, the Public Employees' Benefit and Insurance Program Act, and the Insurance Code to provide coverage, and coverage transparency, for certain telehealth services.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends the Medical Assistance Act regarding reimbursement for telemedicine services;
- ▶ amends the Insurance Code to require insurer transparency regarding telehealth reimbursement;
- ▶ amends the Public Employees' Benefit and Insurance Program Act (PEHP) regarding reimbursement for telemedicine services;
- ▶ requires the Department of Health and PEHP to report to a legislative interim committee and a task force regarding telehealth services;
- ▶ requires a legislative study; ~~§~~ **and** ~~§~~
- ▶ describes responsibilities of a provider offering telehealth services ~~§~~ **[;and]** ~~§~~ ~~§~~ .

~~§~~ ~~§~~ ~~amends the Electronic Prescribing Act to restrict certain prescriptions in conjunction with telehealth services.]~~ ~~§~~

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 26-18-13, as enacted by Laws of Utah 2008, Chapter 41

34 31A-22-613.5, as last amended by Laws of Utah 2015, Chapters 257 and 283

35 ~~§→ [58-82-201, as last amended by Laws of Utah 2012, Chapter 160] ←§~~

36 ENACTS:

37 26-18-13.5, Utah Code Annotated 1953

38 26-59-101, Utah Code Annotated 1953

39 26-59-102, Utah Code Annotated 1953

40 26-59-103, Utah Code Annotated 1953

41 26-59-104, Utah Code Annotated 1953

42 26-59-105, Utah Code Annotated 1953

43 49-20-414, Utah Code Annotated 1953



45 *Be it enacted by the Legislature of the state of Utah:*

46 Section 1. Section 26-18-13 is amended to read:

47 **26-18-13. Telemedicine -- Reimbursement -- Rulemaking.**

48 (1) (a) ~~[On or after July 1, 2008;]~~ As used in this section, communication by
49 telemedicine is considered ~~[face-to-face]~~ face-to-face contact between a health care provider
50 and a patient under the state's medical assistance program if:

51 (i) the communication by telemedicine meets the requirements of administrative rules
52 adopted in accordance with Subsection (3); and

53 (ii) the health care services are eligible for reimbursement under the state's medical
54 assistance program.

55 (b) This Subsection (1) applies to any managed care organization that contracts with
56 the state's medical assistance program.

57 (2) The reimbursement rate for telemedicine services approved under this section:

58 (a) shall be subject to reimbursement policies set by the state plan; and

- 90 (d) potential rules or legislation related to:
- 91 (i) providers offering and insurers reimbursing for telehealth and telemedicine services;
- 92 and
- 93 (ii) increasing access to health care, increasing the efficiency of health care, and
- 94 decreasing the costs of health care; and
- 95 (e) the department's efforts to obtain a waiver from the federal requirement that
- 96 telemedicine communication be face-to-face communication.

97 Section 3. Section 26-59-101 is enacted to read:

98 **CHAPTER 59. TELEHEALTH ACT**

99 **26-59-101. Title.**

100 This chapter is known as the "Telehealth Act."

101 Section 4. Section 26-59-102 is enacted to read:

102 **26-59-102. Definitions.**

103 As used in this chapter:

104 (1) "Asynchronous store and forward transfer" means the transmission of a patient's
105 health care information from an originating site to a provider at a distant site ~~§~~ → [over a secure
106 connection that complies with state and federal security and privacy laws] ← § .

107 (2) "Distant site" means the physical location of a provider delivering telemedicine
108 services.

109 (3) "Originating site" means the physical location of a patient receiving telemedicine
110 services.

111 (4) "Patient" means an individual seeking telemedicine services.

112 (5) "Provider" means an individual who is:

113 (a) licensed under Title 26, Chapter 21, Health Care Facility Licensing and Inspection
114 Act;

115 (b) licensed under Title 58, Occupations and Professions, to provide health care; or

116 (c) licensed under Title 62A, Chapter 2, Licensure of Programs and Facilities.

117 (6) "Synchronous interaction" means real-time communication through interactive
118 technology that enables a provider at a distant site and a patient at an originating site to interact
119 simultaneously through two-way audio and video transmission.

120 (7) "Telehealth services" means the transmission of health-related services or

307 and

308 (d) potential rules or legislation related to:

309 (i) providers offering and insurers reimbursing for telehealth and telemedicine services;

310 and

311 (ii) increasing access to health care, increasing the efficiency of health care, and
 312 decreasing the costs of health care.

313 **§→ [Section 10. Section 58-82-201 is amended to read:**

314 ~~———— 58-82-201. Electronic prescriptions -- Restrictions -- Rulemaking authority.~~

315 ~~———— (1) Subject to the provisions of this section, a practitioner shall:~~

316 ~~———— (a) provide each existing patient of the practitioner with the option of participating in~~
 317 ~~electronic prescribing for prescriptions issued for the patient, if the practitioner prescribes a~~
 318 ~~drug or device for the patient on or after July 1, 2012; and~~

319 ~~———— (b) offer the patient a choice regarding to which pharmacy the practitioner will issue~~
 320 ~~the electronic prescription.~~

321 ~~———— (2) A practitioner may not issue a prescription through electronic prescribing for a~~
 322 ~~drug, device, or federal controlled substance that the practitioner is prohibited by federal law or~~
 323 ~~federal rule from issuing through electronic prescribing.~~

324 ~~———— (3) A pharmacy shall:~~

325 ~~———— (a) accept an electronic prescription that is transmitted in accordance with the~~
 326 ~~requirements of this section and division rules; and~~

327 ~~———— (b) dispense a drug or device as directed in an electronic prescription described in~~
 328 ~~Subsection (3)(a).~~

329 ~~———— (4) The division shall make rules to ensure that:~~

330 ~~———— (a) except as provided in Subsection (6), practitioners and pharmacies comply with this~~
 331 ~~section;~~

332 ~~———— (b) electronic prescribing is conducted in a secure manner, consistent with industry~~
 333 ~~standards; and~~

334 ~~———— (c) each patient is fully informed of the patient's rights, restrictions, and obligations~~
 335 ~~pertaining to electronic prescribing.~~

336 ~~———— (5) An entity that facilitates the electronic prescribing process under this section shall:~~

337 ~~———— (a) transmit to the pharmacy the prescription for the drug prescribed by the prescribing~~

338 practitioner however, this Subsection (5)(a) does not prohibit the use of an electronic
 339 intermediary if the electronic intermediary does not over-ride a patient's or prescriber's choice
 340 of pharmacy;

341 ——— (b) transmit only scientifically accurate, objective, and unbiased information to
 342 prescribing practitioners; and

343 ——— (c) allow a prescribing practitioner to electronically override a formulary or preferred
 344 drug status when medically necessary.

345 ——— (6) The division may, by rule, grant an exemption from the requirements of this section
 346 to a pharmacy or a practitioner to the extent that the pharmacy or practitioner can establish, to
 347 the satisfaction of the division, that compliance with the requirements of this section would
 348 impose an extreme financial hardship on the pharmacy or practitioner.

349 ~~§→ [(7) A practitioner treating a patient through telehealth services, as described in Title 26,~~
 350 ~~Chapter 59, Telehealth Act, may not issue a prescription through electronic prescribing for a~~
 351 ~~drug or treatment to cause an abortion] ←§ §→ [, except in cases of rape, incest, or if the life of the~~
 352 ~~mother would be endangered without an abortion] ←§ §→ [.] ←§] ←§~~

Legislative Review Note
 Office of Legislative Research and General Counsel