LONG TITLE

General Description:
This bill amends provisions related to insurance coverage for telehealth services and telemedicine services.

Highlighted Provisions:
This bill:

- amends the definition of telemedicine services;
- clarifies the scope of telehealth practice; and
- requires certain health benefit plans to provide coverage parity and commercially reasonable reimbursement for telehealth services and telemedicine services.

Money Appropriated in this Bill:
None

Other Special Clauses:
None

Utah Code Sections Affected:
AMENDS:

- 26-60-102, as enacted by Laws of Utah 2017, Chapter 241
- 26-60-103, as enacted by Laws of Utah 2017, Chapter 241

ENACTS:

- 31A-22-649.5, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:
Section 1. Section 26-60-102 is amended to read:


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; [or]
(v) facilitation of self-managed care and caregiver support; [and] 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.

Section 2. Section 26-60-103 is amended to read:

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;

[(b) (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;

[(c) (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;

[(d) (e)] be familiar with available medical resources, including emergency resources near the originating site, in order to make appropriate patient referrals when medically indicated; [and]

[(e) (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.

Section 3. Section 31A-22-649.5 is enacted to read:

31A-22-649.5. Insurance parity for telemedicine services.

(1) As used in this section:

(a) "Telehealth services" means the same as that term is defined in Section 26-60-102.
(b) "Telemedicine services" means the same as that term is defined in Section 26-60-102.

(2) Notwithstanding the provisions of Section 31A-22-618.5, a health benefit plan offered in the individual market, the small group market, or the large group market and entered into or renewed on or after January 1, 2021, shall:

(a) provide coverage for telemedicine services that are covered by Medicare; and
(b) reimburse, at a commercially reasonable rate, a network provider that provides the
telemedicine services described in Subsection (2)(a).

(3) Notwithstanding Section 31A-45-303, a health benefit plan providing treatment under Subsection (2) may not impose originating site restrictions, geographic restrictions, or distance-based restrictions.