

**Representative Melissa G. Ballard** proposes the following substitute bill:

**TELEHEALTH PARITY AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Melissa G. Ballard**

Senate Sponsor: Allen M. Christensen

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**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:



26 [31A-22-649.5](#), Utah Code Annotated 1953

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

29 Section 1. Section **26-60-102** is amended to read:

30 **26-60-102. Definitions.**

31 As used in this chapter:

32 (1) "Asynchronous store and forward transfer" means the transmission of a patient's  
33 health care information from an originating site to a provider at a distant site.

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

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

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

39 (5) (a) "Patient-generated medical history" means medical data about a patient that the  
40 patient creates, records, or gathers.

41 (b) "Patient-generated medical history" does not include a patient's medical record that  
42 a healthcare professional creates and the patient personally delivers to a different healthcare  
43 professional.

44 [~~5~~] (6) "Provider" means an individual who is:

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

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

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

49 [~~6~~] (7) "Synchronous interaction" means real-time communication through interactive  
50 technology that enables a provider at a distant site and a patient at an originating site to interact  
51 simultaneously through two-way audio and video transmission.

52 [~~7~~] (8) "Telehealth services" means the transmission of health-related services or  
53 information through the use of electronic communication or information technology.

54 [~~8~~] (9) "Telemedicine services" means telehealth services:

55 (a) including:

56 (i) clinical care;

- 57 (ii) health education;
- 58 (iii) health administration;
- 59 (iv) home health; [~~or~~]
- 60 (v) facilitation of self-managed care and caregiver support; [~~and~~] or
- 61 (vi) remote patient monitoring occurring incidentally to general supervision; and
- 62 (b) provided by a provider to a patient through a method of communication that:
  - 63 (i) (A) uses asynchronous store and forward transfer; or
  - 64 (B) uses synchronous interaction; and
  - 65 (ii) meets industry security and privacy standards, including compliance with:
    - 66 (A) the federal Health Insurance Portability and Accountability Act of 1996, Pub. L.
    - 67 No. 104-191, 110 Stat. 1936, as amended; and
    - 68 (B) the federal Health Information Technology for Economic and Clinical Health Act,
    - 69 Pub. L. No. 111-5, 123 Stat. 226, 467, as amended.
- 70 Section 2. Section **26-60-103** is amended to read:
- 71 **26-60-103. Scope of telehealth practice.**
- 72 (1) A provider offering telehealth services shall:
  - 73 (a) at all times:
    - 74 (i) act within the scope of the provider's license under Title 58, Occupations and
    - 75 Professions, in accordance with the provisions of this chapter and all other applicable laws and
    - 76 rules; and
    - 77 (ii) be held to the same standards of practice as those applicable in traditional health
    - 78 care settings;
    - 79 (b) if the provider does not already have a provider-patient relationship with the
    - 80 patient, establish a provider-patient relationship during the patient encounter in a manner
    - 81 consistent with the standards of practice, determined by the Division of Professional Licensing
    - 82 in rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
    - 83 including providing the provider's licensure and credentials to the patient;
    - 84 [~~(b)~~] (c) in accordance with Title 58, Chapter 82, Electronic Prescribing Act, before
    - 85 providing treatment or prescribing a prescription drug, establish a diagnosis and identify
    - 86 underlying conditions and contraindications to a recommended treatment after:
      - 87 (i) obtaining from the patient or another provider the patient's relevant clinical history;

88 and

89 (ii) documenting the patient's relevant clinical history and current symptoms;

90 ~~[(e)]~~ (d) be available to a patient who receives telehealth services from the provider for  
91 subsequent care related to the initial telemedicine services, in accordance with community  
92 standards of practice;

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

96 ~~[(e)]~~ (f) in accordance with any applicable state and federal laws, rules, and  
97 regulations, generate, maintain, and make available to each patient receiving telehealth services  
98 the patient's medical records[-]; and

99 (g) if the patient has a primary care provider who is not the telemedicine provider:

100 (i) consult with the patient regarding whether to provide the patient's primary care  
101 provider a medical record or other report containing an explanation of the treatment provided  
102 to the patient and the telemedicine provider's evaluation, analysis, or diagnosis of the patient's  
103 condition; and

104 (ii) within two weeks after the day on which the telemedicine provider provides  
105 services to the patient, and to the extent allowed under HIPAA as that term is defined in  
106 Section 26-18-17, provide the medical record or report to the patient's primary care provider,  
107 unless the patient indicates that the patient does not want the telemedicine provider to send the  
108 medical record or report to the patient's primary care provider.

109 (2) Subsection (1)(g) does not apply to prescriptions for eyeglasses or contacts.

110 (3) Except as specifically provided in Title 58, Chapter 83, Online Prescribing,  
111 Dispensing, and Facilitation Licensing Act, and unless a provider has established a  
112 provider-patient relationship with a patient, a provider offering telemedicine services may not  
113 diagnose a patient, provide treatment, or prescribe a prescription drug based solely on one of  
114 the following:

115 (a) an online questionnaire;

116 (b) an email message; or

117 (c) a patient-generated medical history.

118 ~~[(2)]~~ (4) A provider may not offer telehealth services if:

119 (a) the provider is not in compliance with applicable laws, rules, and regulations  
120 regarding the provider's licensed practice; or

121 (b) the provider's license under Title 58, Occupations and Professions, is not active and  
122 in good standing.

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

124 **31A-22-649.5. Insurance parity for telemedicine services.**

125 (1) As used in this section:

126 (a) "Telehealth services" means the same as that term is defined in Section [26-60-102](#).

127 (b) "Telemedicine services" means the same as that term is defined in Section  
128 [26-60-102](#).

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

132 (a) provide coverage for telemedicine services that are covered by Medicare; and

133 (b) reimburse, at a commercially reasonable rate, a network provider that provides the  
134 telemedicine services described in Subsection (2)(a).

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