

## **GUIDANCE: EXPEDITED LICENSURE AND TELEMEDICINE OPTIONS IN WASHINGTON DURING COVID-19**

*Information and guidance related to COVID-19 is changing rapidly. Please refer to the Physicians Insurance website for the most up-to-date information.*

### **Updated Guidance Effective: June 7, 2022**

#### **1. Expedited licensure for out of state practitioners in emergencies.**

Washington State has made available expedited licensing processes for out-of-state practitioners pursuant to Chapter 70.15 RCW (the Uniform Emergency Volunteer Practitioners Act) for the COVID-19 response.

The process includes completing an application on [www.waserv.org/](http://www.waserv.org/). A Registration Guide is available at: <https://doh.wa.gov/sites/default/files/legacy/Documents/1600/coronavirus//WAservRegistrationGuide.pdf?id=626c147b26286>.

When the Governor's emergency proclamation comes to an end, all those practicing under the Uniform Emergency Volunteer Health Practitioners Act will need a Washington State license to continue to practice in Washington State.<sup>1</sup>

More information can be obtained at <https://doh.wa.gov/public-health-healthcare-providers/emergency-preparedness/waserv> or by contacting [WAserv@doh.wa.gov](mailto:WAserv@doh.wa.gov).

#### **2. Expedited State Licensing for Physicians.**

In addition to the expedited process noted above, out of state physicians may also expedite Washington State licensure using the Interstate Medical Licensure Compact: <https://imlcc.org/>.

### **Draft Date: March 19, 2021<sup>2</sup>**

#### **1. Expedited Licensure for Nurses.**

<sup>1</sup> <https://doh.wa.gov/emergencies/covid-19/healthcare-providers/emergency-volunteer-health-practitioners#:~:text=The%20Uniform%20Emergency%20Volunteer%20Health%20Practitioners%20Act%20allows%20individuals%20with%20emergency%20proclamation%20is%20in%20effect>.

<sup>2</sup> This guidance sheet has been reworked, due to the significant changes to the telehealth portion in particular. As such, it is not broken down into the prior guidance and current guidance, as with other guidance sheets.

In addition to expedited process noted above, the Nursing Commission has advised that emergency staff requests for temporary practice permits can be sent to [nurselicensing@doh.wa.gov](mailto:nurselicensing@doh.wa.gov) with information identifying the urgency of the request based on one or more of the following criteria:

- a. intensity of patient care
- b. lack of current staffing to provide patient care
- c. staff unable to continue to provide patient care due to illness
- d. existing nursing vacancies that are currently unfilled due to the COVID-19 situation

## 2. General Licensing Information.

The Nursing Commission currently advises that it is prioritizing applications to assist with needs in King, Snohomish, and Pierce Counties.

General information about licensing can be obtained at: 360-236-4700, or email questions to [hsga.csc@doh.wa.gov](mailto:hsga.csc@doh.wa.gov)

## 3. Reactivating Licenses.

The DOH has advised that online processing may not be available for practitioners seeking to reactivate a previous license. These requests will need to be completed as paper applications sent with the fee to:

Department of Health

P.O. Box 1099

Olympia, WA 98507-1099

<https://www.doh.wa.gov/LicensesPermitsandCertificates/ProfessionsNewReneworUpdate>

## Telemedicine Guidance

### 1. WMC Telemedicine Guidance

The Washington State Medical Commission issued a policy statement on November 19, 2021 regarding their endorsement of the use of telemedicine as a tool that may increase access, lower costs, and improve the quality of healthcare.<sup>3</sup> Key portions of the guidance are captured below.

#### 1.1 Definition of Telemedicine

The Commission defines telemedicine as a mode of delivering healthcare services using telecommunications technologies by a practitioner or to consult with another health care provider at a

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<sup>3</sup> Washington Medical Commission, *Telemedicine*, <https://wmc.wa.gov/sites/default/files/public/Telemedicine%20policy%2011%2019%2021.pdf> (November 19, 2021).

different physical location than the practitioner. Telemedicine includes real-time interactive services, store-and-forward technologies, and remote monitoring.

### 1.2 Washington State Licensure Requirements for use of Telemedicine

Generally, a practitioner engaging in the practice of medicine with a patient located in Washington must hold an active license to practice medicine in Washington.<sup>4</sup> Exceptions to this standard include practitioner-to-practitioner consultations<sup>5</sup> and patient sought second opinions.

### 1.3 Standard of Care and Best Practices

The Commission will hold a practitioner who uses telemedicine to the same standard of care and professional ethics as a practitioner using a traditional in-person encounter with a patient.

The Commission's Guidance includes best practice recommendations regarding:

- Scope of practice,
- Establishing a practitioner-patient relationship,
- Collecting a medical history and performing a physical evaluation,
- Capturing informed consent,
- Maintaining medical records, and
- Ensuring privacy and security.

## 2. Uniform Emergency Volunteer Health Practitioners Act.

Emergency volunteer health practitioners providing services for host entities operating in Washington under the Uniform Emergency Volunteer Health Practitioners Act, chapter 70.15 RCW, are authorized to offer telehealth or virtual care services to patients in Washington to the same extent that practitioners licensed in Washington are authorized to offer such services. Practitioners must be affiliated with a host entity operating in Washington to provide telehealth services. Practitioners should contact the board, commission, or Department of Health program that governs their profession in Washington with any questions.<sup>6</sup>

Some professions have guidelines for telehealth services, including the Medical Commission<sup>7</sup>, Nursing Care Quality Assurance Commission<sup>8</sup>, and Examining Board of Psychology.<sup>9</sup> Emergency volunteer health practitioners within these professions are authorized to provide telehealth services under these guidelines and do not need a Washington license to do so.

For a paid out-of-state licensed provider to be authorized to practice by Chapter 70.15 RCW, the practitioner must:

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<sup>4</sup> The practice of medicine is defined in RCW 18.71.001. (this policy supersedes both the 2014 guidelines and the 2018 policy, both issued by the Commission).

<sup>5</sup> RCW 18.71.030(6).

<sup>6</sup> Department of Health, *Emergency Volunteer Health Practitioners*, <https://doh.wa.gov/emergencies/covid-19/healthcare-providers/emergency-volunteer-health-practitioners> .

<sup>7</sup> <https://wmc.wa.gov/sites/default/files/public/Telemedicine%20Guideline.pdf>

<sup>8</sup> <https://doh.wa.gov/sites/default/files/legacy/Documents/6000//Telenursing.pdf?uid=626c631ab0b60>

<sup>9</sup> <https://doh.wa.gov/sites/default/files/legacy/Documents/2300/2016//TelepsychologyGuidelines.pdf?uid=626c631ab4a7f>

- Not have a preexisting employment relationship with the health care entity that requires the practitioner to provide services in Washington. Paid providers can qualify as emergency volunteer health practitioners under RCW 70.15. Unpaid emergency volunteer health practitioners under RCW 70.15 can provide care essentially anywhere and for any entity in Washington.
- Be licensed in another state and be in good standing in every state in which he/she is licensed.
- All eligible practitioners or employees must complete an application to serve as an Emergency Volunteer Health Practitioner and then be registered in the Department of Health’s volunteer health practitioner system before starting to practice in Washington or provide services to Washington patients.
- Unless modified or restricted by the Department of Health, health care practitioners must adhere to the scope of practice of the equivalent license type in this state, though not outside the scope allowed by his/her state of licensure.”<sup>10</sup> In some states, advanced practitioners may have a greater scope of practice than would be allowed here, and they should be made aware of the limitations for practice in Washington of their license type.
- “If engaging in telehealth/telenursing, the nurses and ARNPs must comply with the Nursing Care Quality Assurance Commission’s interpretive statement Telehealth/ telenursing for Registered Nurses (PDF).”<sup>11</sup>

### 3. Telemedicine Training.

Practitioners (**other than** physicians or osteopathic physicians) who provide clinical services through telemedicine are required to obtain telemedicine training after January 1, 2021.<sup>12</sup> The DOH “encourages health care providers to take a required training as soon as possible, and no later than June 30, 2021.”<sup>13</sup> The free training is available here:

<https://nrtrc.catalog.instructure.com/courses/washington-state-healthcare-professional-telemedicine-training>

Healthcare providers do not need to complete this training if their institution or organization has their own internal telehealth training that meets the Washington Telehealth Alternative Training Guidelines.

### 4. Reimbursement for Audio-Only Telemedicine Training.

Starting **January 1, 2023**, health plans are required to reimburse providers for audio-only telemedicine (defined as real-time communication, and not fax or email), but only if the covered person has an established relationship (which must include at least one in-person appointment within the prior year).<sup>14</sup>

### 5. Supervision of Medical Personnel.

<sup>10</sup> <https://www.doh.wa.gov/Emergencies/NovelCoronavirusOutbreak2020/HealthcareProviders/EmergencyVolunteerHealthPractitioners>

<sup>11</sup> *Id.*

<sup>12</sup> RCW 43.70.495(2).

<sup>13</sup> Interpretive Statement Number: OAS 02-2020.

<sup>14</sup> RCW 48.43.735.

Supervision of a medical assistant during a telemedicine visit may be provided through interactive audio and video telemedicine technology, except in the case of a blood draw, in which case the supervising practitioner must be immediately available.<sup>15</sup>

## 6. Facility Credentialing/Privileging.

The Joint Commission requires that medical staff bylaws including a privileging process for temporary and disaster privileges.<sup>16</sup>

Facility bylaws regarding emergency or disaster privileging may allow for:

- Proxy credentialing, which allows the hospital board to credential a separate site institution that has practitioners who hold Washington state licenses.
- Credentialed practitioners to provide services outside the scope of their credentials.
- Grants of temporary privileges by the CEO in consultation with medical staff leaders.
- Grants of disaster privileges to individuals who present evidence of a professional license, privileges at other hospitals, and a completed Emergency Privileges form. In such circumstances, information verification may take place after the immediate crisis situation.

## 7. CMS and Audio-only services.

Effective January 1, 2021, CMS issued a waiver to allow the use of audio-only equipment to furnish services described for audio-only telephone E/M services, behavioral health counseling, and educational services.<sup>17</sup> CMS established payment on an interim final basis for the new HCPCS G-code describing 11-20 minutes of medical discussion to determine the necessity of an in-person visit. The CMS List of Telehealth Services identifies those services eligible to be furnished via audio-only technology, including the telephone Evaluation and Management (E/M) Services codes.<sup>18</sup> The CMS List of Telehealth Services payable under the Medicare Physician Fee Schedule when furnished via telehealth is available for providers and is periodically updated.<sup>19</sup>

## 8. PREP Act, Amendment 4 covered countermeasures that may be provided via telehealth.

On December 3, 2020, the Secretary of HHS issued Amendment 4 to the Public Readiness and Emergency Preparedness (PREP) Act for Medical Countermeasures Against COVID-19.<sup>20</sup> This amendment allows for

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<sup>15</sup> 2021 Wash. Laws ch. 44 (HB 1378; effective April 15, 2021).

<sup>16</sup> EM.02.02.13. <https://www.jointcommission.org/standards/standard-faqs/critical-access-hospital/medical-staff-ms/000002257/>

<sup>17</sup> <https://www.cms.gov/files/document/telehealth-toolkit-providers.pdf>

<sup>18</sup> CMS, *List of Telehealth Services*, *supra*.

<sup>19</sup> CMS, *List of Telehealth Services* <https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/Telehealth-Codes>

<sup>20</sup> Department of Health and Human Services, Office of the Secretary, *Fourth Amendment to the Declaration Under the Public Readiness and Emergency Preparedness Act for Medical Countermeasures Against COVID-19 and Republication of the Declaration*. <https://www.phe.gov/Preparedness/legal/prepact/Pages/4-PREP-Act.aspx> see also 42 U.S.C. The amendments are effective as of February 4, 2020, except as otherwise specified in Section XII. 247d-6d and 42 U.S.C. 247d-6e, amendment 4 has not yet been codified.

interstate practice of medicine to improve public health outcomes in an emergency. This amendment provides that specific COVID-19 “covered countermeasures” can be provided or ordered via telehealth across state lines without additional state licensure, with liability protection when delivering specific COVID-19 related services. The covered countermeasures include:

- (1) qualified products used to treat, diagnose, cure, prevent, or mitigate COVID-19;
- (2) drugs, biological products, or devices authorized for COVID-19 emergency use;
- (3) respiratory-protective devices approved by the National Institute for Occupational Safety and Health.

The exception from state licensure requirements and immunity only apply to providers ordering or administering the specific covered countermeasures. Telehealth providers providing such services are required to comply with applicable state licensure rules (provided said rules do not prohibit or effectively prohibit the ordering or administering covered measures).

## Other information

The DOH is collecting a wide variety of resources for Washington state health care providers that may also be of benefit as a resource to brief practitioners who are new to practicing in the state:

<https://doh.wa.gov/Emergencies/NovelCoronavirusOutbreak2020/HealthcareProviders>

*This information should be modified based on individual circumstances, professional judgment, and local resources. This document is provided for educational purposes and is not intended to establish guidelines or standards of care. Any recommendations contained within the document is not intended to be followed in all cases and does not provide any medical or legal advice.*

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