

Department of Health
Nursing Care Quality Assurance Commission

Advisory Opinion

An advisory opinion adopted by the Nursing Care Quality Assurance Commission (NCQAC) is an official opinion about safe nursing practice (WAC 246-840-800). The opinion is not legally binding and does not have the force and effect of a duly promulgated regulation or a declaratory ruling by the NCQAC. Institutional policies may restrict practice further in their setting and require different expectations to assure their patients' safety and decrease risk.

Title:	Telehealth Advanced Practice Nursing Care Services	Number: NCAO 26.00
References:	RCW 18.79 Nursing Care RCW 43.70.117 Health Care Professionals Licensed in another state or United States Territory or the District of Columbia - In-State Practice on a Limited Basis - Requirements - Limitations RCW 70.15 Uniform Emergency Volunteer Health Practitioners Act RCW 43.70.495 Telemedicine Training for Health Care Professionals RCW 70.41.020 Hospital Licensing and Regulation - Definitions (Telemedicine) RCW 48.43.735 Reimbursement of Health Care Services Provided through Telemedicine or Store and Forward Technology WAC 182-531-1730 Health Care Authority Physician-Related Services WAC 246-335-610 Hospice Definitions (Telehealth and Telemedicine) Health Care Accountability and Portability Act (HIPAA) Federal Education and Privacy Act (FERPA) Healthcare Information Technology for Economic and Clinical Health Act (HITECH) U.S. Code of Federal Regulations, Title 38.17 Centers for Medicare and Medicaid Services (CMS)-Telemedicine Interactive Scope of Practice Decision Tree Nursing Care Quality Assurance Commission: Practice Information Website Nursing Care Quality Assurance Commission: Frequently Asked Questions Website Nursing Care Quality Assurance Commission: Glossary of Terms Advisory Opinion	
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Conclusion Statement

The Nursing Care Quality Assurance Commission (NCQAC) concludes that the advanced registered nurse practitioner (ARNP) may perform telehealth services, in settings appropriate for telehealth care,

within their legal and individual scope of practice. The ARNP must have a Washington State license/credential to provide telehealth services to individuals/patients located in Washington. The ARNP providing telehealth services to an individual/patient located in another state or country must comply with licensing and practice requirements of the state in which the patient is located.

Background and Analysis

Telehealth Overview

Telehealth includes the delivery of advanced practice nursing services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the nurse, for the purpose of diagnosis, consultation, or treatment.

An ARNP using telehealth to care for a patient located in Washington must be licensed to practice nursing in Washington. This includes practitioners who treat or prescribe to Washington patients through online service sites. Regardless of the setting, telehealth does not expand the scope of practice of an ARNP.

ARNPs using telehealth to deliver care will be held to the same standard of care as practitioners engaging in more traditional in-person care delivery, including the requirement to meet all technical, clinical, confidentiality and ethical standards required by law [WAC 246-840-700](#). Some elements of the standard of care as applied to telehealth include:

- 1) An ARNP should obtain and document appropriate informed consent for telehealth encounters to include the credentials of the practitioner.
- 2) An appropriate history and evaluation of the patient must precede the rendering of any care, including provision of prescriptions. Not all patient situations will be appropriate for telehealth. Evaluating the adequacy and significance of any surrogate examination remains the responsibility of the telehealth practitioner.
- 3) ARNPs providing telehealth services must document the encounter appropriately and completely so that the record clearly, concisely and accurately reflects what occurred during the encounter. WAC 246-840-700.
- 4) Prescribing medications, whether in person or via telehealth, is at the professional discretion of the ARNP. The ARNP must have appropriate licensure to prescribe medications. Telehealth prescriptions entail the same professional accountability as prescriptions incident to an in-person contact.
- 5) Especially careful consideration should apply before prescribing controlled substances as defined in chapter 69.50 RCW, and compliance with all laws and regulations pertaining to such prescriptions is expected. [21 U.S.C. 829\(e\)](#).
- 6) The ARNP should recognize that the legal risks performing telehealth services may be higher because of the risk of error. The ARNP should consider what they are trying to accomplish based on the individual/patient health care needs, safety, and within their scope of practice. It is up to the ARNP, using nursing judgment, to determine which patients and services are appropriate using telehealth services.
- 7) The ARNP must ensure that the technological means used to conduct telehealth services complies with state and federal privacy laws. <https://www.hhs.gov/sites/default/files/telehealth-faqs-508.pdf>

Laws and Rules

The nursing statutes and regulations do not reference the delivery of telehealth nursing services. This advisory opinion is intended as a broad statement on telehealth and is not meant to encompass all practice settings and related laws and rules.

The terms “telehealth” and “telemedicine” are often used interchangeably to refer to the use of digital technology to deliver health care. The nursing laws and rules currently do not define these terms. There are many definitions used in laws and rules, by the public, institutions, professional organizations, regulatory bodies, and others to define these terms. Examples include:

- [RCW 43.70.495 Telemedicine Training for Health Care Professionals](#)
- [RCW 70.41.020 Hospital Licensing and Regulation - Definitions \(Telemedicine\)](#)
- [RCW 48.43.735 Reimbursement of Health Care Services Provided through Telemedicine or Store and Forward Technology](#)
- [WAC 182-531-1730 Health Care Authority Physician-Related Services](#)
- [WAC 246-335-610 Hospice Definitions \(Telehealth and Telemedicine\)](#)
- [WAC 246-915-187 Physical Therapists and Physical Therapy Assistants Definition \(Telehealth\)](#)

Nurse Licensure

The person practicing as an ARNP must have the appropriate Washington State license/credential to provide telehealth services to individuals/patients located in Washington. The ARNP providing telehealth services to an individual/patient located in another state or country must check with that state or country to determine if they need a license or credential in that state or country. [RCW 18.79.240](#) defines exceptions that might apply. [Chapter 70.15 RCW](#) allows exceptions in emergencies for practitioners registered with the Department of Health ([Healthcare Providers Emergency Volunteers Practice Act Information and Resources](#)). [RCW 43.70.117 Health Care Professionals Licensed in another state or United States Territory or the District of Columbia - In-State Practice on a Limited Basis - Requirements - Limitations](#) allows in-state practice on a limited voluntary (uncompensated) basis up to thirty days per calendar year.

Telemedicine Training Requirement

On or after January 1, 2021, [RCW 43.70.495](#) requires any licensed, registered or certified health care provider (excluding physicians or osteopathic physicians) to take approved telemedicine training if they are performing these functions. The law defines “telemedicine” as: “The delivery of health care services using interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. It does not include the use of audio-only telephone, facsimile, or email.”

The training must include information on current state and federal law, liability, informed consent, and other criteria outlined by the [Washington State Telehealth Cooperative](#). Alternative training offered by an employer continuing education courses or training developed by a health care professional board or commission must include similar components of the [Telemedicine Training developed by the Washington State Telehealth Collaborative](#). The ARNP must sign and retain an attestation of completion but does not need to send this to the NCQAC unless requested. In addition, please see NCQAC FAQs on telemedicine training requirements.

Discipline

The Commission may investigate and take disciplinary action against a practitioner under its jurisdiction who treats a resident of Washington via telehealth and fails to meet the required standard of care. An out-of-state practitioner is also subject to action by the Department of Health for the unlicensed practice of a profession under RCW 18.130.190.

Reimbursement for services

The NCQAC does not have authority regarding reimbursement. The ARNP should contact the insurance provider, Centers for Medicare, Medicaid Services (CMS), or the Health Care Authority (HCA) for reimbursement questions.

Summary

The ARNP may provide telehealth services within their legal and individual scope of practice. ([18.79 RCW](#) and [WAC 246-840](#)), recognizing that the care delivered will be held to the same standard of care as practitioners engaging in more traditional in-person care delivery, including the requirement to meet all technical, clinical, confidentiality and ethical standards required by law.

The ARNP performing telehealth nursing services must have the required education and training to ensure competency related to its use to deliver nursing care and must comply with the state and federal laws, rules and standards of practice. Telehealth nursing services does not expand the scope of ARNP practice or change the scope. The ARNP is responsible and accountable for the quality of nursing care using telehealth nursing services to clients, just like face-to-face care. The ARNP must use nursing judgment to consider whether using telehealth services is safe for the patient.

References

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2. American Health Information Management Association(2017). American Health Information Management Association. Retrieved September 17, 2020, from <https://healthsectorcouncil.org/wp-content/uploads/2018/08/AHIMA-Telemedicine-Toolkit.pdf>
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10. Washington State Nurses Association [WSNA], (2018) Retrieved September 22, 2020, from <https://www.wsna.org/news/2018/frequently-asked-questions-about-telehealth>

Other Statutes and Rules

1. American Association of Nurse Practitioners <https://www.aanp.org/legislation-regulation/federal-legislation/medicare/68-articles/326-medicare-update>

2. Cannabis authorization <https://app.leg.wa.gov/rcw/default.aspx?cite=69.51A.030>
3. Department of Health. (2018). Definitions-In Home Services-Hospice. Retrieved May 7, 2020, from <https://app.leg.wa.gov/wac/default.aspx?cite=246-335-610>
4. Reimbursement- [RCW 48.43.735\(8\)\(d\) and 48.43.735\(4\)](#)
5. Store and forward <http://app.leg.wa.gov/RCW/default.aspx?Cite=74.09.325>
6. Telemedicine law <https://app.leg.wa.gov/RCW/default.aspx?cite=18.71&full=true>
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8. Washington Health Care Authority (HCA) <https://apps.leg.wa.gov/wac/default.aspx?cite=182-531-1730>
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Guidelines

1. Advanced Registered Nurse Practitioner, <https://www.doh.wa.gov/portals/1/Documents/6000/ARNPLinks.pdf>
2. AMD Telemedicine Services(2014). School-Based Telemedicine Webinar Question and Answer Summary. Retrieved September 16, 2020, from <https://www.amdtelemedicine.com/wp-content/uploads/2020/08/School-BasedTelemedicineWebinarQASessionSummary.pdf>
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8. [HIPAA Compliance Checklist 2020](#)
9. [NCQAC Telehealth FAQs](#)

10. Telehealth Guidebook
<https://www.dshs.wa.gov/sites/default/files/BHSIA/FMHS/DSHSTelehealthGuidebook.pdf>
11. UW telepsychiatry [UW school of medicine](#), tele mental health
12. Veterans Affairs- <http://www.telehealth.va.gov/sft/>
13. Washington State Department of Health, Healthcare Authority Telehealth and Telemedicine brief - <https://www.hca.wa.gov/assets/billers-and-providers/telehealth-brief-for-COVID-03-2020.pdf>
14. Washington State Nurses Association, Risk Management statement
<https://www.wsna.org/news/2018/telemedicine-risk-management-issues-strategies-and-resources>

Policy Resources

1. Center for Connected Health Policy, <https://www.cchpca.org/>
2. National Consortium of Telehealth Resource Centers, <https://www.telehealthresourcecenter.org/>
3. National Telehealth Technology Assessment Resource Center, <https://telehealthtechnology.org/>
4. NCSBN position statement, https://www.ncsbn.org/14_Telehealth.pdf
5. Telemedicine and Continuity of Care,
<https://wmc.wa.gov/sites/default/files/public/documents/TelemedicineAndContinuityOfCarePOL2018-01.pdf>.
6. All HHS press releases, fact sheets and other news materials are available at <https://www.hhs.gov/news>.

Appendix A - Glossary of telehealth and telemedicine definitions in Washington state law

Health Care Authority definition of telemedicine

The Health Care Authority describes telemedicine as “when a health care practitioner uses HIPAA-compliant, interactive, real-time audio and video telecommunications (including web-based applications) or store and forward technology to deliver covered services that are within his or her scope of practice to a client at a site other than the site of the provider location. If providers use store and forward technology, there must be an associated office visit between the client and the referring health care provider.” WAC 182-531-1730.

For home health services, telemedicine means the use of telemonitoring to enhance the delivery of certain home health skilled nursing services by collecting clinical data and data transmission between patients at a distant location and the home health provider through electronic processing technologies. Objective clinical data that may be transmitted includes, but is not limited to, weight, blood pressure, pulse, respiration, blood glucose, and pulse oximetry; and education related to health care services using audio, video, or data communication instead of a face-to-face visit." WAC 182-551-2010.