

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 Delivery of Nursing Care Services **Number:** NCAO XX.XX

References: RCW 18.79 Nursing Care; WAC 246-840 Practical and Registered Nursing;
RCW 18.79.240 Licensure requirements;
RCW 18.88A Nursing Assistants;
RCW 70.02 Medical records;
RCW 43.70.117 Volunteering;
RCW 43.70.495 Telehealth Training for Health Care Professionals;
RCW 70.41.020(14) Definition of Telemedicine;
WAC 246-335-610 Hospice definition telehealth;
RCW 70.15 Uniform Emergency Volunteer Health Practitioners Act
RCW 18.79.260 Authorized Providers;
WAC 246-840 Delegation;
WAC 246-840-700(3) Documentation;
US Code of Federal Regulations, Title 38.17;
Practice Information: Glossary of Terms;
Interactive Scope of Practice Decision Tree;
RN and LPN Scope of Practice Advisory Opinion;
Standing Orders and Verbal Orders Advisory Opinion;
Health Care Accountability and Portability Act (HIPAA);
Health Information Technology for Economic and Clinical Health (HITECH);
Federal Education and Privacy Act (FERPA).

Contact: Deborah Carlson, MSN, RN
Director of Nursing Practice

Phone: 360-236-4703

Email: NursingPractice@doh.wa.gov

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Conclusion Statement

The Nursing Care Quality Assurance Commission (NCQAC) concludes that the appropriately prepared and competent advanced registered nurse practitioner (ARNP), registered nurse (RN), licensed practical nurse (LPN), nursing technician (NT), and nursing assistant (NA), may perform telehealth delivery of

nursing care services in settings appropriate for telehealth care within their legal and individual scope of practice. The person practicing as an ARNP, RN, LPN, NT, and NA must have the appropriate Washington State license/credential to provide telehealth services to individuals/patients located in Washington. The ARNP, RN, LPN, NT, or NA 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/credential in that state or country. Nurses must comply with the Health Care Accountability and Portability Act (HIPAA), and the Federal Education and Privacy Act (FERPA), and other state or federal statutes and regulations referencing healthcare privacy and confidentiality of information.

Background and Analysis

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.

Telehealth and telemedicine are often used interchangeably to refer to the use of digital technology to deliver health care. It is important to understand the differences between the two and how they work together. It is also important to understand the Washington State statutes and regulations in how they address these terms. Washington State laws and rules use the term “telemedicine” and these are specific to telemedicine reimbursement and telemedicine training requirements. They do not define other types of telehealth care services. (RCW 48.43.735, WAC 182-531-1730, RCW 43.70.495).

The Centers for Medicare and Medicaid Services (CMS) uses similar definitions for telemedicine as the state laws and rules. <https://www.medicaid.gov/medicaid/benefits/telemedicine/index.html>

Telehealth nursing is defined as utilizing a combination of telehealth technology and nursing knowledge to improve population outcomes and patient satisfaction (National Council State Boards of Nursing [NCSBN], interview Jill Winters, 2014). Telehealth services have become an integral part of our current healthcare system, as evidenced by the contribution of telehealth to improved disaster response.

Telehealth offers a powerful tool for delivering nursing care services to patients and families as well as a platform for consultation, patient education, remote monitoring, provider training, and video conferencing. The advancement of telehealth policies, deployment of broadband to rural areas, and improvement in telehealth technology are drivers of uptake of telehealth services (NCSBN, 2015).

Telehealth is used in disaster response to improve access and coordination of care. (Der-Martirosian, Griffin Chu, & Dobalian, 2018). Telehealth bridges access gaps by remotely connecting nurses with individuals who require multidisciplinary care, education, and training. During disasters, both the state and the federal government may issue proclamations that temporarily waive some regulatory requirements on telehealth services. Waivers may be extended if a disaster persists.

Telehealth uses telecommunication technologies to support health-related services, including both clinical healthcare needs and non-clinical offerings. Telehealth technologies include high-speed internet through wireless, satellite, and tele-video communications. Telehealth systems include mobile health (mHealth), video and audio technologies that provide assessment and connection to a provider, digital photography, remote patient monitoring, and store and forward telehealth technologies.

Telehealth refers to a broad scope of remote healthcare services. Examples of practice settings that use telehealth services include practitioner networks, hospitals, ambulatory clinics, outpatient facilities, academic settings, telephone triage centers, prisons, schools, treatment centers, home health, hospice, and long-term care facilities.

Telehealth is conducted in a variety of ways, including synchronous or asynchronous and direct or indirect telehealth services deployed as: mobile health (mHealth), e-consult, e-home care, and remote patient monitoring. Synchronous telehealth is face-to-face communication between a provider and patient through live video. Asynchronous communications are achieved by sending email, text, or digital photos, such as "store and forward" transmission of information stored for later use (Washington State Nurses Association [WSNA], 2018). Health-related data can also be captured using home monitoring equipment, tablets, and digital peripheral equipment (Fathi, 2019).

Telehealth delivers health care services and clinical information to patients and providers using audio-video conferencing technology for clinical services and includes health-related education, public health, and health administration (WSNA, 2018). Examples include:

- Store and forward technology transmission of diagnostic images, vital signs, video clips, and patient data for later review. Store and forward gives the health care practitioner the ability to make a medical or nursing diagnosis;
- Remote patient monitoring using devices to remotely collect and send data to a health care practitioner, agency, or diagnostic testing facility for interpretation. Examples include vital signs, electrocardiograms, continuous positive airway pressure monitoring, and blood glucose monitoring;
- mHealth (mobile health) refers to the practice of medicine, public health, and health care supported by mobile devices such as mobile phones, tablets, personal digital assistant (PDA), and the wireless infrastructure (eVisit, 2020). Within digital health, mHealth encompasses all applications of telecommunications and multimedia technologies for the delivery of healthcare and health information. <https://innovatedmedtec.com/digital-health/mhealth>.

Nursing Scope of Practice Roles

Telehealth nursing roles include telephone triage, disease management, coaching, consulting, counseling, crisis intervention, home treatment, community care linkages, utilization review, teaching, case management/care coordination, patient care, and family care. Telehealth may occur in a call center, group practice, hospital, community, and other designated settings. The statutes and regulations do not prohibit the practice of telehealth nursing in any setting. Regardless of the setting, using telehealth as a tool does not expand the nursing scope of practice.

The RN practices nursing independently and supervision is not required when performing nursing telehealth services. The RN and ARNP may function as the primary health care practitioner during a telehealth visit using the nursing process. The LPN, NA-C, NA-R, NT may function in a health care role under the direction of an authorized health care practitioner or under the direction and supervision of the RN. *See the [Registered Nurse and Licensed Practical Nurse Scope of Practice Advisory Opinion](#) for more information on the RN and LPN scope of practice.*

The ARNPs with a Washington State license may deliver advanced nursing care using telehealth services within the designated scope of practice of the ARNP's national certifying body. Upon approval by the nursing commission, an ARNP may prescribe legend drugs and controlled substances. Details and exceptions are covered in the NCQAC [Telehealth Frequently asked questions](#). Refer to the [Medical Quality Assurance Commission Appropriate Use of Telemedicine Guideline](#).

Telephone Triage, Nurse Advice Lines, and Long-Distance Monitoring

An RN can perform telephone triage activities within their scope of practice under an authorized healthcare provider's direction. Activities within telephone triage include nursing consultation by telephone or other electronic technology, advice lines, and long-distance monitoring. Telephone triage uses the nursing process to gather data, make assessments, and generate care plans via telephone encounters with patients. RNs and LPNs should follow workplace policy and procedures, including working in their job description and role.

When the nurse's functions involve complex decision-making, telenursing should be limited to registered nursing practice even when driven by algorithms and standing orders. LPNs may gather information and provide patient education. The RN must contact a licensed prescriber if questions or issues arise related to the order or the telephone encounter. Standing orders and protocols are appropriate tools for implementing a plan of care using telehealth. An RN or LPN can follow written standing orders to carry out medical regimens under the direction of an authorized provider (RCW 18.79.260) and RCW 18.79.270) within their legal and individual scope of practice. Standing orders or protocols guide telephone-based nursing practice (NCOAC Standing Orders/Verbal Orders Advisory Opinion).

Nurses providing telephone triage care to patients located outside of Washington need to check with the nursing board in the state where the patient is visiting or located. For example, a nurse managing a patient who then goes to another state must check with that state for their licensing requirements to continue to manage the patient's care. If the patient is not physically in the state where a nurse is licensed, telephone triage cannot occur beyond advising the patient to call 911.

Telepresenter

The telepresenter facilitates clinical visits and present the patient to the health care provider at the distant site. The telepresenter supports patient communications and clinical and technical workflows throughout the tele-encounter process (Fathi, 2019). The ARNP, RN, or LPN may provide telehealth services as the clinical care provider role and/or as the telepresenter. The NT may provide telehealth services within their scope of practice and training level. The NA may function in the telepresenter role.

Telehealth and Nursing Professional Liability Risks

The use of telehealth to deliver nursing services is growing rapidly. It is important that health care practitioners recognize that the legal risks performing telehealth services may be higher because of the risk of error. The ARNP, RN, and LPN 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 nurse, using nursing judgment, to determine which patients and services are appropriate using telehealth services.

Health Insurance Portability and Accountability Act (HIPAA)-Compliant Telehealth Practices

HIPAA compliance requires the use of secured, monitored, and documented practices by covered entities to protect personal healthcare information (PHI). Telehealth providers must meet HIPAA standards. HIPAA-compliant technology must be encrypted, and patients must be informed of their rights regarding their PHI. [The HIPAA Compliance Checklist 2020](#) provides guidelines and best practices. Moreover, [The US Office of Health and Human Services-Office of Civil Rights Frequently Asked Questions on Telehealth and HIPAA](#) website provides information on waivers, exceptions, and guidance about HIPAA and telehealth services.

Proper data security measures must be in place when using telehealth technology for providing patient care. The nurse shall respect the patient's right to privacy by protecting confidential healthcare information (RCW 70.02). All equipment and network infrastructure need to follow HIPAA

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requirements to safeguard patient privacy and confidentiality (US Department of Health and Human Services (HHS), 2020).

Nursing Licensure

Delivering nursing care via telehealth has implications for nursing licensure in Washington. A nurse who provides nursing care via telehealth or remote technology to patients or families located in our state must have a Washington state license. In Washington, practice occurs where the patient is located; therefore, nurses providing telehealth nursing services, regardless of the nurse's location, must have a current Washington state license (RCW 18.79.240). Washington State is not part of the NCSBN Nurse Licensure Compact (NLC) that allows nurses to practice across state lines with one multistate license in their home state and other compact states.

Exceptions to the Washington state licensing requirements include:

- A nurse licensed in another state who is employed by the United States government or a branch of the military or a federal agency, such as Veterans Affairs, Indian Health Services, or tribal agencies (RCW 18.79.240); US Code of Federal Regulations, Title 38.17;
- A nurse licensed in another state, in good standing, who provides care in a declared disaster in Washington through the Emergency Volunteer Health Care Practitioner Act (RCW 70.15);
- A nurse licensed in another state, in good standing, volunteering without compensation (RCW 43.70.117).

Telemedicine Training Requirement

Beginning January 1, 2021, RCW 43.70.495 requires any licensed, registered or certified health care provider to take approved telemedicine training if they are performing telemedicine functions. This includes the ARNP, RN, LPN, NT, and NA whether in the role of primarily provider or telepresenter. The commission recommends completion of the training whether providing any type of telehealth services.

“Telemedicine” means 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. RCW 70.41.020(14). This includes nursing via telehealth.

The training must include information on current state and federal law, liability, informed consent, and other criteria outlined by the Washington State Telehealth Collaborative. Alternatively, a nurse can complete telemedicine training offered by their employer through continuing education courses or training developed by a health care professional board or commission. Alternative training must include similar components of the telemedicine training developed by the telemedicine collaborative <https://www.wsha.org/policy-advocacy/issues/telemedicine/washington-state-telemedicine-collaborative/>. The ARNP, RN, LPN, NT, or NA must sign and retain an attestation/certification but do not need to send this to the NCQAC.

Nursing Delegation

The nursing statutes and regulations do not prohibit the RN from delegating nursing tasks defined in the nursing laws and rules. The nurse must use nursing judgment and consider what aspects of the initial and ongoing assessment, supervision, and evaluation need to be face-to-face. Telehealth may not be appropriate in some circumstances. The most important consideration in deciding whether to perform the initial and ongoing assessment, evaluation, or supervision using telehealth services is whether it is

safe for the patient. The nursing and delegation statutes and regulations (RCW 18.79, WAC 246-840, RCW 18.88A, WAC 246-841) and the Washington State Department of Health COVID-19 Guidance for Home Care, Home Health, and Hospice Agencies provide guidance and resources for health care professionals providing services in these settings.

Team-Based Care Models

The RN scope of practice includes core competencies used in team-based care models. One model includes RNs coordinating care across a healthcare continuum to achieve individual and population health outcomes using nursing competency skills. The Tri-Council for Nursing published a joint statement illustrating a team-based model (Tri-Council for Nursing, 2017). Employers may have models of care that are a better fit with their practice settings.

The RN is professionally accountable for nursing practice that encompasses a range of roles, responsibilities, and functions, which they are educated, competent, and authorized to perform. Please refer to the interactive Scope of Practice Decision Tree.

Documentation

Documentation should be the same and no less than for in-person care. WAC 246-840-700(3) outlines the nursing rules that apply to documentation for RNs and LPNs. The registered nurse and licensed practical nurse shall document, on essential client records, the nursing care provided, and the client's response to that care. Moreover, the nurse should observe their workplace policies, protocols, and quality assurance mechanisms that are in place for proper telehealth documentation and workflows. The American Health Information Management Association Telemedicine Toolkit includes documentation standards (AHIMA, 2018).

Reimbursement for services

The NCQAC does not have authority regarding reimbursement. The nurse should contact the insurance provider, Centers for Medicare, Medicaid Services (CMS), or the Health Care Authority (HCA) for reimbursement questions. For a discussion that includes information regarding reimbursement, see the Telemedicine Collaborative 2019 training at: <https://www.wsha.org/policy-advocacy/issues/telemedicine/washington-state-telemedicine-collaborative/telemedicine-resources/>; <https://vimeo.com/344187400>.

Recommendations

Standard of Care

Nurses must follow the same standard of care in telehealth care as in face-to-face care. The nurse must be competent in the knowledge, skills, abilities, and judgment to safely perform telehealth services and follow standard nursing processes. A facility's policies may restrict telehealth nursing in some settings or require additional training and competency to assure patient safety. Furthermore, the nurse should observe their workplace policies for proper telehealth documentation. It is essential to know agency policies and practices for using telehealth technology.

The RN may assess, interpret, and analyze patient data from remote telehealth sites and determine its action. The RN, LPN, NA-R, NA-C, or NT may teach patients and their families through telehealth technology the same way they would in a traditional practice site. The nurse must be competent and follow the nursing process. The nurse should use the Scope of Practice Decision Tree to determine if

activities are within the nurse's practice scope. The NCQAC's Standing Orders and Verbal Orders Advisory Opinion and Verbal Orders provide additional guidance and recommendations.

Conclusion

Telehealth nursing services does not expand the scope of nursing practice or change the scope of delegation. Nurses performing telehealth services must have the required education and training to ensure competency related to its use to deliver nursing care. Nurses must comply with the Health Care Accountability and Portability Act (HIPAA) and the Federal Education and Privacy Act (FERPA). Agency policies should outline safety standards, potential hazards, operating procedures, and documentation. Moreover, nurses who practice telehealth services must have a Washington license for patient care in our state. The nurse is responsible and accountable for the quality of nursing care using telehealth services to clients, just like face-to-face care.

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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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Guidelines

1. Advanced Registered Nurse Practitioner, <https://www.doh.wa.gov/portals/1/Documents/6000/ARNPLinks.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 Medical Quality Assurance Commission Telemedicine guidelines
15. 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/TelemedicineAndContinuityOfCarePOL_2018-01.pdf

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

Terms used in the literature include telehealth, telehealth nursing, telemedicine, telecare, telephone nursing, telephone triage, e-health, mobile health, and tele presenting.

Hospitals, Hospice, and In-Home Services definitions of Telehealth and Telemedicine

"Telemedicine" means delivering health care services using interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider for diagnosis, consultation, or treatment. Telemedicine does not include audio-only telephone, facsimile, or electronic mail RCW 70.41.020(13); WAC 246-335-610(21). This is the hospital licensing law definition used in RCW 43.70.495 for the telemedicine training requirement.

Hospice uses the above definition for "telemedicine" but also distinguishes and defines "telehealth" as a collection of means or methods for enhancing health care, public health, and health education delivery and support using telecommunications technology. Telehealth encompasses various technologies and tactics to deliver virtual medical, health, and education services. WAC 246-335-610(20).

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.