


NATE GUSTAFSON

STATE REPRESENTATIVE • 55TH ASSEMBLY DISTRICT

Testimony in Support of Assembly Bill 541

Assembly Committee on Health, Aging and Long-Term Care

Wednesday, November 8, 2023

Thank you, Chairman Moses, and members of the Committee on Health, Aging and Long-Term Care for scheduling a public hearing and the opportunity to testify in favor of Assembly Bill 541. Thank you as well to my colleague, Senator Cabral-Guevara, who introduced this bill in the Senate.

Assembly Bill 541 expands Wisconsinites' access and availability to mental health care services by reducing regulatory burdens and providing access to qualified out-of-state health care providers. Currently, a mental health care provider needs to be licensed in Wisconsin to practice in the state, but, under this legislation, providers would need to be licensed to practice in their home state, be in good standing, and provide patients with information regarding their credentials.

On March 27, 2020, Governor Evers signed Emergency Order 16 which allowed “any health care provider with a valid and current license issued by another state to practice under that license and within the scope of that license in Wisconsin without first obtaining a temporary or permanent license from the Department of Safety and Professional Services.” Although Emergency Order 16 has expired, Wisconsin still faces a mental health crisis and qualified out-of-state health care providers can be integral partners in solving this indiscriminate crisis. I am hopeful this bill will have bipartisan support as the legislation that we are considering today, AB 541, is modeled after the Governor’s Emergency Order 16.



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According to a 2019 Wisconsin Department of Health Services report, 52 of the state's 72 counties were designated as Health Professional Shortage Areas. The recommended ratio of mental health providers is 250 to 1. In 2022, only a single county in Wisconsin (Dane) meets that recommended ratio. It ranges from a ratio of 310 to 1 in my home county of Winnebago, to horrific ratios of 7,290 to 1 in Pepin County or 13,030 to 1 in Buffalo County.

According to the 2021 Youth Risk Behavior Survey from the Wisconsin Department of Public Instruction, 52.2% of all students and 66.2% of female students self-reported "significant problems with anxiety." 18.1% of all students surveyed seriously considered attempting suicide in the past 12 months, the highest rate since 2003.

Simply put, Wisconsin is facing a mental health crisis and there is a shortage of mental health care providers in our state. Assembly Bill 541 will allow qualified providers who are currently serving clients in their home state, to serve Wisconsinites as well at no added cost to the taxpayers. This is a commonsense solution.

This bill is supported by the Institute for Reforming Government Action Fund, the Milwaukee Police Association, the Milwaukee Professional Firefighters Association, and the Wisconsin Occupational Therapy Association. I have also proposed an amendment that addresses the concern regarding physicians.

If you are not yet convinced, listen to the words from a mother in Polk County, "A lot of times when you're struggling with mental health you'll hear over and over again 'Reach out for help and we'll help you,' and then when you reach out, there's nobody there,"

It is my hope that Assembly Bill 541 ensures someone is there.

Thank you for your consideration of Assembly Bill 541 and I hope you will all support this bill.



RACHAEL A. CABRAL-GUEVARA

STATE SENATOR • 19TH SENATE DISTRICT

Testimony before the Assembly Committee on Health, Aging and Long Term Care

Senator Rachael Cabral-Guevara

November 8, 2023

Hello, members of the Assembly Committee on Health, Aging and Long Term Care. Thank you for allowing me to provide testimony on Assembly Bill 541, an important bill that will expand access to telehealth services in Wisconsin.

Wisconsin faces a mental health crisis. We are also experiencing a health care provider shortage, causing many folks to go without access to mental health services. In 2019, it was reported that [52 of Wisconsin's 72](#) counties qualified as health professional shortage areas, all before the pandemic. As a component of Emergency Order #16 during the pandemic, out-of-state providers were able to provide mental health telehealth services. Although Emergency Order #16 has ended, Wisconsin deserves better access to telehealth treatment beyond public health emergencies.

From a provider's standpoint, telehealth services have been an important tool to boost patient compliance and follow-up. This bill would allow struggling Wisconsinites continued access to quicker and more efficient telehealth services. As they had during the pandemic, these out-of-state providers would be able to provide telehealth services to Wisconsinites, so long as the provider:

- Is able to practice within the state they physically reside.
- Only provides services within their scope of practice.
- Informs the patient which state(s) they are licensed to practice in and what regulatory board has oversight of their practice.

There is an amendment pending that would take into consideration the request of stakeholders to limit the list of providers to specifically trained mental health professionals. As amended, I am hopeful you will support this important piece of legislation.



November 8, 2023

TO: Assembly Committee on Health, Aging and Long-Term Care

FROM: Mike Tierney, Legislative Liaison, Department of Safety and Professional Services

RE: Assembly Bill 541 - relating to: provision of telehealth services by out-of-state health care providers.

Good morning,

Chairperson Moses and committee members, thank you for the opportunity to submit this testimony on Assembly Bill 541 related to the provision of telehealth services by out-of-state health care providers.

According to the Legislative Reference Bureau plain language analysis and the bill text, the “bill provides that no mental health care provider may be required to be licensed, registered, certified, or otherwise approved to practice in this state to provide mental health services by telehealth to patients located in this state if the mental health care provider satisfies certain conditions.

Under this bill, those conditions are:

- The mental health care provider is licensed, registered, certified, or otherwise approved to practice in the state that the provider is physically present in when providing telehealth services.
- The mental health care provider may provide telehealth services in this state within the scope of his or her license, registration, certification, or approval from the state from which the mental health care provider is providing telehealth services.
- The license is not limited, and the provider is not under investigation for allegations of unprofessional conduct in the state from which the provider is providing telehealth services.
- The mental health care provider informs the patient whether the provider is licensed in this state, what state he or she is providing telehealth services from, what states in which he or she is licensed, registered, certified, or otherwise approved to practice, and which regulatory boards the patient may contact to file a complaint.

Wisconsin is among the national leaders in licensure. We issue far more credentials than were ever issued before, faster than other states, and this work is done without jeopardizing either public health or safety. We also have exceptionally low licensure fees. Additionally, we are a regional leader and have led efforts to enter into data sharing agreements with other states in our region of the country – where it is most likely people practicing telehealth with Wisconsin residents are located.

Furthermore, under current law, if a person wishes to become licensed in Wisconsin, they can apply for a temporary bridge license (also known as a 2021 Act 10) and concurrently apply for a permanent Wisconsin credential. They can then go to work providing telehealth services in our state while

processing of the permanent credential occurs – which can now take as little as a few days. We know who the individual is providing service, know they are credentialed in good standing elsewhere, and we have information readily available in the event a complaint is filed or in the event information were needed by law enforcement agencies to pursue a criminal matter.

Additionally, provided that compact bills maintain standards for education, training and conduct of credential holders – there is no issue with compact legislation that enables compact credential holders to provide telehealth services in Wisconsin.

Under this bill, Wisconsin will no longer receive information normally obtained when a person is required to be licensed, registered, certified, or otherwise approved to practice in this state. Wisconsin residents will, as a practical matter, need to rely on their own devices and the validity of the information they are provided solely by the individual claiming to be a mental health professional.

When asked questions about telehealth and licensure, we tell credential holders “the care is where the patient is”. There is an expectation that if a patient is physically located in Wisconsin, the provider will be appropriately credentialed and provide care within their scope of practice under Wisconsin law – no matter where the provider is located at the time. Under this bill, it appears providers in other states could practice in a manner that does not conform with Wisconsin law. Because the person providing services is not approved by our state, there is no mechanism for suspension even in cases where a provider located in another state has engaged in activities that would result in suspension or loss of licensure for a Wisconsin based practitioner. A concern with this legislation is that it does not allow existing safeguards to be applied to allow our state to minimally ensure that the person purporting to be a mental health provider is, indeed, an actual mental health provider.

Telehealth done right does provide people with mental health needs the support and care they need. We would all hope, if this legislation became law, persons receiving care via telehealth would receive the care they need without issue. However, it is important to remember mental health providers have access to a wealth of personal and, quite often, financial information for the people they serve. To provide effective therapy in person or via telehealth, a practitioner needs their patient to know they can trust the provider. If we open the door to unlicensed and unregulated telehealth and abuses occur, that may very well undermine efforts of legitimate providers to expand the appropriate use of telehealth.

Physicians and other health care providers are mindful of the need to “do no harm” when providing patient care. As legislation related to telehealth is considered, it is also important to recognize the potential for harm to be inflicted on persons who are in need of help.



November 8th, 2023

Assembly Committee on Health, Aging, and Long-Term Care
417 N Main St.
Madison, WI 53703

Dear Chairman Moses and members of the Assembly Committee on Health, Aging, and Long-Term Care,

My name is Nicole Boyington speaking on behalf of Shelly Muche, who could not be at the hearing, FVTC OTA/TAS Dept. Chair Fox Valley Technical College in support of AB 541. Shelly shared these comments below:

People residing in skilled nursing facilities or who are homebound most likely have physical challenges affecting their lives. There are many times that a barrier to improving their physical health was their mental health. Unfortunately, due to staffing or physical accessibility issues, they were unable to receive the mental health treatment they needed. (I had one patient in particular who needed formal mental health counseling to receive coverage for bariatric surgery. She was simply too large of a person to access a mental health practitioner's office. She was unable to get the required mental health counseling and was not able to get bariatric surgery. Of note, virtual mental health was not available.) Allowing mental health providers from other states to treat clients in Wisconsin would help our citizens in two obvious ways: AB 541 would increase the number of practitioners available and the bill would increase accessibility with more virtual options.

Please consider supporting AB 541 to help our clients and their families be able to live more independent and best lives. Thank you for your time and consideration on this important issue for our patients.



TO: The Honorable Members of the Assembly Committee on Health, Aging and Long-Term Care
FROM: Kathy Markeland, Executive Director
DATE: November 8, 2023
RE: **Assembly Bill 541 – Telehealth by Out of State Mental Health Providers**

On behalf of the members of the Wisconsin Association of Family & Children's Agencies (WAFCA), thank you for considering our testimony for information on Assembly Bill 541, which, as we understand it, would permit professionals licensed/credentialed outside of the state of Wisconsin to provide mental health services via telehealth.

WAFCA is a statewide association that represents nearly fifty child and family serving agencies and advocates for the more than 200,000 individuals, children, and families that our member agencies impact each year. Our members' services include an array of prevention, child welfare, mental health and substance use treatment services across the continuum of care.

Our members are acutely aware of the mental health needs in our Wisconsin communities, and we appreciate the efforts of the legislature to identify creative strategies to address the shortage of treatment professionals to meet the growing need. WAFCA has advocated for a number of strategies to grow our workforce and improve access, including expanded access to peer specialists in mental health treatment; increased grants to support qualified treatment trainees who are working toward full licensure in our state; streamlining of licensure and certification processes; and sufficient Medicaid reimbursement and parity commercial insurance coverage to ensure equitable access to mental health treatment.

We are grateful to the legislature for the addition of telehealth options and believe that the flexibility for individuals to receive treatment in-person or virtually. This flexibility was invaluable during the pandemic and telehealth continues to make treatment more accessible for clients in remote regions of the state as well as for those who experience other barriers.

While we believe that AB 541 is a well-intentioned effort to leverage additional treatment options, it differs from the flexibility provided under COVID executive orders in that it does not appear to require out-of-state mental health providers to seek Wisconsin certification/licensure. The prior emergency provisions required these professionals to pursue in-state credentials and allowed them to temporarily practice while their credentials were in process.

Wisconsin Association of Family & Children's Agencies
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As the bill is currently drafted, it raises questions about insurance coverage for these out-of-state providers, and whether Medicaid and other commercial insurers can/will recognize the credentials of these providers. With regard to consumer protections, while telehealth is a valuable option, parity access requires consideration of the ability for consumers to access services in-person, if that is more conducive to their treatment. It is not clear how out-of-state providers will support in-person access should a client seek referral to an in-person treatment resource. Finally, we are curious about the way in which this universal acceptance of mental health credentials from across the country might impact the development of Wisconsin's future workforce and our ability to competitively attract professionals to work within our borders.

Again, we appreciate efforts to streamline the certification and licensing processes in the state and endorse continued movement toward adopting the counseling and social work compacts, which will generate a more level playing field across the country, while also maintaining Wisconsin's oversight role with regard to these professionals.

We look forward to learning more about this proposal as deliberations continue and appreciate the opportunity to offer some perspective from our provider network. We welcome any questions the committee may have and look forward to further dialogue.