



WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

July 29, 2021

**Testimony before Assembly Committee on Health
Assembly Bill 296
Rep. Amy Loudbeck and Sen. Dale Kooyenga**

Chair Sanfelippo and committee members, thank you for the opportunity to testify in favor of Assembly Bill 296.

Assembly Bill 296 is a technical bill that is needed to provide clarity and uniformity to the definitions of “Free and Charitable Clinics” and “Telehealth” in Wisconsin Statutes.

Free and Charitable Clinics (FCCs) are safety-net health care organizations that utilize a volunteer/staff model to provide a range of medical, dental, pharmacy, vision and/or behavioral health services to economically disadvantaged individuals. FCCs have existed in Wisconsin for over 25 years and have provided care to thousands of patients with limited government funding.

2019 Wisconsin Act 9 contained language directing DHS to provide \$500,000 to FCCs in Wisconsin. In awarding the funding, it was discovered the term “Free and Charitable Clinics” is not defined in statute, which could cause ambiguity in the future. AB 296 corrects this issue by including clear language related to the appropriation and creating a definition for “Free and Charitable Clinics”.

Additionally, AB 296 incorporates the current definition of “telehealth” that is already recognized in the Medicaid program into Chapter 440 of Wisconsin statutes, which governs regulation of and occupational licensing for medical professionals. The bill also requires the Department of Safety and Professional Services and any attached examining board or affiliated credentialing board to define and use “telehealth” and related terms consistent with this bill in all promulgated rules.

Telehealth utilization was increasing prior to COVID-19, but over the last year, the use of telehealth services have grown exponentially, allowing essential care to be delivered in a timely fashion to many who were unable to attend appointments in person. As we continue to develop state laws and policies to keep pace with advances in technology and care delivery innovations, it’s important to make sure that definitions are clear and consistent across Wisconsin’s statutes.

We are in the process of finalizing language for an amendment that we’ve been working on with several stakeholder groups. We will share the language with committee members as soon as it’s available.

Thank you for your time and consideration of this legislation. We respectfully ask for your support of Assembly Bill 296.



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TO: Members of the Assembly Committee on Health

**FROM: Matthew Stanford, General Counsel
Jon Hoelter, Vice President Federal & State Relations**

DATE: July 29, 2021

RE: WHA Testimony on AB 296 – Support for telehealth provisions with an additional amendment

The Wisconsin Hospital Association thanks the Committee for the opportunity to speak again on advancing telehealth in Wisconsin. WHA was pleased to work with Representatives Loudenbeck and Kolste and Senators Kooyenga and Bewley on bipartisan Medicaid telehealth legislation in 2019. That legislation, which became 2019 Act 56 in March 2020, was governed by a simple premise: telehealth is health care.

That public policy approach to telehealth has served Wisconsin extremely well and helped Wisconsin health care providers quickly transition from in-person care to care delivered via telehealth during the COVID pandemic. And based on very favorable patient satisfaction and quality data, it seems clear that patient demand for telehealth will continue well beyond the pandemic.

We appreciate Representative Loudenbeck and Senator Kooyenga's goal of Assembly Bill 296 to continue to remove barriers to telehealth by standardizing a definition of telehealth for the DSPS health care licensing boards. However, as we noted in a previous hearing on this legislation's Senate counterpart, SB 309, in the Senate Committee on Insurance, Licensing and Forestry, we believe that goal can be furthered by also including the sections included in the Medicaid telehealth act that protect telehealth from being regulated differently than in-person care, if the telehealth service is functionally equivalent to in-person care. If telehealth is health care – then it should be regulated the same as in-person health care.

Following the COVID pandemic, we are now beginning to see examining boards at DSPS contemplate promulgating special telehealth rules ostensibly to further support telehealth practice in Wisconsin. For instance, the Psychology Examining Board has proposed a simple telehealth rule making clear that the standards of practice and professional conduct are the same for telehealth as they are in person, and that a psychologist providing telehealth in Wisconsin must hold a Wisconsin license. From our members' perspective, making that clear in rule makes perfect sense.

Similarly, the DSPS Occupational Therapists Credentialing Board held a hearing in June on proposed telehealth rules that also include clarification similar to the Psychology Board rules. However, original proposed occupational therapy rules also included a number of other requirements that would unnecessarily treat functionally equivalent telehealth services differently than face-to-face services. The proposed rule, for example, would require a unique telehealth focused informed consent, unique telehealth collaboration requirements, and special technology training requirements, to name a few. Following concerns raised by the WHA Telehealth Work Group and the Wisconsin Occupational Therapy Association that these additional requirements would be burdensome to document and operationalize, the Occupational Therapists Credentialing Board reversed itself and directed DSPS staff to revise the proposed rule to remove additional requirements that would treat functionally equivalent telehealth services differently than face-to-face services.

WHA's Telehealth Work Group is concerned that the DSPS Psychology Board rule and DSPS Occupational Therapist Board rules could be the beginning of a rush of multiple new and unique telehealth rules from multiple different DSPS boards – all of which would require their systems to develop different telehealth policies varying by provider type for compliance. The result could be a maze of inconsistent and differing standards depending on provider type that would create confusion for both patients and providers.

To guard against a future patchwork quilt of telehealth regulations from multiple DSPS boards, WHA supports an amendment to Senate Bill 309 that would incorporate language similar to Wisconsin's Medicaid telehealth statute. The amendment would provide a common standard among all DSPS health care licensing boards that licensed professionals are not required to meet additional requirements solely because the service was delivered through telehealth if the transmission of information through telehealth is functionally equivalent to a face-to-face contact. At the same time, boards would not lose their ability to require Wisconsin licensure for telehealth providers or apply any requirement that is applicable to services provided in person to any service provided via telehealth. WHA appreciates the opportunity to continue working with the bill authors and other concerned parties on the amendment language.

**Assembly Committee on Health
Testimony - Sara Nichols (7/29/21)**

Thank you, Chairman Sanfelippo and the Members of the Committee on Health for your time and attention for my testimony.

My name is Sara Nichols and I am the Executive Director of Open Arms Free Clinic, a free clinic serving the uninsured and underinsured residents of Walworth County. Open Arms has provided primary medical, dental, behavioral health, medications and labs to over 4,000 patients to date. We are one of 93 free and charitable clinics (FCCs) in Wisconsin and a member of the Wisconsin Association of Free & Charitable Clinics. Annually, FCCs - all of which operate on grants, donations, and volunteers - provide access to basic health care to 160,000 Wisconsinites. **Please note that FCCs are not Community Health Centers or Federally Qualified Health Centers.** We do not receive significant funding from our Federal or State governments.

I'm here today to support Assembly Bill 296 relating to funding for free and charitable clinics and defining telehealth.

- **First**, Thank you to Representative Loudenberg and Senator Kooyne for sponsoring this legislation to recognize our vital role in Wisconsin.
- In 2019 a grant program under DHS was established through the efforts of the Joint Finance Committee, and Open Arms Free Clinic was a grant recipient - thank you! In 2019, our free clinic completed 7000 patient visits and provided \$2.4 million worth of medical care at no cost to our patients of all ages. Your return on investment in free clinics was 10 fold.
- Open Arms Free Clinic is the first and only free clinic in Walworth County and opened in 2012 shortly after the Great Recession. At that time there were approximately 13,000 county residents who struggled for access to medical care for the poor. We have had strong leadership to adapt to the changing health care environment these past 8 years, and the staff and volunteers are deeply committed to our mission. Having a definition for Free and Charitable Clinics in state statute would allow the opportunity for consistent funding support so that we can achieve our mission to provide access to health care.
- The COVID pandemic illuminated the need for a stable workforce to support the volunteer model. As our volunteers were ordered to stay home, our small paid staff weathered the storm and showed up every day to ensure patients were able to receive their medications and continue to have access to the medical, dental, and counseling services. Our patient population are living in a household at or below 200% of the Federal Poverty Level and most have been diagnosed with a chronic condition, which when left untreated, prevent them from engaging in gainful employment. In 2020, despite the pandemic challenges, we dispensed over 11,000 medications and completed 5600 patient visits.

- Early on in the pandemic, our little clinic, which relies on donations of goods and services, had a surplus of gloves and masks on hand that we provided to the local hospitals. With enough PPE still on hand, we were the first agency to conduct free community COVID testing in Walworth County. After we completed 500 tests in 6 hours, the National Guard was activated to continue providing this service for our neighbors in need. We were able to modify our workflow and provided curbside medication dispensing and implemented a telehealth program that utilized video calls and text messaging to connect the patients with providers. Even as volunteers return to the clinic, we continue to utilize the telehealth options as patient transportation barriers still exist in Walworth County and we have been able to avert emergency room visits by addressing patient needs in real time.
- The strain continues as patient volumes are rising due to unemployment and clinics like our filling in the public health gaps for access to healthcare. At Open Arms, there have been over 500 new patients seeking care in the first 6 months of 2021; and with close to 7000 volunteer hours already logged for this year, we have completed 2,250 inoculations to date, and tirelessly work to end this pandemic for our community.
- As Representative Loudenberg can attest to, our clinic has been a critical access point to health care for the marginalized, yet essential workers, and a vital partner in the continuum of health services in Walworth County. In closing, on behalf of the 93 Free and Charitable Clinics in Wisconsin, I support AB 296 and have high hopes that you do too.

Respectfully submitted,

Sara Nichols, MPH

Executive Director

Open Arms Free Clinic, Inc.

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AB 296 - Defining Free and Charitable Clinics and Telehealth Testimony
WI Assembly – Committee on Health
July 29, 2021

Chairperson Sanfelippo, and Committee Members, thank you for the opportunity to testify today in support of Assembly Bill 296.

My name is Mary Reich and I'm the Executive Director of the Lake Area Free Clinic, a Free and Charitable Clinic located in Waukesha County. For twenty years, we have been providing free medical care to the low-income uninsured residents of Waukesha County, and since 2001 we have had 56,000 medical visits. Our mission is to provide comprehensive high-quality healthcare to those in need and the needs are great. In 2017 our clinic added a six-chair dental clinic; providing dental services to the low-income Medicaid and uninsured patients. Up until 2017, there was no dental home for low-income adults in the county.

We are a member of the Wisconsin Association of Free and Charitable Clinics who advocates for the 92 Free and Charitable Clinics throughout Wisconsin. These clinics provide medical, dental and behavioral health care to over 160,000 Wisconsinites annually. Please note that Free and Charitable Clinics are NOT Community Health Centers or Federally Qualified Health Centers. Free and Charitable Clinics are independent and survive solely through community support, fundraising, grants and dedicated volunteers who give generously of their time.

In 2019, a \$500,000/year grant program for FCC's was established through the efforts of the Joint Finance Committee. We applied and are grateful to be one of the recipients. These funds truly helped many Free and Charitable Clinics to grow and increase services, and were welcome relief with the stress and uncertainty of COVID.

Unfortunately, a clear definition of a free and charitable clinic is lacking in statute which has, at times, caused confusion. It led to other non-profit organizations, that are not free and charitable clinic, to apply for these funds designated for FCCs. AB 296 would clarify this matter. The definition of "free and charitable clinics" used in this bill is the "industry standard". Wisconsin Association of Free and Charitable Clinics, most other state associations and the National Association of Free and Charitable Clinics all use the definition in AB-296 in their bylaws and membership documents.

In closing, I strongly encourage your support and the ultimate passage of AB-296. I can't tell you how much I appreciate your consideration and support of this initiative.

Thank you, Committee Members for your time and attention.

Respectfully submitted,

Mary Reich BSN RN
Executive Director
Lake Area Free Clinic
856B Armour Rd
Oconomowoc, WI 53066



To: Members, Assembly Committee on Health
From: R.J. Pirlot, Executive Director
Re: Support for Assembly Bill 296

The Alliance of Health Insurers (AHI) is a nonprofit state trade advocacy organization created to promote essential and effective health insurance industry regulations that serve to foster innovation, eliminate waste, and protect Wisconsin health care consumers.

AHI supports Assembly Bill 296 because it requires that if the Department of Safety and Professional Services, an examining board, or an affiliated credentialing board promulgates rules related to telehealth they shall all use the same, consistent definition of “telehealth.”

AHI health plans are required, by law, to have a broad network of providers ensuring consumers have access to needed care without unreasonable delay. Our networks include physicians, physician assistants, advanced practice nurses, and a variety of many other providers. Many providers are regulated by their own licensing boards.

As telehealth is increasingly utilized by practitioners, having a consistent definition of telehealth creates uniformity across providers and allows our plans and consumers to have a firm, consistent expectation of this type of care-delivery. Having the same standards apply to all providers also makes it easier for our plans to evaluate their networks and to help achieve their network adequacy goals.

Thank you for this opportunity to submit testimony today and we respectfully ask you support AB 296.



To: Members, Assembly Committee on Health
From: Rebecca Hogan
Re: Statement on Assembly Bill 296 on behalf of Teladoc Health, Inc

Teladoc Health is the global leader in whole-person virtual care—offering the technology to connect and improve health for all. Teladoc Health was founded on a simple idea: that everyone should have access to the best healthcare, anywhere in the world on their terms. Today, we're delivering on our mission by providing whole-person virtual care that includes primary care, mental health, chronic condition management and more.

Teladoc supports Assembly Bill 296 because it requires that when the Department of Safety and Professional Services, an examining board, or an affiliated credentialing board promulgates rules related to telehealth they shall all use the same, consistent definition of “telehealth.”

What we do not want to see happen in this legislation is anything that would prevent continued access to affordable and quality care for those who experience economic, social, and geographic barriers.

If there are plans to amend this bill, we ask that you work with us as we are a leader in providing telehealth options for patients not just in Wisconsin, but across the entire country.

Thank you for this opportunity to submit testimony today.

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DATE: July 29, 2021

TO: Assembly Health Committee

RE: Wisconsin Dental Association testimony on Assembly Bill 296

Good afternoon members of the Assembly Committee on Health, my name is Chris Borgerding and I am the Director of Government Services for the Wisconsin Dental Association (WDA). The WDA represents over 3,000 dental providers throughout the state. This committee alone represents over 400 WDA member dentists.

I want to thank you for allowing the WDA to submit testimony on this telehealth legislation. While telehealth is not totally new, in the dentistry world, it is a rapidly evolving practice model that will have wide ranging impacts for years to come.

Ensuring that your constituents are treated by state-licensed providers is of utmost importance to the WDA and other stakeholders. This would assure these providers are held to the same legal and regulatory standards as in-person providers and can be held accountable should issues arise.

Additionally, the WDA strongly believes in retaining the ability of examining boards to regulate practices that will impact Wisconsin citizens. We are just in the beginning stages of telehealth/teledentistry and technology will only continue to be developed. It is crucial that the hands of examining boards are not tied to examine and address these future developments.

We look forward to continuing to work with the authors on this piece of legislation, to strike a balance of provider accountability, and expanding access to care through unconventional means. If you have any questions, please do not hesitate to contact me.

Chris Borgerding
Wisconsin Dental Association
Director of Government Services

W I S C O N S I N
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A S S O C I A T I O N

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DATE: July 29, 2021

TO: Representative Joe Sanfelippo, Chair of the Assembly Health Committee

RE: Wisconsin Optometric Association testimony on Assembly Bill 296

Good morning, my name is Peter Theo, I am the Executive Vice President for the Wisconsin Optometric Association (WOA). WOA is a statewide professional association representing doctors of optometry. Thank you, Chairperson Sanfelippo and members of the Committee, for allowing me to present comments on behalf of the WOA regarding Assembly Bill 296.

Doctors of optometry are primary health care providers specializing in the examination of the eye to diagnose and treat vision disorders as well as eye health conditions and diseases. They do so by utilizing vision correction methods and products as well as eye health procedures and disease management through the use of medical prescriptions.

WOA has long recognized telehealth as an evolving tool for the delivery of health services, and we support the appropriate and safe use of telehealth services to supplement access to high-value, high-quality eye health and vision care. Telehealth can serve to improve patient coordination and communication among and between doctors of optometry, other eye doctors, and additional primary care or specialty care providers. However, we do have concerns that not all telehealth services and/or providers will maintain the same standard of care patients receive from services provided in-person.

To that end, we believe providers of vision and eye health care delivered via telehealth must be required to hold a valid Wisconsin optometry license to provide care to patients in Wisconsin. This would ensure these providers adhere to the same legal and regulatory requirements as in-state/in-person providers. Additionally, we believe regulatory boards, such as the Optometry Examining Board (OEB), must retain the ability to regulate optometric services whether they are provided in-person or through telehealth. As with all health care professions, new technology and procedures emerge which increase the opportunity to provide improved quality of care to patients. However, these advancements can also place patients at an increased risks which may require targeted modifications to practice acts through rule making. These concerns are not theoretical or abstract, our doctors live in this world and are witness to the negative impact unregulated/underregulated providers can have on patient safety. Therefore, the WOA believes we should not limit a board's ability to regulate all providers of vision and eye health care, in all settings and through all modes of delivery.

Thank you again for the opportunity to provide comments on this bill. Please contact me if you have any questions or would like additional information.

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Following the COVID pandemic, we are now beginning to see examining boards at DSPS contemplate promulgating special telehealth rules ostensibly to further support telehealth practice in Wisconsin. For instance, the Psychology Examining Board has proposed a simple telehealth rule making clear that the standards of practice and professional conduct are the same for telehealth as they are in person, and that a psychologist providing telehealth in Wisconsin must hold a Wisconsin license. From our members’ perspective, making that clear in rule makes perfect sense.

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More importantly, WHA’s Telehealth Work Group is concerned that the DSPS Psychology Board rule and DSPS Occupational Therapist Board rules could just be the beginning of a rush of multiple new and unique telehealth rules from multiple different DSPS boards – all of which would require their systems to develop different telehealth policies varying by provider type for compliance. The result could be a maze of inconsistent and differing standards depending on provider type that would create confusion for both patients and providers.

To guard against a future patchwork quilt of telehealth regulations from multiple DSPS boards, WHA supports an amendment to Senate Bill 309 that would incorporate language similar to Wisconsin's Medicaid telehealth statute. The amendment would provide a common standard among all DSPS health care licensing boards that licensed professionals are not required to meet additional requirements solely because the service was delivered through telehealth if the transmission of information through telehealth is functionally equivalent to a face-to-face contact. At the same time, boards would not lose their ability to require Wisconsin licensure for telehealth providers or apply any requirement that is applicable to services provided in person to any service provided via telehealth. WHA appreciates the opportunity to continue working with the bill authors and other concerned parties on the amendment language.