



WISCONSIN LEGISLATURE

P.O. BOX 8952 • MADISON, WI 53708

May 26, 2021

Testimony before Senate Committee on Insurance, Licensing and Forestry

Senate Bill 309

Rep. Amy Loudenbeck and Sen. Dale Kooyenga

Chair Felzkowski and committee members, thank you for the opportunity to testify in favor of Senate Bill 309.

Senate Bill 309 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. Over 100 FCCs are already operating in Wisconsin. 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. SB 309 corrects this issue by including clear language related to the appropriation and creating a definition for “Free and Charitable Clinics”.

Additionally, SB 309 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.

Thank you for your time and consideration of this legislation. We respectfully ask for your support of Senate Bill 309.



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TO: Members of the Senate Committee on Insurance, Licensing and Forestry

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

DATE: May 26, 2021

RE: WHA Testimony on SB 309 – 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 Senators Kooyenga and Bewley and Representatives Loudenberg and Kolster 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 Senator Kooyenga and Representative Loudenberg's goal of Senate Bill 309 to continue to remove barriers to telehealth by standardizing a definition of telehealth for the DSPS health care licensing boards. However, we believe that goal can be furthered by also including the sections included in the Medicaid telehealth act that protects 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 has proposed creating telehealth rules that also include clarification similar to the Psychology Board rules. However, they are also proposing 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. WHA heard recently from its Telehealth Work Group members that these additional requirements would be burdensome to document and operationalize.

More importantly, WHA's Telehealth Work Group was 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. WHA appreciates the opportunity to continue working with the bill authors on the amendment language.



**SB-309 Funding for Free and Charitable Clinics and Defining Telehealth Testimony
WI Senate – Committee on Insurance, Licensing and Forestry
Wednesday, May 26, 2021**

Chairperson Felzkowski, Vice Chairman Stafsholt and Committee Members, thank you for the opportunity to testify today in support of Senate Bill 309. My name is Dennis Skrajewski and I'm the Executive Director of the Wisconsin Association of Free & Charitable Clinics (WAFCC). Our small, non-profit organization exists to support, strengthen, and advocate for Wisconsin's free and charitable clinics (FCCs) and the patients and communities they serve. There are 92 FCCs throughout Wisconsin who provide medical, dental and behavioral health care to over 160,000 Wisconsinites annually. FCCs are NOT Community Health Centers/FQHCs. We don't survive through government funding nor insurance billings. FCCs thrive through community support, foundation grants and copious volunteers who give so generously of their time.

Back in 2019, a \$500,000/year grant program was established through the efforts of the Joint Finance Committee. Unfortunately, a companion bill creating a clear definition of "free and charitable clinic" failed to pass before the close of the session. Over the past 2 years, the WI Division of Health Services has successfully administered this grant program and distributed \$500,000 across ~10 clinics annually and truly helped stabilize FCCs and assist many to grow and increase services. These funds were invaluable particularly during the stress the clinics suffered responding to the COVID-19 Pandemic. Unfortunately, a clear definition of FCC is lacking in statute which has, at times caused confusion and led to other non-profit organizations applying for these funds designated for FCCs. SB-309 would clarify this matter. Furthermore, the definition of "free and charitable clinics" used in this bill is "industry standard". Our organization, most other state associations and our national organization (the National Association of Free and Charitable Clinics) use the definition in SB-309 in our bylaws and membership documents.

In closing, the Wisconsin Association of Free and Charitable Clinics strongly encourages your support and the ultimate passage of SB-309. Thank you, Senator Kooyenga, Representative Loudenberg and associated co-sponsors for your support on this bill. Thank you, Chairperson Felzkowski, Vice Chairman Stafsholt and Committee Members for your time and attention.

Respectfully submitted,

Dennis Skrajewski

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Ascension

May 26, 2021

Wisconsin State Senate Insurance Licensing and Forestry Committee
Senator Felzkowski, Chair

Members of the Senate Committee on Insurance, Licensing and Forestry:

On behalf of Ascension Wisconsin, thank you for the opportunity to provide written testimony in favor of SB - 309. We appreciate the leadership and strong support for telehealth from Senator Kooyenga and Representative Loudeneck and we appreciate the intent of SB 309 to align the definitions of telehealth throughout Wisconsin statute.

In Wisconsin, Ascension operates 24 hospital campuses, more than 100 related healthcare facilities and employs more than 1,200 primary and specialty care clinicians from Racine to Eagle River. Serving Wisconsin since 1848, Ascension is a faith-based healthcare organization committed to delivering compassionate, personalized care to all, with special attention to persons living in poverty and those most vulnerable.

2019 WI Act 56 supports a strong foundation for virtual care; ensuring that providers who are credentialed as Medicaid providers do not face additional regulatory red tape to provide virtual care. This language will continue to serve us well and allow clinical providers to provide access to both in person care and virtual care for Medicaid enrollees. We support using the language and definitions from WI Act 56 as a model to create consistency across our statutes, including treating virtual care and in-person care equally.

We are concerned that additional rulemaking anticipated by SB 309 may lead to additional regulations from different licensing boards. These regulations may treat licensure for virtual care differently from licensure for in-person care. This would create unnecessary complexity for our providers and could inadvertently limit access to virtual care. Recently, we learned that the OT examining board is proposing additional licensing requirements for telehealth, beyond what is required for in-person care. If other boards take up a similar process, the result would be a patchwork of regulations related to virtual care licensing. While unintended, this patchwork approach would be different from the approach in Wisconsin's Medicaid statute and could create unnecessary barriers to virtual care for our communities.

To address this potential regulatory patchwork, Ascension Wisconsin would support an amendment to SB-309 that would retain alignment of statutory language, retain our current licensing structure which does not differentiate between in-person care and virtual care.



Ascension

Thank you for the opportunity to support SB 309 and for considering an amendment that would support access to virtual care and in-person care going forward. If you have any questions, please feel free to reach out to Elizabeth Cliffe, Director State Policy & Advocacy at elizabeth.cliffe@ascension.org.

Regards,

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**Wisconsin Dental Association
Testimony on Senate Bill 309
May 26, 2021**

Good afternoon Chair Felzkowski, Vice-Chair Stafsholt, Ranking Member Taylor, and members of the Senate Committee on Insurance, Licensing, and Forestry. My name is Chris Borgerding and I am the Director of Government Services for the Wisconsin Dental Association.

Thank you for allowing me the time to testify for information only. Teledentistry is a quickly evolving, but relatively new concept, which has been only sped up as a result of the COVID-19 pandemic.

Prior to the pandemic, the WDA was engaged with Senator Kooyenga and Representative Loudenberg on crafting teledentistry legislation, but for a variety of reasons, primarily COVID-19, this bill stalled. At the request of the authors, it is our intention to once again revisit this topic after the budget.

We have spoken with both authors regarding this, and requested this legislation be amended so that the Dental Examining Board be exempted from the provisions of this legislation. This will allow us to work with the bill authors in a few months, and avoid creating even more confusion for providers.

While we can certainly appreciate the necessity of expediting telehealth legislation, this is a new concept in the dentistry world. We want to make sure we get it right so we aren't back here before you in a year or two with follow-up legislation.

The Wisconsin Dental Association and its 3,100 members respectfully request that you support an amendment to exempt the Dental Examining Board from this legislation.



To: Members, Senate Committee on Insurance, Licensing, and Forestry
From: R.J. Pirlot, Executive Director
Re: Support for Senate Bill 309

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 Senate Bill 309 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 (PAs), 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 amongst the providers and allows our plans and consumers to have a firm 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 SB 309.



DATE: May 26, 2021

TO: Senator Mary Felzkowski, Chair of the Senate Insurance, Licensing and Forestry Committee

RE: Wisconsin Optometric Association testimony on Senate Bill 309

Good Afternoon, my name is Peter Theo, I am the Executive Vice President of the Wisconsin Optometric Association (WOA), a statewide professional association representing Doctors of Optometry across the state. Thank you, chairperson Felzkowski and members of the committee, for allowing me to present comments on behalf of the WOA regarding Senate Bill 309. WOA is commenting for information only and want to raise significant concerns we have with the bill as draft.

Doctors of Optometry are primary health care providers specializing in the examination of the eye to diagnose and treat vision disorders as well as vision and eye health related diseases. Optometrists also treat physical disorders of the eye using procedures such as the removal of foreign material from the eye as well manage diseases of the eye through the use of medical prescriptions.

WOA recognizes telehealth is a rapidly 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 Doctor of Optometry, other eye doctors, and additional primary care or specialty care providers. However, we believe the same standards of care, patient safety, licensure, confidentiality, and record keeping must remain consistent regardless of if the care is provided in-person or via telehealth technology.

Specifically, our concerns relate to patient safety and the ability of our oversight board (Optometry Examining Board), to appropriately regulate optometrist who provide care to Wisconsin patients regardless of where the care originates. These concerns are not theoretical. Our doctors live in this world and witness to the results of unregulated telehealth services which threatening patient's ocular health and vision. We would oppose a change in the law that would tie the hands of the OEB from continuing to regulate those providers who care for Wisconsin patients.

We believe the current language in the bill may not provide appropriate safeguards with respect to vision and eye health services provided through Telehealth. It is our understanding an amendment may be offered affecting the telehealth portion of the bill which may clarify some of these concerns offered in this memo. Therefore, as a courtesy to the authors, WOA is withhold final judgement on the bill until we see the amended bill.

Please contact me should you have any questions or are in need of additional information. Thank you again for the opportunity to comment on this bill.

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