

By: Thierry

H.B. No. 4334

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the provision and delivery of certain health, mental  
3 health, and educational services in this state, including the  
4 delivery of those services using telecommunications or information  
5 technology.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subchapter B, Chapter 531, Government Code, is  
8 amended by adding Section 531.02165 to read as follows:

9 Sec. 531.02165. SERVICE COORDINATION USING  
10 TELECOMMUNICATIONS OR INFORMATION TECHNOLOGY. (a) In this  
11 section, "service coordination" includes:

12 (1) development and maintenance of a plan of care,  
13 including an individual service plan, that meets the needs of a  
14 Medicaid recipient or child health plan program enrollee;

15 (2) coordination, including with providers, to assist  
16 the recipient or enrollee in accessing Medicaid or child health  
17 plan program benefits, including benefits under a Section 1915(c)  
18 waiver program;

19 (3) coordination, including with providers as  
20 appropriate, to assist the recipient or enrollee in accessing  
21 services provided by other community entities or service providers,  
22 including nonmedical providers;

23 (4) transition planning to assist the recipient in  
24 preparing for changes in life circumstances and in available health

1 care services to ease the recipient's shift into adulthood; and  
2 (5) with respect to the STAR Health program,  
3 assistance provided to the caregiver of the recipient to help the  
4 caregiver manage information, including information needed for  
5 court hearings.

6 (b) The commission shall ensure that, to the extent  
7 appropriate, a Medicaid recipient or child health plan program  
8 enrollee who is eligible to receive service coordination benefits,  
9 including a recipient or enrollee receiving program benefits  
10 through a managed care delivery model, has the option to receive  
11 delivery of those benefits as a telehealth service or otherwise  
12 using telecommunications or information technology.

13 (c) The executive commissioner shall adopt rules necessary  
14 to implement this section, including rules governing when the  
15 delivery of service coordination benefits using telecommunications  
16 or information technology is appropriate.

17 SECTION 2. Section 1455.001(1-a), Insurance Code, is  
18 amended to read as follows:

19 (1-a) "Health professional" means:  
20 (A) a physician;  
21 (B) an individual who is:  
22 (i) licensed or certified in this state to  
23 perform health care services; and  
24 (ii) authorized to assist:  
25 (a) a physician in providing  
26 telemedicine medical services that are delegated and supervised by  
27 the physician; or

1 (b) a dentist in providing  
2 teledentistry dental services that are delegated and supervised by  
3 the dentist;

4 (C) a licensed or certified health professional  
5 acting within the scope of the license or certification who does not  
6 perform a telemedicine medical service or a teledentistry dental  
7 service; ~~or~~

8 (D) a dentist; or

9 (E) an individual who is credentialed to provide  
10 qualified mental health professional community services, has  
11 demonstrated and documented competency in the work to be performed,  
12 and:

13 (i) holds a bachelor's or more advanced  
14 degree from an accredited institution of higher education with a  
15 minimum number of hours that is equivalent to a major in psychology,  
16 social work, medicine, nursing, rehabilitation, counseling,  
17 sociology, human growth and development, physician assistant  
18 studies, gerontology, special education, educational psychology,  
19 early childhood education, or early childhood intervention;

20 (ii) is a registered nurse; or

21 (iii) completes an alternative  
22 credentialing process identified by the Health and Human Services  
23 Commission.

24 SECTION 3. Chapter 1455, Insurance Code, is amended by  
25 adding Sections 1455.007 and 1455.008 to read as follows:

26 Sec. 1455.007. REIMBURSEMENT AND PAYMENT. (a) A health  
27 benefit plan issuer must reimburse a preferred or contracted health

1 professional for providing a covered health care service or  
2 procedure to a covered patient as a telemedicine medical service or  
3 telehealth service on the same basis and at least at the same rate  
4 that the issuer provides reimbursement to that health professional  
5 for the service or procedure in an in-person setting.

6 (b) Notwithstanding Subsection (a), a health benefit plan  
7 issuer is not required to pay more than the billed charge on a claim  
8 for payment by a preferred or contracted health professional.

9 (c) For purposes of processing payment of a claim, a health  
10 benefit plan issuer may not require a preferred or contracted  
11 health professional to provide documentation of a covered health  
12 care service or procedure delivered by the health professional to a  
13 covered patient as a telemedicine medical service or telehealth  
14 service beyond that which is required for the service or procedure  
15 in an in-person setting.

16 Sec. 1455.008. WAIVER PROHIBITED. The provisions of this  
17 chapter may not be waived, voided, or nullified by contract.

18 SECTION 4. Subchapter E, Chapter 401, Occupations Code, is  
19 amended by adding Section 401.2022 to read as follows:

20 Sec. 401.2022. RULES FOR FITTING AND DISPENSING OF HEARING  
21 INSTRUMENTS BY TELEPRACTICE. (a) In this section, "telepractice"  
22 means the use of telecommunications technology by a license holder  
23 for an assessment, intervention, or consultation regarding a  
24 speech-language pathology or audiology client.

25 (b) With the assistance of the advisory board and the  
26 Hearing Instrument Fitters and Dispensers Advisory Board, the  
27 commission by rule shall establish requirements for the fitting and

1 dispensing of hearing instruments through the use of telepractice  
2 for purposes of this chapter and Chapter 402, including rules that  
3 establish the qualifications and duties of license holders who use  
4 telepractice.

5 (c) Notwithstanding any other law, in adopting a rule under  
6 this section, the commission:

7 (1) shall authorize:

8 (A) a license holder, including a licensed intern  
9 or licensed assistant, to provide services by telepractice through  
10 the use of any interactive audiovisual communication system,  
11 whether real-time or two-way, including a smartphone; and

12 (B) any supervision requirement for an applicant  
13 under this chapter to be fulfilled wholly or partly by use of  
14 telecommunications technology; and

15 (2) may not:

16 (A) require a license holder's initial  
17 professional contact with a client to be in-person; or

18 (B) impose any limitation on a license holder's  
19 selection of a facilitator to assist the license holder in  
20 providing services by telepractice.

21 SECTION 5. Subchapter C, Chapter 402, Occupations Code, is  
22 amended by adding Section 402.1023 to read as follows:

23 Sec. 402.1023. RULES FOR FITTING AND DISPENSING OF HEARING  
24 INSTRUMENTS BY TELEPRACTICE. (a) In this section, "telepractice"  
25 means the use of telecommunications technology by a license holder  
26 for the fitting and dispensing of hearing instruments.

27 (b) With the assistance of the advisory board and the

1 Speech-Language Pathologists and Audiologists Advisory Board, the  
2 commission by rule shall establish requirements for the fitting and  
3 dispensing of hearing instruments through the use of telepractice  
4 for purposes of this chapter and Chapter 401, including rules that  
5 establish the qualifications and duties of license holders who use  
6 telepractice.

7 (c) Notwithstanding any other law, in adopting a rule under  
8 this section, the commission:

9 (1) shall authorize a license holder to provide  
10 services by telepractice through the use of any interactive  
11 audiovisual communication system, whether real-time or two-way,  
12 including a smartphone; and

13 (2) may not:

14 (A) require a license holder's initial  
15 professional contact with a client to be in-person; or

16 (B) impose any limitation on a license holder's  
17 selection of a facilitator to assist the license holder in  
18 providing services by telepractice.

19 SECTION 6. Section 402.255(a), Occupations Code, is amended  
20 to read as follows:

21 (a) A supervisor of a temporary training permit holder must:

22 (1) be licensed to fit and dispense hearing  
23 instruments under this chapter or Chapter 401, other than Section  
24 401.311 or 401.312; and

25 ~~(2) [currently practice in this state under a license~~  
26 ~~described by subdivision (1); and~~

27 ~~[(3)]~~ be responsible for the direct supervision and

1 education of a temporary training permit holder.

2 SECTION 7. Section 403.151, Occupations Code, is amended by  
3 adding Subsection (d) to read as follows:

4 (d) Notwithstanding this section, a licensed dyslexia  
5 practitioner may practice outside of an educational setting to the  
6 extent necessary to provide a service that would otherwise be  
7 provided in an educational setting that is not reasonably  
8 accessible to the licensed dyslexia practitioner or client.

9 SECTION 8. Subchapter D, Chapter 403, Occupations Code, is  
10 amended by adding Section 403.153 to read as follows:

11 Sec. 403.153. USE OF TELECOMMUNICATIONS TECHNOLOGY.  
12 Notwithstanding any other law, a license holder may provide a  
13 service solely through the use of an interactive audiovisual  
14 communication system, whether real-time or two-way, including a  
15 smartphone.

16 SECTION 9. Section 506.003, Occupations Code, is amended by  
17 adding Subsection (c-1) to read as follows:

18 (c-1) Notwithstanding Subsection (c)(1), applied behavior  
19 analysis interventions may be based on observation and measurement  
20 of behavior and environment through the use of telecommunications  
21 technology if approved by the certifying entity.

22 SECTION 10. Section 506.055, Occupations Code, is amended  
23 to read as follows:

24 Sec. 506.055. STUDENTS, INTERNS, AND FELLOWS. (a) This  
25 chapter does not apply to an applied behavior analysis activity or  
26 service of a college or university student, intern, or fellow if:

27 (1) the activity or service is part of a defined

1 behavior analysis program of study, course, practicum, internship,  
2 or postdoctoral fellowship;

3 (2) the activity or service is directly supervised by  
4 a licensed behavior analyst or an instructor in a course sequence  
5 approved by the certifying entity; and

6 (3) the person is designated as a "student," "intern,"  
7 "fellow," or "trainee."

8 (b) Notwithstanding Subsection (a)(2), a licensed behavior  
9 analyst or an instructor may supervise a behavior analysis activity  
10 or service through the use of telecommunications technology if  
11 approved by the applicable college or university and the certifying  
12 entity.

13 SECTION 11. Section 554.005, Occupations Code, is amended  
14 by adding Subsection (d) to read as follows:

15 (d) In implementing Subsection (a)(3)(C)(iv), the board may  
16 not require the in-person counseling of patients.

17 SECTION 12. Chapter 1455, Insurance Code, as amended by  
18 this Act, applies only to a health benefit plan delivered, issued  
19 for delivery, or renewed on or after January 1, 2024. A health  
20 benefit plan delivered, issued for delivery, or renewed before  
21 January 1, 2024, is governed by the law as it existed immediately  
22 before the effective date of this Act, and that law is continued in  
23 effect for that purpose.

24 SECTION 13. If before implementing any provision of this  
25 Act a state agency determines that a waiver or authorization from a  
26 federal agency is necessary for implementation of that provision,  
27 the agency affected by the provision shall request the waiver or



H.B. No. 4334

1 authorization and may delay implementing that provision until the  
2 waiver or authorization is granted.

3 SECTION 14. This Act takes effect September 1, 2023.