

By: Madla

S.B. No. 1340

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation and reimbursement of health care
3 services provided through telemedicine or telepsychiatry under the
4 state Medicaid program.

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

6 SECTION 1. Subsection (b), Section 531.0216, Government
7 Code, is amended to read as follows:

8 (b) In developing the system, the executive commissioner
9 [~~commission~~] by rule shall:

10 (1) review programs and pilot projects in other states
11 to determine the most effective method for reimbursement;

12 (2) establish billing codes and a fee schedule for
13 services;

14 (3) provide for an approval process before a provider
15 can receive reimbursement for services;

16 (4) consult with the [~~Texas~~] Department of State
17 Health Services and the telemedicine advisory committee to
18 establish procedures to:

19 (A) identify clinical evidence supporting
20 delivery of health care services using a telecommunications system
21 [~~by January 1, 2001~~];

22 (B) establish pilot studies for telemedicine
23 medical service delivery; and

24 (C) annually review health care services,

1 considering new clinical findings, to determine whether
2 reimbursement for particular services should be denied or
3 authorized;

4 (5) establish pilot programs in designated areas of
5 this state under which the commission, in administering
6 government-funded health programs, may reimburse a health
7 professional participating in the pilot program for telehealth
8 services authorized under the licensing law applicable to the
9 health professional; ~~and~~

10 (6) establish a separate provider identifier for
11 telemedicine medical services providers; and

12 (7) establish a separate modifier for telemedicine
13 medical services eligible for reimbursement.

14 SECTION 2. Subchapter B, Chapter 531, Government Code, is
15 amended by adding Section 531.02163 to read as follows:

16 Sec. 531.02163. TELEPRESENTERS. (a) In this section,
17 "health professional" means an individual who:

18 (1) is licensed or certified in this state to perform
19 health care services; and

20 (2) is not a physician, registered nurse, advanced
21 practice nurse, or physician assistant.

22 (b) The executive commissioner by rule shall establish and
23 adopt minimum standards to permit the use of trained health
24 professionals in presenting patients who are Medicaid recipients
25 for telemedicine medical services consultations to be conducted by
26 physicians at distant sites. The health professionals may initiate
27 the consultation but must act under physician delegation and

1 supervision throughout the consultation.

2 (c) Notwithstanding Section 531.0217, the commission may
3 provide reimbursement under the state Medicaid program for a
4 telemedicine medical service initiated by a trained health
5 professional who complies with the minimum standards adopted under
6 this section.

7 SECTION 3. Section 531.0217, Government Code, is amended by
8 amending Subsection (i) and adding Subsection (i-1) to read as
9 follows:

10 (i) The Texas State Board of Medical Examiners, in
11 consultation with the commission, as appropriate, may adopt rules
12 as necessary to:

13 (1) ensure that appropriate care, including quality of
14 care, is provided to patients who receive telemedicine medical
15 services;

16 (2) prevent abuse and fraud through the use of
17 telemedicine medical services, including rules relating to filing
18 of claims and records required to be maintained in connection with
19 telemedicine; and

20 ~~(3) [establish supervisory requirements for a service~~
21 ~~delegated to and performed by an individual who is not a physician,~~
22 ~~and~~

23 ~~[(4)]~~ define those situations when a face-to-face
24 consultation with a physician is required after a telemedicine
25 medical service.

26 (i-1) The Texas State Board of Medical Examiners, in
27 consultation with the commission, as appropriate, shall adopt rules

1 to establish supervisory requirements for a service delegated to
2 and performed by an individual who is not a physician, registered
3 nurse, advanced practice nurse, or physician assistant, including a
4 health professional who is authorized to be a telepresenter under
5 Section 531.02163.

6 SECTION 4. Subsection (a), Section 531.02172, Government
7 Code, is amended to read as follows:

8 (a) The commissioner shall establish an advisory committee
9 to assist the commission in:

10 (1) evaluating policies for telemedical consultations
11 under Sections 531.02163 and [Section] 531.0217;

12 (2) evaluating policies for telemedicine medical
13 services or telehealth services pilot programs established under
14 Section 531.02171;

15 (3) ensuring the efficient and consistent development
16 and use of telecommunication technology for telemedical
17 consultations and telemedicine medical services or telehealth
18 services reimbursed under government-funded health programs;

19 (4) monitoring the type of programs receiving
20 reimbursement under Sections 531.0217 and 531.02171; and

21 (5) coordinating the activities of state agencies
22 concerned with the use of telemedical consultations and
23 telemedicine medical services or telehealth services.

24 SECTION 5. Subchapter B, Chapter 531, Government Code, is
25 amended by adding Section 531.02175 to read as follows:

26 Sec. 531.02175. PILOT PROGRAM FOR TELEPSYCHIATRY
27 CONSULTATIONS FOR CERTAIN MEDICAID RECIPIENTS. (a) In this

1 section:

2 (1) "Qualified mental health professional" means an
3 individual who:

4 (A) is credentialed to provide qualified mental
5 health professional community services; and

6 (B) holds a bachelor's or more advanced degree
7 from an accredited college or university with a minimum number of
8 hours that is equivalent to a major in psychology, social work,
9 medicine, nursing, rehabilitation, counseling, sociology, human
10 growth and development, physician assistant, gerontology, special
11 education, educational psychology, early childhood education, or
12 early childhood intervention.

13 (2) "Telepsychiatry" means the use of live interactive
14 two-way audio-video communication in the field of psychiatry.

15 (b) The executive commissioner by rule shall develop and the
16 Department of State Health Services shall implement a pilot program
17 under which Medicaid recipients in need of mental health services
18 are provided those services through telepsychiatry.

19 (c) The executive commissioner shall design the pilot
20 program in a manner that:

21 (1) enhances the delivery of mental health services to
22 recipients;

23 (2) ensures adequate supervision of social workers,
24 psychologists, and other professionals who are not psychiatrists
25 and who provide telepsychiatry; and

26 (3) enables the state to determine whether extension
27 of the use of telepsychiatry would improve the delivery of mental

1 health services.

2 (d) The executive commissioner may not require mental
3 health services to be provided through telepsychiatry under the
4 pilot program if an in-person consultation with a psychiatrist is
5 reasonably available where the recipient resides or works.

6 (e) The executive commissioner by rule shall establish and
7 adopt minimum standards to permit the use of trained qualified
8 mental health professionals in presenting Medicaid recipients
9 participating in the pilot program for telepsychiatry
10 consultations to be conducted by psychiatrists at distant sites.
11 The qualified mental health professionals may initiate the
12 consultation but must act under a psychiatrist's delegation and
13 supervision throughout the consultation.

14 (f) The commission may reimburse a provider participating
15 in the pilot program for services provided through telepsychiatry.
16 Notwithstanding Section 531.0217, the commission may provide
17 reimbursement under the state Medicaid program for a telepsychiatry
18 consultation initiated by a trained qualified mental health
19 professional who complies with the minimum standards adopted under
20 Subsection (e).

21 (g) The Texas State Board of Medical Examiners, in
22 consultation with the commission, as appropriate, shall adopt rules
23 to establish supervisory requirements for a service delegated to
24 and performed by a qualified mental health professional who is
25 authorized to be a telepresenter under this section.

26 (h) The commission may apply for and receive a grant to fund
27 the pilot program under the federal New Freedom Initiative on

1 Mental Health plan or from the Office of the National Coordinator
2 for Health Information Technology. The commission shall seek the
3 assistance of the Office of State-Federal Relations in identifying
4 and applying for federal grants for the pilot program.

5 (i) Not later than December 1, 2006, the commission shall
6 submit a report to the legislature regarding the results of the
7 pilot program. The report must include recommendations regarding
8 elimination, continuation, or expansion of the pilot program.

9 (j) This section expires September 1, 2007.

10 SECTION 6. (a) The Health and Human Services Commission
11 shall conduct a study to:

12 (1) identify any program or policy changes necessary
13 to facilitate the development of a network of providers of
14 telemedicine medical services under the state Medicaid program,
15 including:

16 (A) the establishment of new billing codes;

17 (B) the establishment of new provider
18 identifiers; and

19 (C) a description of telemedicine medical
20 services eligible for reimbursement;

21 (2) investigate the current use of digital medical
22 imaging in the provision of telemedicine medical services to
23 Medicaid recipients;

24 (3) investigate the feasibility, including the fiscal
25 impact, of expanding the use of digital medical imaging in the
26 provision of telemedicine medical services to Medicaid recipients;

27 (4) investigate the feasibility of reimbursing health

1 care providers under the state Medicaid program for telemedicine
2 medical services appropriately performed using digital medical
3 imaging; and

4 (5) investigate the feasibility of developing a system
5 to reimburse physicians for services performed through
6 telemedicine by health care providers acting under physician
7 delegation and supervision, regardless of whether the health care
8 service was initiated by the physician.

9 (b) Not later than January 1, 2006, the Health and Human
10 Services Commission shall submit a report regarding the results of
11 the study to the presiding officer of each house and senate standing
12 committee having jurisdiction over the state Medicaid program. The
13 report must:

14 (1) identify any significant barriers, in addition to
15 cost, to expanding the use of digital medical imaging in the
16 provision of telemedicine medical services to Medicaid recipients;
17 and

18 (2) include the fiscal impact to this state of each of
19 the proposed initiatives.

20 (c) This section expires September 1, 2007.

21 SECTION 7. As soon as practicable after the effective date
22 of this Act:

23 (1) the Texas State Board of Medical Examiners shall
24 adopt rules as required by Subsection (i-1), Section 531.0217, and
25 Subsection (g), Section 531.02175, Government Code, as added by
26 this Act; and

27 (2) the executive commissioner of the Health and Human

1 Services Commission shall adopt rules as required by Section
2 531.02163 and Subsection (e), Section 531.02175, Government Code,
3 as added by this Act.

4 SECTION 8. If before implementing any provision of this Act
5 a state agency determines that a waiver or other authorization from
6 a federal agency is necessary for implementation, the agency
7 affected by the provision shall request the waiver or authorization
8 and may delay implementing that provision until the waiver or
9 authorization is granted.

10 SECTION 9. This Act takes effect September 1, 2005.