

1-1 By: Madla S.B. No. 1340
1-2 (In the Senate - Filed March 10, 2005; March 21, 2005, read
1-3 first time and referred to Committee on Health and Human Services;
1-4 April 18, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; April 18, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1340 By: Lindsay

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the regulation and reimbursement of health care
1-11 services provided through telemedicine or telepsychiatry under the
1-12 state Medicaid program.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (b), Section 531.0216, Government
1-15 Code, is amended to read as follows:

1-16 (b) In developing the system, the executive commissioner
1-17 [~~commission~~] by rule shall:

1-18 (1) review programs and pilot projects in other states
1-19 to determine the most effective method for reimbursement;

1-20 (2) establish billing codes and a fee schedule for
1-21 services;

1-22 (3) provide for an approval process before a provider
1-23 can receive reimbursement for services;

1-24 (4) consult with the [~~Texas~~] Department of State
1-25 Health Services and the telemedicine advisory committee to
1-26 establish procedures to:

1-27 (A) identify clinical evidence supporting
1-28 delivery of health care services using a telecommunications system
1-29 [~~by January 1, 2001~~];

1-30 (B) establish pilot studies for telemedicine
1-31 medical service delivery; and

1-32 (C) annually review health care services,
1-33 considering new clinical findings, to determine whether
1-34 reimbursement for particular services should be denied or
1-35 authorized;

1-36 (5) establish pilot programs in designated areas of
1-37 this state under which the commission, in administering
1-38 government-funded health programs, may reimburse a health
1-39 professional participating in the pilot program for telehealth
1-40 services authorized under the licensing law applicable to the
1-41 health professional; [~~and~~]

1-42 (6) establish a separate provider identifier for
1-43 telemedicine medical services providers; and

1-44 (7) establish a separate modifier for telemedicine
1-45 medical services eligible for reimbursement.

1-46 SECTION 2. Subchapter B, Chapter 531, Government Code, is
1-47 amended by adding Section 531.02163 to read as follows:

1-48 Sec. 531.02163. TELEPRESENTERS. (a) In this section,
1-49 "health professional" means an individual who:

1-50 (1) is licensed or certified in this state to perform
1-51 health care services; and

1-52 (2) is not a physician, registered nurse, advanced
1-53 practice nurse, or physician assistant.

1-54 (b) The executive commissioner by rule shall establish and
1-55 adopt minimum standards to permit the use of trained health
1-56 professionals in presenting patients who are Medicaid recipients
1-57 for telemedicine medical services consultations to be conducted by
1-58 physicians at distant sites. The health professionals may initiate
1-59 the consultation but must act under physician delegation and
1-60 supervision throughout the consultation.

1-61 (c) Notwithstanding Section 531.0217, the commission may
1-62 provide reimbursement under the state Medicaid program for a
1-63 telemedicine medical service initiated by a trained health

2-1 professional who complies with the minimum standards adopted under
2-2 this section.

2-3 SECTION 3. Section 531.0217, Government Code, is amended by
2-4 amending Subsection (i) and adding Subsection (i-1) to read as
2-5 follows:

2-6 (i) The Texas State Board of Medical Examiners, in
2-7 consultation with the commission, as appropriate, may adopt rules
2-8 as necessary to:

2-9 (1) ensure that appropriate care, including quality of
2-10 care, is provided to patients who receive telemedicine medical
2-11 services;

2-12 (2) prevent abuse and fraud through the use of
2-13 telemedicine medical services, including rules relating to filing
2-14 of claims and records required to be maintained in connection with
2-15 telemedicine; and

2-16 (3) ~~establish supervisory requirements for a service~~
2-17 ~~delegated to and performed by an individual who is not a physician,~~
2-18 ~~and~~

2-19 [~~4~~] define those situations when a face-to-face
2-20 consultation with a physician is required after a telemedicine
2-21 medical service.

2-22 (i-1) The Texas State Board of Medical Examiners, in
2-23 consultation with the commission, as appropriate, shall adopt rules
2-24 to establish supervisory requirements for a service delegated to
2-25 and performed by an individual who is not a physician, registered
2-26 nurse, advanced practice nurse, or physician assistant, including a
2-27 health professional who is authorized to be a telepresenter under
2-28 Section 531.02163.

2-29 SECTION 4. Subsection (a), Section 531.02172, Government
2-30 Code, is amended to read as follows:

2-31 (a) The commissioner shall establish an advisory committee
2-32 to assist the commission in:

2-33 (1) evaluating policies for telemedical consultations
2-34 under Sections 531.02163 and [Section] 531.0217;

2-35 (2) evaluating policies for telemedicine medical
2-36 services or telehealth services pilot programs established under
2-37 Section 531.02171;

2-38 (3) ensuring the efficient and consistent development
2-39 and use of telecommunication technology for telemedical
2-40 consultations and telemedicine medical services or telehealth
2-41 services reimbursed under government-funded health programs;

2-42 (4) monitoring the type of programs receiving
2-43 reimbursement under Sections 531.0217 and 531.02171; and

2-44 (5) coordinating the activities of state agencies
2-45 concerned with the use of telemedical consultations and
2-46 telemedicine medical services or telehealth services.

2-47 SECTION 5. Subchapter B, Chapter 531, Government Code, is
2-48 amended by adding Section 531.02175 to read as follows:

2-49 Sec. 531.02175. PILOT PROGRAM FOR TELEPSYCHIATRY
2-50 CONSULTATIONS FOR CERTAIN MEDICAID RECIPIENTS. (a) In this
2-51 section:

2-52 (1) "Qualified mental health professional" means an
2-53 individual who:

2-54 (A) is credentialed to provide qualified mental
2-55 health professional community services; and

2-56 (B) holds a bachelor's or more advanced degree
2-57 from an accredited college or university with a minimum number of
2-58 hours that is equivalent to a major in psychology, social work,
2-59 medicine, nursing, rehabilitation, counseling, sociology, human
2-60 growth and development, physician assistant, gerontology, special
2-61 education, educational psychology, early childhood education, or
2-62 early childhood intervention.

2-63 (2) "Telepsychiatry" means the use of live interactive
2-64 two-way audio-video communication in the field of psychiatry.

2-65 (b) The executive commissioner by rule shall develop and the
2-66 Department of State Health Services shall implement a pilot program
2-67 under which Medicaid recipients in need of mental health services
2-68 are provided those services through telepsychiatry.

2-69 (c) The executive commissioner shall design the pilot

3-1 program in a manner that:

3-2 (1) enhances the delivery of mental health services to
 3-3 recipients;

3-4 (2) ensures adequate supervision of social workers,
 3-5 psychologists, and other professionals who are not psychiatrists
 3-6 and who provide telepsychiatry; and

3-7 (3) enables the state to determine whether extension
 3-8 of the use of telepsychiatry would improve the delivery of mental
 3-9 health services.

3-10 (d) The executive commissioner may not require mental
 3-11 health services to be provided through telepsychiatry under the
 3-12 pilot program if an in-person consultation with a psychiatrist is
 3-13 reasonably available where the recipient resides or works.

3-14 (e) The executive commissioner by rule shall establish and
 3-15 adopt minimum standards to permit the use of trained qualified
 3-16 mental health professionals in presenting Medicaid recipients
 3-17 participating in the pilot program for telepsychiatry
 3-18 consultations to be conducted by psychiatrists at distant sites.
 3-19 The qualified mental health professionals may initiate the
 3-20 consultation but must act under a psychiatrist's delegation and
 3-21 supervision throughout the consultation.

3-22 (f) The commission may reimburse a provider participating
 3-23 in the pilot program for services provided through telepsychiatry.
 3-24 Notwithstanding Section 531.0217, the commission may provide
 3-25 reimbursement under the state Medicaid program for a telepsychiatry
 3-26 consultation initiated by a trained qualified mental health
 3-27 professional who complies with the minimum standards adopted under
 3-28 Subsection (e).

3-29 (g) The Texas State Board of Medical Examiners, in
 3-30 consultation with the commission, as appropriate, shall adopt rules
 3-31 to establish supervisory requirements for a service delegated to
 3-32 and performed by a qualified mental health professional who is
 3-33 authorized to be a telepresenter under this section.

3-34 (h) The commission may apply for and receive a grant to fund
 3-35 the pilot program under the federal New Freedom Initiative on
 3-36 Mental Health plan or from the Office of the National Coordinator
 3-37 for Health Information Technology. The commission shall seek the
 3-38 assistance of the Office of State-Federal Relations in identifying
 3-39 and applying for federal grants for the pilot program.

3-40 (i) Not later than December 1, 2006, the commission shall
 3-41 submit a report to the legislature regarding the results of the
 3-42 pilot program. The report must include recommendations regarding
 3-43 elimination, continuation, or expansion of the pilot program.

3-44 (j) This section expires September 1, 2007.

3-45 SECTION 6. (a) The Health and Human Services Commission
 3-46 shall conduct a study to:

3-47 (1) identify any program or policy changes necessary
 3-48 to facilitate the development of a network of providers of
 3-49 telemedicine medical services under the state Medicaid program,
 3-50 including:

3-51 (A) the establishment of new billing codes;

3-52 (B) the establishment of new provider
 3-53 identifiers; and

3-54 (C) a description of telemedicine medical
 3-55 services eligible for reimbursement;

3-56 (2) investigate the current use of digital medical
 3-57 imaging in the provision of telemedicine medical services to
 3-58 Medicaid recipients;

3-59 (3) investigate the feasibility, including the fiscal
 3-60 impact, of expanding the use of digital medical imaging in the
 3-61 provision of telemedicine medical services to Medicaid recipients;

3-62 (4) investigate the feasibility of reimbursing health
 3-63 care providers under the state Medicaid program for telemedicine
 3-64 medical services appropriately performed using digital medical
 3-65 imaging; and

3-66 (5) investigate the feasibility of developing a system
 3-67 to reimburse physicians for services performed through
 3-68 telemedicine by health care providers acting under physician
 3-69 delegation and supervision, regardless of whether the health care

4-1 service was initiated by the physician.

4-2 (b) Not later than January 1, 2006, the Health and Human
4-3 Services Commission shall submit a report regarding the results of
4-4 the study to the presiding officer of each house and senate standing
4-5 committee having jurisdiction over the state Medicaid program. The
4-6 report must:

4-7 (1) identify any significant barriers, in addition to
4-8 cost, to expanding the use of digital medical imaging in the
4-9 provision of telemedicine medical services to Medicaid recipients;
4-10 and

4-11 (2) include the fiscal impact to this state of each of
4-12 the proposed initiatives.

4-13 (c) This section expires September 1, 2007.

4-14 SECTION 7. As soon as practicable after the effective date
4-15 of this Act:

4-16 (1) the Texas State Board of Medical Examiners shall
4-17 adopt rules as required by Subsection (i-1), Section 531.0217, and
4-18 Subsection (g), Section 531.02175, Government Code, as added by
4-19 this Act; and

4-20 (2) the executive commissioner of the Health and Human
4-21 Services Commission shall adopt rules as required by Section
4-22 531.02163 and Subsection (e), Section 531.02175, Government Code,
4-23 as added by this Act.

4-24 SECTION 8. If before implementing any provision of this Act
4-25 a state agency determines that a waiver or other authorization from
4-26 a federal agency is necessary for implementation, the agency
4-27 affected by the provision shall request the waiver or authorization
4-28 and may delay implementing that provision until the waiver or
4-29 authorization is granted.

4-30 SECTION 9. This Act takes effect September 1, 2005.

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