

By: Hardcastle

H.B. No. 2333

A BILL TO BE ENTITLED

AN ACT

relating to the practice of telemedicine.

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

SECTION 1. Chapter 111, Occupations Code, is amended to read as follows:

CHAPTER 111. TELEMEDICINE MEDICAL SERVICES [~~AND TELEHEALTH~~]

Sec. 111.001. DEFINITIONS. In this chapter:

(1) "Advanced telecommunications technology" means technology used for the transfer of data, not including telephone or facsimile technology. The term includes:

(A) compressed digital interactive video, audio, or data transmission;

(B) data transmission using computer imaging;  
and

(C) other technology that facilitates access to data.

(2) "Board" means the Texas Medical Board.

(3) "Telemedicine medical service" means a health care service that is provided through the use of advanced telecommunications technology for the purpose of:

(A) patient assessment, diagnosis, consultation, or treatment; or

(B) the transfer of medical data.

(4) "Telemedicine provider" means:

1                    (A) a physician who provides telemedicine  
2 medical services; or

3                    (B) a physician assistant or advanced practice  
4 nurse who:

5                                (i) provides telemedicine medical  
6 services; and

7                                (ii) is supervised by and has delegated  
8 authority from a physician licensed in this state [~~'Health~~  
9 ~~professional' and 'physician' have the meanings assigned by Section~~  
10 ~~1455.001, Insurance Code.~~

11                    [~~(2) 'Telehealth service' and 'telemedicine medical~~  
12 ~~service' have the meanings assigned by Section 57.042, Utilities~~  
13 ~~Code].~~

14                    Sec. 111.002. INFORMED CONSENT. A telemedicine provider  
15 must [~~treating physician or health professional who provides or~~  
16 ~~facilitates the use of telemedicine medical services or telehealth~~  
17 ~~services shall]~~ ensure that the informed consent of the patient, or  
18 another appropriate individual authorized to make health care  
19 treatment decisions for the patient, is obtained before  
20 telemedicine medical services [~~or telehealth services]~~ are  
21 provided.

22                    Sec. 111.003. CONFIDENTIALITY. A telemedicine provider  
23 [~~treating physician or health professional who provides or~~  
24 ~~facilitates the use of telemedicine medical services or telehealth~~  
25 ~~services]~~ shall ensure that the confidentiality of the patient's  
26 medical information is maintained as required by Chapter 159 or  
27 other applicable law.

1           Sec. 111.004. RULES. The board [~~Texas State Board of~~  
2 ~~Medical Examiners~~], in consultation with the commissioner of  
3 insurance, as appropriate, may adopt rules necessary to implement  
4 this chapter. The board may not adopt a rule to limit the provision  
5 of telemedicine medical services by a telemedicine provider who  
6 meets the requirements of this chapter and other applicable law[+]

7           ~~[(1) ensure that patients using telemedicine medical~~  
8 ~~services receive appropriate, quality care;~~

9           ~~[(2) prevent abuse and fraud in the use of~~  
10 ~~telemedicine medical services, including rules relating to the~~  
11 ~~filing of claims and records required to be maintained in~~  
12 ~~connection with telemedicine medical services;~~

13           ~~[(3) ensure adequate supervision of health~~  
14 ~~professionals who are not physicians and who provide telemedicine~~  
15 ~~medical services;~~

16           ~~[(4) establish the maximum number of health~~  
17 ~~professionals who are not physicians that a physician may supervise~~  
18 ~~through a telemedicine medical service; and~~

19           ~~[(5) require a face-to-face consultation between a~~  
20 ~~patient and a physician providing a telemedicine medical service~~  
21 ~~within a certain number of days following an initial telemedicine~~  
22 ~~medical service only if the physician has never seen the patient].~~

23           Sec. 111.005. PROVISION OF TELEMEDICINE MEDICAL SERVICES.

24           (a) A telemedicine provider may provide telemedicine medical  
25 services in this state only if the provider:

26                   (1) is licensed in this state;

27                   (2) has established a physician-patient relationship

1 with the recipient of the services;

2 (3) advises the patient to see a physician or other  
3 health care professional in person within a reasonable time if the  
4 patient's symptoms do not improve;

5 (4) provides only services that are medically  
6 indicated;

7 (5) adopts protocols to prevent fraud and abuse;

8 (6) does not violate state or federal laws relating to  
9 patient privacy;

10 (7) maintains medical records for all telemedicine  
11 medical services;

12 (8) does not treat chronic pain with a controlled  
13 substance listed on Schedule II, III, IV, or V under Chapter 481,  
14 Health and Safety Code, at a site other than a site normally used  
15 for the provision of medical care; and

16 (9) practices the same standard of care as in a  
17 traditional clinical setting.

18 (b) A telemedicine provider may establish a  
19 physician-patient relationship in an initial encounter using  
20 telemedicine medical services.

21 SECTION 2. Section 531.02161(a), Government Code, is  
22 amended to read as follows:

23 (a) In this section, "telemedicine medical service" has the  
24 meaning assigned by Section 111.001, Occupations [~~57.042,~~  
25 ~~Utilities~~] Code.

26 SECTION 3. The Texas Medical Board shall adopt rules to  
27 implement Chapter 111, Occupations Code, as amended by this Act,

1 not later than December 1, 2011.

2 SECTION 4. (a) Except as provided by Subsection (b) of this  
3 section, this Act takes effect December 1, 2011.

4 (b) Section 3 of this Act takes effect September 1, 2011.