

By: Watson, et al.  
(J. Davis of Harris)

S.B. No. 293

Substitute the following for S.B. No. 293:

By: Kolkhorst

C.S.S.B. No. 293

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to telemedicine medical services, telehealth services,  
3 and home telemonitoring services provided to certain Medicaid  
4 recipients.

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

6 SECTION 1. Section 531.001, Government Code, is amended by  
7 adding Subdivisions (4-a), (7), and (8) to read as follows:

8 (4-a) "Home telemonitoring service" means a health  
9 service that requires scheduled remote monitoring of data related  
10 to a patient's health and transmission of the data to a licensed  
11 home health agency as defined by Section 531.02164(a).

12 (7) "Telehealth service" means a health service, other  
13 than a telemedicine medical service, that is delivered by a  
14 licensed or certified health professional acting within the scope  
15 of the health professional's license or certification who does not  
16 perform a telemedicine medical service and that requires the use of  
17 advanced telecommunications technology, other than telephone or  
18 facsimile technology, including:

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

21 (B) clinical data transmission using computer  
22 imaging by way of still-image capture and store and forward; and

23 (C) other technology that facilitates access to  
24 health care services or medical specialty expertise.

1           (8) "Telemedicine medical service" means a health care  
2 service that is initiated by a physician or provided by a health  
3 professional acting under physician delegation and supervision,  
4 that is provided for purposes of patient assessment by a health  
5 professional, diagnosis or consultation by a physician, or  
6 treatment, or for the transfer of medical data, and that requires  
7 the use of advanced telecommunications technology, other than  
8 telephone or facsimile technology, including:

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

11                   (B) clinical data transmission using computer  
12 imaging by way of still-image capture and store and forward; and

13                   (C) other technology that facilitates access to  
14 health care services or medical specialty expertise.

15           SECTION 2. Section 531.0216, Government Code, is amended to  
16 read as follows:

17           Sec. 531.0216. PARTICIPATION AND REIMBURSEMENT OF  
18 TELEMEDICINE MEDICAL SERVICE PROVIDERS AND TELEHEALTH SERVICE  
19 PROVIDERS UNDER MEDICAID. (a) The commission by rule shall  
20 develop and implement a system to reimburse providers of services  
21 under the state Medicaid program for services performed using  
22 telemedicine medical services or telehealth services.

23           (b) In developing the system, the executive commissioner by  
24 rule shall:

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

27                   (2) establish billing codes and a fee schedule for

1 services;

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

4 (4) consult with the Department of State Health  
5 Services and the telemedicine and telehealth advisory committee to  
6 establish procedures to:

7 (A) identify clinical evidence supporting  
8 delivery of health care services using a telecommunications system;

9 (B) establish pilot studies for telemedicine  
10 medical service delivery and telehealth service delivery; and

11 (C) annually review health care services,  
12 considering new clinical findings, to determine whether  
13 reimbursement for particular services should be denied or  
14 authorized;

15 (5) establish pilot programs in designated areas of  
16 this state under which the commission, in administering  
17 government-funded health programs, may reimburse a health  
18 professional participating in the pilot program for telehealth  
19 services authorized under the licensing law applicable to the  
20 health professional;

21 (6) establish a separate provider identifier for  
22 telemedicine medical services providers, telehealth services  
23 providers, and home telemonitoring services providers; and

24 (7) establish a separate modifier for telemedicine  
25 medical services, telehealth services, and home telemonitoring  
26 services eligible for reimbursement.

27 (c) The commission shall encourage health care providers

1 and health care facilities to participate as telemedicine medical  
2 service providers or telehealth service providers in the health  
3 care delivery system. The commission may not require that a  
4 service be provided to a patient through telemedicine medical  
5 services or telehealth services when the service can reasonably be  
6 provided by a physician through a face-to-face consultation with  
7 the patient in the community in which the patient resides or  
8 works. This subsection does not prohibit the authorization of the  
9 provision of any service to a patient through telemedicine medical  
10 services or telehealth services at the patient's request.

11 (d) Subject to Section 153.004, Occupations Code, the  
12 commission may adopt rules as necessary to implement this  
13 section. In the rules adopted under this section, the commission  
14 shall:

15 (1) refer to the site where the patient is physically  
16 located as the patient site; and

17 (2) refer to the site where the physician or health  
18 professional providing the telemedicine medical service or  
19 telehealth service is physically located as the distant site.

20 (e) The commission may not reimburse a health care facility  
21 for telemedicine medical services or telehealth services provided  
22 to a Medicaid recipient unless the facility complies with the  
23 minimum standards adopted under Section 531.02161.

24 (f) Not later than December 1 of each even-numbered year,  
25 the commission shall report to the speaker of the house of  
26 representatives and the lieutenant governor on the effects of  
27 telemedicine medical services, telehealth services, and home

1 telemonitoring services on the Medicaid program in the state,  
2 including the number of physicians, ~~[and]~~ health professionals, and  
3 licensed health care facilities using telemedicine medical  
4 services, telehealth services, or home telemonitoring services,  
5 the geographic and demographic disposition of the physicians and  
6 health professionals, the number of patients receiving  
7 telemedicine medical services, telehealth services, and home  
8 telemonitoring services, the types of services being provided, and  
9 the cost of utilization of telemedicine medical services,  
10 telehealth services, and home telemonitoring services to the  
11 program.

12 [~~(g) In this section:~~

13 [~~(1) "Telehealth service" has the meaning assigned by~~  
14 ~~Section 57.042, Utilities Code.~~

15 [~~(2) "Telemedicine medical service" has the meaning~~  
16 ~~assigned by Section 57.042, Utilities Code.]~~

17 SECTION 3. The heading to Section 531.02161, Government  
18 Code, is amended to read as follows:

19 Sec. 531.02161. TELEMEDICINE, TELEHEALTH, AND HOME  
20 TELEMONITORING TECHNOLOGY STANDARDS.

21 SECTION 4. Section 531.02161(b), Government Code, is  
22 amended to read as follows:

23 (b) The commission and the Telecommunications  
24 Infrastructure Fund Board by joint rule shall establish and adopt  
25 minimum standards for an operating system used in the provision of  
26 telemedicine medical services, telehealth services, or home  
27 telemonitoring services by a health care facility participating in

1 the state Medicaid program, including standards for electronic  
2 transmission, software, and hardware.

3 SECTION 5. Subchapter B, Chapter 531, Government Code, is  
4 amended by adding Section 531.02164 to read as follows:

5 Sec. 531.02164. MEDICAID SERVICES PROVIDED THROUGH HOME  
6 TELEMONITORING SERVICES. (a) In this section, "home health  
7 agency" means a facility licensed under Chapter 142, Health and  
8 Safety Code, to provide home health services as defined by Section  
9 142.001, Health and Safety Code.

10 (b) If the commission determines that establishing a  
11 statewide program that permits reimbursement under the state  
12 Medicaid program for home telemonitoring services would be  
13 cost-effective and feasible, the executive commissioner by rule  
14 shall establish the program as provided under this section.

15 (c) A program established under this section must:

16 (1) provide that home telemonitoring services are  
17 available only to persons who are diagnosed with one or more  
18 conditions described by Section 531.02171(c)(4) and who exhibit two  
19 or more of the following risk factors:

20 (A) two or more hospitalizations in the prior  
21 12-month period;

22 (B) frequent or recurrent emergency room  
23 admissions;

24 (C) a documented history of poor adherence to  
25 ordered medication regimens;

26 (D) a documented history of falls in the prior  
27 six-month period;

1           (E) limited or absent informal support systems;

2           (F) living alone or being home alone for extended  
3 periods of time; and

4           (G) a documented history of care access  
5 challenges;

6           (2) ensure that clinical information gathered by a  
7 home health agency while providing home telemonitoring services is  
8 shared with the patient's physician; and

9           (3) ensure that the program does not duplicate disease  
10 management program services provided under Section 32.057, Human  
11 Resources Code.

12           (d) If, after implementation, the commission determines  
13 that the program established under this section is not  
14 cost-effective, the commission may discontinue the program and stop  
15 providing reimbursement under the state Medicaid program for home  
16 telemonitoring services, notwithstanding Section 531.0216 or any  
17 other law.

18           (e) The commission shall determine whether the provision of  
19 home telemonitoring services to persons who are eligible to receive  
20 benefits under both the Medicaid and Medicare programs achieves  
21 cost savings for the Medicare program. If the commission  
22 determines that the provision of home telemonitoring services  
23 achieves cost savings for the Medicare program, the commission  
24 shall pursue the creation of accountable care organizations to  
25 participate in the Medicare shared savings program in accordance  
26 with 42 U.S.C. Section 1395jjj.

27           SECTION 6. The heading to Section 531.02171, Government

1 Code, as added by Chapter 661 (H.B. 2700), Acts of the 77th  
2 Legislature, Regular Session, 2001, is amended to read as follows:

3 Sec. 531.02171. TELEMEDICINE MEDICAL SERVICES AND  
4 TELEHEALTH SERVICES PILOT PROGRAMS.

5 SECTION 7. Section 531.02171(c), Government Code, as added  
6 by Chapter 661 (H.B. 2700), Acts of the 77th Legislature, Regular  
7 Session, 2001, is amended to read as follows:

8 (c) In developing and operating a pilot program under this  
9 section, the commission shall:

10 (1) solicit and obtain support for the program from  
11 local officials and the medical community;

12 (2) focus on enhancing health outcomes in the area  
13 served by the pilot program through increased access to medical or  
14 health care services, including:

15 (A) health screenings;

16 (B) prenatal care;

17 (C) medical or surgical follow-up visits;

18 (D) periodic consultation with specialists  
19 regarding chronic disorders;

20 (E) triage and pretransfer arrangements; ~~and~~

21 (F) transmission of diagnostic images or data;

22 and

23 (G) monitoring of chronic conditions;

24 (3) establish quantifiable measures and expected  
25 health outcomes for each authorized telemedicine medical service or  
26 telehealth service;

27 (4) consider condition-specific applications of



1 telemedicine medical services or telehealth services, including  
2 applications for:

- 3 (A) pregnancy;
- 4 (B) diabetes;
- 5 (C) heart disease; [~~and~~]
- 6 (D) cancer;
- 7 (E) chronic obstructive pulmonary disease;
- 8 (F) hypertension; and
- 9 (G) congestive heart failure; and

10 (5) demonstrate that the provision of services  
11 authorized as telemedicine medical services or telehealth services  
12 will not adversely affect the provision of traditional medical  
13 services or other health care services within the area served by the  
14 pilot program.

15 SECTION 8. The heading to Section 531.02172, Government  
16 Code, is amended to read as follows:

17 Sec. 531.02172. TELEMEDICINE AND TELEHEALTH ADVISORY  
18 COMMITTEE.

19 SECTION 9. Section 531.02172(b), Government Code, is  
20 amended to read as follows:

21 (b) The advisory committee must include:

22 (1) representatives of health and human services  
23 agencies and other state agencies concerned with the use of  
24 telemedical and telehealth consultations and home telemonitoring  
25 services in the Medicaid program and the state child health plan  
26 program, including representatives of:

- 27 (A) the commission;

- 1 (B) the Department of State Health Services;  
2 (C) the Texas Department of Rural Affairs;  
3 (D) the Texas Department of Insurance;  
4 (E) the Texas Medical Board;  
5 (F) the Texas Board of Nursing; and  
6 (G) the Texas State Board of Pharmacy;  
7 (2) representatives of health science centers in this  
8 state;  
9 (3) experts on telemedicine, telemedical  
10 consultation, and telemedicine medical services or telehealth  
11 services; ~~and~~  
12 (4) representatives of consumers of health services  
13 provided through telemedical consultations and telemedicine  
14 medical services or telehealth services; and  
15 (5) representatives of providers of telemedicine  
16 medical services, telehealth services, and home telemonitoring  
17 services.

18 SECTION 10. Section 531.02173(c), Government Code, is  
19 amended to read as follows:

20 (c) The commission shall perform its duties under this  
21 section with assistance from the telemedicine and telehealth  
22 advisory committee established under Section 531.02172.

23 SECTION 11. The following provisions of the Government Code  
24 are repealed:

- 25 (1) Section 531.02161(a);  
26 (2) Sections 531.0217(a)(3) and (4);  
27 (3) Sections 531.02171(a)(3) and (4), as added by

1 Chapter 661 (H.B. 2700), Acts of the 77th Legislature, Regular  
2 Session, 2001; and

3 (4) Section 531.02171, as added by Chapter 959 (S.B.  
4 1536), Acts of the 77th Legislature, Regular Session, 2001.

5 SECTION 12. Not later than December 31, 2012, the Health and  
6 Human Services Commission shall submit a report to the governor,  
7 the lieutenant governor, and the speaker of the house of  
8 representatives regarding the establishment and implementation of  
9 the program to permit reimbursement under the state Medicaid  
10 program for home telemonitoring services under Section 531.02164,  
11 Government Code, as added by this Act. The report must include:

12 (1) the methods used by the commission to determine  
13 whether the program was cost-effective and feasible; and

14 (2) if the program has been established, information  
15 regarding:

16 (A) the utilization of home telemonitoring  
17 services by Medicaid recipients under the program;

18 (B) the health outcomes of Medicaid recipients  
19 who receive home telemonitoring services under the program;

20 (C) the hospital admission rate of Medicaid  
21 recipients who receive home telemonitoring services under the  
22 program;

23 (D) the cost of the home telemonitoring services  
24 provided under the program; and

25 (E) the estimated cost savings to the state as a  
26 result of the program.

27 SECTION 13. If before implementing any provision of this

1 Act a state agency determines that a waiver or authorization from a  
2 federal agency is necessary for implementation of that provision,  
3 the agency affected by the provision shall request the waiver or  
4 authorization and may delay implementing that provision until the  
5 waiver or authorization is granted.

6 SECTION 14. This Act takes effect September 1, 2011.