

By: Smithee, Bonnen of Galveston

H.B. No. 1806

Substitute the following for H.B. No. 1806:

By: Smithee

C.S.H.B. No. 1806

A BILL TO BE ENTITLED

1 AN ACT

2 relating to coverage of telephone consultations and telehealth
3 services or telemedicine medical services under health benefit
4 plans.

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

6 SECTION 1. Section 1455.001, Insurance Code, is amended by
7 amending Subdivision (3) and adding Subdivisions (4), (5), and (6)
8 to read as follows:

9 (3) "Telehealth provider" means a licensed or
10 certified health professional who provides telehealth services.

11 (4) "Telehealth service" has the meaning assigned by
12 Section 531.001, Government Code.

13 (5) "Telemedicine [and ~~"telemedicine~~] medical
14 service" means a medical service that is provided through the use of
15 advanced telecommunications technology for the purpose of:

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

18 (B) the transfer of medical data [have the
19 meanings assigned by Section 57.042, Utilities Code].

20 (6) "Telemedicine provider" means:

21 (A) a physician who provides telemedicine
22 medical services; or

23 (B) a physician assistant or advanced practice
24 nurse who:

1 (i) provides telemedicine medical
2 services; and

3 (ii) is supervised by and has delegated
4 authority from a physician licensed in this state.

5 SECTION 2. Section 1455.004, Insurance Code, is amended by
6 adding Subsections (c), (d), (e), and (f) to read as follows:

7 (c) A health benefit plan may not cover a telemedicine
8 medical service or telehealth service unless the telemedicine or
9 telehealth provider:

10 (1) is licensed or certified, as applicable, in this
11 state;

12 (2) has established a physician-patient or
13 provider-patient relationship with the recipient of the service;

14 (3) is able to verify the identity of the patient;

15 (4) has discussed the risks and benefits of the
16 service with the patient;

17 (5) advises the patient to see a physician or other
18 health care professional in person within a reasonable time if the
19 patient's symptoms do not improve;

20 (6) provides only services that are medically
21 indicated;

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

23 (8) does not violate state or federal laws relating to
24 patient privacy;

25 (9) maintains medical or health care records, as
26 applicable, for all telemedicine medical services or telehealth
27 services;

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

5 (11) practices according to the appropriate standard
6 of care for the patient's condition.

7 (d) For the purposes of Subsection (c), a telemedicine or
8 telehealth provider may establish a physician-patient or
9 provider-patient relationship, as applicable, in an initial
10 encounter using telemedicine medical services or telehealth
11 services.

12 (e) For the purposes of Subsection (c), a telemedicine or
13 telehealth provider must ensure that the informed consent of the
14 patient, or another appropriate individual authorized to make
15 health care treatment decisions for the patient, is obtained before
16 telemedicine medical services or telehealth services are provided.

17 (f) For the purposes of Subsection (c), a telemedicine or
18 telehealth provider shall ensure that the confidentiality of the
19 patient's medical information is maintained as required by Chapter
20 159, Occupations Code, or other applicable law.

21 SECTION 3. Subtitle F, Title 8, Insurance Code, is amended
22 by adding Chapter 1459 to read as follows:

23 CHAPTER 1459. FAIR ACCESS TO TELEPHONE CONSULTATIONS

24 Sec. 1459.001. DEFINITION. In this chapter, "physician"
25 means:

26 (1) an individual licensed to practice medicine in
27 this state under Subtitle B, Title 3, Occupations Code;

1 (2) a professional association composed solely of
2 individuals licensed to practice medicine in this state;

3 (3) a single legal entity authorized to practice
4 medicine in this state that is owned by a group of individuals
5 licensed to practice medicine in this state;

6 (4) a nonprofit health corporation certified by the
7 Texas Medical Board under Chapter 162, Occupations Code; or

8 (5) a partnership composed solely of individuals
9 licensed to practice medicine in this state.

10 Sec. 1459.002. APPLICABILITY OF CHAPTER. (a) This chapter
11 applies only to an employee benefit plan or a health benefit plan
12 that provides benefits for medical or surgical expenses incurred as
13 a result of a health condition, accident, or sickness, including:

14 (1) an individual, group, blanket, or franchise
15 insurance policy or insurance agreement, a group hospital service
16 contract, or a small or large employer group contract or similar
17 coverage document that is offered by:

18 (A) an insurance company;

19 (B) a group hospital service corporation
20 operating under Chapter 842;

21 (C) a fraternal benefit society operating under
22 Chapter 885;

23 (D) a stipulated premium company operating under
24 Chapter 884;

25 (E) a reciprocal exchange operating under
26 Chapter 942;

27 (F) a health maintenance organization operating

1 under Chapter 843; or

2 (G) an approved nonprofit health corporation
3 that holds a certificate of authority under Chapter 844; or

4 (2) a multiple employer welfare arrangement that holds
5 a certificate of authority under Chapter 846, or any other employee
6 benefit plan.

7 (b) This chapter applies to group health coverage made
8 available by a school district in accordance with Section 22.004,
9 Education Code.

10 (c) Notwithstanding Section 172.014, Local Government Code,
11 or any other law, this chapter applies to health and accident
12 coverage provided by a risk pool created under Chapter 172, Local
13 Government Code.

14 (d) Notwithstanding any provision in Chapter 1551, 1575,
15 1579, or 1601 or any other law, this chapter applies to:

16 (1) a basic coverage plan under Chapter 1551;

17 (2) a basic plan under Chapter 1575;

18 (3) a primary care coverage plan under Chapter 1579;

19 and

20 (4) basic coverage under Chapter 1601.

21 (e) Notwithstanding Section 1501.251 or any other law, this
22 chapter applies to a small employer health benefit plan subject to
23 Chapter 1501.

24 (f) Notwithstanding Sections 1507.004 and 1507.053, or any
25 other law, this chapter applies to a consumer choice of benefits
26 plan issued under Chapter 1507.

27 Sec. 1459.003. NONDISCRIMINATION IN TELEPHONE CONSULTATION

1 SERVICES. (a) An employee benefit plan or a health benefit plan
2 may not:

3 (1) prohibit a physician from charging for a telephone
4 consultation with a covered patient if that plan allows another
5 person to charge for a telephone consultation with a covered
6 patient;

7 (2) deny payment to a physician for a medically
8 necessary telephone consultation with a covered patient if that
9 plan pays another person for a telephone consultation with a
10 covered patient; or

11 (3) discriminate against a physician in determining a
12 payment amount for a medically necessary telephone consultation
13 provided to a covered patient if that plan pays another person for a
14 telephone consultation with a covered patient.

15 (b) Nothing in this section shall be construed as
16 prohibiting an employee benefit plan or a health benefit plan from
17 paying a physician for medically necessary telephone
18 consultations.

19 SECTION 4. (a) Sections 1455.001 and 1455.004, Insurance
20 Code, as amended by this Act, apply only to a health benefit plan
21 delivered, issued for delivery, or renewed on or after January 1,
22 2014. A health benefit plan delivered, issued for delivery, or
23 renewed before January 1, 2014, is governed by the law in effect
24 immediately before the effective date of this Act, and that law is
25 continued in effect for that purpose.

26 (b) Chapter 1459, Insurance Code, as added by this Act,
27 applies only to an employee benefit plan or a health benefit plan

1 that is delivered, issued for delivery, or renewed on or after
2 September 1, 2013. An employee benefit plan or a health benefit
3 plan delivered, issued for delivery, or renewed before September 1,
4 2013, is governed by the law as it existed immediately before the
5 effective date of this Act, and that law is continued in effect for
6 that purpose.

7 SECTION 5. This Act takes effect September 1, 2013.