

By: Coleman

H.B. No. 2250

A BILL TO BE ENTITLED

AN ACT

relating to the delivery of telemedicine medical services and telehealth services.

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

SECTION 1. Section 111.001, Occupations Code, is amended by amending Subdivision (2) and adding Subdivisions (3) and (4) to read as follows:

(2) "Residence" means a place where a person resides and includes a home, a nursing home, a convalescent home, or a residential unit [~~'Telehealth service' and 'telemedicine medical service' have the meanings assigned by Section 57.042, Utilities Code~~].

(3) "Telehealth service" means a health service, other than a telemedicine medical service, that is delivered by a licensed or certified health professional acting within the scope of the health professional's license or certification who does not perform a telemedicine medical service and that requires the use of advanced telecommunications technology, including:

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

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

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

1 (4) "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, including:

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

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

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

14 SECTION 2. Section 111.002, Occupations Code, is amended to
15 read as follows:

16 Sec. 111.002. INFORMED CONSENT. (a) Except as provided by
17 Subsection (c), a [A] treating physician or health professional who
18 provides or facilitates the use of telemedicine medical services or
19 telehealth services shall ensure that the informed consent of the
20 patient, or another appropriate individual authorized to make
21 health care treatment decisions for the patient, is obtained before
22 telemedicine medical services or telehealth services are provided.

23 (b) A copy of an informed consent form signed by a patient in
24 accordance with Subsection (a) must be retained in the patient's
25 medical record and provided to the patient or the patient's legally
26 authorized representative on request.

27 (c) A treating physician or health professional who

1 provides or facilitates the use of telemedicine medical services or
2 telehealth services to provide emergency medical care, as that term
3 is defined in Section 773.003, Health and Safety Code, is not
4 required to obtain informed consent before telemedicine medical
5 services or telehealth services are provided if:

6 (1) the patient is unable to give the patient's
7 informed consent; and

8 (2) an individual authorized to make health care
9 treatment decisions for the patient is unavailable to give the
10 individual's informed consent.

11 SECTION 3. Chapter 111, Occupations Code, is amended by
12 adding Section 111.0021 to read as follows:

13 Sec. 111.0021. RIGHT TO REFUSE. (a) A patient may refuse
14 at any time to receive telemedicine medical services or telehealth
15 services.

16 (b) A patient's refusal to receive telemedicine medical
17 services or telehealth services may not affect the patient's:

18 (1) right to future care, diagnosis, or treatment; or

19 (2) receipt of benefits under the Medicaid program.

20 SECTION 4. Section 111.004, Occupations Code, is amended to
21 read as follows:

22 Sec. 111.004. RULES. The Texas [~~State Board of~~] Medical
23 Board [~~Examiners~~], in consultation with the commissioner of
24 insurance, as appropriate, may adopt rules necessary to:

25 (1) ensure that patients using telemedicine medical
26 services receive appropriate, quality care;

27 (2) prevent abuse and fraud in the use of telemedicine

1 medical services, including rules relating to the filing of claims
2 and records required to be maintained in connection with
3 telemedicine medical services;

4 (3) ensure adequate supervision of health
5 professionals who are not physicians and who provide telemedicine
6 medical services; and

7 (4) establish the maximum number of health
8 professionals who are not physicians that a physician may supervise
9 through a telemedicine medical service[~~, and~~

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

14 SECTION 5. Chapter 111, Occupations Code, is amended by
15 adding Section 111.005 to read as follows:

16 Sec. 111.005. PROVISION OF SERVICES. (a) A treating
17 physician who provides telemedicine medical services shall
18 determine whether the presence of a physician or health
19 professional is required at the site where the patient is receiving
20 the services.

21 (b) A treating physician who provides telemedicine medical
22 services or a treating health professional who provides telehealth
23 services shall determine if a patient's residence is an appropriate
24 site at which the patient may receive the services.

25 SECTION 6. Not later than January 1, 2016, the executive
26 commissioner of the Health and Human Services Commission and the
27 Texas Medical Board shall adopt any rules necessary to implement

1 the changes in law made by this Act.

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

8 SECTION 8. This Act takes effect September 1, 2015.