

By: Taylor of Collin

S.B. No. 1428

A BILL TO BE ENTITLED

AN ACT

relating to the provision of mental health telemedicine medical services.

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

SECTION 1. Section 111.001, Occupations Code, is amended to read as follows:

Sec. 111.001. DEFINITIONS. In this chapter:

(1) "Behavioral emergency" means a situation that involves an individual who is behaving in a violent or self-destructive manner and in which:

(A) preventive, de-escalative, or verbal techniques are determined to be ineffective; and

(B) immediate restraint or seclusion of the individual is necessary to prevent:

(i) imminent probable death or substantial bodily harm to the individual because the individual is attempting to commit suicide or inflict serious bodily harm; or

(ii) imminent physical harm to others because of the individual's actions.

(2) "Established medical site" means a location at which a patient seeks medical care that has sufficient technology and medical equipment to allow for an adequate physical evaluation of the patient.

(3) "Face-to-face evaluation" means an evaluation of a

1 patient in which the treating physician or health professional and
2 the patient are at the same physical location or the patient is at
3 an established medical site.

4 (4) "Group or institutional setting" includes a
5 residential treatment facility, halfway house, jail, juvenile
6 detention center, prison, nursing home, group home, rehabilitation
7 center, and assisted living facility.

8 (5) "Health professional" means:

9 (A) a physician;

10 (B) an individual who is:

11 (i) licensed or certified in this state to
12 perform health care services, including a licensed clinical social
13 worker, a licensed professional counselor, and a marriage and
14 family therapist; and

15 (ii) authorized to assist a physician in
16 providing telemedicine medical services that are delegated and
17 supervised by the physician; or

18 (C) a licensed or certified health professional,
19 including a licensed clinical social worker, a licensed
20 professional counselor, and a marriage and family therapist, acting
21 within the scope of the license or certification who performs a
22 telehealth service and who does not perform a telemedicine medical
23 service.

24 (6) "In-person evaluation" means an evaluation of a
25 patient in which the treating physician or health professional and
26 the patient are at the same physical location.

27 (7) "Patient site presenter" means an individual at

1 the patient's physical location who introduces the patient to the
2 treating physician or health professional for examination, to whom
3 the treating physician or health professional may delegate tasks,
4 and who:

5 (A) is licensed or certified in this state to
6 perform health care services and acts only within the scope of the
7 individual's license or certification; or

8 (B) is credentialed to provide qualified mental
9 health professional community services, has demonstrated and
10 documented competency in the work to be performed, and:

11 (i) holds a bachelor's or more advanced
12 degree from an accredited institution of higher education with a
13 minimum number of hours that is equivalent to a major in psychology,
14 social work, medicine, nursing, rehabilitation, counseling,
15 sociology, human growth and development, physician assistant
16 studies, gerontology, special education, educational psychology,
17 early childhood education, or early childhood intervention;

18 (ii) is a registered nurse; or

19 (iii) completes an alternative
20 credentialing process identified by the Department of State Health
21 Services.

22 (8) "Physician" has [~~"Health professional" and~~
23 ~~"physician" have]~~ the meaning [~~meanings]~~ assigned by Section
24 [1455.001](#), Insurance Code.

25 [~~(2) "Telehealth service" and "telemedicine medical~~
26 ~~service" have the meanings assigned by Section 57.042, Utilities~~
27 ~~Code.]~~

1 SECTION 2. Section 111.004, Occupations Code, is amended to
2 read as follows:

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

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

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

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

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

18 (5) subject to Section 111.005, require a face-to-face
19 consultation between a patient and a physician providing a
20 telemedicine medical service within a certain number of days
21 following an initial telemedicine medical service only if the
22 physician has never seen the patient.

23 SECTION 3. Chapter 111, Occupations Code, is amended by
24 adding Section 111.005 to read as follows:

25 Sec. 111.005. PROVISION OF MENTAL HEALTH TELEMEDICINE
26 MEDICAL SERVICES. A treating physician or health professional
27 providing only mental health telemedicine medical services to a

1 patient:

2 (1) is not required to engage the services of a patient
3 site presenter, except in a behavioral emergency;

4 (2) shall consider the patient's private home or a
5 group or institutional setting where the patient resides as an
6 established medical site; and

7 (3) is not required to conduct a face-to-face or
8 in-person evaluation of the patient to diagnose the patient in the
9 establishment of a physician-patient relationship with the
10 patient, except in a behavioral emergency, provided the physician
11 or health professional otherwise meets the standard of care.

12 SECTION 4. This Act takes effect September 1, 2017.