S.B. No. 670

AN ACT

relating to telemedicine and telehealth services.

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

SECTION 1.  Section 531.001, Government Code, is amended by adding Subdivisions (4-c) and (4-d) to read as follows:

(4-c)  "Medicaid managed care organization" means a managed care organization as defined by Section 533.001 that contracts with the commission under Chapter 533 to provide health care services to Medicaid recipients.

(4-d)  "Platform" means the technology, system, software, application, modality, or other method through which a health professional remotely interfaces with a patient when providing a health care service or procedure as a telemedicine medical service or telehealth service.

SECTION 2.  Section 531.0216, Government Code, is amended by amending Subsections (c) and (c-1) and adding Subsections (g), (h), (i), and (j) to read as follows:

(c)  The commission shall encourage health care providers and health care facilities to provide [~~participate as~~] telemedicine medical services and [~~service providers or~~] telehealth services [~~service providers~~] in the health care delivery system. The commission may not require that a service be provided to a patient through telemedicine medical services or telehealth services [~~when the service can reasonably be provided by a physician through a face-to-face consultation with the patient in the community in which the patient resides or works. This subsection does not prohibit the authorization of the provision of any service to a patient through telemedicine medical services or telehealth services at the patient's request~~].

(c-1)  The commission shall[~~:~~

[~~(1)~~]  explore opportunities to increase STAR Health program providers' use of telemedicine medical services in medically underserved areas of this state[~~; and~~

[~~(2)  encourage STAR Health program providers to use telemedicine medical services as appropriate~~].

(g)  The commission shall ensure that a Medicaid managed care organization:

(1)  does not deny reimbursement for a covered health care service or procedure delivered by a health care provider with whom the managed care organization contracts to a Medicaid recipient as a telemedicine medical service or a telehealth service solely because the covered service or procedure is not provided through an in-person consultation;

(2)  does not limit, deny, or reduce reimbursement for a covered health care service or procedure delivered by a health care provider with whom the managed care organization contracts to a Medicaid recipient as a telemedicine medical service or a telehealth service based on the health care provider's choice of platform for providing the health care service or procedure; and

(3)  ensures that the use of telemedicine medical services or telehealth services promotes and supports patient-centered medical homes by allowing a Medicaid recipient to receive a telemedicine medical service or telehealth service from a provider other than the recipient's primary care physician or provider, except as provided by Section 531.0217(c-4), only if:

(A)  the telemedicine medical service or telehealth service is provided in accordance with the law and contract requirements applicable to the provision of the same health care service in an in-person setting, including requirements regarding care coordination; and

(B)  the provider of the telemedicine medical service or telehealth service gives notice to the Medicaid recipient's primary care physician or provider regarding the telemedicine medical service or telehealth service, including a summary of the service, exam findings, a list of prescribed or administered medications, and patient instructions, for the purpose of sharing medical information, provided that the recipient has a primary care physician or provider and the recipient or, if appropriate, the recipient's parent or legal guardian, consents to the notice.

(h)  The commission shall develop, document, and implement a monitoring process to ensure that a Medicaid managed care organization ensures that the use of telemedicine medical services or telehealth services promotes and supports patient-centered medical homes and care coordination in accordance with Subsection (g)(3). The process must include monitoring of the rate at which a telemedicine medical service or telehealth service provider gives notice in accordance with Subsection (g)(3)(B).

(i)  The executive commissioner by rule shall ensure that a federally qualified health center as defined by 42 U.S.C. Section 1396d(l)(2)(B) may be reimbursed for the originating site facility fee or the distant site practitioner fee or both, as appropriate, for a covered telemedicine medical service or telehealth service delivered by a health care provider to a Medicaid recipient. The commission is required to implement this subsection only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the commission may, but is not required to, implement this subsection using other money available to the commission for that purpose.

(j)  In complying with state and federal requirements to provide access to medically necessary services under the Medicaid managed care program, a Medicaid managed care organization determining whether reimbursement for a telemedicine medical service or telehealth service is appropriate shall continue to consider other factors, including whether reimbursement is cost-effective and whether the provision of the service is clinically effective.

SECTION 3.  Sections 531.0217(c-4), (d), and (k), Government Code, are amended to read as follows:

(c-4)  The commission shall ensure that Medicaid reimbursement is provided to a physician for a telemedicine medical service provided by the physician, even if the physician is not the patient's primary care physician or provider, if:

(1)  the physician is an authorized health care provider under Medicaid;

(2)  the patient is a child who receives the service in a primary or secondary school-based setting; and

(3)  the parent or legal guardian of the patient provides consent before the service is provided[~~; and~~

[~~(4)  a health professional is present with the patient during the treatment~~].

(d)  The commission shall require reimbursement for a telemedicine medical service at the same rate as Medicaid reimburses for the same [~~a comparable~~] in-person medical service. A request for reimbursement may not be denied solely because an in-person medical service between a physician and a patient did not occur. The commission may not limit a physician's choice of platform for providing a telemedicine medical service or telehealth service by requiring that the physician use a particular platform to receive reimbursement for the service.

(k)  This section does not affect any requirement relating to:

(1)  [~~a federally qualified health center;~~

[~~(2)~~]  a rural health clinic; or

(2) [~~(3)~~]  physician delegation of the authority to carry out or sign prescription drug orders to an advanced practice nurse or physician assistant.

SECTION 4.  Section 162.251(2), Occupations Code, is amended to read as follows:

(2)  "Direct primary care" means a primary medical care service provided by a physician to a patient in return for payment in accordance with a direct fee. The term includes telemedicine medical services and telehealth services, as those terms are defined by Section 111.001, provided using a technology platform.

SECTION 5.  Section 562.110, Occupations Code, is amended by amending Subsections (e) and (f) and adding Subsection (f-1) to read as follows:

(e)  The board shall adopt rules regarding the use of a telepharmacy system under this section, including:

(1)  the types of health care facilities at which a telepharmacy system may be located under Subsection (d)(1), which must include the following facilities:

(A)  a clinic designated as a rural health clinic regulated under 42 U.S.C. Section 1395x(aa); [~~and~~]

(B)  a health center as defined by 42 U.S.C. Section 254b; and

(C)  a federally qualified health center as defined by 42 U.S.C. Section 1396d(l)(2)(B);

(2)  the locations eligible to be licensed as remote dispensing sites, which must include locations in medically underserved areas, areas with a medically underserved population, and health professional shortage areas determined by the United States Department of Health and Human Services;

(3)  licensing and operating requirements for remote dispensing sites, including:

(A)  a requirement that a remote dispensing site license identify the provider pharmacy that will provide pharmacy services at the remote dispensing site;

(B)  a requirement that a provider pharmacy be allowed to provide pharmacy services at not more than two remote dispensing sites;

(C)  a requirement that a pharmacist employed by a provider pharmacy make at least monthly on-site visits to a remote dispensing site or more frequent visits if specified by board rule;

(D)  a requirement that each month the perpetual inventory of controlled substances at the remote dispensing site be reconciled to the on-hand count of those controlled substances at the site by a pharmacist employed by the provider pharmacy;

(E)  a requirement that a pharmacist employed by a provider pharmacy be physically present at a remote dispensing site when the pharmacist is providing services requiring the physical presence of the pharmacist, including immunizations;

(F)  a requirement that a remote dispensing site be staffed by an on-site pharmacy technician who is under the continuous supervision of a pharmacist employed by the provider pharmacy;

(G)  a requirement that all pharmacy technicians at a remote dispensing site be counted for the purpose of establishing the pharmacist-pharmacy technician ratio of the provider pharmacy, which, notwithstanding Section 568.006, may not exceed three pharmacy technicians for each pharmacist providing supervision;

(H)  a requirement that, before working at a remote dispensing site, a pharmacy technician must:

(i)  have worked at least one year at a retail pharmacy during the three years preceding the date the pharmacy technician begins working at the remote dispensing site; and

(ii)  have completed a board-approved training program on the proper use of a telepharmacy system;

(I)  a requirement that pharmacy technicians at a remote dispensing site may not perform extemporaneous sterile or nonsterile compounding but may prepare commercially available medications for dispensing, including the reconstitution of orally administered powder antibiotics; and

(J)  any additional training or practice experience requirements for pharmacy technicians at a remote dispensing site;

(4)  the areas that qualify under Subsection (f);

(5)  recordkeeping requirements; and

(6)  security requirements.

(f)  Except as provided by Subsection (f-1), a [~~A~~] telepharmacy system located at a health care facility under Subsection (d)(1) may not be located in a community in which a Class A or Class C pharmacy is located as determined by board rule.  If a Class A or Class C pharmacy is established in a community in which a telepharmacy system has been located under this section, the telepharmacy system may continue to operate in that community.

(f-1)  A telepharmacy system located at a federally qualified health center as defined by 42 U.S.C. Section 1396d(l)(2)(B) may be located in a community in which a Class A or Class C pharmacy is located as determined by board rule.

SECTION 6.  The following provisions of the Government Code are repealed:

(1)  Sections 531.0216(b) and (e);

(2)  Section 531.02161;

(3)  Sections 531.0217(c-1), (c-2), (c-3), and (f);

(4)  Section 531.02173; and

(5)  Section 531.02176.

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

SECTION 8.  This Act takes effect September 1, 2019.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_President of the Senate             Speaker of the House

I hereby certify that S.B. No. 670 passed the Senate on March 27, 2019, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 21, 2019, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Secretary of the Senate

I hereby certify that S.B. No. 670 passed the House, with amendments, on May 14, 2019, by the following vote: Yeas 138, Nays 0, two present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Chief Clerk of the House

Approved:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_             Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_           Governor