86R6259 JCG-D

By:  Perry S.B. No. 792

A BILL TO BE ENTITLED

AN ACT

relating to the practice of dentistry and the provision of teledentistry dental services.

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

SECTION 1.  The heading to Chapter 111, Occupations Code, is amended to read as follows:

CHAPTER 111. TELEMEDICINE, TELEDENTISTRY, AND TELEHEALTH

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

(1)  "Dentist," "health [~~Health~~] professional," and "physician" have the meanings assigned by Section 1455.001, Insurance Code.

(2-a)  "Teledentistry dental service" means a health care service delivered by a dentist, or a health professional acting under the delegation and supervision of a dentist, acting within the scope of the dentist's or health professional's license or certification to a patient at a different physical location than the dentist or health professional using telecommunications or information technology.

(3)  "Telehealth service" means a health service, other than a telemedicine medical service or a teledentistry dental service, delivered by a health professional licensed, certified, or otherwise entitled to practice in this state and acting within the scope of the health professional's license, certification, or entitlement to a patient at a different physical location than the health professional using telecommunications or information technology.

SECTION 3.  Section 111.002, Occupations Code, is amended to read as follows:

Sec. 111.002.  INFORMED CONSENT. A treating physician, dentist, or health professional who provides or facilitates the use of telemedicine medical services, teledentistry dental services, or telehealth services shall ensure that the informed consent of the patient, or another appropriate individual authorized to make health care treatment decisions for the patient, is obtained before telemedicine medical services, teledentistry dental services, or telehealth services are provided.

SECTION 4.  Section 111.003, Occupations Code, is amended to read as follows:

Sec. 111.003.  CONFIDENTIALITY. A treating physician, dentist, or health professional who provides or facilitates the use of telemedicine medical services, teledentistry dental services, or telehealth services shall ensure that the confidentiality of the patient's clinical [~~medical~~] information is maintained as required by Chapter 159, by Subchapter C, Chapter 258, or by other applicable law.

SECTION 5.  Section 111.004, Occupations Code, is amended to read as follows:

Sec. 111.004.  RULES. (a) The Texas Medical Board, in consultation with the commissioner of insurance, as appropriate, may adopt rules necessary to:

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

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

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

(4)  establish the maximum number of health professionals who are not physicians that a physician may supervise through a telemedicine medical service.

(b)  The State Board of Dental Examiners, in consultation with the commissioner of insurance, as appropriate, may adopt rules necessary to:

(1)  ensure that patients using teledentistry dental services receive appropriate, quality care;

(2)  prevent abuse and fraud in the use of teledentistry dental services, including rules relating to the filing of claims and records required to be maintained in connection with teledentistry dental services;

(3)  ensure adequate supervision of health professionals who are not dentists and who provide teledentistry dental services; and

(4)  establish the maximum number of health professionals who are not dentists that a dentist may supervise through a teledentistry dental service.

SECTION 6.  The heading to Section 111.005, Occupations Code, is amended to read as follows:

Sec. 111.005.  PRACTITIONER-PATIENT RELATIONSHIP FOR TELEMEDICINE MEDICAL SERVICES OR TELEDENTISTRY DENTAL SERVICES.

SECTION 7.  Sections 111.005(a) and (b), Occupations Code, are amended to read as follows:

(a)  For purposes of Section 562.056, a valid practitioner-patient relationship is present between a practitioner providing a telemedicine medical service or a teledentistry dental service and a patient receiving the [~~telemedicine medical~~] service as long as the practitioner complies with the standard of care described in Section 111.007 and the practitioner:

(1)  has a preexisting practitioner-patient relationship with the patient established in accordance with rules adopted under Section 111.006;

(2)  communicates, regardless of the method of communication, with the patient pursuant to a call coverage agreement established in accordance with:

(A)  Texas Medical Board rules with a physician requesting coverage of medical care for the patient; or

(B)  State Board of Dental Examiners rules with a dentist requesting coverage of dental care for the patient; or

(3)  provides the telemedicine medical services or teledentistry dental services through the use of one of the following methods, as long as the practitioner complies with the follow-up requirements in Subsection (b), and the method allows the practitioner to have access to, and the practitioner uses, the relevant clinical information that would be required in accordance with the standard of care described in Section 111.007:

(A)  synchronous audiovisual interaction between the practitioner and the patient in another location;

(B)  asynchronous store and forward technology, including asynchronous store and forward technology in conjunction with synchronous audio interaction between the practitioner and the patient in another location, as long as the practitioner uses clinical information from:

(i)  clinically relevant photographic or video images, including diagnostic images; or

(ii)  the patient's relevant clinical [~~medical~~] records, such as the relevant medical or dental history, laboratory and pathology results, and prescriptive histories; or

(C)  another form of audiovisual telecommunication technology that allows the practitioner to comply with the standard of care described in Section 111.007.

(b)  A practitioner who provides telemedicine medical services or teledentistry dental services to a patient as described in Subsection (a)(3) shall:

(1)  provide the patient with guidance on appropriate follow-up care; and

(2)  if the patient consents and the patient has a primary care physician or a regular dentist, provide to the patient's primary care physician or regular dentist, as appropriate, within 72 hours after the practitioner provides the services to the patient, a clinical [~~medical~~] record or other report containing an explanation of the treatment provided by the practitioner to the patient and the practitioner's evaluation, analysis, or diagnosis, as appropriate, of the patient's condition.

SECTION 8.  Section 111.006, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c)  The State Board of Dental Examiners and the Texas State Board of Pharmacy shall jointly adopt rules that establish the determination of a valid prescription in accordance with Section 111.005, as that section applies to teledentistry dental services. Rules adopted under this subsection must allow for the establishment of a practitioner-patient relationship by a teledentistry dental service provided by a practitioner to a patient in a manner that complies with Section 111.005(a)(3). The State Board of Dental Examiners and the Texas State Board of Pharmacy shall jointly develop and publish on each respective board's Internet website responses to frequently asked questions relating to the determination of a valid prescription issued in the course of the provision of teledentistry dental services.

SECTION 9.  Section 111.007, Occupations Code, is amended to read as follows:

Sec. 111.007.  STANDARD OF CARE FOR TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES. (a) A health professional providing a health care service or procedure as a telemedicine medical service, a teledentistry dental service, or a telehealth service is subject to the standard of care that would apply to the provision of the same health care service or procedure in an in-person setting.

(b)  An agency with regulatory authority over a health professional may not adopt rules pertaining to telemedicine medical services, teledentistry dental services, or telehealth services that would impose a higher standard of care than the standard described in Subsection (a).

SECTION 10.  Chapter 111, Occupations Code, is amended by adding Section 111.009 to read as follows:

Sec. 111.009.  CERTAIN PRESCRIPTIONS PROHIBITED. (a) In this section, "controlled substance" and "prescribe" have the meanings assigned by Section 481.002, Health and Safety Code.

(b)  A dentist may not prescribe a controlled substance to a patient as a teledentistry dental service.

SECTION 11.  Section 251.003, Occupations Code, is amended by adding Subsection (d) to read as follows:

(d)  For purposes of this subtitle, a person located in another state practices dentistry in this state if the person through the use of any medium, including an electronic medium, performs an act that constitutes the practice of dentistry on a patient in this state.

SECTION 12.  Chapter 254, Occupations Code, is amended by adding Section 254.0035 to read as follows:

Sec. 254.0035.  RULES REGARDING CALL COVERAGE AGREEMENTS. The board shall adopt rules governing a call coverage agreement between dentists.

SECTION 13.  Section 258.001, Occupations Code, is amended to read as follows:

Sec. 258.001.  IMPERMISSIBLE DELEGATIONS. A dentist may not delegate:

(1)  an act to an individual who, by board order, is prohibited from performing the act;

(2)  any of the following acts to a person not licensed as a dentist or dental hygienist:

(A)  the removal of calculus, deposits, or accretions from the natural and restored surfaces of exposed human teeth and restorations in the human mouth;

(B)  root planing or the smoothing and polishing of roughened root surfaces or exposed human teeth; or

(C)  any other act the delegation of which is prohibited by board rule;

(3)  any of the following acts to a person not licensed as a dentist:

(A)  comprehensive examination or diagnosis and treatment planning;

(B)  a surgical or cutting procedure on hard or soft tissue;

(C)  the prescription of a drug, medication, or work authorization;

(D)  the taking of an impression for a final restoration, appliance, or prosthesis;

(E)  the making of an intraoral occlusal adjustment;

(F)  direct pulp capping, pulpotomy, or any other endodontic procedure;

(G)  the final placement and intraoral adjustment of a fixed or removable appliance; or

(H)  the placement of any final restoration; or

(4)  the authority to an individual to administer a local anesthetic agent, inhalation sedative agent, parenteral sedative agent, or general anesthetic agent, including the authority to administer an anesthetic or sedative agent as a teledentistry dental service as that term is defined by Section 111.001, if the individual is not licensed as:

(A)  a dentist with a permit issued by the board for the procedure being performed, if a permit is required;

(B)  a certified registered nurse anesthetist licensed by the Texas Board of Nursing, only if the delegating dentist holds a permit issued by the board for the procedure being performed, if a permit is required; or

(C)  a physician anesthesiologist licensed by the Texas Medical Board.

SECTION 14.  Subchapter A, Chapter 258, Occupations Code, is amended by adding Section 258.004 to read as follows:

Sec. 258.004.  COLLABORATIVE PRACTICE WITH DENTAL HYGIENIST. (a) In this section, "collaborative practice agreement" means a written practice agreement and protocols for the practice of dental hygiene.

(b)  A dental hygienist may practice dental hygiene under a collaborative practice agreement with a dentist if the dental hygienist has been engaged in the practice of dental hygiene for at least one year with a minimum of 2,000 practice hours.

(c)  A dental hygienist may enter into a collaborative practice agreement to practice dental hygiene in any setting authorized by law for the practice of dental hygiene.

(d)  A collaborative practice agreement must include protocols:

(1)  describing the practice of dental hygiene for:

(A)  medically compromised patients;

(B)  specific medical conditions;

(C)  patients with needs related to age; and

(D)  patients with complex medical histories;

(2)  prescribing standards for specific dental hygiene procedures, including intervals for the performance of those procedures;

(3)  prescribing intervals at which a supervising dentist must examine a patient;

(4)  describing the services that the dental hygienist may provide, the procedures that the dental hygienist may perform, the practice settings in which the services may be provided and the procedures may be performed, and any limitations on the services and procedures;

(5)  describing case selection criteria, assessment guidelines, and imaging frequency guidelines for patients by age and in relation to specific procedures;

(6)  prescribing procedures for obtaining informed consent from patients and for creating and maintaining patient records;

(7)  establishing a plan for the dentist to review patient records created and maintained by the dental hygienist;

(8)  establishing a plan for the management of medical emergencies in each setting in which the dental hygienist practices;

(9)  establishing a quality assurance plan for the dentist to monitor care provided by the dental hygienist, including review of patient care, referrals, and charts;

(10)  describing the medications that may be administered and dispensed by the dental hygienist and the specific circumstances under which the medications may be administered and dispensed;

(11)  describing any requirements for consultation with the dentist before providing care to patients with specific medical conditions or complex medical histories; and

(12)  establishing a plan, which includes clinical resources and referrals, for situations in which a patient requires treatment that exceeds the capabilities or scope of practice of the dental hygienist.

(e)  A collaborative practice agreement may include provisions to allow the practice of dental hygiene without:

(1)  prior examination of the patient by a dentist; and

(2)  the presence of a supervising dentist.

(f)  A collaborative practice agreement must be:

(1)  signed by the dentist, the dental hygienist, and, if applicable, a representative of the facility, program, or organization in which the practice of dental hygiene takes place;

(2)  reviewed annually by the dentist and the dental hygienist who are parties to the collaborative practice agreement; and

(3)  made available to the board and other interested parties on request.

(g)  Not more than two collaborative practice agreements between a dentist and a dental hygienist may be in effect at a time.

(h)  Notwithstanding any rule adopted under Section 111.004(b)(4), a dentist may have a collaborative practice agreement with not more than six dental hygienists at the same time. The board may grant an exception to the requirements of this subsection for the practice of dental hygiene in a public health setting.

(i)  Before providing any service authorized by a collaborative practice agreement, the dental hygienist must provide the patient with a written statement advising the patient that the dental hygiene services performed are not a substitute for examination by a dentist.

(j)  If a dental hygienist operating under a collaborative practice agreement makes a referral for further dental procedures, the dental hygienist must complete a referral form approved by the board and provide a copy of the form to the dentist who is a party to the collaborative practice agreement.

SECTION 15.  Section 262.001, Occupations Code, is amended by adding Subdivision (3) to read as follows:

(3)  "Teledentistry dental service" has the meaning assigned by Section 111.001.

SECTION 16.  Section 262.151(a), Occupations Code, is amended to read as follows:

(a)  A licensed dentist may delegate orally or in writing a service, task, or procedure to a dental hygienist who is under the supervision and responsibility of the dentist, if:

(1)  the dental hygienist is licensed to perform the service, task, or procedure;

(2)  the supervising dentist:

(A)  examines the patient, including an examination performed as a teledentistry dental service:

(i) [~~(A)~~]  at the time the service, task, or procedure is performed by the dental hygienist; or

(ii) [~~(B)~~] during the 12 calendar months preceding the date of performance of the service, task, or procedure by the dental hygienist; or

(B)  enters into a collaborative practice agreement with the dental hygienist, as described by Section 258.004, that includes a provision allowing the dental hygienist to practice dental hygiene without prior examination of the patient by the dentist; and

(3)  the dental hygienist does not:

(A)  diagnose a dental disease or ailment;

(B)  prescribe a treatment or a regimen;

(C)  prescribe or[~~,~~] order[~~, or dispense~~] medication; [~~or~~]

(D)  except as authorized by the supervising dentist in a collaborative practice agreement described by Section 258.004, administer or dispense medication; or

(E)  perform any procedure that is irreversible or involves the intentional cutting of soft or hard tissue by any means.

SECTION 17.  Sections 262.1515(a), (b), and (c), Occupations Code, are amended to read as follows:

(a)  A licensed dentist may delegate a service, task, or procedure, pursuant to this section, to a dental hygienist, without complying with Section 262.151(a)(2) if:

(1)  the dental hygienist has at least two years' experience in the practice of dental hygiene; and

(2)  the service, task, or procedure is performed in one of the following locations:

(A)  a medical facility, including:

(i)  a public health clinic conducted by a local health unit, health department, or public health district organized and recognized under Chapter 121, Health and Safety Code;

(ii)  a general hospital or special hospital, as those terms are defined by Section 241.003, Health and Safety Code, including a hospital maintained or operated by this state;

(iii)  a nursing facility as defined in Section 242.301, Health and Safety Code;

(iv)  an ambulatory surgical center licensed under Chapter 243, Health and Safety Code;

(v)  a birthing center licensed under Chapter 244, Health and Safety Code;

(vi)  a mental hospital licensed under Chapter 577, Health and Safety Code;

(vii)  a community health center as defined by Section 136.002, Human Resources Code;

(viii)  a mobile dental facility operating under a permit issued by the board; and

(ix)  an outpatient clinic;

(B)  a primary or secondary school [~~school-based health center established under Subchapter B, Chapter 38, Education Code~~]; [~~or~~]

(C)  a Head Start program facility;

(D)  a secure correctional facility as defined by Section 1.07, Penal Code;

(E)  the residence of a patient who is homebound or who is receiving or is eligible to receive:

(i)  home and community-based waiver services under the Medicaid program;

(ii)  hospice services; or

(iii)  other home care services; or

(F)  any other facility approved by board rule [~~a community health center as defined by Section 136.002, Human Resources Code~~].

(b)  The patient may [~~must~~] be referred as needed to a licensed dentist after the completion of a service, task, or procedure performed under Subsection (a).

(c)  A dental hygienist may [~~only~~] perform delegated tasks or procedures with respect to a patient for not more than 12 [~~six~~] months unless:

(1)  the patient has been examined by a dentist in compliance with Section 262.151(a)(2)(A);

(2)  a dentist reviews the patient's dental records, including a review performed as a teledentistry dental service, and determines that the dental hygienist may continue to provide services to the patient; or

(3)  a dentist otherwise provides teledentistry dental services to the patient and determines that the dental hygienist may continue to provide services to the patient [~~262.151(a)(2)~~].

SECTION 18.  Section 562.056(c), Occupations Code, is amended to read as follows:

(c)  For purposes of this section and Section 562.112, a valid practitioner-patient relationship is present between a practitioner providing telemedicine medical services or teledentistry dental services and the patient receiving the [~~telemedicine medical~~] services if the practitioner has complied with the requirements for establishing such a relationship in accordance with Section 111.005.

SECTION 19.  Section 531.001, Government Code, is amended by adding Subdivision (6-a) to read as follows:

(6-a)  "Teledentistry dental service" has the meaning assigned by Section 111.001, Occupations Code.

SECTION 20.  The heading to Section 531.0216, Government Code, is amended to read as follows:

Sec. 531.0216.  PARTICIPATION AND REIMBURSEMENT OF TELEMEDICINE MEDICAL SERVICE PROVIDERS, TELEDENTISTRY DENTAL SERVICE PROVIDERS, AND TELEHEALTH SERVICE PROVIDERS UNDER MEDICAID.

SECTION 21.  Sections 531.0216(a), (b), (c), (d), (e), and (f), Government Code, are amended to read as follows:

(a)  The executive commissioner by rule shall develop and implement a system to reimburse providers of services under Medicaid for services performed using telemedicine medical services, teledentistry dental services, or telehealth services.

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

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

(2)  establish billing codes and a fee schedule for services;

(3)  consult with the Department of State Health Services to establish procedures to:

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

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

(4)  establish a separate provider identifier for telemedicine medical services providers, teledentistry dental services providers, telehealth services providers, and home telemonitoring services providers; and

(5)  establish a separate modifier for telemedicine medical services, teledentistry dental services, telehealth services, and home telemonitoring services eligible for reimbursement.

(c)  The commission shall encourage health care providers and health care facilities to participate as telemedicine medical service providers, teledentistry dental service providers, or telehealth 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, teledentistry dental services, or telehealth services when the service can reasonably be provided by a physician or a dentist, if appropriate, 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, teledentistry dental services, or telehealth services at the patient's request.

(d)  Subject to Sections 111.004 and [~~Section~~] 153.004, Occupations Code, the executive commissioner may adopt rules as necessary to implement this section. In the rules adopted under this section, the executive commissioner shall:

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

(2)  refer to the site where the physician, dentist, or health professional providing the telemedicine medical service, teledentistry dental service, or telehealth service is physically located as the distant site.

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

(f)  Not later than December 1 of each even-numbered year, the commission shall report to the speaker of the house of representatives and the lieutenant governor on the effects of telemedicine medical services, teledentistry dental services, telehealth services, and home telemonitoring services on Medicaid in the state, including the number of physicians, dentists, health professionals, and licensed health care facilities using telemedicine medical services, teledentistry dental services, telehealth services, or home telemonitoring services, the geographic and demographic disposition of the physicians, dentists, and health professionals, the number of patients receiving telemedicine medical services, teledentistry dental services, telehealth services, and home telemonitoring services, the types of services being provided, and the cost of utilization of telemedicine medical services, teledentistry dental services, telehealth services, and home telemonitoring services to Medicaid.

SECTION 22.  The heading to Section 531.02161, Government Code, is amended to read as follows:

Sec. 531.02161.  TELEMEDICINE, TELEDENTISTRY, TELEHEALTH, AND HOME TELEMONITORING TECHNOLOGY STANDARDS.

SECTION 23.  Section 531.02161(b), Government Code, is amended to read as follows:

(b)  The executive commissioner by rule shall establish and adopt minimum standards for an operating system used in the provision of telemedicine medical services, teledentistry dental services, telehealth services, or home telemonitoring services by a health care facility participating in Medicaid, including standards for electronic transmission, software, and hardware.

SECTION 24.  The heading to Section 531.02162, Government Code, is amended to read as follows:

Sec. 531.02162.  MEDICAID SERVICES PROVIDED THROUGH TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES TO CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

SECTION 25.  Sections 531.02162(b) and (c), Government Code, are amended to read as follows:

(b)  The executive commissioner by rule shall establish policies that permit reimbursement under Medicaid and the child health plan program for services provided through telemedicine medical services, teledentistry dental services, and telehealth services to children with special health care needs.

(c)  The policies required under this section must:

(1)  be designed to:

(A)  prevent unnecessary travel and encourage efficient use of telemedicine medical services, teledentistry dental services, and telehealth services for children with special health care needs in all suitable circumstances; and

(B)  ensure in a cost-effective manner the availability to a child with special health care needs of services appropriately performed using telemedicine medical services, teledentistry dental services, and telehealth services that are comparable to the same types of services available to that child without the use of telemedicine medical services, teledentistry dental services, and telehealth services; and

(2)  provide for reimbursement of multiple providers of different services who participate in a single session of telemedicine medical services, teledentistry dental services, [~~and~~] telehealth services, or any combination of those services, [~~session~~] for a child with special health care needs, if the commission determines that reimbursing each provider for the session is cost-effective in comparison to the costs that would be involved in obtaining the services from providers without the use of telemedicine medical services, teledentistry dental services, and telehealth services, including the costs of transportation and lodging and other direct costs.

SECTION 26.  Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02172 to read as follows:

Sec. 531.02172.  REIMBURSEMENT FOR TELEDENTISTRY DENTAL SERVICES. The commission by rule shall require each health and human services agency that administers a part of the Medicaid program to provide Medicaid reimbursement for teledentistry dental services provided by a dentist licensed to practice dentistry in this state or a dental hygienist licensed to practice dental hygiene in this state. The commission shall require reimbursement for a teledentistry dental service at the same rate as the Medicaid program reimburses for a comparable in-person dental service. A request for reimbursement may not be denied solely because an in-person dental service between a dentist and a patient did not occur.

SECTION 27.  The heading to Section 62.157, Health and Safety Code, is amended to read as follows:

Sec. 62.157.  TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

SECTION 28.  Sections 62.157(a) and (b), Health and Safety Code, are amended to read as follows:

(a)  In providing covered benefits to a child with special health care needs, a health plan provider must permit benefits to be provided through telemedicine medical services, teledentistry dental services, and telehealth services in accordance with policies developed by the commission.

(b)  The policies must provide for:

(1)  the availability of covered benefits appropriately provided through telemedicine medical services, teledentistry dental services, and telehealth services that are comparable to the same types of covered benefits provided without the use of telemedicine medical services, teledentistry dental services, and telehealth services; and

(2)  the availability of covered benefits for different services performed by multiple health care providers during a single [~~telemedicine medical services and telehealth services~~] session of telemedicine medical services, teledentistry dental services, telehealth services, or any combination of those services, if the executive commissioner determines that delivery of the covered benefits in that manner is cost-effective in comparison to the costs that would be involved in obtaining the services from providers without the use of telemedicine medical services, teledentistry dental services, and telehealth services, including the costs of transportation and lodging and other direct costs.

SECTION 29.  Section 62.1571, Health and Safety Code, is amended to read as follows:

Sec. 62.1571.  TELEMEDICINE MEDICAL SERVICES AND TELEDENTISTRY DENTAL SERVICES. (a) In providing covered benefits to a child, a health plan provider must permit benefits to be provided through telemedicine medical services and teledentistry dental services in accordance with policies developed by the commission.

(b)  The policies must provide for:

(1)  the availability of covered benefits appropriately provided through telemedicine medical services and teledentistry dental services that are comparable to the same types of covered benefits provided without the use of telemedicine medical services and teledentistry dental services; and

(2)  the availability of covered benefits for different services performed by multiple health care providers during a single session of telemedicine medical services, teledentistry dental services, or both services, if the executive commissioner determines that delivery of the covered benefits in that manner is cost-effective in comparison to the costs that would be involved in obtaining the services from providers without the use of telemedicine medical services or teledentistry dental services, including the costs of transportation and lodging and other direct costs.

(c) [~~(d)~~]  In this section, "teledentistry dental service" and "telemedicine medical service" have [~~has~~] the meanings [~~meaning~~] assigned by Section 531.001, Government Code.

SECTION 30.  Section 32.024, Human Resources Code, is amended by adding Subsection (ll) to read as follows:

(ll)  The executive commissioner shall establish a separate provider type for dental hygienists for purposes of enrollment as a provider of and reimbursement under the medical assistance program.

SECTION 31.  Section 843.002(24), Insurance Code, is amended to read as follows:

(24)  "Provider" means:

(A)  a person, other than a physician, who is licensed or otherwise authorized to provide a health care service in this state, including:

(i)  a chiropractor, registered nurse, pharmacist, optometrist, [~~or~~] acupuncturist, or dental hygienist; or

(ii)  a pharmacy, hospital, or other institution or organization;

(B)  a person who is wholly owned or controlled by a provider or by a group of providers who are licensed or otherwise authorized to provide the same health care service; or

(C)  a person who is wholly owned or controlled by one or more hospitals and physicians, including a physician-hospital organization.

SECTION 32.  Section 1301.001(1-a), Insurance Code, is amended to read as follows:

(1-a)  "Health care provider" means a practitioner, institutional provider, or other person or organization that furnishes health care services and that is licensed or otherwise authorized to practice in this state. [~~The term includes a pharmacist and a pharmacy.~~] The term does not include a physician. The term includes:

(A)  a pharmacist;

(B)  a pharmacy; and

(C)  a dental hygienist.

SECTION 33.  Section 1451.101, Insurance Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1)  "Dental hygienist" has the meaning assigned by Section 256.051, Occupations Code.

(1-a)  "Health insurance policy" means a policy, contract, or agreement described by Section 1451.102.

SECTION 34.  Subchapter C, Chapter 1451, Insurance Code, is amended by adding Section 1451.128 to read as follows:

Sec. 1451.128.  SELECTION OF DENTAL HYGIENIST. An insured may select a dental hygienist to provide the services scheduled in the health insurance policy that are within the scope of the dental hygienist's license.

SECTION 35.  The heading to Chapter 1455, Insurance Code, is amended to read as follows:

CHAPTER 1455. TELEMEDICINE, TELEDENTISTRY, AND TELEHEALTH

SECTION 36.  Section 1455.001, Insurance Code, is amended by amending Subdivisions (1) and (3) and adding Subdivision (1-a) to read as follows:

(1)  "Dentist" means a person licensed to practice dentistry in this state under Subtitle D, Title 3, Occupations Code.

(1-a)  "Health professional" means:

(A)  a physician;

(B)  an individual who is:

(i)  licensed or certified in this state to perform health care services; and

(ii)  authorized to assist:

(a)  a physician in providing telemedicine medical services that are delegated and supervised by the physician; or

(b)  a dentist in providing teledentistry dental services that are delegated and supervised by the dentist;

(C)  a licensed or certified health professional acting within the scope of the license or certification who does not perform a telemedicine medical service; or

(D)  a dentist.

(3)  "Teledentistry dental service," "telehealth [~~"Telehealth~~] service," and "telemedicine medical service" have the meanings assigned by Section 111.001, Occupations Code.

SECTION 37.  Section 1455.004, Insurance Code, is amended to read as follows:

Sec. 1455.004.  COVERAGE FOR TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES. (a) A health benefit plan may not exclude from coverage a covered health care service or procedure delivered by a preferred or contracted health professional to a covered patient as a telemedicine medical service, a teledentistry dental service, or a telehealth service solely because the covered health care service or procedure is not provided through an in-person consultation.

(b)  A health benefit plan may require a deductible, a copayment, or coinsurance for a covered health care service or procedure delivered by a preferred or contracted health professional to a covered patient as a telemedicine medical service, a teledentistry dental service, or a telehealth service. The amount of the deductible, copayment, or coinsurance may not exceed the amount of the deductible, copayment, or coinsurance required for the covered health care service or procedure provided through an in-person consultation.

(c)  Notwithstanding Subsection (a), a health benefit plan is not required to provide coverage for a telemedicine medical service, a teledentistry dental service, or a telehealth service provided by only synchronous or asynchronous audio interaction, including:

(1)  an audio-only telephone consultation;

(2)  a text-only e-mail message; or

(3)  a facsimile transmission.

SECTION 38.  Section 1455.006, Insurance Code, is amended to read as follows:

Sec. 1455.006.  TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES STATEMENT. (a) Each issuer of a health benefit plan shall adopt and display in a conspicuous manner on the health benefit plan issuer's Internet website the issuer's policies and payment practices for telemedicine medical services, teledentistry dental services, and telehealth services.

(b)  This section does not require an issuer of a health benefit plan to display negotiated contract payment rates for health professionals who contract with the issuer to provide telemedicine medical services, teledentistry dental services, or telehealth services.

SECTION 39.  (a) Not later than March 1, 2020, the State Board of Dental Examiners and the Texas State Board of Pharmacy shall jointly adopt rules as required by Section 111.006(c), Occupations Code, as added by this Act.

(b)  Not later than March 1, 2020, the State Board of Dental Examiners shall adopt:

(1)  rules necessary to implement Chapter 111, Occupations Code, as amended by this Act;

(2)  rules as required by Section 254.0035, Occupations Code, as added by this Act; and

(3)  rules necessary to implement Section 258.004, Occupations Code, as added by this Act.

SECTION 40.  As soon as practicable after the effective date of this Act, the Health and Human Services Commission shall establish and implement a separate provider type for dental hygienists as required by Section 32.024(ll), Human Resources Code, as added by this Act.

SECTION 41.  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 42.  (a)  Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2019.

(b)  Sections 1455.004 and 1455.006, Insurance Code, as amended by this Act, take effect January 1, 2020.