

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~~

1 ~~face-to-face consultation with the patient in the community in~~
2 ~~which the patient resides or works. This subsection does not~~
3 ~~prohibit the authorization of the provision of any service to a~~
4 ~~patient through telemedicine medical services or telehealth~~
5 ~~services at the patient's request].~~

6 (c-1) The commission shall[+
7 [~~(1)~~] explore opportunities to increase STAR Health
8 program providers' use of telemedicine medical services in
9 medically underserved areas of this state[+ and

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

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

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

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

26 (3) ensures that the use of telemedicine medical
27 services or telehealth services promotes and supports

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

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

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

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

1 (i) The executive commissioner by rule shall ensure that a
2 federally qualified health center as defined by 42 U.S.C. Section
3 1396d(1)(2)(B) may be reimbursed for the originating site facility
4 fee or the distant site practitioner fee or both, as appropriate,
5 for a covered telemedicine medical service or telehealth service
6 delivered by a health care provider to a Medicaid recipient. The
7 commission is required to implement this subsection only if the
8 legislature appropriates money specifically for that purpose. If
9 the legislature does not appropriate money specifically for that
10 purpose, the commission may, but is not required to, implement this
11 subsection using other money available to the commission for that
12 purpose.

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

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

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

27 (1) the physician is an authorized health care

1 provider under Medicaid;

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

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

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

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

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

19 (1) [~~a federally qualified health center,~~

20 [~~2~~] a rural health clinic; or

21 (2) [(3)] physician delegation of the authority to
22 carry out or sign prescription drug orders to an advanced practice
23 nurse or physician assistant.

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

26 (2) "Direct primary care" means a primary medical care
27 service provided by a physician to a patient in return for payment

1 in accordance with a direct fee. The term includes telemedicine
2 medical services and telehealth services, as those terms are
3 defined by Section 111.001, provided using a technology platform.

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

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

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

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

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

16 (C) a federally qualified health center as
17 defined by 42 U.S.C. Section 1396d(1)(2)(B);

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

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

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

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

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

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

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

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

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

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

27 (i) have worked at least one year at a

1 retail pharmacy during the three years preceding the date the
2 pharmacy technician begins working at the remote dispensing site;
3 and

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

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

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

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

15 (5) recordkeeping requirements; and

16 (6) security requirements.

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

24 (f-1) A telepharmacy system located at a federally
25 qualified health center as defined by 42 U.S.C. Section
26 1396d(1)(2)(B) may be located in a community in which a Class A or
27 Class C pharmacy is located as determined by board rule.

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

- 3 (1) Sections 531.0216(b) and (e);
- 4 (2) Section 531.02161;
- 5 (3) Sections 531.0217(c-1), (c-2), (c-3), and (f);
- 6 (4) Section 531.02173; and
- 7 (5) Section 531.02176.

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

14 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