

BILL ANALYSIS

Senate Research Center
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H.B. 2056
By: Klick; Guerra (Perry)
Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Many Texans in rural settings continue to have inadequate access to general and specialty oral healthcare. They must travel long distances to see a dentist, and even longer distances for specialists. This travel often requires residents to take a day off work or from school to make the round trip to meet with their dentist in-person for a routine dental cleaning, examination, or consultation with a specialist.

In the 2017 legislative session, the house and senate unanimously passed S.B. 1107, addressing telemedicine and telehealth services; however, dentistry was not included in the legislation.

During the COVID-19 pandemic, many dentists were seeking guidance on teledental services.

H.B. 2056 allows for dentists and dental professionals to communicate and share patient information allowing rural residents additional access to healthcare professionals. It would also help reduce the number of visits and travel time to see a dental specialist in a more urban area. Many stakeholders believe this is a practical effective solution to increasing access and removing barriers to services. H.B. 2056 will help bring care to those who are currently underserved.

H.B. 2056 amends the current telehealth statute to include teledentistry, dentists, and dental hygienists and gives authority to the Texas State Board of Dental Examiners to promulgate rules.

H.B. 2056 amends current law relating to the practice of dentistry and the provision of teledentistry dental services.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas State Board of Dental Examiners in SECTION 5 (Section 111.004, Occupations Code), SECTION 8 (Section 111.006, Occupations Code), SECTION 11 (Section 111.009, Occupations Code), SECTION 13 (Section 254.0035, Occupations Code), and SECTION 21 (Section 531.02172, Government Code) of this bill.

Rulemaking authority is expressly granted to the Texas State Board of Pharmacy in SECTION 8 (Section 111.006, Occupations Code) of this bill.

Rulemaking authority previously granted to the executive commissioner of the Health and Human Services Commission is modified in SECTION 18 (Section 531.0216, Government Code) and SECTION 20 (Section 531.02162, Government Code) of this bill.

Rulemaking authority is expressly granted to the Health and Human Services Commission in SECTION 21 (Section 531.02172, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Chapter 111, Occupations Code, to read as follows:

CHAPTER 111. TELEMEDICINE, TELEDENTISTRY, AND TELEHEALTH

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

(1) Defines "dentist" in Chapter 111.

(2-a) Defines "teledentistry dental service" in Chapter 111.

(3) Redefines "telehealth service" in Chapter 111 to include a teledentistry dental service.

SECTION 3. Amends Section 111.002, Occupations Code, as follows:

Sec. 111.002. INFORMED CONSENT. (a) Creates this subsection from existing text and makes conforming changes.

(b) Requires a dentist who delegates a teledentistry dental service to ensure that the informed consent of the patient includes disclosure to the patient that the dentist has delegated the service.

SECTION 4. Amends Section 111.003, Occupations Code, as follows:

Sec. 111.003. CONFIDENTIALITY. Requires certain persons including a dentist who provides or facilitates the use of telemedicine medical services, teledentistry dental services, or telehealth services to ensure that the confidentiality of the patient's clinical information, rather than the patient's medical information, is maintained as required by Chapter 159 (Physician-Patient Communication), by Subchapter C (Dental Privilege), Chapter 258 (Practice by Dentist), or by other applicable law.

SECTION 5. Amends Section 111.004, Occupations Code, as follows:

Sec. 111.004. RULES. (a) Creates this subsection from existing text and makes no further changes.

(b) Authorizes the Texas State Board of Dental Examiners (TSBDE), in consultation with the commissioner of insurance, as appropriate, to 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 under the delegation and supervision of a dentist; and

(4) authorize a dentist to simultaneously delegate to and supervise through a teledentistry dental service not more than five health professionals who are not dentists.

SECTION 6. Amends the heading to Section 111.005, Occupations Code, to read as follows:

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

SECTION 7. Amends Section 111.005(a), Occupations Code, as follows:

(a) Provides that, for purposes of Section 562.056 (Practitioner-Patient Relationship Required), 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 service, rather than the telemedicine medical service, as long as the practitioner complies with the standard of care described in Section 111.007 and the practitioner:

- (1) makes no changes to this subdivision;
- (2) communicates, regardless of the method of communication, with the patient pursuant to a call coverage agreement established in accordance with TSBDE rules with a dentist requesting coverage of dental care for the patient; or
- (3) practices the telemedicine medical services or teledentistry dental services through the use of one of certain methods if certain conditions are met.

SECTION 8. Amends Section 111.006, Occupations Code, by adding Subsection (c), as follows:

(c) Requires TSBDE and the Texas State Board of Pharmacy (TSBP) to jointly adopt rules that establish the determination of a valid prescription in accordance with Section 111.005. Requires that rules adopted under this subsection allow for the establishment of a practitioner-patient relationship by a teledentistry dental service provided by a dentist to a patient in a manner that complies with Section 111.005(a)(3) and be substantially similar to the rules adopted under Subsection (a) (relating to requiring rules adopted to allow for the establishment of a practitioner-patient relationship by a telemedicine medical service provided by a practitioner to a patient) of Section 111.006 (Coordination to Adopt Rules That Determine Valid Prescription). Requires TSBDE and TSBP to 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. Amends Section 111.007, Occupations Code, as follows:

Sec. 111.007. New heading: STANDARD OF CARE FOR TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES. (a) and (b) Makes conforming changes to these subsections.

SECTION 10. Amends Chapter 111, Occupations Code, by adding Section 111.0075, as follows:

Sec. 111.0075. LICENSING FOR TELEDENTISTRY DENTAL SERVICES. Provides that a health professional providing a health care service or procedure as a teledentistry dental service is subject to the licensing requirements that would apply to the provision of the same health care service or procedure in an in-person setting.

SECTION 11. Amends Chapter 111, Occupations Code, by adding Section 111.009, as follows:

Sec. 111.009. LIMITATION ON CERTAIN PRESCRIPTIONS. (a) Defines "controlled substance," "opiate," "prescribe," and "national holiday."

(b) Requires TSBDE by rule to establish limits on the quantity of a controlled substance, including an opiate, that a dentist is authorized to prescribe to a patient as a teledentistry dental service. Prohibits the rules, except as provided by Subsection (c), from authorizing a dentist to prescribe more than is necessary to supply a patient for:

- (1) if the prescription is for an opiate, a two-day period; or
- (2) if the prescription is for a controlled substance other than an opiate, a five-day period.

(c) Provides that, for each day in a period described by Subsection (b)(1) or (2) that is a Saturday, Sunday, or national holiday, the period is extended to include the next day that is not a Saturday, Sunday, or national holiday.

(d) Requires that rules adopted under this section comply with applicable federal laws and rules.

SECTION 12. Amends Section 251.003, Occupations Code, by adding Subsection (d), as follows:

(d) Provides that, for purposes of Subtitle D (Dentistry), a person located in another state practices dentistry in Texas and is required to hold a license to practice dentistry in Texas 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 Texas.

SECTION 13. Amends Chapter 254, Occupations Code, by adding Section 254.0035, as follows:

Sec. 254.0035. RULES REGARDING CALL COVERAGE AGREEMENTS. Requires TSBDE to adopt rules governing a call coverage agreement between dentists.

SECTION 14. Amends Section 258.001, Occupations Code, as follows:

Sec. 258.001. IMPERMISSIBLE DELEGATIONS. Prohibits a dentist from delegating the authority to an individual to administer a local anesthetic agent, inhalation sedative agent, parenteral sedative agent, or general anesthetic agent, including as a teledentistry dental service as that term is defined by Section 111.001 (Definitions), if the individual does not hold certain licenses or permits.

SECTION 15. Amends Section 262.152, Occupations Code, as follows:

Sec. 262.152. PERFORMANCE OF DELEGATED DUTIES. (a) Creates this subsection from existing text and makes no further changes.

(b) Provides that, for purposes of this section, a dental hygienist who practices dental hygiene as a teledentistry dental service, as defined by Section 111.001, is practicing in an alternate setting in compliance with Subsection (a)(2) (relating to requiring a dental hygienist to practice dental hygiene in a certain alternate setting, under the supervision of a supervising dentist).

SECTION 16. Amends Section 562.056(c), Occupations Code, as follows:

(c) Provides that, for purposes of this section and Section 562.112 (Practitioner-Patient Relationship Required), a valid practitioner-patient relationship is present between a practitioner providing telemedicine medical services or teledentistry dental services and the patient receiving the services, rather than 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 17. Amends Section 531.001, Government Code, by amending Subdivision (4-d) and adding Subdivision (6-a), to redefine "platform" and to define "teledentistry dental services" for purposes of Subtitle I (Health and Human Services).

SECTION 18. Amends Section 531.0216, Government Code, as follows:

Sec. 531.0216. New heading: PARTICIPATION AND REIMBURSEMENT OF TELEMEDICINE MEDICAL SERVICE PROVIDERS, TELEDENTISTRY DENTAL SERVICE PROVIDERS, AND TELEHEALTH SERVICE PROVIDERS UNDER MEDICAID. (a) and (c) Makes conforming changes to these subsections.

(c-1) Requires the Health and Human Services Commission (HHSC) to explore opportunities to increase STAR Health program providers' use of telemedicine medical services in medically underserved areas of Texas.

(d) Authorizes the executive commissioner of HHSC (executive commissioner), subject to Sections 111.004 and 153.004 (Rules Regarding Telemedicine Medical Services), Occupations Code, rather than subject to Section 153.004, Occupations Code, to adopt rules as necessary to implement this section. Makes conforming changes.

(f)-(h) Makes conforming changes to these subsections.

(i) Makes conforming and nonsubstantive changes to this subsection.

(j) Makes a conforming change to this subsection.

SECTION 19. Amends the heading to Section 531.02162, Government Code, 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 20. Amends Sections 531.02162(b) and (c), Government Code, as follows:

(b) Makes a conforming change to this subsection.

(c) Requires that the policies required under this section provide for reimbursement of multiple providers of different services who participate in a single session of telemedicine medical services, teledentistry dental services, telehealth services, or any combination of those services for a child with special health care needs, if HHSC 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. Makes conforming and nonsubstantive changes.

SECTION 21. Amends Subchapter B, Chapter 531, Government Code, by adding Section 531.02172, as follows:

Sec. 531.02172. REIMBURSEMENT FOR TELEDENTISTRY DENTAL SERVICES.

(a) Requires HHSC by rule to 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 Texas.

(b) Requires HHSC to require reimbursement for a teledentistry dental service at the same rate as the Medicaid program reimburses for the same in-person dental service. Prohibits a request for reimbursement from being denied solely because an in-person dental service between a dentist and a patient did not occur. Prohibits HHSC from limiting a dentist's choice of platform for providing a teledentistry dental service by requiring that the dentist use a particular platform to receive reimbursement for the service.

(c) Authorizes TSBDE, in consultation with HHSC and HHSC's office of inspector general, as appropriate, to adopt rules as necessary to:

(1) ensure that appropriate care, including quality of care, is provided to patients who receive teledentistry dental services; and

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

SECTION 22. Amends the heading to Section 62.157, Health and Safety Code, to read as follows:

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

SECTION 23. Amends Sections 62.157(a) and (b), Health and Safety Code, as follows:

(a) Makes a conforming change to this subsection.

(b) Requires that the policies provide for 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, telehealth services, or any combination of those services, rather than a single telemedicine medical services and telehealth services session, 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. Makes conforming changes.

SECTION 24. Amends Section 62.1571, Health and Safety Code, as follows:

Sec. 62.1571. New heading: **TELEMEDICINE MEDICAL SERVICES AND TELEDENTISTRY DENTAL SERVICES.** (a) and (b) Makes conforming changes to these subsections.

(c) Creates this subsection from existing text. Defines "teledentistry dental services." Makes nonsubstantive changes.

SECTION 25. Amends the heading to Chapter 1455, Insurance Code, as follows:

CHAPTER 1455. TELEMEDICINE, TELEDENTISTRY, AND TELEHEALTH

SECTION 26. Amends Section 1455.001, Insurance Code, by amending Subdivisions (1) and (3) and adding Subdivision (1-a) to define "dentist" and "teledentistry dental services," and to redefine "health professional" for purposes of Chapter 1455.

SECTION 27. Amends Section 1455.004, Insurance Code, as follows:

Sec. 1455.004. New heading: **COVERAGE FOR TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES.** (a)-(d) Makes conforming changes to these subdivisions.

SECTION 28. Amends Section 1455.006, Insurance Code, as follows:

Sec. 1455.006. New heading: **TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES STATEMENT.** Makes conforming changes.

SECTION 29. Provides that, not later than March 1, 2022,

(1) TSBDE and TSBP is required to jointly adopt rules as required by Section 111.006(c), Occupations Code, as added by this Act;

(2) TSBDE is required to adopt rules necessary to implement Chapter 111, Occupations Code, as amended by this Act; and rules as required by Section 254.0035, Occupations Code, as added by this Act; and

(3) HHSC is required to adopt rules as required by Section 531.02172, Government Code, as added by this Act.

SECTION 30. Requires a state agency, if necessary for implementation of a provision of this Act, to request a waiver or authorization from a federal agency, and authorizes delay of implementation until such a waiver or authorization is granted.

SECTION 31. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2021.

(b) Effective date; Sections 1455.004 and 1455.006, Insurance Code, as amended by this Act: January 1, 2022.