

## **BILL ANALYSIS**

S.B. 40  
By: Zaffirini  
Public Health  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

During the COVID-19 pandemic, the Texas Department of Licensing and Regulation (TDLR) requested and received waivers to allow services to be provided through telehealth by certain TDLR-regulated health professions. Specific TDLR health professions for which waivers were issued include speech language pathologists and audiologists, behavior analysts, dyslexia therapists and practitioners, hearing instrument fitters and dispensers, and orthotists and prosthetists. These waivers allowed for continuity of care and for the completion of continuing education requirements during "stay home, work safe" orders. S.B. 40 seeks to clarify the authority of TDLR-regulated health professionals to provide telehealth services.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 1 of this bill.

### **ANALYSIS**

S.B. 40 amends the Occupations Code to authorize a health professional licensed by the Texas Department of Licensing and Regulation (TDLR) to provide telehealth services in accordance with statutory provisions governing such services and any requirements imposed by the law and rules governing practice by the health professional. Unless the context indicates otherwise, a reference in statutory provisions governing health professionals, or in a rule adopted under those provisions, to direct observation of a patient by a health professional or direct care or services provided to a patient by a health professional includes the provision of that observation, care, or service using telehealth services.

S.B. 40 authorizes the Texas Commission of Licensing and Regulation (TCLR) to adopt rules necessary to do the following:

- ensure that patients receiving telehealth services receive appropriate, quality care;
- prevent abuse and fraud in the use of telehealth services, including rules relating to the filing of claims and records required to be maintained in connection with telehealth services;
- implement the requirements of state law regarding the provision of telehealth services or the protection of patients receiving telehealth services;
- provide for the remote supervision of assistants and other authorized persons performing duties within their existing scope of practice using telecommunications or information technology; and

- provide for the remote supervision of experience for apprentices, interns, or other similar trainees using telecommunications or information technology.

The rules may allow for the provision of remote education or distance learning for public or private schools and the provision of continuing education using telecommunications or information technology. The bill subjects the adoption of the rules to statutory provisions relating to the role of advisory boards in TCLR rulemaking for health-related professions. The bill prohibits its provisions relating to the provision of telehealth services by TDLR-licensed health professionals from being interpreted to expand the scope of practice of a health professional or to authorize a practice or procedure otherwise prohibited by the law or rules governing a health professional.

S.B. 40 replaces the requirement for a supervisor of an individual holding a temporary training permit for hearing instrument fitters and dispensers to practice in an established place of business with a requirement for the supervisor to practice in Texas under a license to fit and dispense hearing instruments.

S.B. 40 authorizes a licensed dyslexia practitioner or therapist to provide telehealth services from a remote location only in a practice setting in which they would be authorized to practice in person, regardless of the physical location of the license holder or the recipient of the telehealth services.

S.B. 40 repeals the following provisions of the Occupations Code relating to rules for fitting and dispensing of hearing instruments by telepractice:

- Section 401.2022; and
- Section 402.1023.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.