

BILL ANALYSIS

Senate Research Center
87R3756 TYPED

S.B. 40
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

In 2020, the Texas Department of Licensing and Regulation (TDLR) conducted a strategic planning process to identify agency licensing programs and activities that could improve the protection of public health, safety, and welfare in response to the COVID-19 pandemic. TDLR also requested and received waivers from Governor Abbott to suspend statutes and rules to allow TDLR-regulated health professionals to practice telehealth during stay-at-home/work safe orders and to address the need for expanded telehealth services. Such services are critical during emergencies, as they allow clients to maintain proficiency and avoid regression.

A TDLR recommendation, S.B. 40 would clarify the authority of TDLR-regulated health professionals to provide telehealth services in accordance with Chapter 111, Occupations Code; require a reference to a health professional performing "direct" observation of a patient to include provision of telehealth services; and allow TDLR to adopt rules governing telehealth services offered by its regulated professionals.

As proposed, S.B. 40 amends current law relating to the use of telehealth in health professional programs administered by the Texas Department of Licensing and Regulation.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Commission of Licensing and Regulation in SECTION 1 (Section 51.2033, Occupations Code) of this bill.

Rulemaking authority previously granted to the Texas Commission of Licensing and Regulation is rescinded in SECTION 4 (Sections 401.2022 and 402.1023, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 51, Occupations Code, by adding Section 51.2033, as follows:

Section 51.2033. PROVISION OF TELEHEALTH. (a) Defines "health professional," "patient," and "telehealth service."

(b) Authorizes a health professional to provide telehealth services in accordance with Chapter 111 (Telemedicine and Telehealth), Occupations Code, and any requirements imposed by the laws and rules governing the applicable health professional program administered by the Texas Department of Licensing and Regulation. Requires that a reference to a health professional performing "direct" observation of a patient or providing "direct" care or services to a patient include the provision of telehealth services, unless the context requires otherwise.

(c) Authorizes the Texas Commission of Licensing and Regulation to adopt rules as necessary to:

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

(2) 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;

(3) implement the requirements of Chapter 111, Occupations Code, or any other law of this state regarding the provision of telehealth services or the protection of patients receiving telehealth services;

(4) 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

(5) provide for the remote supervision of experience for apprentices, interns, or similar trainees, using telecommunications or information technology.

(d) Authorizes rules adopted under this section to include the provision of remote education or distance learning for public or private schools, or continuing education.

(e) Requires that nothing in this section be interpreted to expand the existing scope of practice for health professionals, or to authorize practices or procedures otherwise prohibited by laws or rules governing health professionals. Provides that rules adopted under this section are subject to the provisions of Sections 51.2031 (Rules Regarding Health-Related Programs; Provision of Information) and 51.2032 (Rules Regarding Podiatry; Provision of Information) of Chapter 51 (Texas Department of Licensing and Regulation).

SECTION 2. Amends Section 402.255(a), Occupations Code, to require a supervisor of a temporary training permit holder to be licensed to fit and dispense hearing instruments under a certain license and to currently practice in the state of Texas under that license, rather than currently practice in an established place of business.

SECTION 3. Amends Section 403.151, Occupations Code, as follows:

(a) Authorizes a licensed dyslexia practitioner to practice and provide telehealth services from a remote location, only in an educational setting, including a school, learning center, or clinic.

(b) Authorizes a licensed dyslexia therapist to practice and provide telehealth services from a remote location, in a school, learning center, clinic, or private health practice setting.

(c) Authorizes license holders to provide telehealth services only in the practice settings allowed by Section 403.151 (Practice Setting) in (a) or (b), respectively, regardless of the physical location of the license holder or the recipient of the telehealth services.

SECTION 4. Repealer: Section 401.2022 (Rules for Fitting and Dispensing of Hearing Instruments by Telepractice), Occupations Code.

Repealer: Section 402.1023 (Rules for Fitting and Dispensing of Hearing Instruments by Telepractice), Occupations Code.

SECTION 5. Effective date: upon passage or September 1, 2021.