

By: Blanco

S.B. No. 434

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the provision and delivery of certain health, mental  
3 health, and educational services in this state, including the  
4 delivery of those services using telecommunications or information  
5 technology.

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

7 SECTION 1. Subchapter B, Chapter 531, Government Code, is  
8 amended by adding Section 531.02161 to read as follows:

9 Sec. 531.02161. SERVICE COORDINATION USING  
10 TELECOMMUNICATIONS OR INFORMATION TECHNOLOGY. (a) In this section,  
11 "service coordination" includes:

12 (1) development and maintenance of a plan of care,  
13 including an individual service plan, that meets the needs of a  
14 Medicaid recipient or child health plan program enrollee;

15 (2) coordination, including with providers, to assist  
16 the recipient or enrollee in accessing Medicaid or child health  
17 plan program benefits, including benefits under a Section 1915(c)  
18 waiver program;

19 (3) coordination, including with providers as  
20 appropriate, to assist the recipient or enrollee in accessing  
21 services provided by other community entities or service providers,  
22 including nonmedical providers;

23 (4) transition planning to assist the recipient in  
24 preparing for changes in life circumstances and in available health

1 care services to ease the recipient's shift into adulthood; and  
2 (5) with respect to the STAR Health program,  
3 assistance provided to the caregiver of the recipient to help the  
4 caregiver manage information, including information needed for  
5 court hearings.

6 (b) The commission shall ensure that, to the extent  
7 appropriate, a Medicaid recipient or child health plan program  
8 enrollee who is eligible to receive service coordination benefits,  
9 including a recipient or enrollee receiving program benefits  
10 through a managed care delivery model, has the option to receive  
11 delivery of those benefits as a telehealth service or otherwise  
12 using telecommunications or information technology.

13 (c) The executive commissioner shall adopt rules necessary  
14 to implement this section, including rules governing when the  
15 delivery of service coordination benefits using telecommunications  
16 or information technology is appropriate.

17 SECTION 2. Section 1455.001(1), Insurance Code, is amended  
18 to read as follows:

19 (1) "Health professional" means:

20 (A) a physician;

21 (B) an individual who is:

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

24 (ii) authorized to assist a physician in  
25 providing telemedicine medical services that are delegated and  
26 supervised by the physician; ~~or~~

27 (C) a licensed or certified health professional,

1 including a mental health professional, acting within the scope of  
2 the license or certification who does not perform a telemedicine  
3 medical service; or

4 (D) an individual who is credentialed to provide  
5 qualified mental health professional community services, has  
6 demonstrated and documented competency in the work to be performed,  
7 and:

8 (i) holds a bachelor's or more advanced  
9 degree from an accredited institution of higher education with a  
10 minimum number of hours that is equivalent to a major in psychology,  
11 social work, medicine, nursing, rehabilitation, counseling,  
12 sociology, human growth and development, physician assistant  
13 studies, gerontology, special education, educational psychology,  
14 early childhood education, or early childhood intervention;

15 (ii) is a registered nurse; or

16 (iii) completes an alternative  
17 credentialing process identified by the Department of State Health  
18 Services.

19 SECTION 3. Chapter 1455, Insurance Code, is amended by  
20 adding Sections 1455.007 and 1455.008 to read as follows:

21 Sec. 1455.007. REIMBURSEMENT AND PAYMENT. (a) A health  
22 benefit plan issuer must reimburse a preferred or contracted health  
23 professional for providing a covered health care service or  
24 procedure to a covered patient as a telemedicine medical service or  
25 telehealth service on the same basis and at least at the same rate  
26 that the issuer provides reimbursement to that health professional  
27 for the service or procedure in an in-person setting.

1        (b) Notwithstanding Subsection (a), a health benefit plan  
2 issuer is not required to pay more than the billed charge on a claim  
3 for payment by a preferred or contracted health professional.

4        (c) For purposes of processing payment of a claim, a health  
5 benefit plan issuer may not require a preferred or contracted  
6 health professional to provide documentation of a covered health  
7 care service or procedure delivered by the health professional to a  
8 covered patient as a telemedicine medical service or telehealth  
9 service beyond that which is required for the service or procedure  
10 in an in-person setting.

11        Sec. 1455.008. WAIVER PROHIBITED. The provisions of this  
12 chapter may not be waived, voided, or nullified by contract.

13        SECTION 4. Section [401.2022](#), Occupations Code, is amended  
14 by adding Subsection (c) to read as follows:

15        (c) Notwithstanding any other law, in adopting a rule under  
16 this section, the commission:

17                (1) shall authorize:

18                        (A) a license holder, including a licensed intern  
19 or licensed assistant, to provide services by telepractice through  
20 the use of any interactive audiovisual communication system,  
21 whether real-time or two-way, including a smartphone; and

22                        (B) any supervision requirement for an applicant  
23 under this chapter to be fulfilled wholly or partly by use of  
24 telecommunications technology; and

25                (2) may not:

26                        (A) require a license holder's initial  
27 professional contact with a client to be in-person; or

1           (B) impose any limitation on a license holder's  
2 selection of a facilitator to assist the license holder in  
3 providing services by telepractice.

4           SECTION 5. Section 402.1023, Occupations Code, is amended  
5 by adding Subsection (c) to read as follows:

6           (c) Notwithstanding any other law, in adopting a rule under  
7 this section, the commission:

8           (1) shall authorize a license holder to provide  
9 services by telepractice through the use of any interactive  
10 audiovisual communication system, whether real-time or two-way,  
11 including a smartphone; and

12           (2) may not:

13           (A) require a license holder's initial  
14 professional contact with a client to be in-person; or

15           (B) impose any limitation on a license holder's  
16 selection of a facilitator to assist the license holder in  
17 providing services by telepractice.

18           SECTION 6. Section 402.255(a), Occupations Code, is amended  
19 to read as follows:

20           (a) A supervisor of a temporary training permit holder must:

21           (1) be licensed to fit and dispense hearing  
22 instruments under this chapter or Chapter 401, other than Section  
23 401.311 or 401.312; and

24           (2) ~~currently practice in an established place of~~  
25 ~~business; and~~

26           [~~3~~] be responsible for the direct supervision and  
27 education of a temporary training permit holder.

1 SECTION 7. Section 403.151, Occupations Code, is amended by  
2 adding Subsection (a-1) to read as follows:

3 (a-1) Notwithstanding Subsection (a), a licensed dyslexia  
4 practitioner may practice outside of an educational setting to the  
5 extent necessary to provide a service that would otherwise be  
6 provided in an educational setting that is not reasonably  
7 accessible to the licensed dyslexia practitioner or client.

8 SECTION 8. Subchapter D, Chapter 403, Occupations Code, is  
9 amended by adding Section 403.153 to read as follows:

10 Sec. 403.153. USE OF TELECOMMUNICATIONS TECHNOLOGY.  
11 Notwithstanding any other law, a license holder may provide a  
12 service solely through the use of an interactive audiovisual  
13 communication system, whether real-time or two-way, including a  
14 smartphone.

15 SECTION 9. Section 506.003, Occupations Code, is amended by  
16 adding Subsection (c-1) to read as follows:

17 (c-1) Notwithstanding Subsection (c)(1), applied behavior  
18 analysis interventions may be based on observation and measurement  
19 of behavior and environment through the use of telecommunications  
20 technology if approved by the certifying entity.

21 SECTION 10. Section 506.055, Occupations Code, is amended  
22 to read as follows:

23 Sec. 506.055. STUDENTS, INTERNS, AND FELLOWS. (a) This  
24 chapter does not apply to an applied behavior analysis activity or  
25 service of a college or university student, intern, or fellow if:

26 (1) the activity or service is part of a defined  
27 behavior analysis program of study, course, practicum, internship,

1 or postdoctoral fellowship;

2 (2) the activity or service is directly supervised by  
3 a licensed behavior analyst or an instructor in a course sequence  
4 approved by the certifying entity; and

5 (3) the person is designated as a "student," "intern,"  
6 "fellow," or "trainee."

7 (b) Notwithstanding Subsection (a)(2), a licensed behavior  
8 analyst or an instructor may supervise a behavior analysis activity  
9 or service through the use of telecommunications technology if  
10 approved by the applicable college or university and the certifying  
11 entity.

12 SECTION 11. Section 554.005, Occupations Code, is amended  
13 by adding Subsection (d) to read as follows:

14 (d) In implementing Subsection (a)(3)(C)(iv), the board may  
15 not require the in-person counseling of patients.

16 SECTION 12. Chapter 1455, Insurance Code, as amended by  
17 this Act, applies only to a health benefit plan delivered, issued  
18 for delivery, or renewed on or after January 1, 2022. A health  
19 benefit plan delivered, issued for delivery, or renewed before  
20 January 1, 2022, is governed by the law as it existed immediately  
21 before the effective date of this Act, and that law is continued in  
22 effect for that purpose.

23 SECTION 13. If before implementing any provision of this  
24 Act a state agency determines that a waiver or authorization from a  
25 federal agency is necessary for implementation of that provision,  
26 the agency affected by the provision shall request the waiver or  
27 authorization and may delay implementing that provision until the

1 waiver or authorization is granted.

2 SECTION 14. This Act takes effect September 1, 2021.