

By: Laubenberg

H.B. No. 3444

A BILL TO BE ENTITLED

AN ACT

relating to the provision of telemedicine medical services by a physician.

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

SECTION 1. The legislature finds that there are circumstances in which telemedicine medical services may be provided to patients in this state in a manner that is highly convenient and cost-effective for the patient and that safeguards the patient's need for competent and effective medical care. A governmental entity in this state may not construe or implement the changes in law made by this Act to discourage or inhibit broad access by patients in this state to highly convenient and cost-effective telemedicine medical services.

SECTION 2. Section 111.001, Occupations Code, is amended to read as follows:

Sec. 111.001. DEFINITIONS. In this chapter:

(1) 'Health professional' and 'physician' have the meanings assigned by Section 1455.001, Insurance Code.

(2) "Telecommunications technology" means technology used for communication or for the transfer of information or data.

The term includes:

(A) wired or wireless telephone services;

(B) interactive video, audio, or data transmission; and

1 (C) data transmission using computer imaging.

2 (3) "Telehealth service" means a health service, other
3 than a telemedicine medical service, that is delivered by a health
4 professional and that requires the use of telecommunications
5 technology.

6 (4) "Telemedicine medical service" means a health care
7 service provided to a patient in this state through the use of
8 telecommunications technology in real time by a physician, or by a
9 health professional acting under physician delegation and
10 supervision, to:

11 (A) evaluate, diagnose, consult with, or treat a
12 patient; or

13 (B) transfer medical data [~~'Telehealth service'~~
14 ~~and 'telemedicine medical service' have the meanings assigned by~~
15 ~~Section 57.042, Utilities Code].~~

16 SECTION 3. Section 111.004, Occupations Code, is amended to
17 read as follows:

18 Sec. 111.004. RULES. The Texas Medical [~~State~~] Board [~~of~~
19 ~~Medical Examiners~~], in consultation with the commissioner of
20 insurance, as appropriate, may adopt rules necessary to:

21 (1) ensure that patients using telemedicine medical
22 services receive appropriate, quality care;

23 (2) prevent abuse and fraud in the use of telemedicine
24 medical services, including rules relating to the filing of claims
25 and records required to be maintained in connection with
26 telemedicine medical services;

27 (3) ensure adequate supervision of health

professionals who are not physicians and who provide telemedicine medical services; and

(4) establish the maximum number of health professionals who are not physicians that a physician may supervise through a telemedicine medical service~~[, and~~

~~[(5) require a face-to-face consultation between a patient and a physician providing a telemedicine medical service within a certain number of days following an initial telemedicine medical service only if the physician has never seen the patient].~~

SECTION 4. Chapter 111, Occupations Code, is amended by adding Section 111.006 to read as follows:

Sec. 111.006. PROVISION OF TELEMEDICINE MEDICAL SERVICES UNDER CERTAIN CIRCUMSTANCES. (a) This section does not apply to the provision of telemedicine medical services under circumstances in which:

(1) the physician providing the services conducts a face-to-face visit with the patient before providing the services;

(2) the patient receiving the services undergoes an in-person evaluation by another physician who refers the patient to the physician providing the services for additional care and documents the referral in the patient's medical record; or

(3) the services are provided at an established medical site, as defined by Texas Medical Board rules, where a patient seeks medical care and where there is a patient site presenter and sufficient technology and medical equipment to allow for an adequate physical evaluation.

(b) Before a physician may provide telemedicine medical

1 services to a patient, the physician must establish a
2 physician-patient relationship with the patient. A physician may
3 establish a physician-patient relationship with a patient by an
4 initial encounter through the use of telecommunications
5 technology.

6 (c) A physician shall provide telemedicine medical services
7 according to a written protocol adopted by the physician or the
8 organization in which the physician is practicing. A protocol must
9 include:

10 (1) a description of the circumstances under which the
11 provision of telemedicine medical services is medically
12 appropriate, including a description of the circumstances under
13 which the physician-patient relationship may be established and
14 services may be provided through the use of a telephone;

15 (2) an indication of the types of medically indicated
16 services that may be provided under the circumstances described in
17 Subdivision (1);

18 (3) procedures to prevent fraud and abuse in the
19 provision of telemedicine medical services;

20 (4) policies for the maintenance of adequate medical
21 records of the telemedicine medical services provided; and

22 (5) guidelines for advising a patient to see a
23 physician or other appropriate health professional in person and
24 within a reasonable time if the patient's symptoms do not improve.

25 (d) A physician may not prescribe a Schedule II, III, IV, or
26 V controlled substance, as specified under Chapter 481, Health and
27 Safety Code, in the course of providing telemedicine medical

1 services.

2 (e) A physician providing telemedicine medical services
3 shall exercise the physician's discretion to:

4 (1) ensure that the physician is providing the
5 services using the same standard of care applicable to the
6 provision of medical services in a traditional clinical setting;
7 and

8 (2) determine when a face-to-face examination of a
9 patient is necessary to comply with the applicable standard of care
10 for the services.

11 (f) The Texas Medical Board may not require that
12 telemedicine medical services be provided only in conjunction with:

13 (1) a face-to-face visit with or in-person evaluation
14 of the patient before, while, or after the patient receives
15 telemedicine medical services; or

16 (2) an examination of the patient at an established
17 medical site as described in Subsection (a)(3) before, while, or
18 after the patient receives telemedicine medical services.

19 SECTION 5. This Act takes effect September 1, 2015.