

By: _____

____.B. No. ____

A BILL TO BE ENTITLED

1 AN ACT

2 relating to standards of care applicable to telemedicine
3 services.

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

5 SECTION __. Section 111.001, Occupations Code is amended by
6 amending Subdivision (2) and adding Subdivisions (3) and (4) as
7 follows:

8 (2) "Telehealth service" means a health service,
9 other than a telemedicine medical service, that is delivered by
10 a health professional licensed or certified in this state acting
11 within the scope of the health professional's license or
12 certification who does not perform a telemedicine service and
13 that requires the use of advanced telecommunications technology,
14 other than telephone or facsimile technology, including:

15 (A) compressed digital interactive video, audio,
16 or data transmission;

17 (B) clinical data transmission using computer
18 imaging by way of still-image capture and store and forward; and

19 (C) other technology that facilitates access to
20 health care services or medical specialty expertise.

21 (3) "Telemedicine [~~and "telemedicine]~~ medical service"
22 means a health care service that is initiated by a physician
23 licensed in this state or provided by a health professional acting
24 under delegation and supervision of a physician licensed in this

1 state, that is provided for purposes of patient assessment by a
2 health professional, diagnosis or consultation by a physician, or
3 treatment, or for the transfer of medical data, and that requires
4 the use of advanced telecommunications technology, other than
5 telephone or facsimile technology, including:

6 (A) compressed digital interactive video, audio,
7 or data transmission;

8 (B) clinical data transmission using computer
9 imaging by way of still-image capture and store and forward; and

10 (C) other technology that facilitates access to
11 health care services or medical specialty expertise [~~have the~~
12 meanings assigned by Section 57.042, Utilities Code].

13 (4) "Store and forward technology" means the
14 transmission of medical information to a physician for the
15 physician's review at a later time that includes all relevant video
16 clips, still images, diagnostic images, laboratory results, audio
17 clips, and text that are required to provide a requested health
18 care service at the same standard of appropriate practice that
19 would apply in an in-person setting.

20 SECTION ___. Chapter 111, Occupations Code, is amended by
21 adding Section 111.005 to read as follows:

22 Sec. 111.005. PRACTITIONER-PATIENT RELATIONSHIP IN TELEMEDICINE
23 ENCOUNTERS. (a) For purposes of Section 562.056, a valid
24 practitioner-patient relationship is present in a telemedicine
25 encounter only if the practitioner complies with the same standards
26 of appropriate practice as those standards for health care services
27 provided in an in-person setting, and the practitioner:

1 (1) has a preexisting practitioner-patient relationship
2 with the patient established in accordance with board rules;

3 (2) contacts the patient in accordance with Subsection
4 (c); or

5 (3) provides the telemedicine services:

6 (A) through the use of:

7 (i) synchronous audio-visual interaction
8 between the practitioner and the patient in another location;

9 (ii) asynchronous store and forward
10 technology; or

11 (iii) another form of audio-visual
12 telecommunication technology that allows the practitioner to
13 comply with applicable standards of care; and

14 (B) without sole reliance on any of the following:

15 (i) audio-only communication

16 (ii) a telephone call or consultation;

17 (iii) electronic mail;

18 (iv) an instant messaging conversation;

19 (v) facsimile transmission;

20 (vi) an internet questionnaire;

21 (vii) an internet consultation; and

22 (b) Except as provided in Subsection (c), a valid
23 practitioner-patient relationship is not present if the
24 practitioner's only contact with the patient has been any form of
25 communication listed in Subsection (a) (1) (B) (ii).

26 (c) A valid practitioner-patient relationship may be present
27 if a practitioner contacts a patient, regardless of the method of

1 contact, pursuant to a call coverage agreement with a physician
2 requesting coverage of medical care for the patient.

3 SECTION ___. Section 562.056, Occupations Code, is amended by
4 adding Subsection (c) to read as follows:

5 (c) For purposes of this section, a valid practitioner-
6 patient relationship is not present if the practitioner's only
7 contact with the patient has been telephone communication, unless
8 the practitioner is contacting the patient pursuant to a call
9 coverage agreement for a physician requesting coverage of medical
10 care for the patient.

11 SECTION ___. Section 531.001, Government Code, is amended by
12 amending Subdivisions (7) and (8) to read as follows:

13 (7) "Telehealth service" has the meaning assigned by
14 Section 111.001, Occupations Code [~~means a health service, other~~
15 ~~than a telemedicine medical service, that is delivered by a~~
16 ~~licensed or certified health professional acting within the scope~~
17 ~~of the health professional's license or certification who does not~~
18 ~~perform a telemedicine medical service and that requires the use~~
19 ~~of advanced telecommunications technology, other than telephone or~~
20 ~~facsimile technology, including:~~

21 [~~(A) compressed digital interactive video, audio,~~
22 ~~or data transmission;~~

23 [~~(B) clinical data transmission using computer~~
24 ~~imaging by way of still-image capture and store and forward; and~~

25 [~~(C) other technology that facilitates access to~~
26 ~~health care services or medical specialty expertise].~~

1 (8) "Telemedicine medical service" has the meaning
2 assigned by Section 111.001, Occupations Code [~~means a health care~~
3 ~~service that is initiated by a physician or provided by a health~~
4 ~~professional acting under physician delegation and supervision,~~
5 ~~that is provided for purposes of patient assessment by a health~~
6 ~~professional, diagnosis or consultation by a physician, or~~
7 ~~treatment, or for the transfer of medical data, and that requires~~
8 ~~the use of advanced telecommunications technology, other than~~
9 ~~telephone or facsimile technology, including:~~

10 [~~(A) compressed digital interactive video, audio,~~
11 ~~or data transmission;~~

12 [~~(B) clinical data transmission using computer~~
13 ~~imaging by way of still image capture and store and forward; and~~

14 [~~(C) other technology that facilitates access to~~
15 ~~health care services or medical specialty expertise].~~

16 SECTION __. Section 771.151, Health and Safety Code, is
17 amended by amending Subdivision (7) to read as follows:

18 (7) "Telemedicine medical service" has the meaning
19 assigned by Section 111.001, Occupations Code [~~means a health care~~
20 ~~service that is initiated by a physician or provided by a health~~
21 ~~professional acting under physician delegation and supervision,~~
22 ~~that is provided for purposes of patient assessment by a health~~
23 ~~professional, diagnosis or consultation by a physician, or~~
24 ~~treatment, or for the transfer of medical data, and that requires~~
25 ~~the use of advanced telecommunications technology, other than~~
26 ~~telephone or facsimile technology, including:~~

1 [~~(A) compressed digital interactive video, audio,~~
2 ~~or data transmission;~~

3 [~~(B) clinical data transmission using computer~~
4 ~~imaging by way of still-image capture and store and forward; and~~

5 [~~(C) other technology that facilitates access to~~
6 ~~health care services or medical specialty expertise].~~

7 SECTION __. Section 1455.001, Insurance Code, is amended by
8 amending Subdivision (3) to read as follows:

9 (3) "Telehealth service" and "telemedicine medical
10 service" have the meanings assigned by Section 111.001 [~~57.042~~],
11 Occupations [~~Utilities~~] Code.

12 SECTION __. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect September 1, 2015.