

Telemedicine Discussion

From Texas Occupations Code

Sec. 151.056. APPLICATION TO TELEMEDICINE. (a) A person who is physically located in another jurisdiction but who, through the use of any medium, including an electronic medium, performs an act that is part of a patient care service initiated in this state, including the taking of an x-ray examination or the preparation of pathological material for examination, and that would affect the diagnosis or treatment of the patient, is considered to be engaged in the practice of medicine in this state and is subject to appropriate regulation by the board.

(b) This section does not apply to the act of:

(1) a medical specialist located in another jurisdiction who provides only episodic consultation services on request to a physician licensed in this state who practices in the same medical specialty;

(2) a physician located in another jurisdiction who is providing consultation services to a medical school as defined by Section 61.501, Education Code;

(3) a physician located in another jurisdiction who is providing consultation services to an institution subject to:

(A) Subchapter C, Chapter 73, Education Code; or

(B) Subchapter K, Chapter 74, Education Code; or

(4) a physician located in another jurisdiction of a state having borders contiguous with the borders of this state who is the treating physician of a patient and orders home health or hospice services for a resident of this state to be delivered by a home and community support services agency licensed in this state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.022(a), eff. Sept. 1, 2001.

From Texas Administrative Code Title 22

174.12

Physicians who treat and prescribe through advanced communications technology are practicing medicine and must possess appropriate licensure in all jurisdictions where their patients presently reside. An out-of-state physician may provide episodic consultations without a Texas medical license, as provided in Texas Occupations Code, §151.056 and §172.12(f) of this title (relating to Out-of-State Telemedicine License-Exemptions).

174.2

(10) Telemedicine medical service--The practice of medical care delivery, initiated by a distant site provider, who is physically located at a site other than the site where the patient is located, for the purposes of evaluation, diagnosis, consultation, or treatment which requires the use of advanced telecommunications technology that allows the distant site provider to see and hear the patient in real time

174.5

(c) Necessity of In-Person Evaluation. When, for whatever reason, the telemedicine modality in use for a particular patient encounter is unable to provide all pertinent clinical information that a health care provider exercising ordinary skill and care would deem reasonably necessary for the practice of medicine at an acceptable level of safety and quality in the context of that particular medical encounter, then the distant site provider must make this known to the patient prior to the conclusion of the live telemedicine encounter and advise and counsel the patient prior to the conclusion of the live telemedicine encounter regarding the need for the patient to obtain an additional in-person medical evaluation reasonably able to meet the patient's needs.

174.8

(a) Evaluation of the Patient. Distant site providers who utilize telemedicine medical services must ensure that a proper physician-patient relationship is established which at a minimum includes:

- (1) establishing that the person requesting the treatment is in fact whom he/she claims to be;
- (2) establishing a diagnosis through the use of acceptable medical practices, including patient history, mental status examination, physical examination (unless not warranted by the patient's mental condition), and appropriate diagnostic and laboratory testing to establish diagnoses, as well as identify underlying conditions or contra-indications, or both, to treatment recommended or provided;
- (3) discussing with the patient the diagnosis and the evidence for it, the risks and benefits of various treatment options; and
- (4) ensuring the availability of the distant site provider or coverage of the patient for appropriate follow-up care.

(b) Treatment. Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional in-person clinical settings.

(c) An online or telephonic evaluation solely by questionnaire does not constitute an acceptable standard of care.

174.10

(a) Medical records must be maintained for all telemedicine medical services. Both the distant site provider and the patient site presenter must maintain the records created at each site unless the distant site provider maintains the records in an electronic health record format.

(b) Distant site providers must obtain an adequate and complete medical history for the patient prior to providing treatment and must document this in the medical record.

(c) Medical records must include copies of all relevant patient-related electronic communications, including relevant patient-physician e-mail, prescriptions, laboratory and test results, evaluations and consultations, records of past care and instructions. If possible, telemedicine encounters that are recorded electronically should also be included in the medical record.

172, 12

(a) Qualifications. A person may not engage in the practice of medicine across state lines in this State, hold oneself as qualified to do the same, or use any title, word, or abbreviation to indicate or induce others to believe that one is licensed to practice across state lines in this state unless the person is actually so licensed. For a person to be eligible for an out-of-state telemedicine license to practice medicine across state lines under the Medical Practice Act, §151.056, and §163.1 of this title (relating to Definitions), the person must:

(f) Exemptions. The following activities shall be exempt from the requirements of an out-of-state telemedicine license and this chapter:

(1) episodic consultation by a medical specialist located in another jurisdiction who provides such consultation services on request to a person licensed in this state;

(2) consultation services provided by a physician located in another jurisdiction to a medical school as defined in the Education Code, §61.501;

(3) consultation services provided by a physician located in another jurisdiction to an institution defined in either Subchapter C, Chapter 73, or Subchapter K, Chapter 74 of the Education Code;

(4) informal consultation performed by a physician outside the context of a contractual relationship and on an irregular or infrequent basis without the expectation or exchange of direct or indirect compensation;

- (5) furnishing of medical assistance by a physician in case of an emergency or disaster if no charge is made for the medical assistance; and
- (6) ordering home health or hospice services for a resident of this state to be delivered by a home and community support services agency licensed by this state, by the resident's treating physician who is located in another jurisdiction of a state having borders contiguous with the borders of this state.

From Texas Insurance Code

Chapter 1455 Telemedicine and Telehealth

Sec. 1455.004. COVERAGE FOR TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH SERVICES.

(a) A health benefit plan may not exclude a telemedicine medical service or a telehealth service from coverage under the plan solely because the service is not provided through a face-to-face consultation.

(b) A health benefit plan may require a deductible, a copayment, or coinsurance for a telemedicine medical service or a telehealth service. The amount of the deductible, copayment, or coinsurance may not exceed the amount of the deductible, copayment, or coinsurance required for a comparable medical service provided through a face-to-face consultation.

From Texas Utilities Code

57.042 Definitions

(11) "Telehealth service" means a health service, other than a telemedicine medical service, delivered by a licensed or certified health professional acting within the scope of the health professional's license or certification who does not perform a telemedicine medical service that requires the use of advanced telecommunications technology, other than by telephone or facsimile, including:

(A) compressed digital interactive video, audio,

or data transmission;

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

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

(12) "Telemedicine medical service" means a health care service initiated by a physician or provided by a health professional acting under physician delegation and supervision, for purposes of patient assessment by a health professional, diagnosis or consultation by a physician, treatment, or the transfer of medical data, that requires the use of advanced telecommunications technology, other than by telephone or facsimile, including:

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

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

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