

**SUBJECT:** Reimbursement for telemedicine services provided under Medicaid

**COMMITTEE:** Public Health — favorable, without amendment

**VOTE:** 8 ayes — Delisi, Jackson, Cohen, Coleman, Gonzales, S. King, Olivo, Truitt  
0 nays  
1 absent — Laubenberg

**SENATE VOTE:** On final passage, March 28 — 30-0, on Local and Uncontested Calendar

**WITNESSES:** For — (*Registered, but did not testify:* Conni Barker, De Pelchin Children’s Center; Denise Rose, Texas Children’s Hospital; Lynda Woolbert, Coalitions for Nurses in Advanced Practice)  
Against — None  
On — Michelle Harper, Health and Human Services Commission; Perry Young, Department of State Health Services

**BACKGROUND:** Telemedicine allows healthcare providers to use technology to provide health care remotely to patients. Government Code, sec. 531.02171 defines “telemedicine medical service” as a healthcare service provided or supervised by a physician for the purposes of patient assessment, diagnosis, or consultation that requires the use of telecommunications technology — other than telephone or facsimile — including digital video or audio or data transmissions, clinical data transmissions using computers, or other technology.  
Government Code, sec. 531.0217(b) requires the Health and Human Services Commission (HHSC) by rule to provide Medicaid reimbursement for telemedicine medical services initiated or provided by a physician. Sec. 531.02175 requires the Department of State Health Services to create a pilot program under which Medicaid recipients in need of mental health services are provided those services through telehealth or telemedicine.

DIGEST:

SB 24 would amend the Government Code to require HHSC to provide reimbursement to a physician for telemedicine services provided under the Medicaid program if:

- a health professional who was under the supervision of the physician was present with the patient at the time of the visit; and
- the patient's medical condition, illness, or injury likely would not undergo material deterioration within 30 days following the visit.

HHSC would develop rules, in consultation with the federal Centers for Medicare and Medicaid Services, to allocate the provision of Medicaid reimbursement for telemedicine services between the physician consulting from a distant site and the health professional present with the patient or would establish a facility fee that the consulting physician would pay the health professional present with the patient. These rules would have to reflect a policy to build capacity in medically underserved areas of Texas.

SB 24 would extend the expiration date of the Medicaid telemedicine pilot program from September 1, 2007, to September 1, 2009. HHSC would be required to submit a report to the Legislature by September 1, 2008, containing recommendations regarding the efficacy of the program and whether it should be continued or expanded.

HHSC or any state agency affected by this bill would be authorized to request a waiver or authorization from a federal agency to implement provisions of this bill.

Provisions with regard to Medicaid reimbursement of physicians and other health professionals for telemedicine services would take effect September 1, 2007. The remainder of SB 24 would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect August 27, 2007.

SUPPORTERS  
SAY:

SB 24 would assure that physicians and health care professionals under the supervision of those physicians received reimbursement for providing telemedicine services to Medicaid patients. Although current law provides for reimbursement for telemedicine services delivered under the Medicaid program, it does not allow doctors to receive compensation for office visits conducted via telemedicine when the doctor is away from the patient and the patient is with a medical professional working under the physician's supervision. The bill explicitly would provide for

compensation under these circumstances and would allocate payment to the physician and the health professional under his or her supervision.

Texas has large rural areas, and a significant number of its counties have health professional shortages, are medically underserved, or both. Telemedicine allows physicians and other health care professionals to provide to these areas from a distance. By assuring adequate compensation, the bill would give health care providers the financial incentive to participate in telemedicine services. Further, expanding the pilot project for two years would encourage the continued development of telemedicine in the state.

Concerns about telemedicine-related fraud in the Medicaid program are exaggerated. Health and Safety Code, ch. 531 includes provisions that prohibit and penalize fraud in the Medicaid program, as do federal anti-kickback statutes. The federal Department of Health and Human Services has authorized the Medicaid program to reimburse for services provided via telemedicine since 2000, and Medicaid reimbursement already is required under Texas law. Further, SB 24 specifically requires HHSC to confer with the Centers for Medicare and Medicaid Services to assure that the facility fee would be established legally.

**OPPONENTS  
SAY:**

HHSC should take care to craft the reimbursement or facility fee in a way that did not violate anti-kickback statutes, which make it a criminal offense for a health care provider knowingly and willfully to offer, pay, solicit, or receive any remuneration to induce referrals of items or services reimbursable by Medicaid. The reimbursement or facility fee should be established in such a way that it did not induce rural healthcare providers to refer patients to a remote physician to engage in telemedicine services just so that the rural provider could collect a larger-than-normal fee.