

BILL ANALYSIS

Senate Research Center
77R7347 MCK-D

S.B. 789
By: Moncrief
Health & Human Services
3/1/2001
As Filed

DIGEST AND PURPOSE

S.B. 789 requires the Health and Human Services Commission (commission) to consult with the Texas Department of Health, the Medicaid clinical review committee, the telemedicine advisory committee, and the physician payment advisory committee to establish procedures to determine which telemedicine services should be reimbursed. This bill requires the commission by rule to require health and human service agencies to reimburse telemedicine services at the same rate as in-person medical services, regardless of whether there was a face-to-face consultation, and it requires primary care physicians to be notified if a patient receives a telemedicine service so that medical information can be shared. Finally, this bill allows the commission to work with the Board of Medical Examiners to ensure compliance, quality of care, prevent abuse and fraud, establish supervisory requirements and face-to-face consultation requirements.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Health and Human Services Commission in SECTION 1 (Section 531.0216, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 531.0216, Government Code, to change a reference from “telemedicine” to “telemedicine medical services.”

(b) Requires the Health and Human Services Commission (commission), by rule, in developing the reimbursement system, to consult with the Texas Department of Health, the Medicaid clinical review committee, the telemedicine advisory committee, and the physician payment advisory committee to establish procedures to carry out certain tasks.

(c) Makes conforming changes.

(d) Requires the commission, not later than December 1 of each even-numbered year, to report to the speaker of the house of representatives and the lieutenant governor on the effects of telemedicine medical services on the Medicaid program in the state, including the number of physicians and health professionals using telemedicine medical services, the geographic and demographic disposition of the physicians and health professionals, the number of patients receiving telemedicine medical services, the types of services being provided, and the cost and utilization of telemedicine medical services on the program.

(e) Authorizes the commission to adopt rules as necessary to implement this section, subject to Section 153.004 (Rules Regarding Telemedicine Services), Occupations Code, instead of being subject to Section 5.11, Medical Practices Act (Article 4495b, V.T.C.S.).

(f) Makes a conforming change.

SECTION 2. Amends Section 531.0217, Government Code, to redefine “health professional,”

“physician,” and “telemedicine medical service.”

(b) Makes conforming changes.

(c) Makes conforming changes.

(d) Adds language regarding another health professional besides a physician providing a telemedicine medical service and makes conforming changes.

(e) Makes conforming changes.

(f) Requires the commission to make a good faith effort to identify and coordinate with existing providers to preserve and protect existing health care systems and medical relationships in an area. Makes a conforming change.

(g) Requires the commission to require that a primary health care physician be notified of a telemedicine medical service for the purpose of sharing medical information, if a patient receiving such a service has primary care physician.

(h) Requires the commission, in consultation with the Texas State Board of Medical Examiners (board), to monitor and regulate the use of telemedicine medical services to ensure compliance with this section. Authorizes the commission to use a corrective action plan to ensure compliance with this section in addition to any other method of enforcement.

(i) Adds language regarding certain rules that the board and commission are authorized to adopt to include establishing supervisory requirements for a service delegated to and performed by an individual who is not a physician and requiring a face-to-face consultation with a physician within a certain number of days following a telemedicine medical service. Makes conforming changes.

(j) Makes conforming changes.

(k) Provides that this section does not affect any requirement relating to a rural health clinic or a physician delegation of the authority to carry out or sign prescription drug orders to an advanced practice nurse or physician assistant.

(l) Requires the commission to create and maintain a telemedicine medical services registry that is available to licensing and regulatory agencies.

SECTION 3. Amends Section 1, Article 21.53F, Insurance Code, as added by Section 1, Chapter 880, Acts of the 75th Legislature, Regular Session, 1997, to define “health professional,” “physician” and “telemedicine medical service.” Deletes definition of “telemedicine.”

SECTION 4. Amends Section 3, Article 21.53F, Insurance Code, as added by Section 1, Chapter 880, Acts of the 75th Legislature, Regular Session, 1997, as follows:

Sec. 3. New heading: **COVERAGE FOR TELEMEDICINE MEDICAL SERVICES.**
Makes conforming changes.

SECTION 5. Amends Section 4, Article 21.53F, Insurance Code, as added by Section 1, Chapter 880, Acts of the 75th Legislature, Regular Session, 1997, to make conforming changes.

SECTION 6. Amends Section 5, Article 21.53F, Insurance Code, as added by Section 1, Chapter 880, Acts of the 75th Legislature, Regular Session, 1997, to require that the confidentiality of a patient’s medical information is maintained as required by Chapter 159 (Physician-Patient

Communication), Occupations Code, instead of Section 5.08, Medical Practice Act (Article 4495b, V.T.C.S.). Makes conforming changes.

SECTION 7. Amends Section 6(b), Article 21.53F, Insurance Code, as added by Section 1, Chapter 880, Acts of the 75th Legislature, Regular Session, 1997, to make conforming changes.

SECTION 8. Amends Section 153.004, Occupations Code, to make conforming changes.

SECTION 9. Amends Section 57.042(11), Utilities Code, to define “telemedicine medical service” and to delete definition of “telemedicine.”

SECTION 10. Amends Section 57.045, Utilities Code, to require the telecommunications infrastructure fund board to establish an assistance program to provide education concerning the telecommunications infrastructure fund and to facilitate access to funds and programs under this subchapter by health care facilities and by physicians licensed to practice medicine in this state. Requires the assistance program to include a toll-free telephone number and provide access to information through the internet.

SECTION 11. Amends Sections 57.047(a) and (b), Utilities Code, to make conforming changes.

SECTION 12. Requires that not later than January 1, 2002, the Health and Human Services Commission adopt rules required by Section 531.0217, Government Code, as amended by this Act.

SECTION 13. Requires that, if before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation, the state agency request the waiver or authorization and authorizes the delay of implementation of that provision until the waiver or authorization is granted.

SECTION 14. Effective date: upon passage or September 1, 2001.