

## **BILL ANALYSIS**

Senate Research Center  
2001S0877/1

C.S.S.B. 789  
By: Moncrief  
Health & Human Services  
4/9/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

C.S.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 to establish pilot programs in designated areas of this state under which the commission is authorized to reimburse a health professional participating in the pilot program for telehealth services authorized under the licensing law applicable to the health professional. 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, and establish supervisory requirements.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Health and Human Services Commission in SECTION 1 (Section 531.0216, Government Code) and to an appropriate licensing agency for a person providing telehealth services in SECTION 7 (Section 6, Article 21.53F, Insurance Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 531.0216, Government Code, as follows:

Sec. 531.0216. New heading: PARTICIPATION AND REIMBURSEMENT OF TELEMEDICINE MEDICAL SERVICE PROVIDERS UNDER MEDICAID. Changes 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 establish a separate provider identifier for telemedicine medical services providers and to consult with the Texas Department of Health and the telemedicine advisory committee to establish procedures to carry out certain tasks.

(c) Requires the commission to establish pilot programs in designated areas of this state under which the commission, in administering government-funded health programs, is authorized to reimburse a health professional participating in the pilot program for telehealth services authorized under the licensing law applicable to the health professional.

(d) Adds a reference to physicians relating to the commission encouraging certain groups to participate as telemedicine medical service providers and makes conforming changes.

(e) 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.

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

(g) Defines “telehealth service” and makes a conforming change.

SECTION 2. Amends Section 531.0217, Government Code, to redefine “health professional,” “physician,” “telehealth service,” and “telemedicine medical service.”

(b) Makes conforming changes.

(c) Makes conforming changes.

(d) Makes conforming changes.

(e) Makes conforming changes.

(f) Requires the commission to require facilities and providers of telemedicine medical services 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 defining those situations when a face-to-face consultation with a physician is required after 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, a federally qualified health center, or a physician delegation of the authority to carry out or sign prescription drug orders to an advanced practice nurse or physician assistant.

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,” “telehealth service,” 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 AND TELEHEALTH 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, Article 21.53F, Insurance Code, as added by Section 1, Chapter 880, Acts of the 75th Legislature, Regular Session, 1997, by amending Subsection (b) and adding Subsection (c), as follows:

(b) Makes conforming changes.

(c) Authorizes the appropriate licensing agency for a person providing telehealth services, in consultation with the commissioner, as appropriate, to adopt rules as necessary to carry out certain duties.

SECTION 8. Amends Section 153.004, Occupations Code, as follows:

Sec. 153.004. New heading: **RULES REGARDING TELEMEDICINE MEDICAL SERVICES.** Makes conforming changes.

SECTION 9. Amends Section 57.042, Utilities Code, by amending Subdivision (11) and adding Subdivision (12) to define "telehealth service," "telemedicine medical service" and to delete the 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. Amends Section 58.253(a), Utilities Code, to add language to require an electing company, on customer request, to provide private network services to a project funded by the telecommunications infrastructure fund under Chapter 57C, except to the extent the project benefits a health care facility that is not supported by a local or regional tax revenue, is not a certified nonprofit health corporation under federal law, or is not an ambulatory health care center.

SECTION 13. 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 14. 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 15. Effective date: upon passage or September 1, 2001.

### **SUMMARY OF COMMITTEE CHANGES**

Differs from original as follows:

- SECTION 1. Changes the heading to Section 531.0216, Government Code, to “PARTICIPATION AND REIMBURSEMENT OF TELEMEDICINE MEDICAL SERVICE PROVIDERS UNDER MEDICAID.”
  - Adds language requiring the Health and Human Services Commission (commission), by rule, in developing the reimbursement system, to establish a separate provider identifier for telemedicine medical services providers and to consult with the Texas Department of Health and the telemedicine advisory committee to establish procedures to carry out certain tasks.
  - Adds a new Subsection (c) to require the commission to establish pilot programs in designated areas of this state under which the commission, in administering government-funded health programs, is authorized to reimburse a health professional participating in the pilot program for telehealth services authorized under the licensing law applicable to the health professional.
  - Redesignates original Subsection (c) as Subsection (d).
  - In Subsection (d) it adds a reference to physicians relating to the commission encouraging certain groups to participate as telemedicine medical service providers and makes conforming changes.
  - Redesignates original Subsections (d)-(f) as Subsection (e)-(g).
  - In Subsection (g) it adds a definition of “telehealth service.”
- SECTION 2. In Section 531.0217, Government Code, it redefines “health professional,” and adds the definition of “telehealth service.”
  - In Subsection (d) it eliminates language proposed by the original relating to an in-person medical service with another health professional who provides the telemedicine medical service.
  - In Subsection (f) it adds language to require the commission to require facilities and providers of telemedicine medical services 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, rather than the commission itself making the good faith effort.
  - In Subsection (k) it adds language to provide that this section does not affect any requirement relating to a federally qualified center.
  - Eliminates Subsection (l), as added by the original, relating to the commission creating and maintaining a telemedicine medical services registry that is available to licensing and regulatory agencies.

- SECTION 3. Redefines “health benefit plan” and adds a definition of “telehealth service.”
- SECTION 4. Changes the heading to Section 3, Article 21.53f, Insurance Code, as added by Section 1, Chapter 880, Acts of the 75th Legislature, Regular Session, 1997, to add a reference to telehealth services. Adds references to telehealth services in Subsections (a) and (b), as well.
- SECTION 5. Adds references to telehealth services in Section 4, Article 21.53F, Insurance Code, as added by Section 1, Chapter 880, Acts of the 75th Legislature, Regular Session, 1997.
- SECTION 6. Adds a reference to telehealth services in Section 5, Article 21.53F, Insurance Code, as added by Section 1, Chapter 880, Acts of the 75th Legislature, Regular Session, 1997.
- SECTION 7. Adds a new Subsection (c) to authorize the appropriate licensing agency for a person providing telehealth services, in consultation with the commissioner, as appropriate, to adopt rules as necessary to carry out certain duties.
- SECTION 8. Changes the heading to Section 153.004, Occupations Code, to read: “RULES REGARDING TELEMEDICINE MEDICAL SERVICES” and to change a reference from “Section (a)(2)” to “Subsection (a)(2).”
- SECTION 9. Adds the definition of “telehealth service” to Section 57.042, Utilities Code.
- SECTION 10. No changes.
- SECTION 11. Adds telehealth services to the list of items for which the board may award a grant to a project or proposal that provides necessary equipment and infrastructure.
- Adds a new SECTION 12 which amends Section 58.253, Utilities Code, to add language to require an electing company, on customer request, to provide private network services to a project funded by the telecommunications infrastructure fund under Chapter 57C, except to the extent the project benefits a health care facility that is not supported by a local or regional tax revenue, is not a certified nonprofit health corporation under federal law, or is not an ambulatory health care center.
- Redesignates original SECTIONS 12-14 as SECTIONS 13-15.