

BILL ANALYSIS

Senate Research Center
88R28399 BEE-F

C.S.H.B. 1771
By: Price et al. (Kolkhorst)
Health & Human Services
5/19/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Telehealth services rapidly increased in use during the pandemic. Texas Medicaid telemedicine utilization from January to May of 2020 alone outpaced that of 2019, expanding from 242,857 visits to 1,015,145 visits. Further, a recent survey by the American Medical Association found that 85 percent of physicians have reported that they employ telehealth services.

In 2021, the 87th Legislature passed H.B. 4, a landmark telemedicine bill. This legislation seeks to elaborate on H.B. 4 by ensuring a standardized procedure for obtaining and maintaining consent documentation. This need was highlighted in the interim Public Health Committee hearings.

H.B. 1771 requires that entities with regulatory authority over healthcare providers offering telemedicine, teledentistry, or telehealth services adopt the necessary rules to make uniform procedures regarding an individual's consent to treatment, data collection, and data sharing.

Finally, these rules must specify the consent documentation that is mandated for the three virtual service types, as well as the proper record-keeping in audio-only formats.

Key Provisions:

- H.B. 1771 revises the Occupations Code to require regulatory agencies to form rules to standardize the record-keeping and documentation of a patient's consent to treatment, data collection, and data sharing in telemedicine, telehealth, and teledentistry services.
- These rules must establish the necessary consent documents for telehealth, teledentistry, and telemedicine services.
- The rules must address audio-only consent documentation.

(Original Author's/Sponsor's Statement of Intent)

Committee substitute changes to H.B. 1771:

- C.S.H.B. 1771 adds Subsection (e), requiring that a rule adopted under Section 111.004, Occupations Code, require that a health professional conduct an in-person examination of a patient before an irreversible medical procedure is initiated.

C.S.H.B. 1771 amends current law relating to rules regarding the provision by a health professional of a telemedicine medical service, teledentistry dental service, or telehealth service.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to each agency with regulatory authority over a health professional providing a telemedicine medical service, teledentistry dental service, or telehealth service in SECTION 1 (Section 111.004, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 111.004, Occupations Code, by adding Subsections (c), (d), and (e), as follows:

(c) Requires each agency with regulatory authority over a health professional providing a telemedicine medical service, teledentistry dental service, or telehealth service to adopt rules necessary to standardize formats for and retention of records related to a patient's consent to:

- (1) treatment;
- (2) data collection; and
- (3) data sharing.

(d) Requires that rules adopted under Subsection (c):

(1) as applicable, address the specific consent documentation required for:

- (A) telemedicine medical services;
- (B) teledentistry dental services; or
- (C) telehealth services; and

(2) include provisions, based on the appropriate standard of care, for consent documentation in an audio-only format.

(e) Requires that rules adopted under Section 111.004 (Rules) require that a health professional conduct an in-person examination of a patient before an irreversible medical procedure is initiated.

SECTION 2. Effective date: September 1, 2023.