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AN ACT

relating to standards of care and payment requirements applicable to telemedicine medical services and telehealth services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION ____ . Section 111.001, Occupations Code is amended by amending Subdivision (2) and adding Subdivisions (3) and (4) as follows:

(2) "Telehealth service" means a health service that a health professional licensed, certified, or otherwise entitled to practice in this state acting within the scope of the health professional's license, certification, or entitlement who does not perform a telemedicine service delivers to a person in another physical location using telecommunications or information technology.

(3) "Telemedicine [and "telemedicine] medical service" means a health care service that a physician licensed in this state or a health professional acting under delegation and supervision of a physician licensed in this state, acting within the scope of the physician's or health professional's license provides to a person in another physical location using telecommunications or information technology [have the meanings assigned by Section 57.042, Utilities Code].

(4) "Store and forward technology" means: technology that stores and transmits or grants access to a person's

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clinical information, for review by a health professional in a different physical location than the person.

SECTION ____ . Section 111.004, Occupations Code, is amended to read as follows:

Sec. 111.004. RULES. The Texas [~~State Board of~~] Medical Board [~~Examiners~~], in consultation with the commissioner of insurance, as appropriate, may adopt rules necessary to:

(1) ensure that patients using telemedicine medical services receive appropriate, quality care;

(2) prevent abuse and fraud in the use of telemedicine medical services, including rules relating to the filing of claims and records required to be maintained in connection with telemedicine medical services;

(3) ensure adequate supervision of health professionals who are not physicians and who provide telemedicine medical services; and

(4) establish the maximum number of health professionals who are not physicians that a physician may supervise through a telemedicine medical service[~~;~~ and

~~[(5) require a face-to-face consultation between a patient and a physician providing a telemedicine medical service within a certain number of days following an initial telemedicine medical service only if the physician has never seen the patient].~~

SECTION ____ . Chapter 111, Occupations Code, is amended by adding Sections 111.005 through 111.008 to read as follows:

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Sec. 111.005. PRACTITIONER-PATIENT RELATIONSHIP FOR
TELEMEDICINE MEDICAL SERVICES. (a) For purposes of Section
562.056, a valid practitioner-patient relationship is present
between a practitioner providing a telemedicine medical service
and a patient receiving the telemedicine medical service as long
as the practitioner complies with the standard of care described
in Section 111.007, and the practitioner:

(1) has a preexisting practitioner-patient
relationship with the patient established in accordance with
rules adopted under Section 111.006;

(2) communicates, regardless of the method of
communication, with the patient pursuant to a call coverage
agreement established in accordance with board rules with a
physician requesting coverage of medical care for the patient;
or

(3) provides the telemedicine medical services through
the use of the following methods, as long as the practitioner
complies with the follow-up requirements in Subsection (b), and
the method allows the practitioner to have access to, and the
practitioner uses the relevant clinical information that would
be required in accordance with the standard of care described in
Section 111.007:

(A) synchronous audio-visual interaction between
the practitioner and the patient in another location;

(B) asynchronous store and forward technology,
including asynchronous store and forward technology in

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conjunction with synchronous audio interaction between the practitioner and the patient in another location, as long as the practitioner uses clinical information from:

(i) clinically relevant photographic or video images, including diagnostic images; or

(ii) the patient's relevant medical records, including the relevant medical history, laboratory and pathology results, and prescriptive histories; or

(C) another form of audio-visual telecommunication technology that allows the practitioner to comply with the standard of care described in Section 111.007.

(b) A practitioner who provides telemedicine medical services to a patient as described in Subsection (a)(3) shall:

(1) provide the patient with guidance on appropriate follow-up care; and

(2) if the patient consents and if the patient has a primary care physician, provide to the patient's primary care physician within 72 hours after the practitioner provides the services to the patient a medical record or other report containing an explanation of the treatment provided by the practitioner to the patient and the practitioner's evaluation, analysis, or diagnosis, as appropriate, of the patient's condition.

(c) Notwithstanding any other provision of this section, a practitioner-patient relationship is not present if a

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practitioner prescribes an abortifacient or any other drug or device that terminates a pregnancy.

Sec. 111.006. COORDINATION TO ADOPT RULES THAT DETERMINE VALID PRESCRIPTION. (a) The Texas Medical Board, the Texas Board of Nursing, the Texas Physician Assistant Board, and the Texas State Board of Pharmacy shall jointly adopt rules that establish the determination of a valid prescription in accordance with Section 111.005. Rules adopted under this section must allow for the establishment of a practitionerpatient relationship by a telemedicine medical service provided by a practitioner to a patient in a manner that complies with Section 111.005(a)(3).

(b) The Texas Medical Board, the Texas Board of Nursing, the Texas Physician Assistant Board, and the Texas State Board of Pharmacy shall jointly develop and publish on each respective board's website responses to frequently asked questions relating to the determination of a valid prescription made through telemedicine medical services.

Sec. 111.007. STANDARD OF CARE FOR TELEMEDICINE MEDICAL SERVICES AND TELEHEALTH SERVICES. (a) A health professional providing a health care service or procedure as a telemedicine medical service or a telehealth service is subject to the standard of care that would apply to the provision of the same health care service or procedure in an in-person setting.

(b) Any agency with regulatory authority over a health professional may not adopt rules pertaining to telemedicine

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medical services or telehealth services that would impose a higher standard of care than the standard described in Subsection (a).

Sec. 111.008. MENTAL HEALTH SERVICES EXCLUDED. This Chapter shall not apply to mental health services.

SECTION ____ . Section 562.056, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) For purposes of this section, a valid practitionerpatient relationship is present between a practitioner providing telemedicine medical services and the patient receiving the telemedicine medical services if the practitioner has complied with the requirements for establishing such a relationship in accordance with Section 111.005.

SECTION ____ . Section 531.001, Government Code, is amended by amending Subdivisions (7) and (8) to read as follows:

(7) "Telehealth service" has the meaning assigned by Section 111.001, Occupations Code ~~[means a health service, other than a telemedicine medical service, that is 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 and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, including:~~

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

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~~[(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].~~

(8) "Telemedicine medical service" has the meaning assigned by Section 111.001, Occupations Code ~~[means a health care service that is initiated by a physician or provided by a health professional acting under physician delegation and supervision, that is provided for purposes of patient assessment by a health professional, diagnosis or consultation by a physician, or treatment, or for the transfer of medical data, and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, 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].~~

SECTION ____ . Section 771.151, Health and Safety Code, is amended by amending Subdivision (7) to read as follows:

(7) "Telemedicine medical service" has the meaning assigned by Section 111.001, Occupations Code ~~[means a health care service that is initiated by a physician or provided by a health professional acting under physician delegation and~~

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~~supervision, that is provided for purposes of patient assessment by a health professional, diagnosis or consultation by a physician, or treatment, or for the transfer of medical data, and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology, 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].~~

SECTION ____ . Section 1455.001, Insurance Code, is amended by amending Subdivision (3) to read as follows:

(3) "Telehealth service" and "telemedicine medical service" have the meanings assigned by Section 111.001 ~~[57.042]~~, Occupations ~~[Utilities]~~ Code.

SECTION ____ . This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.