

Recent Texas Telemedicine Legislation

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PRACTICES Healthcare Transactions and Regulatory, False Claims Act and Qui Tam Defense, Healthcare and Life Sciences

On May 27, 2017, Texas Governor Greg Abbott signed into law Texas Senate Bill 1107, which provided long anticipated updates to state laws concerning telehealth and telemedicine.¹ Nationally, Texas is the last state to update key telehealth and telemedicine provisions in accordance with national trends. The changes are anticipated to allow greater development and innovation in an industry many viewed as significantly limited by regulation within Texas. Of greatest note, the new legislation removed the requirement for practitioners to have a face-to-face meeting with the patient before the patient can use telemedicine. This change is anticipated to increase service accessibility to patients across the state and encourage providers to expand services. With 35 Texas counties without a family physician, this provision is aimed at giving the rural population, and to some extent suburban populations, more opportunities to access healthcare services that otherwise would be difficult to access with the face-to-face requirement.² Location of physicians is not the only problem; Texas also faces a serious projected shortage of over 17,000 primary care physicians, with that number projected to grow to over 23,000 by 2030.³ Though the impact of the bill is still unclear, industry parties are hopeful it will improve both access and physicians' availability within Texas.

The bill establishes that medical and allied-profession boards cannot impose higher standards of care on telemedicine practitioners than for in-person practitioners. However, the bill retains boards' supervisory power over practitioners through rule-making. This change is notable because over the past two years, a case between Teladoc and the Texas Medical Board regarding regulation of telemedicine has caused uncertainty in the industry.⁴ The change gives some positive reassurance to telehealth and telemedicine companies operating in Texas, who have closely monitored the Teladoc case, about the broader future of telehealth and telemedicine regulation. Following passage of the bill, providers have issued statements expressing the intent to expand telehealth and telemedicine services throughout the state.⁵

The new law requires joint development of new prescribing rules among medical and allied-profession boards. Among prescription portions of the bill, the bill places significant restrictions on prescribing drugs or devices which induce abortion, and puts any practitioner who does so at risk of discipline by the Texas Medical Board. Further, the bill retains the current insurance coverage parity requirement that requires insurance companies not to deny service solely because it is not an in-person service. However, the bill narrows this exception by allowing for exclusion of telemedicine services that are only by synchronous or asynchronous audio interaction. Additionally the bill states that copayment, deductible or coinsurance cannot exceed the amount of a procedure for an in-person service. Lastly, the bill allows for direct Medicaid program billing without prior approval. The bill became effective immediately upon signature by the Governor, with the exception that sections regarding the insurance code will go into effect Jan. 1, 2018.⁶

*The authors would like to thank Nick Nash for his contribution to this article.

¹ Tex. S.B. 1107, 85th Leg., R.S. (Tex. 2017).

² Jonah Comstock, [*In-Depth: What Texas's landmark telemedicine legislation means for the industry and the nation*](#) MOBIHEALTHNEWS (2017) (last visited June 20, 2017).

³ Statewide Health Coordinating Council, Update to the State Health Plan (2015-2016).

⁴ Neil Issar & Michelle "Missy" D. Apodaca, [*The Tide in Texas is Turning Toward Telemedicine*](#) HAYNES AND BOONE, LLP (last visited June 20, 2017).

⁵ [Teladoc Expands Virtual Care Capabilities in Texas, Teladoc, Inc. - Teladoc Expands Virtual Care Capabilities in Texas TELADOC \(2017\)](#) (last visited June 20, 2017).

⁶ Notably, the bill does not apply to mental health services.