

2019-20

LEGISLATOR'S GUIDE to the Issues

Telehealth

The Issue

Telemedicine refers to medical care provided remotely through the use of technology. Health care providers are increasingly using telephones, audiovisual platforms, smartphone applications, and other technologies to assess, monitor, diagnose, and even treat their patients remotely. Innovation in the field of telemedicine advances so rapidly year after year that attempts to regulate the industry often fail to remain relevant, even in the short term.

In the 85th Legislature, Texas fundamentally changed the way it defined and regulated telemedicine. SB 1107 broadened the definition of telemedicine to include more accessible telecommunication technologies, such as phone calls and faxes. It also lifted the Texas Medical Board's (TMB) blanket requirement on practitioners to complete an in-person consultation prior to providing telemedicine services, including those resulting in a prescription. Lifting this burden on patients and providers significantly increased access to care for populations that struggle to visit a doctor in person, including rural, disabled, and elderly Texans.

The 2017 legislation also clarified that telemedicine services are subject to the same standard of care as in-person services, which cleared up ambiguity that previously made providers hesitant to utilize telemedicine.

Finally, the bill imposed insurance mandates aimed at protecting telemedicine services from unequal treatment. It prohibited insurers from refusing to cover a service solely because it was delivered via telemedicine. Insurers cannot charge deductibles, copays, and coinsurance for telemedicine services that exceed their equivalent in-person charges.

Questions still remain about how telemedicine should be reimbursed in Texas. Many states have enacted parity laws, which mandate that insurance companies reimburse telemedicine services on the same basis or at the same rate as comparable in-person services. Advocates of reimbursement parity laws argue that they help spread the use of telemedicine throughout the state. However, telemedicine continues to thrive and remain cost-effective in states that do not have parity laws, such as North Carolina, Alabama, and Florida.

One of the major benefits of telemedicine is cost-effectiveness. If insurance companies are forced to pay providers the same amount for telemedicine and in-person services, despite telemedicine being a much cheaper method of delivery, it will artificially increase providers' profits and conceal the true cost of care from patients. As a result, providers will have a perverse incentive to overuse telemedicine and health care prices will remain artificially high.

Telemedicine is a convenient, affordable way to access health care services and recent advances in audiovisual communication technology are expanding the potential of telemedicine to reach

more people and address a growing number of health care needs. On average, a telemedicine encounter can cost \$79 or lower, compared to \$146 for an in-person doctor's visit. Telemedicine also saves patients' transportation costs by bringing the care to them in their homes or in areas with no physicians.

In some cases, telemedicine is the only way for people to get care, such as in the aftermath of Hurricane Harvey. A 2017 RAND Corporation study found that 88 percent of telemedicine visits for acute respiratory illnesses constituted "new utilization," meaning the patients receiving telemedicine services were not active in the health care market prior to having telemedicine as an option. For these patients, the alternative to telemedicine was no care at all, and telemedicine was the tool they needed to obtain care.

Texas should continue to adopt policies that support market-based approaches to telemedicine, and avoid policies that undermine this highly innovative field, such as parity laws and mandates on private enterprise.

The Facts

- In 2017, Texas achieved a freer, more open telemedicine market by fundamentally changing how it defined and regulated the industry.
- An average telemedicine encounter costs \$79, compared to \$146 for an equivalent in-office doctor visit.
- Eighty-eight percent of telemedicine visits for acute respiratory illnesses represented new demand (2011-2013).
- Telemedicine makes accessing health care more convenient and affordable for all Texans, especially rural, disabled, and elderly populations.

Recommendations

- Texas should continue to support policies in telemedicine that allow unfettered competition and expand consumer choice.
- State lawmakers should be cautious about mandating payment parity for telemedicine, because government regulations create barriers to both innovation and cost-savings.
- The Texas Legislature should take active steps to guard against the anticompetitive conduct of its licensing boards that also leave the state vulnerable to federal lawsuits.

Resources

[The Case Against Telemedicine Parity Laws](#) by Katherine Restrepo, John Locke Foundation (Jan. 2018).

["E-Medicine Will Help Long After Hurricane Harvey"](#) by Deane Waldman, Houston Chronicle (Nov. 12, 2017).

[Direct-to-Consumer Telehealth May Increase Access to Care But Does Not Decrease Spending](#) by Ashwood et al., RAND Corporation (March 2017).

[Texas Session: New Telemedicine Rules for Texas](#) by Nora Belcher, Texas E-Health Alliance (March 2018).