

## TexLa Legislative/Regulatory December 2015 Update

Please Note: CCHP has a pending legislation/regulation webpage located at the following link: <http://cchpca.org/state-laws-and-reimbursement-policies>

### **LEGISLATION**

#### Approved legislation

State	Bill Number	Status	Summary
Louisiana	<a href="#">HCR 4</a>	5/19/15: Adopted	This bill is a concurrent resolution to express the intent of the legislature regarding the standard of care that physicians are required to use in the practice of telemedicine pursuant to the provisions of Act No. 442 of the 2014 Regular Session of the Legislature of Louisiana.
Texas	<a href="#">SB 219</a>	4/2/15: Signed by Governor. Effective immediately.	This bill would clarify certain statutory provisions related to telehealth and telemedicine reimbursement under the TX Medicaid program. (Similar to HB 550.)
Texas	<a href="#">HB 479</a>	6/15/15: Enacted.	This bill would create a pilot project to provide emergency telemedicine medical services in rural areas.
Texas	<a href="#">HB 1878</a>	6/16/15: Enacted.	This bill would provide for the reimbursement of providers under the Medicaid program for the provision of telemedicine medical services in a school-based setting.

#### Dead Legislation/Legislature Adjourned without Passing

State	Bill Number	Status	Summary
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Louisiana	<a href="#">HB 461</a>	4/13/15: Introduced and referred to House Committee on Health and Welfare.	This bill would amend law related to the telemedicine license.
Texas	<a href="#">HB 550</a>	3/26/15: Laid on the table subject to call.	This bill would clarify certain statutory provisions related to telehealth and telemedicine reimbursement under the TX Medicaid program. Similar to SB 219.
Texas	<a href="#">HB 661</a>	5/5/15: Considered in Calendars.	This bill would adopt the Federation of State Medical Board's Interstate Medical Licensure Compact. Similar to SB 190.
Texas	<a href="#">HB 1475</a>	4/14/15: Withdrawn from schedule.	Relates to telecommunications service discounts for educational institutions, libraries, hospitals, and telemedicine centers.
Texas	<a href="#">HB 1940</a>	4/7/15: Left pending in Committee.	This bill would allow a dental hygienist to use telemedicine to practice dental hygiene in any setting authorized by law for the practice of dental hygiene.
Texas	<a href="#">HB 2004</a>	5/12/15: Referred to Health and Human Services Committee.	This bill would establish a pilot project to provide emergency telemedicine medical services in rural areas.
Texas	<a href="#">HB 2082</a>	5/18/15: Referred to Senate Committee on Health and Human Services.	This bill would develop a pilot program to provide telemedicine medical services to certain children.
Texas	<a href="#">HB 2172</a>	4/8/15: Left pending in Committee.	This bill stipulates that a health benefit plan may not cover a telemedicine medical service unless the provider: <ol style="list-style-type: none"> <li>1. Is licensed;</li> <li>2. Has an established physician-patient relationship;</li> <li>3. Is able to verify the patient's identity;</li> <li>4. Discusses risks and benefits with the patient;</li> <li>5. Advises the patient to seek in-person care if symptoms do not improve;</li> </ol>

			<ol style="list-style-type: none"> <li>6. Provides only services that are medically indicated;</li> <li>7. Adopts protocols to prevent fraud and abuse;</li> <li>8. Does not violate state or federal laws relating to patient privacy;</li> <li>9. Maintains proper medical records;</li> <li>10. Does not treat chronic pain with certain controlled substances; and</li> <li>11. Practices according to appropriate standards.</li> </ol> <p>According to this bill, a telemedicine provider may establish a physician-patient relationship in an initial encounter. Informed consent is required in this bill.</p>
Texas	<a href="#">HB 2250</a>	3/13/15: Referred to Public Health Committee	This bill would require written informed consent to deliver telehealth that must be retained in a patient's medical record. It also states that a treating physician can determine whether the presence of a physician or health professional is required at the originating site, as well as if the patient's residence is an appropriate site for the patient to receive services.
Texas	<a href="#">HB 2796</a>	3/16/15: Referred to State Affairs Committee	This bill would allow certain telecommunications providers to commit to making infrastructure and network improvements in exchange for support from the universal service fund. Among other things, it would provide the necessary infrastructure in rural areas to support access to telemedicine applications. It would also allow for private network services to telemedicine centers (among other venues).
Texas	<a href="#">HB 3127</a>	4/15/15: Left pending in Committee.	This bill would relate to the authority of certain telecommunications providers to commit to making infrastructure and network improvements in exchange for support from the universal service fund.
Texas	<a href="#">HB 3444</a>	3/18/15: Referred to House Public Health Committee	This bill relates to the provision of telemedicine medical services by a physician.
Texas	<a href="#">HB 3476</a>	5/14/15: Referred to Health and Human Services Committee.	This bill would allow for the reimbursement of home telemonitoring services, telemedicine medical services and telehealth services under the Medicaid program.
Texas	<a href="#">HB 3753</a>	3/24/15: Referred to State Affairs Committee	This bill provides for telecommunications service discounts for educational institutions, libraries, hospitals and telemedicine centers.

Texas	<a href="#">SB 190</a>	1/27/15: Introduced and referred to Health and Human Services	This bill would adopt the Interstate Medical Licensure Compact developed by the Federation of State Medical Boards. (Similar to HB 661)
Texas	<a href="#">SB 1119</a>	3/16/15: Referred to Health and Human Services Committee	This bill establishes a pilot project to evaluate the use of telepractice to provide certain services to children and adults with an autism spectrum disorder.
Texas	<a href="#">SB 1177</a>	3/17/15: Referred to Health and Human Services Committee	This bill defines telemedicine and telehealth and establishes specific rules pertaining to when a physician can prescribe controlled substances via telemedicine. It does state that a physician-patient relationship can be established in an initial encounter through the use of telecommunications technology.
Texas	<a href="#">SB 1689</a>	3/23/15: Referred to Health and Human Services Committee	This bill would provide for the reimbursement of providers under the Medicaid program for the provision of telemedicine medical services in a school-based setting.
Texas	<a href="#">SB 1886</a>	3/25/15: Referred to Health and Human Services Committee	This bill would establish a telemedicine medical services program for children with chronic or complex medical needs. The program would enable an eligible child to receive medical assistance benefits for health care services provided in the child's residence through telemedicine and provide reimbursement to pediatric subspecialists who provide telemedicine medical services.

## **REGULATION**

### **Pending Regulation**

State	Lexis Ref. #	Status	Summary
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### **Adopted**

State	Lexis Ref. #	Status	Summary
Louisiana	<a href="#">LAC 46:XLV.405</a>	1/20/15:	Title: Telemedicine Permit Qualifications and Procedures

	<a href="#">and Ch. 75</a>	Adopted with changes	Agency: Department of Health and Hospitals/Board of Medical Examiners Amends rules regarding the use of telemedicine, the need and requirement for obtaining a telemedicine permit, and the requirements and limitations on the prescription of controlled substances by telemedicine.
Texas	<a href="#">22 TAC 7.141.30</a>	1/2/15: Adopted Effective: 1/22/15	Title: The licensing and regulation of fitters and dispensers Agency: Committee of Examiners in the Fitting and Dispensing of Hearing Instruments This rule establishes requirements for the fitting and dispensing of hearing instruments by telepractice for the Board of Examiners for Speech-Language Pathology and Audiology.
Texas	<a href="#">4TAC 1.30.B.30.240-.244</a>	12/12/14: Adopted Effective: 1/1/15	Title: Rural Communities Health Care Investment Program Agency: Department of Agriculture This rule establishes the Investment Program, which (among other things) encourages the use of telemedicine and telecommunications as appropriate.
Texas	<a href="#">37 TAC 11.380.9103, et al</a>	3/23/15: Adopted Rule Effective: 4/15/15	Title: Health Care Services Agency: Juvenile Justice Department Provides for rules concerning health care services in the Texas Juvenile Justice Department, including how telemedicine can be used.
Texas	<a href="#">Rule 174</a> 22 TAC 9.174	5/15/15: Adopted Effective: 6/4/15	Title: Telemedicine Agency: TX Medical Board This rule would expand the definition of an <i>Established Medical Site</i> to the home for mental health services, and for medical services if a patient site presenter is present, a physician-patient relationship exists and there is sufficient technology for an adequate real time physical exam. An online questionnaire through email, electronic text, chat or telephonic evaluation would not be considered adequate.
Texas	<a href="#">TAC, Title 22, 9.190.B.190.8</a>	4/10/15: Adopted	Title: Disciplinary Guidelines Agency: TX Medical Board This rule amends the state's definition of the physician-patient relationship (needed to prescribe any dangerous drug or controlled substance) to require either an in-person exam or face to face visit. * This rule is currently not in effect due to a lawsuit.
Texas	<a href="#">1 TAC 15.355.G.355.7001</a>	8/7/15: Adopted Rule Effective: 9/1/15	Title: Reimbursement for Advanced Telecommunications Services Agency: Health and Human Services Commission The proposed rule amendment is a result of House Bill (H.B.) 1878, 84th Legislature, Regular Session, 2015, which clarifies that physicians shall be reimbursed for telemedicine medical services provided in a school-based setting even if the physician is not the patient's primary care physician, if certain conditions are met. The proposed amendment updates the Medicaid

			reimbursement methodology rules for those services to reflect the additional conditions for reimbursement.
Texas	<a href="#">40 TAC 12.373.373.1-.3</a>	8/24/15: Partial rule adoption (40 TAC 12.373.2, .3) Effective: 10/1/15	Title: Supervision Requirements Agency: Board of Occupational Therapy Examiners This rule would clarify supervision requirements in general and with regard to telehealth for occupational therapy examiners.