

# Welcome!

July 21, 2021



# TexLa Telehealth Resource Center

- The TexLa Telehealth Resource Center is a federally-funded program designed to provide technical assistance and resources to new and existing Telehealth programs throughout Texas and Louisiana.
- The F. Marie Hall Institute for Rural and Community Health at Texas Tech University Health Sciences Center is the support representative for Texas. Well-Ahead Louisiana, the chronic disease prevention and healthcare access arm of the state Department of Health, is the support representative for Louisiana.

This project is supported by the Health Resources and Services Administration (HRSA) of the U.S. Department of Health and Human Services (HHS) under grant number G22RH30359, the TexLa Telehealth Resource Center, in the amount of \$325,000.00. This information or content and conclusions are those of the author and should not be construed as the official position or policy of, nor should any endorsements be inferred by HRSA, HHS, or the U.S. Government.

# Louisiana Legislative and Regulatory Update

# Learning Objectives

- By the end of this session, you should be able to:
  - Identify and briefly describe the potential impact of telehealth-related legislation introduced during the 2020 and 2021 Regular Sessions of the Louisiana Legislature
  - Explain recent changes in Louisiana Medicaid telehealth-related policy
    - Determine if and how these changes impact your practice

# Quick Review: Louisiana 2020 Telehealth Activity

# Proposed Legislation

- **HB449:** Provides relative to behavioral health services delivered via telehealth (*PASSED*)
- **HB530:** Provides for coverage of healthcare services provided through telehealth or telemedicine (*PASSED*)
- **HB553:** Provides relative to remote patient monitoring
- **HB589:** Provides for Medicaid policies and procedures concerning telehealth services (*PASSED*)
- **SB98:** Provides for the Audiology and Speech-Language Pathology Interstate Compact (ASLP-IC)

# New Legislation from 2020 Session

- **HB449/Act 191:** Signed by Gov. Edwards, effective Aug. 1, 2020
  - Specifically allows for use of telemedicine for behavioral health services
  - Allows psychiatric mental health nurse practitioner to conduct examination via telehealth
- **HB530/Act 276:** Signed by Gov. Edwards, effective Jan. 1, 2021
  - Issuers of health coverage plans must display information regarding covered telemedicine and remote patient monitoring (RPM) services
  - Outlines requirements for reimbursement of RPM services
- **HB589/Act 88:** Signed by Gov. Edwards, effective Aug. 1, 2020
  - Requires Medicaid to include in policies and procedures an exhaustive list of covered services that may be furnished through telehealth, process for telehealth reimbursement, and conditions for reimbursing providers located out of state

# Medicaid Policies During COVID-19

<b>Subject</b>	<b>Policy During COVID-19</b>
<b>Modality</b>	Adopted OCR guidance related to non-HIPAA compliant platforms; added ability to use audio-only
<b>Services</b>	All CPT codes located in Appendix P of the CPT manual including new and outpatient office visit codes); added Dental, Licensed Mental Health Practitioners, Outpatient Substance Use Disorder Treatment, Mental Health Rehabilitation, Physical, Occupational and Speech Therapy, and Applied Behavioral Analysis



# Louisiana 2021 Regular Session

# House Proposed Legislation

- **HB79:** Provides relative to treatment facilities for mental health patients (PASSED)
- **HB270:** Provides for definitions and exemptions relative to telemedicine and telehealth (PASSED)
- **HB495:** Allows full practice authority for advanced practice registered nurses (REENGROSSED Jun. 14, 2021)

# House Passed Legislation (HB79)

- [Became Act No. 372](#), effective Aug. 1, 2021
- Adds licensure language for behavioral health providers at R.S. 40:2155(B)
  - Licensure for behavioral health providers

# House Passed Legislation (HB79)

- Previous language: *“A license issued to a behavioral health services provider shall be valid for only one geographic location and shall be issued only for the person and premises named in the license application.”*

# House Passed Legislation (HB79)

- Added language: “*The geographic service location for a public or private behavioral health services provider licensed pursuant to this Part shall be defined to include the parish in which the provider’s business office is located, any parish contiguous to the parish in which the provider’s business office is located, and any distance within a fifty mile radius of the provider’s business office.*”

# House Passed Legislation (HB270)

- [Became Act No. 266](#), effective Aug. 1, 2021
- Revises the definitions of telemedicine and telehealth in:
  - R.S. 37:1262(4) and 1291(6)
    - Statute related to the practice of medicine, surgery, and midwifery
  - R.S. 40:1223.3(6)(a)
    - Louisiana Telehealth Access Act
    - Requires rulemaking regarding telehealth in Louisiana

# House Passed Legislation (HB270)

- R.S. 37:1262(4)
  - Previous language: *“‘Telemedicine’ means the practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data using interactive telecommunication technology that enables a health care practitioner and a patient at two locations separated by distance to interact via two-way video and audio transmissions simultaneously. Neither a telephone conversation nor an electronic mail message between a health care practitioner and patient, or a true consultation as may be defined by rules promulgated by the board pursuant to the Administrative Procedure Act, constitutes telemedicine for the purposes of this Part.”*

# House Passed Legislation (HB270)

- R.S. 37:1262(4)
  - Revised language: *“‘Telemedicine’ means the practice of health care delivery, diagnosis, consultation, treatment, and transfer of medical data **by a physician** using technology that enables the physician and a patient at two locations separated by distance to interact. Such technology may include electronic communications, information technology, asynchronous store-and-forward transfer technology, or technology that facilitates synchronous interaction between a physician at a distant site and a patient at an originating site. The term ‘telemedicine’ **shall not include any of the following:***
    - (a) Electronic mail messages and text messages that are not compliant with applicable requirements of the Health Insurance Portability and Accountability Act of 1996, as amended (42 U.S.C. 1320d et seq.).*
    - (b) Facsimile transmissions.”*



# House Passed Legislation (HB270)

- R.S. 37:1291(6) (Exemptions)
  - Previous language: *“None of the provisions of this Part shall apply to:..... (6)(a) An individual licensed to practice medicine in another state or country when he attends to the acute care needs of the official traveling party of athletes and staff of an athletic team or organization domiciled in another state or country during or in connection with an athletic contest or event conducted in this state.”*

# House Passed Legislation (HB270)

- R.S. 37:1291(6) (Exemptions)
  - Revised language: “None of the provisions of this Part shall apply to:..... (6) **A consultation without limitation between a practicing physician licensed in this state and a practicing physician licensed in another state or jurisdiction.** (7)(a) An individual licensed to practice medicine in another state or country when he attends to the acute care needs of the official traveling party of athletes and staff of an athletic team or organization domiciled in another state or country during or in connection with an athletic contest or event conducted in this state.”

# House Passed Legislation (HB270)

- R.S. 40:1223.3(6)(a)
  - Previous language: *“Telehealth’ means a mode of delivering healthcare services that utilizes information and communication technologies to enable the diagnosis, consultation, treatment, education, care management, and self-management of patients at a distance from healthcare providers. Telehealth allows services to be accessed when providers are in a distant site and patients are in the originating site. Telehealth facilitates patient self-management and caregiver support for patients and includes synchronous interactions and asynchronous store and forward transfers.”*

# House Passed Legislation (HB270)

- R.S. 40:1223.3(6)(a)
  - Revised language: *“‘Telehealth’ means healthcare services, including behavioral health services, provided by a healthcare provider, as defined in this Section, to a person through the use of electronic communications, information technology, asynchronous store-and-forward transfer technology, or synchronous interaction between a provider at a distant site and a patient at an originating site, including but not limited to assessment of, diagnosis of, consultation with, treatment of, and remote monitoring of a patient, and transfer of medical data. The term ‘telehealth’ shall not include any of the following:*
    - (i) Electronic mail messages and text messages that are not compliant with applicable requirements of the Health Insurance Portability and Accountability Act 11 of 1996, as amended (42 U.S.C. 1320d et seq.).*
    - (ii) Facsimile transmissions.”*

# Senate Proposed Legislation

- **SB29:** Authorizes the commissioner of insurance to take certain actions relative to insurance during a declared emergency. (PASSED)
- **SB93:** Provides relative to telehealth services provided by licensed hearing aid dealers. (PASSED)
- **SCR59:** Requests the office of public health of the Louisiana Department of Health to study and report relative to health care infrastructure needs in Louisiana. (ENROLLED)

# Senate Passed Legislation (SB29)

- [Became Act No. 223](#), effective Aug. 1, 2021
- Enact R.S. 22:11(C), relative to the commissioner of insurance; to authorize the commissioner to take certain emergency actions related to insurance; to provide for limitations on these emergency actions; and to provide for related matters.

# Senate Passed Legislation (SB29)

- Added the following language:
  - *“C.(1) When the governor declares a state of emergency pursuant to R.S. 10 29:724 or a public health emergency pursuant to R.S. 29:766, the commissioner may issue emergency rules or regulations that address any of the following related to insurance policies or health maintenance organization contracts in this state:*
  - *Medical coverage relative to each of the following:*
    - (i) Removal of telehealth and telemedicine access restraints.*
    - (ii) Suspension of physician credentialing requirements.*
    - (iii) Expansion of remote access to pharmaceutical drugs.....”*

# Senate Passed Legislation (SB93)

- [Became Act No. 92](#), effective Aug. 1, 2021
- Enact R.S. 37:2457(11)
  - Statute related to hearing aid dealers
- Amend R.S. 40:1223.3(3)
  - Louisiana Telehealth Access Act
  - Requires rulemaking regarding telehealth in Louisiana



# Senate Passed Legislation (SB93)

- R.S. 37:2457(11) language
  - *“The powers and duties of the Louisiana Board for Hearing Aid Dealers are as follows:.....(11) To promulgate rules for the provision of telehealth services by licensed hearing aid dealers that, at a minimum, comply with the Louisiana Telehealth Access Act, R.S. 40:1223.1 et seq.”*

# Senate Passed Legislation (SB93)

- R.S. 40:1223.3(3) amended language
  - *“(3) ‘Healthcare provider’ means a person, partnership, limited liability partnership, limited liability company, corporation, facility, or institution licensed or certified by this state to provide health care or professional services as a physician assistant, hospital, nursing home, dentist, registered nurse, advanced practice registered nurse, licensed practical nurse, certified nurse assistant, offshore health service provider, ambulance service, licensed midwife, pharmacist, speech-language pathologist, audiologist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, certified or licensed athletic trainer, psychologist, medical psychologist, social worker, licensed professional counselor, licensed perfusionist, licensed respiratory therapist, licensed radiologic technologist, **licensed hearing aid dealer**, or licensed clinical laboratory scientist.”*

# Senate Passed Legislation (SCR)

- Senate Concurrent Resolution No. 59

- *“Legislature of Louisiana does hereby urge and request the office of public health of the Louisiana Department of Health to study health care infrastructure needs in Louisiana including but not limited to investing in physical infrastructure, building capacity for emergency preparedness and response capacity, **expanding health care digital and data infrastructure**, strengthening the health care workforce, and identifying opportunities to mitigate the risks of having critical infrastructure failures.”*
- *“....shall submit a written report of its findings and recommendations.... not later than December 1, 2021”*

# Louisiana Medicaid Updates

# E-Consults

- Jan. 15, 2021, the following language was removed from [Informational Bulletin 20-5](#) (COVID-19: Provider Update)
  - *“Based upon direction from the Centers for Medicare and Medicaid Services (CMS), E-consult codes are no longer payable for dates of service on or after April 9, 2020. LDH continues to work diligently with CMS to restore the service option”*

# E-Consults

- The following language was added
  - *“Effective for dates of service on or after March 15, 2021, Louisiana Medicaid will reimburse interprofessional assessment and management services that occur electronically through EHR, through audio/video platforms, or via telephone (e-consults)..... Treating and remote/e-consultant practitioners include the following types: physicians, advanced practice registered nurses, physician assistants, psychologists, and other licensed mental health professionals....”*

# E-Consults

- *“All e-consults must be conducted through a secure internet exchange between the treating practitioner and the consultant.\* The system used to complete the e-consult must, as a minimum, comply with the following requirements:*
  - *Be in compliance with current HIPPA and other applicable security and privacy requirements;*
  - *Enable transmission through electronic communication systems to a specialist who uses the information to evaluate the cases for the type of e-consults for which it is used; and*
  - *Be compatible with the primary care or treating provider’s electronic health records system.”*

\*Exception during COVID-19 Public Health Emergency

# E-Consults

- *“E-consult codes for interprofessional assessment and management are not reimbursable if there has been an E/M visit with the specialist/subspecialist during the time period of 14 days prior to or will be an E/M visit 14 days after the remote interprofessional assessment and management occurs (or at the next available appointment date with the specialist if that date is greater than 14 days) if:*
  - *The E/M visit was/is related to the original issue, and*
  - *The E/M visit is with the same specialist/subspecialist (or group) and was completed in addition to the interprofessional assessment and management.”*



# E-Consults

- *“Relevant CPT procedure codes are:*
  - **99451:** *Interprofessional telephone/internet/electronic health record assessment and management service provided by a consultative physician, including a written report to the patient’s treating/requesting physician or other qualified healthcare professional; 5 minutes or more of medical consultative time (used by the specialist/subspecialist clinician).”*

# Overall Telemedicine/Telehealth Policy

- May 5, 2021, added the following language:
  - “*Louisiana Medicaid encourages the use of telemedicine/telehealth, when appropriate, for any and all healthcare services (i.e., not just those related to COVID-19 symptoms) when COVID-19-related restrictions are necessary as outlined by the governor or state public health officials.*”

# Additional Regulatory Changes

# Teledentistry

- Board of Dentistry Notice of Intent (Nov. 11, 2020)—not yet completed
- Board of Dentistry intends to:
  - Promulgate LAC 45:XXXIII.203
    - *“to allow Louisiana dentists to perform teledentistry with the standard of care remaining the same.”*
  - Amend LAC 46:XXXIII.701
    - *“to address access to care issues. This rule is being amended to allow hygienists, in very restricted circumstances, to perform radiographs, oral prophylaxis, sealants and/or fluoride varnish only under the supervision of a dentist via teledentistry.”*

**QUESTIONS?**

# Resources

- National Consortium of Telehealth Resource Centers
  - [www.telehealthresourcecenter.org](http://www.telehealthresourcecenter.org)
  - National Center for Policy: Center for Connected Health Policy
    - [www.cchpca.org](http://www.cchpca.org)
  - TTAC: National Telehealth Technology Assessment Resource Center
    - [www.telehealthtechnology.org](http://www.telehealthtechnology.org)
  - TexLa TRC– serving LA and TX
    - [www.texlatrc.org](http://www.texlatrc.org)
- Well-Ahead Louisiana
  - [www.wellaheadla.com/covid-19](http://www.wellaheadla.com/covid-19)
  - [www.wellaheadla.com/move-well-ahead/provider-education-network/practice-management/quality-improvement/telehealth](http://www.wellaheadla.com/move-well-ahead/provider-education-network/practice-management/quality-improvement/telehealth)

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# Thank You!

