**What is the definition of “telemedicine” or “telehealth”?**

“Telehealth service’ means a health service, other than a telemedicine medical service, delivered by a health professional licensed, certified, or otherwise entitled to practice in this state and acting within the scope of the health professional's license, certification, or entitlement to a patient at a different physical location than the health professional using telecommunications or information technology.”

**TEX. OCC. CODE ANN. § 111.001(3), as amended by Texas S.B. 1107 (effective as of Sept. 1, 2017, but not yet codified). The amended statute does not apply to mental health services.**

“Telemedicine medical service’ means a health care service delivered by a physician licensed in this state, or a health professional acting under the delegation and supervision of a physician licensed in this state, and acting within the scope of the physician's or health professional's license to a patient at a different physical location than the physician or health professional using telecommunications or information technology.”

**TEX. OCC. CODE ANN. § 111.001(4), as amended by Texas S.B. 1107 (effective as of Sept. 1, 2017, but not yet codified). The amended statute does not apply to mental health services.**

"Telehealth service" means a health service, other than 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;

(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.

**TEX. GOV’T CODE ANN. § 531.001(7).**

"Telemedicine medical service" 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.

TEX. GOV’T CODE ANN. § 531.001(8).

PSYCHIATRISTS

What are the restrictions on the scope of practice for psychiatrists practicing via telemedicine/telehealth?

“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.”

TEX. OCC. CODE ANN. § 111.007, as amended by Texas S.B. 1107 (effective as of Sept. 1, 2017, but not yet codified).

What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

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
Texas Medical Board rules with a physician requesting coverage of medical care for the patient; or

(3) provides the telemedicine medical services through the use of one 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 audiovisual interaction between the practitioner and the patient in another location;

(B) asynchronous store and forward technology, including asynchronous store and forward technology in 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, such as the relevant medical history, laboratory and pathology results, and prescriptive histories; or

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

TEX. OCC. CODE ANN. § 111.005(a), as amended by Texas S.B. 1107 (effective as of Sept. 1, 2017, but not yet codified). The amended statute does not apply to mental health services.

Does a psychiatrist have prescribing authority? If so, under what conditions/limits may a psychiatrist prescribe via telemedicine/telehealth?

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 practitioner-patient relationship by a telemedicine medical service provided by a practitioner to a patient in a manner that complies with Section 111.005(a)(3).
**TEX. OCC. CODE ANN. § 111.006(a),** as amended by **Texas S.B. 1107** (effective as of Sept. 1, 2017, but not yet codified). The amended statute does not apply to mental health services.

What are the acceptable modalities (e.g., telephone, video) for the practice of psychiatry via telemedicine/telehealth that meet the standard of care for the state?

(A) synchronous audiovisual interaction between the practitioner and the patient in another location;

(B) asynchronous store and forward technology, including asynchronous store and forward technology in 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, such as the relevant medical history, laboratory and pathology results, and prescriptive histories; or

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

**TEX. OCC. CODE ANN. § 111.005(a)(3),** as amended by **Texas S.B. 1107** (effective as of Sept. 1, 2017, but not yet codified). The amended statute does not apply to mental health services.

“[A] health benefit plan is not required to provide coverage for a telemedicine medical service or a telehealth service provided by only synchronous or asynchronous audio interaction, including:

   (1) an audio-only telephone consultation;
   (2) a text-only e-mail message; or
   (3) a facsimile transmission.”

**TEX. INS. CODE ANN. § 1455.004(c),** as amended by **Texas S.B. 1107** (provision to be effective as of Jan. 1, 2018).

“[R]equires 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."

TEX. GOV’T CODE ANN. § 531.001(7)-(8).

**PSYCHOLOGISTS**

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“Licensees who provide psychological services through the internet or other remote or electronic means, must provide written notification of their license number and instructions on how to verify the status of a license when obtaining informed consent.”

22 TEX. ADMIN. CODE § 465.7.

**MARRIAGE/FAMILY THERAPISTS**

Are there any licensing requirements specific to telemedicine/telehealth (e.g., requirements to be licensed in the state where the patient is located)?

“A licensee who engages in technology-assisted services must provide the client with the licensee’s license number and information on how to contact the board by telephone, electronic communication, or mail. The licensee must comply with all other provisions of this chapter.”

22 TEX. ADMIN. CODE § 801.44(q).
What are the criteria for establishing a practitioner-patient relationship via telemedicine/telehealth?

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 Texas Medical Board rules with a physician requesting coverage of medical care for the patient; or

3. provides the telemedicine medical services through the use of one 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 audiovisual interaction between the practitioner and the patient in another location;

   B. asynchronous store and forward technology, including synchronous store and forward technology in 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, such as the relevant medical history, laboratory and pathology results, and prescriptive histories; or

   C. another form of audiovisual telecommunication technology that allows the practitioner to comply with the standard of care described in Section 111.007.
**TEX. OCC. CODE ANN. § 111.005(a),** as amended by **Texas S.B. 1107** (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*

Does an APRN have prescribing authority? If so, under what conditions/limits may an APRN prescribe via telemedicine/telehealth?

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 practitioner-patient relationship by a telemedicine medical service provided by a practitioner to a patient in a manner that complies with Section 111.005(a)(3).

**TEX. OCC. CODE ANN. § 111.006(a),** as amended by **Texas S.B. 1107** (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*

What are the acceptable modalities (e.g., telephone, video) for the practice of advance practice nursing via telemedicine/telehealth that meet the standard of care for the state?

(A) synchronous audiovisual interaction between the practitioner and the patient in another location;

(B) asynchronous store and forward technology, including asynchronous store and forward technology in 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, such as the relevant medical history, laboratory and pathology results, and prescriptive histories; or

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

**TEX. OCC. CODE ANN. § 111.005(a)(3),** as amended by **Texas S.B. 1107** (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*
“[A] health benefit plan is not required to provide coverage for a telemedicine medical service or a telehealth service provided by only synchronous or asynchronous audio interaction, including:

(1) an audio-only telephone consultation;
(2) a text-only e-mail message; or
(3) a facsimile transmission.”

TEX. INS. CODE ANN. § 1455.004(c), as amended by Texas S.B. 1107 (provision to be effective as of Jan. 1, 2018).

“[R]equires 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.”

TEX. GOV’T CODE ANN. § 531.001(7)-(8).

**PRIVACY/CONFIDENTIALITY**

What are the specific privacy/confidentiality requirements involving mental health records?

*Updated citation:* TEX. OCC. CODE ANN. § 111.003, as amended by Texas S.B. 1107 (effective as of Sept. 1, 2017, but not yet codified). *The amended statute does not apply to mental health services.*

If a patient site presenter is not required for the telehealth or telemedicine visit, the software system used by the distant site provider must allow secure authentication of the distant site provider and the client.

If a patient site presenter is required for the telehealth or telemedicine visit, the software system used by both the distant and patient site providers must allow secure authentication of the distant site provider and the client.
The physical environments of the client and the distant site provider must ensure that the client’s protected health information remains confidential. . . .


**MINORS**

**What are the requirements/restrictions regarding the provision of telemental/telebehavioral/telepsychiatric health services to minors?**

“For a child receiving telemedicine medical services in a primary or secondary school-based setting, advance parent or legal guardian consent for a telemedicine medical service must be obtained.”


(E) The patient's primary care physician or provider must be notified of a telemedicine medical service, unless the patient does not have a primary care physician or provider.

(i) The patient receiving the telemedicine medical service, or the patient's parent or legal guardian, must consent to the notification.

(ii) For a telemedicine medical service provided to a child in a primary or secondary school-based setting, the notification must include a summary of the service, including:

(I) exam findings;

(II) prescribed or administered medications; and

(III) patient instructions.


(F) If a child receiving a telemedicine medical service in a primary or secondary school-based setting does not have a primary care physician or provider, the child's parent or legal guardian must be offered:

(i) the information in subparagraph (E)(ii) of this paragraph; and
(ii) a list of primary care physicians or providers from which to select the child's primary care physician or provider.

1 TEX. ADMIN. CODE § 354.1432(1)(F).

(G) Telemedicine medical services provided in a school-based setting by a physician, even if the physician is not the patient's primary care physician or provider, are reimbursed if:

(i) the physician is enrolled as a Medicaid provider;

(ii) the patient is a child who receives the service in a primary or secondary school-based setting;

(iii) the parent or legal guardian of the patient provides consent before the service is provided; and

(iv) a health professional as defined by Texas Government Code §531.0217(a)(1) is present with the patient during the treatment.

1 TEX. ADMIN. CODE § 354.1432(1)(G).

A parent or responsible adult may be physically located in the patient site or distant site environment during a telehealth or telemedicine visit with a child. A parent or responsible adult must provide written or verbal consent to the distant site provider to allow any other individual, other than the distant site provider, the patient site presenter, or a representative of the distant site provider or patient site presenter, to be physically present in the distant or patient site environment during a telehealth or telemedicine visit with a child.


FOLLOW-UP CARE

What are the requirements regarding follow-up care for telemental/telebehavioral/telepsychiatric health services?

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 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.

TEX. OCC. CODE ANN. § 111.005(b), as amended by Texas S.B. 1107 (effective as of Sept. 1, 2017, but not yet codified). The amended statute does not apply to mental health services.

Are there requirements regarding the time frame in which a follow up face-to-face encounter would be required in a telemental/telebehavioral/telepsychiatric health setting? If so, what are those requirements?

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 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.

TEX. OCC. CODE ANN. § 111.005(b), as amended by Texas S.B. 1107 (effective as of Sept. 1, 2017, but not yet codified). The amended statute does not apply to mental health services.
Does the state have a parity statute in place mandating coverage by private insurers for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services) on par with those provided in face-to-face/in-person encounters?

“A health benefit plan may not exclude from coverage a health care service or procedure delivered by a preferred or contracted health professional to a covered patient as a telemedicine medical service or a telehealth care service solely because the covered health care services is not provided through an in-person consultation.”

**TEX. INS. CODE ANN. § 1455.044(a),** as amended by **Texas S.B. 1107** (provision to be effective as of Jan. 1, 2018).

[A] health benefit plan is not required to provide coverage for a telemedicine medical service or a telehealth service provided by only synchronous or asynchronous audio interaction, including:

1. an audio-only telephone consultation;
2. a text-only e-mail message; or
3. a facsimile transmission.

**TEX. INS. CODE ANN. § 1455.044(c),** as amended by **Texas S.B. 1107** (provision to be effective as of Jan. 1, 2018).

Are there provisions requiring certain reimbursement levels/amounts for telemedicine/telehealth services (including telemental/telebehavioral/telepsychiatric health services)?

A health benefit plan may require a deductible, a copayment, or coinsurance for a covered health care service or procedure delivered by a preferred or contracted health professional to a covered patient as a telemedicine medical service or a telehealth service. The amount of the deductible, copayment, or coinsurance may not exceed the amount of the deductible, copayment, or coinsurance required for the covered health care service or procedure provided through an in-person consultation.

**TEX. INS. CODE ANN. § 1455.044(b),** as amended by **Texas S.B. 1107** (provision to be effective as of Jan. 1, 2018).
Does Medicaid provide coverage for telemental/telebehavioral/telepsychiatric health services? If so, what are the coverage criteria?

“Telemedicine medical services and telehealth services are a benefit under the Texas Medicaid program as provided in this section and are subject to the specifications, conditions, limitations, and requirements established by the Texas Health and Human Services Commission or its designee (HHSC).”

**Conditions for reimbursement applicable to telemedicine medical services.**

(A) The telemedicine medical services must be designated for reimbursement by HHSC. Telemedicine medical services designated for reimbursement include:

(i) consultations;
(ii) office or other outpatient visits;
(iii) psychiatric diagnostic interviews;
(iv) pharmacologic management;
(v) psychotherapy; and
(vi) data transmission.

(B) The services must be provided in compliance with 22 TAC Chapter 174 (relating to Telemedicine).

(C) The patient site must be:

(i) an established medical site;
(ii) a state mental health facility; or
(iii) a state supported living center.

1 Tex. Admin. Code § 354.1432(1).

**Conditions for reimbursement applicable to telehealth services.**

(A) The telehealth services must be designated for reimbursement by HHSC. Designated telehealth services will be listed in the Texas Medicaid Provider Procedures Manual.
(B) The services must be provided in compliance with standards established by the respective licensing or certifying board of the professional providing the services.

(C) The patient site must be:

(i) an established health site;
(ii) a state mental health facility; or
(iii) a state supported living center.

(D) The patient site presenter must be readily available for telehealth services. However, if the telehealth services relate only to mental health, a patient site presenter does not have to be readily available except when the patient may be a danger to himself or to others.

(E) Before receiving a telehealth service, the patient must receive an initial evaluation for the same diagnosis or condition by a physician or other qualified healthcare professional licensed in Texas.

   (i) A required initial evaluation must be performed in-person or as a telemedicine visit that conforms to 22 TAC Chapter 174 (relating to Telemedicine).

   (ii) If the patient is receiving the telehealth services to treat a mental health diagnosis or condition, the patient is not required to receive an initial evaluation.

(F) A patient receiving telehealth services must be evaluated at least annually by a physician or other healthcare professional licensed in Texas and qualified to determine if the patient has a continued need for services.

   (i) The evaluation must be performed in-person or as a telemedicine visit that conforms to 22 TAC Chapter 174.

   (ii) This evaluation requirement does not apply to a patient receiving telehealth services for the treatment of a mental health diagnosis or condition from a qualified behavioral health provider licensed in Texas.

(G) Both the distant site provider and the patient site presenter must maintain the records created at each site unless the distant site provider maintains the records in an electronic health record format.

(H) Written telehealth policies and procedures must be maintained and evaluated at least annually by both the distant site provider and the patient site presenter and must address:
(i) patient privacy to assure confidentiality and integrity of patient telehealth services;
(ii) archival and retrieval of patient service records; and
(iii) quality oversight mechanisms.

1 TEX. ADMIN. CODE § 354.1432(2).

Conditions for reimbursement applicable to both telemedicine medical services and telehealth services.

(A) Preventive health visits under Texas Health Steps (THSteps), also known as Early and Periodic Screening, Diagnosis and Treatment program, are not reimbursed if performed using telemedicine medical services or telehealth services. Health care or treatment provided using telemedicine medical services or telehealth services after a THSteps preventive health visit for conditions identified during a THSteps preventive health visit may be reimbursed.

(B) Documentation in the patient's medical record for a telemedicine medical service or a telehealth service must be the same as for a comparable in-person evaluation.

(C) Providers of telemedicine medical services and telehealth services must maintain confidentiality of protected health information (PHI) as required by 42 CFR Part 2, 45 CFR Parts 160 and 164, chapters 111 and 159 of the Occupations Code, and other applicable federal and state law.

(D) Providers of telemedicine medical services and telehealth services must comply with the requirements for authorized disclosure of PHI relating to patients in state mental health facilities and residents in state supported living centers, which are included in, but not limited to, 42 CFR Part 2, 45 CFR Parts 160 and 164, Health and Safety Code § 611.004, and other applicable federal and state law.

(E) Telemedicine medical services and telehealth services are reimbursed in accordance with Chapter 355 of this title (relating to Reimbursement Rates).

1 TEX. ADMIN. CODE § 354.1432(3).