



Texas Public Policy Foundation
**LEGISLATOR'S GUIDE
TO THE ISSUES
2021-2022**

Telemedicine

The Issue

Telemedicine refers to medical care provided remotely through the use of technology. Healthcare 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 2007, the 85th Texas Legislature fundamentally changed the way it defined and regulated telemedicine. It 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. This increased access to care for populations that struggle to visit a doctor in person, including rural, disabled, and elderly Texans. It also clarified that telemedicine services are subject to the same standard of care as in-person services, clearing up previous ambiguity that 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, co-pays, and coinsurance for telemedicine services that exceed their equivalent in-person charges.

The 86th Legislature passed a follow-up bill to the aforementioned legislation in order to establish payment parity regulations for telemedicine in Texas Medicaid. There have been no parity requirements implemented for insurance plans regulated by the Texas Department of Insurance (TDI) or other private plans on the market. 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 healthcare prices will remain artificially high.

Telemedicine is a convenient, affordable way to access healthcare services and recent advances in audiovisual communication technology are expanding the potential of telemedicine to reach more people and address a growing number of healthcare

needs. On average, a telemedicine encounter can save a patient \$19 to \$121 per visit, with utilizing this service potentially saving a patient \$1,500 by avoiding emergency room costs. Telemedicine also saves patients' transportation costs by bringing the care to them in their homes or in areas with no physicians.

Texas is considered revolutionary for offering licensure reciprocity for out-of-state physicians to apply to practice telemedicine in Texas during the declared emergency. While this allows for an increase in supply, mandating licenses for both in-state and out-of-state physicians is not an effective use of government time and resources and should not become a barrier to entry for physicians looking to expand their patient base.

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

- Since 2017, the telemedicine market has been able to operate more freely and has been defined in statute.
- A common issue seen in Texas's Medicaid population is difficulties getting to medical appointments, even with the ride share option. Knowledge of the existing telemedicine option can increase access to appointments for this population.
- An average telemedicine consultation costs \$79, compared to \$146 for an equivalent in-office doctor visit. Utilizing telemedicine can save patients approximately \$1,500 from an unnecessary emergency room visit.
- Telemedicine makes accessing healthcare 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.
- The Legislature should consider the barriers to use experienced by Medicaid beneficiaries and their hesitancy to utilize telemedicine.

continued

Resources

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

[*State Telehealth Laws & Reimbursement Policies*](#), Center for Connect Health Policy (2019).

[“Cost Savings for Telemedicine Estimated at \\$19 to \\$120 Per Patient Visit”](#) by Christopher Cheney, HealthLeaders (May 7, 2019).

