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## DIGEST

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Simon

HB No. 1280

**Abstract:** Provides for greater access to telehealth services by requiring licensing boards and commissions to promulgate rules to provide for, promote, and regulate the use of telehealth in the delivery of healthcare services within the scope of practice regulated by the licensing entity.

Present law requires any person authorized by the La. State Board of Medical Examiners (LSBME) to practice telemedicine to ensure that a licensed healthcare professional who can adequately and accurately assist is in the examination room with the patient at the time such patient is receiving telemedicine services.

Proposed law repeals present law and requires any physician practicing telemedicine as defined in present law, except for those physicians practicing pursuant to a telemedicine license, to use the same standard of care as if the healthcare services were provided in person.

Proposed law further provides that a telemedicine provider, except for those physicians practicing pursuant to a telemedicine license, shall not be required to conduct an in-person patient history or physical examination of the patient before engaging in a telemedicine encounter if all of the following conditions are met:

- (1) The physician practicing telemedicine holds an unrestricted license to practice medicine in La.
- (2) The physician practicing telemedicine has access to the patient's medical records upon consent of the patient.
- (3) The physician practicing telemedicine maintains a physical practice location within the state of La. or executes an affirmation with the LSBME that the physician has an arrangement with another physician who maintains a physical practice location in Louisiana to provide for referrals and follow up care which may be necessary.

Proposed law prohibits, unless authorized by the LSBME, a physician practicing telemedicine pursuant to proposed law from prescribing any controlled dangerous substance prior to conducting an appropriate in person patient history or physical examination of the patient as determined by the LSBME.

Proposed law provides that a patient receiving telemedicine services may be in any location at the

time that the telemedicine services are rendered and a telemedicine provider may be in any location when providing telemedicine services to a patient.

Proposed law requires a telemedicine provider to document the telemedicine services rendered in the patient's medical records according to the same standard as that required for nontelemedicine services. Medical records, including video, audio, electronic, or other records generated as a result of providing telemedicine services shall be considered as confidential and shall be subject to all applicable state and federal laws and regulations relative to the privacy of health information.

Proposed law defines "telehealth" as 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 and which 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.

Proposed law requires each state agency or professional or occupational licensing board or commission that regulates the practice of a healthcare provider to promulgate any rules necessary to provide for, promote, and regulate the use of telehealth in the delivery of healthcare services within the scope of practice regulated by the licensing entity.

Proposed law further requires that the rules shall, at a minimum, provide for all of the following:

- (1) Application of all laws regarding the confidentiality of healthcare information and the patient's rights to the patient's medical information to telehealth interactions.
- (2) Application of the same standard of care by a healthcare provider as if the healthcare services were provided in person.
- (3)(a) Licensing or registration of out-of-state healthcare providers who seek to furnish healthcare services via telehealth to persons at originating sites in La. The rules shall ensure that any such healthcare provider possesses, at a minimum, an unrestricted and unencumbered license in good standing to perform the healthcare service in the state in which the healthcare provider is located, and that the license is comparable to its corresponding license in La. as determined by the respective La. licensing agency, board, or commission.
- (b) Each state agency and professional or occupational licensing board or commission is authorized to provide by rule for a reasonable fee for the license or registration.
- (4) Exemption from the telehealth license or registration requirement for the consultation of a healthcare professional licensed by this state with an out-of-state peer professional.

Nothing in proposed law shall be construed to authorize a state agency or licensing board or commission to expand, diminish, or alter the scope of practice of any healthcare provider.

Present law requires that, if any contract or policy that provides for payment, benefit, or reimbursement for any health care service, including but not limited to diagnostic testing, treatment, referral, or consultation and the health care service is performed via transmitted electronic imaging or telemedicine, the payment, benefit, or reimbursement under the policy or contract shall not be denied to a licensed physician conducting or participating in the transmission at the originating health care facility or terminus who is physically present with the individual who is the subject of such electronic imaging transmission and is contemporaneously communicating and interacting with a licensed physician at the receiving terminus of the transmission. Present law requires the payment, benefit, or reimbursement to be at least 75% percent of the reasonable and customary amount of payment, benefit, or reimbursement which that licensed physician receives for an intermediate office visit.

Proposed law repeals present law and requires any health insurance issuer that covers healthcare services provided via telemedicine or healthcare services provided via telehealth to provide such coverage in accordance with the provisions of the insurance plan or contract.

Proposed law further requires coverage of both healthcare providers in cases when the telemedicine encounter requires a healthcare provider to be present at both the originating site and the distant site.

Present law provides that any health care service proposed to be performed or performed via transmitted electronic imaging or telemedicine shall be subject to the applicable utilization review criteria and requirements of the insurer.

Proposed law repeals present law.

Present law deems terminology in a health and accident insurance policy or contract that either discriminates against or prohibits such a method of transmitted electronic imaging or telemedicine as void and against public policy of providing the highest quality health care to the citizens of the state.

Proposed law deems terminology in a health and accident insurance policy or contract that either discriminates against or prohibits the use of telemedicine or the delivery of healthcare services via telehealth as void and against public policy of providing the highest quality health care to the citizens of the state.

Proposed law does not apply to language in a health or accident insurance policy or contract that excludes the use of telemedicine or the delivery of healthcare services via telehealth from coverage under the policy or contract.

Present law and proposed law do not apply to limited benefit health insurance policies or contracts authorized to be issued in the state.

Proposed law requires any medical assistance program administered by the Dept. of Health and Hospitals that covers healthcare services provided via telemedicine or healthcare services provided via telehealth to provide such coverage in accordance with the provisions of that program.

(Amends R.S. 22:1821(F) and R.S. 37:1271(B)(2); Adds R.S. 37:1271(B)(3)-(5) and R.S. 40:1300.381-1300.385)