



Physicians Caring for Texans

House Committee on Public Health Written Testimony submitted by Texas Medical Association *Sept. 13, 2022*

Dear Madam Chair Klick and esteemed committee members,

The Texas Medical Association (TMA) offers the following testimony related to these two charges before this committee:

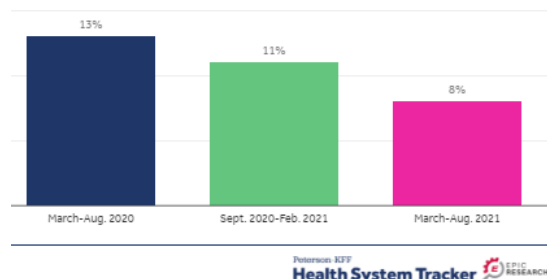
Charge 1: specifically, House Bill 4 relating to the provision and delivery of telemedicine and telehealth services

Charge 4: specifically, study current telemedicine trends by assessing and making recommendations related to standardizing required documentation health care providers must obtain for consent for treatment, data collection, sharing, and retention schedules

Telemedicine Trends

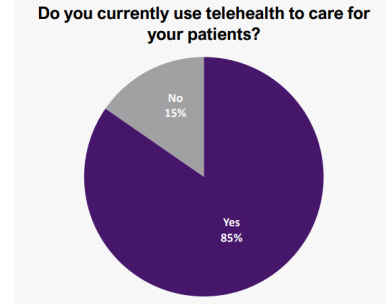
The COVID-19 public health emergency resulted in the rapid adoption of telemedicine by physicians. Because of necessary social distancing measures, this was the only way many patients could safely continue to see their physician while also keeping physician practices afloat. Many state and federal waivers and flexibilities were implemented allowing physicians to quickly pivot and see patients via telemedicine visits.

According to [Texas Health and Human Services telemedicine utilization data](#), in all of 2019, Texas Medicaid clients participated in 242,857 telemedicine visits. However, in just the first five months of 2020, that number ballooned to more than a million visits (1,015,145).



According to a [joint report by the Peterson Center on Healthcare and Kaiser Family Foundation](#), the number of telemedicine visits prior to the pandemic was a negligible share. In the first six months of the pandemic, outpatient telemedicine visits rose to 13%. A year later, the number of visits leveled off to 8% of all outpatient visits.

A recent [American Medical Association \(AMA\) survey](#) asked physicians if they currently use telehealth¹ to care for their patients. A resounding 85% said yes. Physicians are now very comfortable delivering virtual care when appropriate, and many patients have come to expect it.



Do you currently use telehealth to care for your patients? N=2,149

Telemedicine in Practice

Austin Regional Clinic (ARC), a multispecialty group of more than 360 physicians and providers caring for more than 580,000 Central Texans, completed over 1.3 million patient visits last year. During the early days of the pandemic, almost 60% of visits were conducted via telemedicine. The number has leveled off to approximately 5% of overall visits yet remains an essential tool to help the practice provide timely, coordinated care.

In addition to telemedicine visits for follow-up care and management of chronic issues, ARC offers a 24-hour nurse line and urgent care visits until 9 pm Monday through Friday and on weekends. ARC has more than 80% of its patient base connected through its electronic patient portal, resulting in tens of thousands of patient advice requests each month. ARC strongly believes in providing patients with access to the care they need. The ability to use telemedicine has opened the potential to provide patients with access to care in ways not possible pre-pandemic.

To continue expanding patient avenues to care, policy must align with the opportunities. The opportunity to connect physicians and patients remotely, and often within minutes, meets patients where they live and work, removing barriers to care and gaps in time that meaningfully impact health care outcomes and costs. As internet bandwidth and technology improvements have converged with new payment models and innovation, ARC has invested substantial time, energy, and financial resources into building new channels of telemedicine access for patients. The pandemic clearly validated those efforts and accelerated patient adoption of remote care options. As a result, more physicians, patients, and health plans are now seeking ways to leverage telemedicine to improve on the old paradigm.

ARC started investing in telemedicine delivery roughly six years before COVID-19, building an acute care on-demand telemedicine service to provide a lower-friction access point for patients who may otherwise choose an emergency department or urgent care visit. Through that service, called NormanMD, patients have access directly to an ARC physician within minutes and without a copay. Prior to the access and models enabled by telemedicine, this type of access for

¹ For purposes of AMA survey, "telehealth" is referring to virtual care provided by physicians and other clinicians. Note that in some contexts, "telehealth" may be used interchangeably with "telemedicine." However, Texas law has a distinct definition for the two terms under Senate Bill 1107 (85R). Under SB 1107, "telemedicine" refers to health care services delivered remotely by a Texas physician or a health professional acting under delegation and supervision of a Texas physician. "Telehealth" 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. So in the context of Texas state law, the two terms "telehealth" and "telemedicine" are mutually exclusive. Only physicians and health professionals acting under the delegation and supervision of physicians provide telemedicine medical services.

acute care was unheard of. Patient feedback has accentuated the value proposition, with many patients saying they would have gone (unnecessarily) to the emergency department had they not used ARC’s service, and others saying they simply would have gone without care. Of the care delivered via

Year	Number of ARC Acute Care Telemedicine Visits via NormanMD	Patient Satisfaction
2020	3,966	99.1%
2021	7,429	98.9%
2022	8,745 (as of 8/31/22)	98.2%

NormanMD, 95.5% of patients had their needs met, while only 4.5% of patients were redirected to in-person care, all while maintaining high patient satisfaction scores. **ARC projects \$4.3 million was saved through emergency department and urgent care avoidance** by offering this type of telemedicine access for acute care.

Telemedicine Payment Parity

During the 2017 Texas legislative session, Texas passed sweeping legislation, Senate Bill 1107, that formed a framework for telemedicine in Texas. That law included important clinical components (e.g., Texas law now requires that when providing telemedicine, the standard of care that applies is the same as would apply to the provision of the same health care service or procedure in an in-person setting). But that law did not mandate payment parity – meaning health plans did not have to pay a contracted physician at least the same rate for a telemedicine encounter as for a similar in-person visit.

In the early stages of the pandemic, the Texas Department of Insurance adopted an [emergency rule](#) requiring state-regulated insurers and health maintenance organizations to:

- Pay contracted physicians at least the same rate for telemedicine services as for in-person services;
- Cover telemedicine services using any platform permitted by state law; and
- Not require more documentation for telemedicine services than they require for in-person services.

This was an important measure to promote receipt of needed medical services while mitigating the risk of spread of COVID-19. But the need for a payment parity provision in state law extends beyond COVID-19, as does the value of telemedicine to patients in Texas. Today, more patients have experienced the convenience of telemedicine and want to continue receiving care this way.

It is important to note that augmenting a physician’s practice with telemedicine incurs additional expenses that are different from that of delivering only in-person care.

Clinical staff in the physician’s practice still have integral roles in telemedicine visits by gathering the history of present illness and other visit-related information. Additionally, offering telemedicine incurs these extra expenses to an existing physician practice:

- Telemedicine software and supporting equipment (monitors, cameras, digital exam tools);
- Staff and physician telemedicine training;
- Additional staff time assisting patients with technology challenges;

- Enhanced cybersecurity;
- Telemedicine-specific policies and procedures;
- Supplemental telemedicine patient-education materials; and
- Expanded internet bandwidth.

For continuity of care and better health outcomes, it is helpful for patients to be able to receive telemedicine visits from their own established physician(s), if the physician chooses to offer the service. A payment parity law, requiring health plans to pay physicians at least the same rate for telemedicine services as for in-person services, would aid physicians in using their existing practice to conduct telemedicine visits.

While telemedicine will never fully replace an in-person visit where a physician can “lay hands on” a patient, it acts as a useful and convenient tool in the toolbox of patient care, when the service can be provided within the standard of care via remote technology.

Telemedicine facilitates access to care (particularly in rural and underserved areas of the state) and provides a convenience to patients (potentially increasing patient compliance with treatment plans and follow-up care and avoiding unnecessary trips to the emergency room). Telemedicine also aids with continuity of care for existing patients, particularly those with chronic conditions (e.g., diabetes). But telemedicine is not likely to be used to its full potential unless proper health plan coverage and payment requirements are imposed by state law.

Telemedicine Consent and Documentation

Texas law provides that a physician who provides or facilitates the use of telemedicine services “shall ensure that the informed consent of the patient, or another appropriate individual authorized to make health care treatment decisions for the patient, is obtained before telemedicine services ... are provided.” See Tex. Occ. Code §111.002.

Physicians providing telemedicine services are under the same obligation to keep and maintain an “adequate medical record” as they are if the services are provided in person. See 22 TAC §174.6(a)(3); §165.1. TMA does not believe there should be separate medical record documentation and retention requirements for telemedicine from those for in-person services.

Recommendations

1. Ensure covered services provided to a health-plan-enrolled patient by a contracted physician are paid at least the same rate as for in-person services.
2. Establish that medical record retention times are the same regardless of whether the medical care was delivered in person or via telemedicine.
3. Prevent payer health policies from unfairly favoring health visits with telemedicine-only companies by waived copays or other imbalanced pricing incentives.

Thank you for the opportunity to testify. If there are any questions, please contact Michelle Romero, associate vice president, advocacy, by emailing michelle.romero@texmed.org or by calling (512) 370-1367.