

One Minute Memo®



Texas Medical Board Adopts Restrictive Telemedicine Rules

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On April 10, the Texas Medical Board (TMB) voted to adopt changes to the TMB's rules on telemedicine. The proposed rules were the subject of a contentious hearing earlier in the week and have been at the center of ongoing litigation and discussion between TMB and the telemedicine industry for years.

The new rules limit the use of telemedicine services to instances where the physician and patient have already established a physician-patient relationship. The establishment of a physician-patient relationship under the revised regulations requires a documented physical examination of the patient by the physician performed during an in-person face-to-face visit (or in certain limited circumstances, a telemedicine visit facilitated by another health care professional in an "established medical site"). The rules also adds certain requirements before permitting the use of telemedicine from the patient's home, include institutional settings which may be the patient's residence. These restrictions include the presence of a "patient site presenter" and "sufficient communication and remote medical diagnostic technology". The use of online, email or phone questionnaires is specifically prohibited in the establishment of a physician-patient relationship and in providing sufficient support for an appropriate telemedicine visit. The new telemedicine rules do not apply to mental health services, including telepsychiatry, except in the event of a behavioral health emergency where prescription drugs are to be prescribed.

The new telemedicine rules are widely expected to restrict the growth of the telemedicine industry and limit the availability of telemedicine services throughout Texas. The rules will go into effect on June 3, 2015.

If you have any questions, please contact your Seyfarth attorney, Sheryl Tatar Dacso at sdacso@seyfarth.com or Adam H. Laughton at alaughton@seyfarth.com.

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