



Legislative Successes

86th Texas Legislature ★ 2019

The 86th Session of the Texas Legislature was extremely successful for the digital health community. The Texas e-Health Alliance took an active leadership role in passing several telemedicine-related bills, and positive steps were also taken to use e-health to address the opioid and substance abuse crisis, strengthen the state's cybersecurity framework, and improve the state's disaster responses. The legislature also funded items that are important investments in modernizing the health infrastructure of Texas.

This document is only intended to provide a high-level summary. For more details, contact us at info@txeha.org.



Telemedicine, Telehealth & Remote Patient Monitoring

TeHA's key piece of legislation was **SB 670** (Buckingham/Price) which makes a landmark series of changes to enable telemedicine and telehealth services in the Texas Medicaid program. Specifically, SB 670:

- expands coverage of telemedicine and telehealth services by Medicaid managed care organizations (MCOs),
- repeals the patient-site presenter requirement for school-based clinics
- clarifies provision of telemedicine and telehealth by federally qualified health centers (FQHCs),
- permits choice of telehealth platform for Medicaid providers,
- encourages care coordination between PCPs and telemedicine physicians in Medicaid,
- adds FQHCs to the list of designated telepharmacy sites,
- clarifies that direct care by physicians can include telemedicine and telehealth,
- repeals outdated sections of law related to telemedicine and telehealth, and
- repeals the Sunset date for the Medicaid remote patient monitoring benefit.

In addition to SB 670, the future of the Medicaid remote patient monitoring benefit was also settled in **HB 1063** (Price/Buckingham). This bill repeals the September 2019 Sunset date for the Medicaid remote patient monitoring benefit and adds children's services to the benefit. It also takes the significant step of adding cost-effectiveness to HHSC's legislatively mandated study of telemedicine, telehealth, and remote patient monitoring. HHSC will also be evaluating the use of telemedicine medical services for women during pregnancy and the postpartum period as part of **SB 748** (Kolkhorst/Davis).

Legislation also passed impacting the way telemedicine can be used for hospitals seeking certain designations from the state. **HB 871** (Price/Perry) allows certain rural hospitals to use telemedicine to meet trauma designation requirements. Similarly, **SB 749** (Kolkhorst/Price) permits telemedicine to be counted towards level of care designations for hospitals that provide neonatal and maternal care.



Telemedicine, Telehealth & Remote Patient Monitoring

Mental health care continues to be a high-priority use case for telemedicine in Texas, and several pieces of legislation passed that will bring new resources and focus to these tools. **SB 11** (Taylor/Bonnen) was an omnibus school safety bill that includes the creation of the Texas Child Mental Health Care Consortium, which will bring together academic centers and nonprofits to provide mental health services via telemedicine and telehealth to students in need. The consortium also received \$100 million in general revenue funding. Additionally, **HB 4455** (Miller/Campbell) clarifies the ability of providers to continue to see a mental health provider in Texas even if they move out of state, which will provide reassurance about continuity of care for patients.

Infrastructure for telemedicine was also a hot topic. The budget allots \$5.76 million for pediatric tele-neonatal care and emergency care grants that will be distributed by HHSC as part of **HB 1697** (Price/Nelson) which passed in 2017. The legislature also passed **SB 71** (Nelson/Thompson) which establishes a telehealth center to support sexual assault nurse examiners at the Attorney General's Office, which received \$10 million in funding. The need for broadband to support telemedicine, and healthcare in general, was acknowledged with establishment of the Governor's Broadband Council in **HB 1960** (Price/Perry). The council will include representation from healthcare providers and the healthcare technology industry.



Opioids and Substance Abuse Treatment

Legislators devoted a great deal of time and effort in the interim to studying the best way for Texas to respond to the national crisis related to opioids and substance abuse. **HB 2174** (Zerwas/Kolkhorst) mandates the electronic prescribing of controlled substances starting January 1, 2021, with some very specific exceptions. The bill also included continuing education requirements for practitioners involved in prescribing or monitoring controlled substances, and a 10-day prescribing limit for acute pain opioid prescriptions, again with some very specific exceptions.

Similarly, **HB 3284** (Sheffield/Nelson) contains a mandate for prescribers to check the state's Prescription Drug Monitoring Program (PDMP) database at the Pharmacy Board before prescribing controlled substances starting March 1, 2020, with exceptions. This bill makes fraudulent e-prescribing a criminal act in Texas. It permits patients access to their PDMP records and charges the Pharmacy

Board with rulemaking to implement that provision. The legislature provided \$6.1 million in general revenue for the PDMP gateway that allows electronic medical record integration, analytics, and risk assessment tools. The Pharmacy Board will also be establishing a workgroup for oversight of the PDMP that includes healthcare technology industry representation.

In addition to mandating the use of digital tools, the legislature passed **HB 3285** (Sheffield/Huffman) which establishes a public awareness campaign to raise awareness of these issues and adds coverage for medication assisted treatment for opioids and substance use disorders to the Medicaid program.



Cybersecurity and Privacy

Cybersecurity was a major focus of the legislature in 2017, and that focus continued in 2019. **SB 64** (Nelson/Phelan) addressed the need to expand degree programs for cybersecurity in higher education as well as improving access to non-degree certifications and credentials. The bill also charges the Department of Information Resources with providing the Legislative Budget Board with an annual report that recommends funding priorities for state cybersecurity projects and state agency legacy systems modernization. Cybersecurity education was also the focus of **HB 3834** (Capriglione/Paxton) which requires that certain state and local government employees and state contractors complete a cybersecurity training program certified by the state cybersecurity coordinator. This new training requirement impacts any employees who use a computer more than 25% of their time.

Issues related to privacy and consent were also debated, leading to the passage of **HB 4390** (Capriglione/Nelson), which establishes the Texas Privacy Protection Advisory Council to study and make recommendations related to consumer privacy. The bill also amends state breach notification provisions to have a 60-day clock for providing notifications as well as requiring additional information to be provided to victims of breaches.

A new pathway for consent related to newborn screening was created in **SB 1404** (Powell/Klick). This bill expands parental rights to consent to newborn screening and information sharing by allowing for electronic capture of parental choices and amends the timeline for obtaining consent to allow for capture of parental wishes prior to the birth admission. The legislature also invested \$1.5 million in general revenue for vital event records infrastructure upgrades at the Department of State Health Services.



Disaster Response

In the aftermath of Hurricane Harvey, the legislature passed a number of sweeping disaster response measures including **HJR 4** (Phelan/Creighton) which sends a ballot proposal to voters in November 2019 to create a new state flood infrastructure fund that could be funded by future legislative action.

Specific to healthcare, **HB 1256** (Phelan/Kolkhorst) allows access by employers to a first responder's immunization history during a disaster, which should reduce the number of inappropriate re-immunizations. **SB 982** (Kolkhorst/Zerwas) asks the Texas Department

of Emergency Management to develop a plan to increase the capabilities of local emergency shelters for the care of specialty populations during a disaster and aims to improve awareness of and access to healthcare service programs available during a disaster or emergency. The Texas Health Services Authority, which is the state health information exchange (HIE) for Texas, had its current Sunset date of September 2021 changed to 2027 through **HB 3304** (Raymond/Buckingham). Health information exchange was used during Hurricane Harvey, and this extension will allow for better integration of the HIE into the state's overall disaster response.