

# My Statesman from Austin American-Statesman

## Murphy: Texas lags behind the country in telemedicine

Opinion

By Kate E. Murphy - Special to the American-Statesman

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Posted: 1:21 p.m. Monday, Feb. 29, 2016

At a recent House Public Health hearing at the State Capitol, an official with the Texas Health and Human Services Commission testified that more Texans on Medicaid are using telemedicine services for mental health than anything else. The top billing codes all relate to telepsychiatry. These include pharmacological management, psychiatric diagnostic interview and examination, psychotherapy with evaluation and management, and psychiatric diagnostic evaluation.

That's because the Texas Medical Board has not restricted access to behavioral health services through telemedicine the same way they've restricted other services.

It's simply, really. Because people can call a psychiatrist or counselor without establishing a relationship in person or interfacing with some other provider, more people are able to take advantage of this service. It removes a barrier to access for people without transportation or those who have to travel hundreds of miles to a site where someone can help them make the call to the provider — a call they would otherwise be perfectly capable of making on their own.

Unfortunately, the Texas Board of Examiners of Professional Counselors recently proposed a rule which would require licensed counselors who want to provide telehealth services to reside in Texas and perform an initial face-to-face intake session before telehealth counseling, raising the same barrier to behavioral health services that the medical board has raised for general telemedicine services.

Texas is dead last in the nation in access to health care and in expanding the use of innovative technology, like telemedicine, to meet that need. It's a shame the Lone Star State would hamper access to behavioral health services just like it has with other telemedicine services. Texas and Arkansas are the only states that require an in-person or face-to-face video conference visit with a

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physician prior to using telemedicine. Texas is also one of the only states that requires an in-office follow-up visit after using telemedicine.

The Texas Medical Board's regulations, if allowed to stand, will prevent the rapid expansion of telemedicine now underway in the state's private health sector. But you know who has been benefitting from telemedicine in Texas for decades? Prisoners. The University of Texas-Medical Branch has been providing telemedicine to state prisons improving health outcomes and saving taxpayers about \$780 million.

UTMB also provides telemedicine to large companies and community health centers in rural communities. Their research shows telemedicine cuts non-emergent ER visits in half — saving even more money — and patients love it.

As this type of research mounts, most states are working to loosen their telemedicine regulations. Most recently, Alabama lifted its similarly restrictive telemedicine regulations. In Alaska, telemedicine providers don't just have to be licensed in Alaska; they also have to be physically present in Alaska to provide services. Lawmakers there are trying to remove the physical location requirements for remote medical practice and Internet prescribing. The legislation would also remove barriers to telehealth services provided by licensed providers. Mississippi legislators have introduced 80 bills to expand telemedicine. Michigan and South Dakota have also improved their physician practice standards and licensure requirements. Likewise, Florida, New Mexico, and Missouri are making positive changes.

Texas is doing the opposite. The medical board argues that their new regulations, approved in April of last year, were passed to keep people safe. But if that's true, why have 48 other states decided these types of regulations are overkill? And why do the Texas regulations exclude people who are most in need of affordable, immediate and remote care? The truth is, these protectionist policies undermine Texas' efforts to increase access to medical care through telemedicine at a time when Texas desperately needs it.

The Texas Medical Board, which is facing a federal lawsuit for its draconian telemedicine regulations, is just one example of the potential harm these boards can cause. Overbearing licensing boards are a national problem. Last year in a North Carolina case — the State Board of Dental Examiners v. F.T.C. — the Supreme Court heard case in which a state licensing board was cracking down on teeth-whitening kiosks for engaging in the unauthorized practice of dentistry. Justice Kennedy's majority opinion noted that when you put market participants in charge of regulating their own market, they often work to squeeze out competition rather than promote public good, sometimes without even realizing they're doing it. The Supreme Court ruled against the state board, which is now subject to heightened scrutiny under federal antitrust law.

Telemedicine and telepsychiatry could be a huge help to many Texans — if the medical board would just get out of the way.

Murphy is a mental health policy fellow contributing to the Center for Health Care Policy at the Texas Public Policy Foundation.

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