

New legislation eases the way for telehealth providers in TX and signals increasing national alignment

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New legislation recently signed into law in Texas paves the way both for digital health companies to expand, particularly direct-to-consumer (D2C) companies, and also potentially heralds an era of virtual care visits on a truly national scale. Over Memorial Day weekend, Texas Governor Greg Abbott signed Senate Bill 1107/House Bill 2697 (found [here](#)). The bill adds video consults to the definition of telehealth and eliminates Texas's previous requirement that a physician-patient relationship must be established first in person prior to any telehealth visit. Provided that certain follow-up requirements are met (primarily, that the telehealth practitioner provide guidance as to appropriate follow-up care), patients and physicians in Texas now may initiate telehealth visits for even a first-time meeting.

Patients in Texas have had a particular need for telehealth, and this regulatory change is being applauded by patients and businesses alike. Texas ranks 46th out of 50 states in primary care physicians per capita, and 35 of Texas's 254 counties do not have a family physician. For those living in less populated areas, access to primary care was typically not possible without a long drive to a doctor's office. By quashing the regulatory hurdle to offer telehealth visits for first-time patients, the now-signed bill opens up many more opportunities for new telehealth patients and easier access to care for those who are home-bound or in less populated areas. It also encourages digital health companies that have been reluctant to offer services in Texas to expand, which could lead to more options for care.

Finally, the bill's passage also portends telehealth expansion at a national level. To date, telehealth companies and providers hoping to offer virtual care have been curtailed by the patchwork of state laws that make it difficult to expand beyond state lines, much less offer consistent types of telehealth services across the nation. States vary significantly in whether and to what degree they regulate telehealth, and the applicable regulations themselves span a wide range of topics. (For example, there are a wide variety of state laws pertaining to licensure, scope of practice, DEA registration, prescriptions, privacy, and requisite patient visit documentation – to name a few.) Texas was the last state to

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require an in-person physician-patient interaction prior to a telehealth visit. With this hurdle removed, a new patient can initiate a telehealth visit without a prior in-person visit in all states in the nation. Although the other telehealth regulatory challenges persist, the Texas bill's passage into law serves as an important signal of growing national alignment to support and incentivize digital health.

What, then, are the business implications for telehealth companies and providers seeking to offer virtual care visits? The most prominent "win" is that direct-to-consumer (D2C) telehealth providers now have a much more viable path to market. Previously, they would have needed to partner with a (non-telehealth) provider to ensure that the first-time visit requirement was met; now, they may work directly with patients from the outset. In addition, the ability to initiate a telehealth visit with a first-time patient at a truly national level (with only minor exceptions for telephone-based visits in Arkansas and Idaho) significantly eases the path for telehealth initiatives to expand their businesses and contemplate national service.