

## Rule Changes Effective June 4, 2015

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### CHAPTER 174. TELEMEDICINE

#### §174.2, Definitions

The amendment to §174.2, relating to Definitions, adds language to the definition for "Established Medical Site", under paragraph (2), clarifying that a defined physician-patient relationship is defined by §190.8(1)(L) of this title (relating to Violation Guidelines). Amendments are also made to the rule stating that a patient's private home is not considered to be an established medical site, by striking the phrase "except when the care provided to the patient is limited to mental health" and adding language stating "except as provided in §174.6(d) of this title (relating to Telemedicine Medical Services Provided at an Established Medical Site)." Further amendments provide that an established medical site includes all Mental Health and Mental Retardation Centers (MHMRs) and Community Centers, as defined by Health and Safety Code, Chapter 534, where the patient is a resident and the medical services provided to the patient are limited to mental health services.

The amendments further adds a new paragraph (11), which adds a definition for "group or institutional setting," thereby including residential treatment facilities, halfway houses, jails, juvenile detention centers, prisons, nursing homes, group homes, rehabilitation centers, and assisted living facilities.

#### §174.5, Notice to Patients

The amendments to §174.5, relating to Notice to Patients, strikes the phrase "and counsel" in subsection (c).

#### §174.6, Telemedicine Medical Services Provided at an Established Medical Site

The amendments to §174.6, relating to Telemedicine Medical Services Provided at an Established Medical Site, amends language to be consistent with other parts of this rule and §190.8(1)(L) by substituting the term "defined" for "proper" before the phrase "physician-patient relationship." Section 174.6(c) is further amended to clarify that patient site presenters are not required at established medical sites when mental health services are being provided, unless there are "behavioral emergencies." The term "behavioral emergencies" is defined to provide clarity as to what constitutes a behavioral emergency. Subsection (d)(1) is added to expand which types of patient residential locations may be considered established medical sites, and the limits of services that may be provided at these locations. The amendment allows a patient's private home, which includes a group or institutional setting where the patient is a resident, to be considered an established medical site, if the medical services being provided in this setting are limited to mental health services. Subsection (d)(2) is added,

setting forth the requirements that must be met in order for medical services, other than mental health services, to be provided at the patient's home, including a group or institutional setting where the patient is a resident. They include requirements that: a patient site presenter be present; a defined physician-patient relationship be established; and the patient site presenter have sufficient communication and remote medical diagnostic technology to allow the physician to carry out an adequate physical examination while seeing and hearing the patient in real time, with all such examinations being held to the same standard of acceptable medical practices as those in traditional clinical settings. The amendments further clarify that the use of an online questionnaire or questions and answers exchanged through email, electronic text, chat, telephonic evaluation or consultation with a patient, do not meet the requirements to establish a defined physician-patient relationship.

#### **§174.8, Evaluation and Treatment of the Patient**

The amendments to §174.8, relating to Evaluation and Treatment of the Patient, changes language to be consistent with other parts of this rule stating that medical treatment and diagnosis via telemedicine is held to the same standards for acceptable medical practices as those in traditional in-person clinical settings. In subsection (a)(2), language is amended related to establishing a diagnosis through the use of acceptable medical practices. Such practices include establishing a defined physician-patient relationship, including documenting and performing a patient history, mental status examination, and physical examination, all of which must be performed as part of a face-to-face or in-person evaluation as defined in §174.2(3) and (4) of this title (relating to Definitions). This amendment further restates the exception to the requirement for a patient-site presenter that applies to mental health services, except in cases of behavioral emergencies, and the need for appropriate diagnostic and laboratory testing to establish diagnoses, as well as identify underlying conditions or contra-indications, to treatment recommended or provided.