



October 20, 2026

Rules Coordination Office
Texas Health and Human Services Commission
P.O. Box 13247, Mail Code 4102
Austin, Texas 78711-3247

RE: Comments on Proposed Rule 26R015, 26 TAC §562.24, Standards for Private Practice

To the Rules Coordination Office,

On behalf of ATA Action, I am writing to comment on the proposed amendment to 26 TAC §562.24, governing standards for private practice by Licensed Chemical Dependency Counselors, published in the September 25, 2026, issue of the Texas Register. As drafted, several provisions of the proposed rule extend well beyond the rulemaking the Legislature directed in House Bill 1700, impose requirements on telehealth delivery that have no in-person counterpart and would foreclose telehealth-initiated care. We respectfully urge the Commission to reconsider this rule before moving forward with adoption.

ATA Action is the affiliated policy and legislative advocacy arm of the American Telemedicine Association. ATA Action is the leading advocacy organization dedicated to advancing policy and accelerating the adoption of technology-enabled healthcare. Working collaboratively with federal and state legislators and policymakers, our organization drives industry momentum by influencing legislative and regulatory developments in telehealth, virtual care, remote patient monitoring, artificial intelligence in health, health data privacy, private sector healthcare investment, and more. We represent a diverse membership – including hospital systems, technology companies, professional associations, direct-to-consumer digital health providers, payers, pharmaceutical manufacturers, digital therapeutics developers, and remote monitoring organizations.

Provisions ATA Action Supports

We begin by noting provisions of the proposed rule that represent meaningful improvements. The proposed amendment to §562.24(b)(9) replaces the existing requirement that a counselor “reside in and perform the services from Texas” with a standard keyed to Texas licensure, an applicable exemption, or the military-licensure provisions of §562.33. Conditioning practice on the practitioner’s physical location rather than the client’s does not align with telehealth standards, and the Commission is right to remove it. Texas statute places the originating site of telehealth care as the location of the client or patient. We likewise support the express recognition of synchronous audio-only technology as a permitted modality at §562.24(b)(1)(D) and (b)(8) and the inclusive definition of “electronic means” at (b)(1)(B). Audio-only delivery is essential for clients without reliable broadband or video-capable devices, and its recognition here is consistent with the direction of Texas Occupations Code §111.004(d).

Several Requirements Exceed the Authorized Scope of HB 1700 and Impose a Higher Standard of Care on Telehealth

The Commission states that this proposal “is necessary to comply with Texas Occupations Code §111.004(c) and (d).” Those subsections are specific. Section 111.004(c) directs HHSC to adopt rules providing clear and concise standards for patient records and the retention of those records related to

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consent to treatment, data collection, and data sharing. Section 111.004(d) requires that rules adopted under (c) address the consent documentation required for telehealth services, including consent documentation in an audio-only format.

HB 1700 directed a records-and-consent-documentation rulemaking. It did not authorize conditions on who may receive telehealth services, requirements that counselors maintain in-person service capability, mandates to furnish technical support or obligations to develop grievance procedures and client-selection criteria. Provisions including (b)(5), (b)(7)(A), (b)(8)(A), (b)(11), (b)(19), (b)(20)(A), (b)(20)(B), and (b)(23) are not records or consent-documentation standards, and we respectfully submit that they fall outside the rulemaking the Legislature directed.

Separately, Texas Occupations Code §111.007(a) subjects a health professional delivering a service through telehealth to the standard of care that would apply to the same service in an in-person setting, and §111.007(b) prohibits an agency with regulatory authority over a health professional from adopting telehealth rules that impose a higher standard of care than that standard. Several provisions of the proposed amendment impose obligations on telehealth delivery that have no in-person counterpart:

Section 562.24(b)(22) requires that verbal consent be explained and obtained before every individual counseling session. In-person counseling requires no equivalent per-session consent process. As a practical matter, an explanation of what verbal consent means, delivered at the start of each session, consumes a meaningful share of a counseling hour — time that would otherwise be spent on treatment.

Section 562.24(b)(8)(C) requires the counselor to document “the specific reason why” a service was delivered using audio-only technology. No analogous justification is required for an in-person service. Requiring a counselor to justify a modality the Legislature has directed the Commission to accommodate treats that modality as presumptively disfavored.

We request that (b)(22) be revised to require written consent at the initiation of services using electronic means, renewed at reasonable intervals, consistent with how consent operates in in-person practice, and that (b)(8)(C) be struck.

The “Existing Clinical Relationship” Requirement Forecloses Telehealth-Initiated Care

The most consequential of the provisions identified above is §562.24(b)(7)(A) and (b)(8)(A), which condition both audiovisual and audio-only counseling services on the client and counselor having an “existing clinical relationship.” Section 562.24(b)(1)(C) defines that term as:

“A relationship that occurs after a person has received at least one in-person or synchronous audiovisual counseling service from the same provider within the six months prior to the initial service delivered by synchronous telephone audio-only technology.”

Applied to audio-only services under (b)(8), this operates as a prior-visit requirement. Applied to audiovisual services under (b)(7), it does not function at all. A client cannot receive audiovisual counseling unless the client has already received in-person or audiovisual counseling from the same provider, a condition that a new client can never satisfy. The definition is also anchored to “the initial



service delivered by synchronous telephone audio-only technology,” a reference point that does not exist where no audio-only service is contemplated.

The provision is therefore either circular or inoperative as applied to (b)(7). Under either reading, the practical result is the same: a counselor may not establish a new client relationship through telehealth in any modality. Every new client must first be seen in-person. For clients in rural counties, clients without transportation and clients for whom the decision to seek treatment for a substance use disorder is itself difficult to sustain, an in-person requirement could be the difference between the patient receiving the care they need and not getting care.

We do not believe this result was intended. The Commission’s own section-by-section summary describes the amendment as outlining “the criteria that must be met to use synchronous audiovisual technology and audio-only technology,” with no indication that telehealth-initiated care was meant to be prohibited. We respectfully request that (b)(7)(A) be struck, and that the Commission reconsider whether the prior-relationship condition in (b)(8)(A) is necessary given the consent and documentation safeguards elsewhere in the subsection.

Two Provisions Require In-Person Capability as a Condition of Telehealth Practice

Section 562.24(b)(5) provides that a counselor “shall be equipped to provide in-person, face-to-face counseling services with an individual if requested by the individual.” Section 562.24(b)(23) provides that where verbal consent is not obtained for an electronic service, “the counselor shall provide the service to the client in person and face-to-face.”

Read together, these provisions condition telehealth practice on the counselor’s capacity to deliver in-person care to any client, on request or upon a failure of consent. A counselor practicing exclusively through telehealth, or practicing from a location distant from the client, cannot satisfy them. The effect is a geographic limitation on telehealth delivery that the rule does not state in those terms, and that nothing in HB 1700 contemplates. In effect, it would require the telehealth provider to have and maintain a physical presence in the local area where service is offered. This is an arbitrary requirement inconsistent with Texas statute.

Subsection (b)(5) is also ambiguous. The rule does not define what it means to be “equipped” to provide in-person services, whether the in-person service must be delivered by the same counselor, or whether a referral arrangement with a local provider would satisfy the requirement. We request that (b)(5) be struck. If the Commission retains it, we ask that it be clarified to permit compliance through documented arrangements with other appropriately licensed providers, and that (b)(23) be revised so that the consequence of a failure to obtain consent is that the service is not provided, rather than that it must be provided in-person.

None of these changes mentioned above would weaken client protection. The counselor remains subject to the same professional and ethical obligations regardless of how a service is delivered, and the records, consent-documentation, privacy, and security provisions that implement HB 1700 would remain fully intact. What the amendments remove are conditions that determine whether telehealth can be used at all, and requirements that attach to telehealth delivery alone.

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Thank you for the opportunity to comment. We would welcome the opportunity to provide any additional information that may be useful to the Commission as it considers these amendments. If you have any questions or would like to discuss the telehealth industry's perspective further, please contact me at hyoung@ataaction.org.

Kind regards,

A handwritten signature in black ink that reads 'Hunter Young' in a cursive script.

Hunter Young
Head of State Government Relations
ATA Action