

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

As Engrossed: S3/10/15 S3/17/15

# A Bill

SENATE BILL 845

5 By: Senator J. Cooper  
6

## 7 For An Act To Be Entitled

8 AN ACT TO INCREASE ACCESS TO HEALTH CARE AND REDUCE  
9 HEALTHCARE COSTS; TO ENCOURAGE THE USE OF  
10 TELEMEDICINE; TO DECLARE AN EMERGENCY; AND FOR OTHER  
11 PURPOSES.  
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## 14 Subtitle

15 TO INCREASE ACCESS TO HEALTH CARE AND  
16 REDUCE HEALTHCARE COSTS; TO ENCOURAGE THE  
17 USE OF TELEMEDICINE; AND TO DECLARE AN  
18 EMERGENCY.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. DO NOT CODIFY. Legislative findings and purpose.

24 (a) The General Assembly finds that:

25 (1) Despite continuous efforts to encourage and develop access  
26 to health care in all areas of our state, many of our citizens still face  
27 critical barriers and are an underserved sector as it pertains to meaningful  
28 access for appropriate primary health care when it is needed;

29 (2) The lack of access decreases healthcare outcomes and  
30 increases the cost of health care as:

31 (A) Patients can develop complications and increase the  
32 length of their illness while waiting to access health care and require  
33 additional or more intensive medical attention; and

34 (B) Patients without ready access to primary care often  
35 turn to very high cost alternatives, such as emergency room visits for a  
36 minor illness;



1           (3)(A) In addition to healthcare costs, the lack of access adds  
2 indirect but significant costs to our businesses and state economy.

3           (B) When patients must take an entire day off work to  
4 drive to a distant city to be treated for a minor illness, employers lose  
5 productivity and efficiency;

6           (4) The strength of the state economy is based upon the health  
7 of our residents and the health of our business economy.

8           (5) Businesses in Arkansas have stressed that healthcare costs  
9 are an increasing burden and have asked the General Assembly to protect all  
10 tools that help them control costs and improve the health outcomes of their  
11 employees; and

12           (6) Given these barriers, the advancement of modern technology  
13 as a communication medium to increase access and reduce the cost of primary  
14 health care is highly beneficial and should be encouraged.

15           (b) The purpose of this act is to clarify that the existing scope of  
16 practice and professional standards for physicians, nurses, and other  
17 licensed professionals permits the use of technology as a communication  
18 medium to expand access to primary health care.

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20           SECTION 2. Arkansas Code Title 17, Chapter 80, Subchapter 1, is  
21 amended to add an additional section to read as follows:

22           17-80-117. Telemedicine.

23           (a) As used in this section:

24           (1) "Distant site" means the location of the healthcare  
25 practitioner delivering healthcare services through telemedicine at the time  
26 the services are provided;

27           (2) "Healthcare practitioner" means a person who is licensed,  
28 certified, or otherwise authorized by the laws of this state to administer  
29 health care in the ordinary course of the practice of his or her profession;

30           (3) "Originating site" means a site at which the patient is  
31 located at the time that healthcare services are provided to him or her by  
32 means of telemedicine;

33           (4) "Store and forward technology" means the transmission of a  
34 patient's medical information from an originating site to the provider at the  
35 distant site without the patient being present;

36           (5) "Telemedicine" means the delivery of clinical healthcare

1 services by means of a telemedicine technology to provide or support  
2 healthcare delivery that facilitates the assessment, diagnosis, consultation,  
3 treatment, education, care management, and self-management of a patient's  
4 health care while the patient is at an originating site and the healthcare  
5 practitioner is at a distant site; and

6 (6)(A) "Telemedicine technology" means technology and devices  
7 that allow real-time communication and information exchange between a  
8 licensed healthcare practitioner at a distant site and a patient at an  
9 originating site, including without limitation:

10 (i) Interactive audio;

11 (ii) Audiovisual connection;

12 (iii) Secure video conferencing; and

13 (iv) Asynchronous store and forward technology.

14 (B) If, due to the lack of widespread high-speed Internet  
15 access, the patient is not able to connect through video conferencing, the  
16 patient shall be given an option of either an interactive audio or an  
17 audiovisual connection that shall be available twenty-four (24) hours per  
18 day.

19 (C) "Telemedicine technology" does not include audio only,  
20 email, text messages, or online questionnaires.

21 (b) A licensed healthcare practitioner shall be held to the same  
22 standard of care and scope of practice for treating a patient by telemedicine  
23 as for treating a patient in a traditional face-to-face setting.

24 (c)(1) Before providing a healthcare service by telemedicine, a  
25 professional relationship shall be established between the licensed  
26 healthcare practitioner and patient.

27 (2) The professional relationship may be established by a prior  
28 in-person encounter or virtually through interactive audio or video  
29 technology, or both.

30 (3) After a professional relationship has been established, a  
31 healthcare practitioner may diagnose, treat, consult, prescribe, or provide  
32 other care to a patient by telemedicine.

33 (d) Telemedicine only may be provided to a patient by a healthcare  
34 practitioner who is licensed to practice in this state and who also is  
35 residing in this state.

36 (e) State licensing and certification boards for healthcare

1 practitioners shall amend their rules relating to telemedicine to be  
2 consistent with, and no more restrictive than, this section.

3 (f) This section does not authorize drug-induced, chemical, or  
4 surgical abortions performed through telemedicine.

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6 SECTION 3. Arkansas Code § 17-92-1003(15), concerning the definition  
7 of "proper practitioner-patient relationship", is amended to read as follows:

8 (15) "Proper practitioner-patient relationship" means that before the  
9 issuance of a prescription, a practitioner, physician, or other prescribing  
10 ~~health~~ healthcare professional performs a history and in-person physical  
11 examination of the patient adequate to establish a diagnosis and to identify  
12 underlying conditions or contraindications to the treatment recommended or  
13 provided unless:

14 (A) The prescribing practitioner is consulting at the  
15 specific request of another practitioner who:

16 (i) Maintains an ongoing relationship with the  
17 patient;

18 (ii) Has performed an in-person physical examination  
19 of the patient; and

20 (iii) Has agreed to supervise the patient's ongoing  
21 care and use of prescribed medications; ~~or~~

22 (B) The prescribing practitioner interacts with the  
23 patient through an on-call or cross-coverage situation; or

24 (C) The professional relationship is established as  
25 provided in § 17-80-117.

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27 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
28 General Assembly of the State of Arkansas that the state of Arkansas is  
29 experiencing a healthcare practitioner maldistribution resulting in medically  
30 underserved areas throughout the state; that allowing healthcare  
31 practitioners to provided healthcare services through telemedicine will ease  
32 the burden on medically underserved areas; and that this act is immediately  
33 necessary because the citizens and healthcare practitioners of Arkansas need  
34 immediate guidance concerning the law regarding healthcare services provided  
35 through telemedicine. Therefore, an emergency is declared to exist, and this  
36 act being immediately necessary for the preservation of the public peace,

1 health, and safety shall become effective on:

2 (1) The date of its approval by the Governor;

3 (2) If the bill is neither approved nor vetoed by the Governor,  
4 the expiration of the period of time during which the Governor may veto the  
5 bill; or

6 (3) If the bill is vetoed by the Governor and the veto is  
7 overridden, the date the last house overrides the veto.

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*/s/J. Cooper*

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