

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

HOUSE BILL 1063

5 By: Representative Pilkington
6 By: Senator Hester
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE TELEMEDICINE ACT; TO AUTHORIZE
10 ADDITIONAL REIMBURSEMENT FOR TELEMEDICINE VIA
11 TELEPHONE; AND FOR OTHER PURPOSES.
12
13

Subtitle

15 TO AMEND THE TELEMEDICINE ACT; AND TO
16 AUTHORIZE ADDITIONAL REIMBURSEMENT FOR
17 TELEMEDICINE VIA TELEPHONE.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. Arkansas Code § 17-80-402(4), concerning the definition of
23 a "professional relationship" as used under the Telemedicine Act, is amended
24 to read as follows:

25 (4) "Professional relationship" means at a minimum a
26 relationship established between a healthcare professional and a patient
27 when:

28 (A) The healthcare professional has previously conducted
29 an in-person examination of the patient and is available to provide
30 appropriate follow-up care, when necessary, at medically necessary intervals;

31 (B) The healthcare professional personally knows the
32 patient and the patient's relevant health status through an ongoing personal
33 or professional relationship and is available to provide appropriate follow-
34 up care, when necessary, at medically necessary intervals;

35 (C) The treatment is provided by a healthcare professional
36 in consultation with, or upon referral by, another healthcare professional



1 who has an ongoing professional relationship with the patient and who has
 2 agreed to supervise the patient’s treatment, including follow-up care;

3 (D) An on-call or cross-coverage arrangement exists with
 4 the patient’s regular treating healthcare professional or another healthcare
 5 professional who has established a professional relationship with the
 6 patient;

7 (E) A relationship exists in other circumstances as
 8 defined by rule of the Arkansas State Medical Board for healthcare
 9 professionals under its jurisdiction and their patients; ~~or~~

10 (F) A relationship exists in other circumstances as
 11 defined by rule of a licensing or certification board for other healthcare
 12 professionals under the jurisdiction of the appropriate board and their
 13 patients if the rules are no less restrictive than the rules of the Arkansas
 14 State Medical Board; or

15 (G) A healthcare professional, who is licensed in Arkansas
 16 and has access to a patient’s personal health record that is maintained by a
 17 physician, is allowed to use technology deemed appropriate by the healthcare
 18 professional, including without limitation using a telephone to conduct an
 19 audio-only consultation, to diagnose, treat, and, if clinically appropriate,
 20 prescribe a noncontrolled drug to a patient located in Arkansas;

21
 22 SECTION 2. Arkansas Code § 17-80-403(c), concerning the establishment
 23 of a professional relationship, is amended to read as follows:

24 (c) “Professional relationship” does not include a relationship
 25 between a healthcare professional and a patient established only by the
 26 following:

- 27 (1) An internet questionnaire;
- 28 (2) An email message;
- 29 (3) Patient-generated medical history;
- 30 ~~(4) Audio-only communication, including without limitation~~
- 31 ~~interactive audio;~~
- 32 ~~(5) Text messaging;~~
- 33 ~~(6)(5) A facsimile machine; or~~
- 34 ~~(7)(6) Any combination thereof~~ of means listed in subdivisions

35 (c)(1)-(5) of this section.
 36

1 SECTION 3. Arkansas Code § 17-80-404, concerning the appropriate use
 2 of telemedicine, is amended to add an additional subsection to read as
 3 follows:

4 (f) The Arkansas State Medical Board shall adopt rules, including
 5 without limitation emergency rules, to allow a healthcare professional who is
 6 licensed in Arkansas and has access to a patient’s personal health record
 7 that is maintained by a physician to establish a professional relationship
 8 with a patient located in Arkansas using technology deemed appropriate by the
 9 healthcare professional, including without limitation using a telephone to
 10 conduct an audio-only consultation, to diagnose, treat, and, if clinically
 11 appropriate, prescribe a noncontrolled drug to the patient.

12
 13 SECTION 4. Arkansas Code § 23-79-1601(7), concerning the definition of
 14 "telemedicine", is amended to read as follows:

15 (7)(A) “Telemedicine” means the use of electronic information
 16 and communication technology to deliver healthcare services, including
 17 without limitation the assessment, diagnosis, consultation, treatment,
 18 education, care management, and self-management of a patient.

19 (B) “Telemedicine” includes store-and-forward technology
 20 and remote patient monitoring.

21 (C) For the purposes of this subchapter, “telemedicine”
 22 does not include the use of:

23 ~~(i) Audio only communication, including without~~
 24 ~~limitation interactive audio;~~

25 ~~(ii)(i)~~ A facsimile machine;

26 ~~(iii)(ii)~~ Text messaging; or

27 ~~(iv)(iii)~~ ~~Electronic mail systems~~ Email.

28
 29 SECTION 5. Arkansas Code § 23-79-1601, concerning the definitions used
 30 for coverage of telemedicine services, is amended to add an additional
 31 subdivision to read as follows:

32 (8)(A) "Virtual telephone visit" means a consultation to deliver
 33 healthcare services that is conducted through the:

34 (i) Exchange of electronic information; and

35 (ii) Use of communication technologies, including
 36 without limitation the using a telephone to conduct an audio-only

1 consultation.

2 (B) As used in this subdivision (8), "healthcare services"
 3 includes without limitation the assessment, diagnosis, consultation,
 4 treatment, education, care management, and instruction in self-management of
 5 a patient.

6
 7 SECTION 6. Arkansas Code § 23-79-1602(h), concerning prohibitions on
 8 the coverage for telemedicine services, is amended to read as follows:

9 ~~(h)(1) A health benefit plan shall not prohibit a healthcare~~
 10 ~~professional from charging a patient enrolled in a health benefit plan for~~
 11 ~~healthcare services provided by audio-only communication that are not~~
 12 ~~reimbursed under the health benefit plan.~~ The Arkansas State Medical Board
 13 shall adopt rules, including without limitation emergency rules, to allow a
 14 healthcare professional, who is licensed in Arkansas and has access to the
 15 patient's personal health record that is maintained by a physician, to
 16 establish a professional relationship with a patient located in Arkansas
 17 using technology deemed appropriate by the healthcare professional, including
 18 without limitation using a telephone to conduct an audio-only consultation,
 19 to diagnose, treat, and, if clinically appropriate, prescribe a noncontrolled
 20 drug to the patient.

21 (2) The Insurance Commissioner shall adopt rules, including
 22 without limitation emergency rules, to require a health benefit plan, an
 23 insurer, and the Arkansas Medicaid Program to provide coverage of virtual
 24 telephone visits between a healthcare professional and a covered person to
 25 provide remote patient monitoring and healthcare services.