

## PROPOSED REGULATION

### CHAPTER 1 ARTICLE XIV

### TELE OPTOMETRY

#### Requirement for all services provided by Optometrists using Tele Optometry:

For purposes of this regulation, a proper Optometrist/patient relationship, at a minimum requires that:

1. For the purposes of this regulation, a proper Optometrist -patient relationship is deemed to exist in the following situations:
  - a. performs a history and an “in person” physical examination of the patient adequate to establish a diagnosis and identify underlying conditions and/or contraindications to the treatment recommended/provided, OR
  - b. When treatment is provided in consultation with, or upon referral by, another Optometrist who has an ongoing relationship with the patient, and who has agreed to supervise the patient’s treatment, including follow up care and the use of any prescribed medications.
  - c. On-call or cross-coverage situations arranged by the patient’s treating Optometrist
  - d. The Optometrist personally knows the patient and the patient’s general health status through an “ongoing” personal or professional relationship;
2. Appropriate follow-up be provided or arranged, when necessary, at medically necessary intervals.
3. An Optometrist /Patient relationship must be established before the delivery of services via Tele Optometry. A patient completing an Optometric history online and forwarding it to an Optometrist is not sufficient to establish the relationship, nor does it qualify as store-and-forward technology.
4. The following requirements apply to all services provided by Optometrists using Tele Optometry :
  - a. The practice of Optometry via Tele Optometry shall be held to the same standards of care as traditional in-person encounters.
  - b. The Optometrist must obtain a detailed explanation of the patient’s complaint from the patient or the patient’s treating Optometrist.
  - c. If a decision is made to provide treatment, the Optometrist must agree to accept responsibility for the care of the patient.
  - d. If follow-up care is indicated, the Optometrist must agree to provide or arrange for such follow-up care.
  - e. An Optometrist using Tele Optometry may NOT issue a prescription for any controlled substances defined as any scheduled medication under schedules II through V unless the Optometrist or has seen the patient for an in-person exam or unless a relationship exists through consultation or referral; on-call or cross-coverage situations; or through an ongoing personal or professional relationship.
  - f. The Optometrist must keep a documented patient record.
  - g. At the patient’s request, the Optometrist must make available to the patient an electronic or hardcopy version of the patient’s Optometric record documenting the encounter. Additionally, unless the patient declines to consent, the Optometrist must forward a copy of the record of the encounter to the patient’s regular treating Optometrist if that Optometrist is not the same one delivering the service via Tele Optometry.
  - h. Services must be delivered in a transparent manner, including providing access to

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information identifying the Optometrist in advance of the encounter, with licensure and board certifications, as well as patient financial responsibilities.

- i. If the patient, at the recommendation of the Optometrist, needs to be seen in person for their current Optometric issue, the Optometrist must arrange to see the patient in person or direct the patient to their regular treating Optometrist or other appropriate provider if the patient does not have a treating Optometrist. Such recommendation shall be documented in the patient's Optometric record.
- j. Optometrist who deliver services through Tele Optometry must establish protocols for referrals for emergency services.
- k. All Optometrists providing care via Tele Optometry to a patient located within the State of Arkansas shall be licensed to practice Optometry in the State of Arkansas.

Stricken language would be deleted from and underlined language would be added to present law.  
Act 203 of the Regular Session

1 State of Arkansas As Engrossed: S2/2/17 S2/6/17 S2/9/17

2 91st General Assembly

# A Bill

3 Regular Session, 2017

SENATE BILL 146

4

5 By: Senator Bledsoe

6 By: Representative D. Ferguson

7

8

## For An Act To Be Entitled

9 AN ACT TO AMEND THE LAWS CONCERNING TELEMEDICINE; TO  
10 CREATE THE TELEMEDICINE ACT; TO AMEND THE DEFINITION  
11 OF TELEMEDICINE AND ORIGINATING SITE; TO ADDRESS  
12 REQUIREMENTS OF A PROFESSIONAL RELATIONSHIP WHEN  
13 USING TELEMEDICINE; TO ADD STANDARDS FOR THE  
14 APPROPRIATE USE OF TELEMEDICINE; TO AMEND THE  
15 ARKANSAS INTERNET PRESCRIPTION CONSUMER PROTECTION  
16 ACT TO CONFORM WITH THE TELEMEDICINE ACT; TO ADDRESS  
17 INSURANCE COVERAGE OF TELEMEDICINE; AND FOR OTHER  
18 PURPOSES.

19

20

21

## Subtitle

22

TO AMEND THE LAWS CONCERNING  
23 TELEMEDICINE; AND TO CREATE THE  
24 TELEMEDICINE ACT.

25

26

27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

28

29 SECTION 1. Arkansas Code § 17-80-118 is repealed.

30 ~~17-80-118. Telemedicine.~~

31 ~~(a) As used in this section:~~

32

33 ~~(1) "Distant site" means the location of the healthcare~~  
34 ~~professional delivering services through telemedicine at the time the~~  
35 ~~services are provided;~~

36

~~(2) "Healthcare professional" means a person who is licensed,~~  
~~certified, or otherwise authorized by the laws of this state to administer~~



1 ~~health care in the ordinary course of the practice of his or her profession;~~

2 ~~(3) "Originating site" means:~~

3 ~~(A) The offices of a healthcare professional or a licensed~~  
4 ~~healthcare entity where the patient is located at the time services are~~  
5 ~~provided by a healthcare professional through telemedicine; and~~

6 ~~(B) The home of a patient in connection with treatment for~~  
7 ~~end-stage renal disease;~~

8 ~~(4) "Professional relationship" means at minimum a relationship~~  
9 ~~established between a healthcare professional and a patient when:~~

10 ~~(A) The healthcare professional has previously conducted~~  
11 ~~an in-person examination and is available to provide appropriate follow-up~~  
12 ~~care, when necessary, at medically necessary intervals;~~

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

17 ~~(C) The treatment is provided by a healthcare professional~~  
18 ~~in consultation with, or upon referral by, another healthcare professional~~  
19 ~~who has an ongoing relationship with the patient and who has agreed to~~  
20 ~~supervise the patient's treatment, including follow-up care;~~

21 ~~(D) An on-call or cross-coverage arrangement exists with~~  
22 ~~the patient's regular treating healthcare professional;~~

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

26 ~~(F) A relationship exists in other circumstances as~~  
27 ~~defined by rule of a licensing or certification board for other healthcare~~  
28 ~~professionals under the jurisdiction of the appropriate board and their~~  
29 ~~patients if the rules are no less restrictive than the rules of the Arkansas~~  
30 ~~State Medical Board;~~

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

34 ~~(6) "Telemedicine" means the medium of delivering clinical~~  
35 ~~healthcare services by means of real-time two-way electronic audio-visual~~  
36 ~~communications, including without limitation the application of secure video~~

1 ~~conferencing, to provide or support healthcare delivery that facilitates the~~  
2 ~~assessment, diagnosis, consultation, or treatment of a patient's health care~~  
3 ~~while the patient is at an originating site and the healthcare professional~~  
4 ~~is at a distant site.~~

5 ~~(b)(1) The standards of appropriate practice in traditional healthcare~~  
6 ~~professional-patient settings shall govern the licensed healthcare~~  
7 ~~professional's treatment recommendations made via electronic means, including~~  
8 ~~issuing a prescription via telemedicine.~~

9 ~~(2) This section does not alter existing state law or rules~~  
10 ~~governing a healthcare professional's scope of practice.~~

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

13 ~~(4)(A) Store and forward technology shall not be considered~~  
14 ~~telemedicine.~~

15 ~~(B) This subchapter does not restrict the use of store and~~  
16 ~~forward technology.~~

17 ~~(e) A healthcare professional shall follow applicable state and~~  
18 ~~federal law, rules, and regulations for:~~

19 ~~(1) Informed consent;~~

20 ~~(2) Privacy of individually identifiable health information;~~

21 ~~(3) Medical recordkeeping and confidentiality; and~~

22 ~~(4) Fraud and abuse.~~

23 ~~(d)(1) A healthcare professional who is treating patients in Arkansas~~  
24 ~~through telemedicine shall be fully licensed or certified to practice in~~  
25 ~~Arkansas and is subject to the rules of the appropriate state licensing or~~  
26 ~~certification board.~~

27 ~~(2) The requirement in subdivision (d)(1) of this section does~~  
28 ~~not apply to the acts of a healthcare professional located in another~~  
29 ~~jurisdiction who provides only episodic consultation services.~~

30 ~~(e)(1) A healthcare professional at a distant site shall not utilize~~  
31 ~~telemedicine with respect to a patient located in Arkansas unless a~~  
32 ~~professional relationship exists between the healthcare professional and the~~  
33 ~~patient or the healthcare professional otherwise meets the requirements of~~  
34 ~~professional relationship as defined in § 17-80-118(a)(4).~~

35 ~~(2) The existence of a professional relationship is not required~~  
36 ~~in the following circumstances:~~

1                   ~~(A) Emergency situations where the life or health of the~~  
2 ~~patient is in danger or imminent danger; or~~

3                   ~~(B) Simply providing information of a generic nature, not~~  
4 ~~meant to be specific to an individual patient.~~

5                   ~~(f) State licensing and certification boards for a healthcare~~  
6 ~~professional shall amend their rules where necessary to comply with this~~  
7 ~~section.~~

8  
9           SECTION 2. Arkansas Code Title 17, Chapter 80, is amended to add an  
10 additional subchapter to read as follows:

11                               Subchapter 4 – Telemedicine Act

12  
13                   17-80-401. Title.

14                   This subchapter shall be known and may be cited as the "Telemedicine  
15 Act".

16  
17                   17-80-402. Definitions.

18                   As used in this subchapter:

19                   (1) "Distant site" means the location of the healthcare  
20 professional delivering services through telemedicine at the time the  
21 services are provided;

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

25                   (3) "Originating site" means a site at which a patient is  
26 located at the time healthcare services are provided to him or her by means  
27 of telemedicine;

28                   (4)(A) "Professional relationship" means at minimum a  
29 relationship established between a healthcare professional and a patient  
30 when:

31                               (i) The healthcare professional has previously  
32 conducted an in-person examination and is available to provide appropriate  
33 follow-up care, when necessary, at medically necessary intervals;

34                               (ii) The healthcare professional personally knows  
35 the patient and the patient's relevant health status through an ongoing  
36 personal or professional relationship and is available to provide appropriate

1 follow-up care, when necessary, at medically necessary intervals;

2 (iii) The treatment is provided by a healthcare  
3 professional in consultation with, or upon referral by, another healthcare  
4 professional who has an ongoing relationship with the patient and who has  
5 agreed to supervise the patient's treatment, including follow-up care;

6 (iv) An on-call or cross-coverage arrangement exists  
7 with the patient's regular treating healthcare professional or another  
8 healthcare professional who has established a professional relationship with  
9 the patient;

10 (v) A relationship exists in other circumstances as  
11 defined by rule of the Arkansas State Medical Board for healthcare  
12 professionals under its jurisdiction and their patients; or

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

18 (5) "Remote patient monitoring" means the use of synchronous or  
19 asynchronous electronic information and communication technology to collect  
20 personal health information and medical data from a patient at an originating  
21 site that is transmitted to a healthcare professional at a distant site for  
22 use in the treatment and management of medical conditions that require  
23 frequent monitoring;

24 (6) "Store-and-forward technology" means the asynchronous  
25 transmission of a patient's medical information from a healthcare  
26 professional at an originating site to a healthcare professional at a distant  
27 site; and

28 (7)(A) "Telemedicine" means the use of electronic information  
29 and communication technology to deliver healthcare services, including  
30 without limitation the assessment, diagnosis, consultation, treatment,  
31 education, care management, and self-management of a patient.

32 (B) "Telemedicine" includes store-and-forward technology  
33 and remote patient monitoring.

34  
35 17-80-403. Establishment of professional relationship.

36 (a)(1) A healthcare professional at a distant site shall not utilize

1 telemedicine with respect to a patient located in Arkansas unless a  
2 professional relationship exists between the healthcare professional and the  
3 patient or the healthcare professional otherwise meets the requirements of a  
4 professional relationship as defined in § 17-80-402.

5 (2) The existence of a professional relationship is not required  
6 in the following circumstances:

7 (A) Emergency situations where the life or health of the  
8 patient is in danger or imminent danger; or

9 (B) Simply providing information of a generic nature, not  
10 meant to be specific to an individual patient.

11 (b) If the establishment of the professional relationship is permitted  
12 via telemedicine under § 17-80-402(4)(A)(v) or § 17-80-402(4)(A)(vi),  
13 telemedicine may be used to establish the professional relationship only for  
14 situations in which the standard of care does not require an in-person  
15 encounter.

16 (c) "Professional relationship" does not include a relationship  
17 between a healthcare professional and a patient established only by the  
18 following:

19 (1) An internet questionnaire;

20 (2) An email message;

21 (3) Patient-generated medical history;

22 (4) Audio-only communication, including without limitation  
23 interactive audio;

24 (5) Text messaging;

25 (6) A facsimile machine; or

26 (7) Any combination thereof;

27

28 17-80-404. Appropriate use of telemedicine.

29 (a)(1) A professional relationship shall be established in compliance  
30 with § 17-80-403 to provide healthcare services through telemedicine.

31 (2) Once a professional relationship is established, a  
32 healthcare professional may provide healthcare services through telemedicine,  
33 including interactive audio, if the healthcare services are within the scope  
34 of practice for which the healthcare professional is licensed or certified  
35 and the healthcare services otherwise meet the requirements of this  
36 subchapter.



1           (3) A licensing or certification board shall not permit the use  
2 of telemedicine in a manner that is less restrictive than the use of  
3 telemedicine authorized by the Arkansas State Medical Board.

4           (b)(1) Regardless of whether the healthcare professional is  
5 compensated for the healthcare services, if a healthcare professional seeks  
6 to provide healthcare services to a minor through telemedicine in a school  
7 setting and the minor is enrolled in the Arkansas Medicaid Program, the  
8 healthcare professional shall:

9                   (A) Be the designated primary care provider of the minor;

10                   (B) Have a cross-coverage arrangement with the designated  
11 primary care provider of the minor; or

12                   (C) Have authorization from the designated primary care  
13 provider of the minor.

14           (2) If the minor does not have a designated primary care  
15 provider, subdivision (b)(1) of this section does not apply.

16           (3) If a minor is enrolled in a health benefit plan as defined  
17 in § 23-79-1601 that is not part of the Arkansas Medicaid Program, the terms  
18 and conditions of the health benefit plan shall control.

19           (4) The designation of a primary care provider for a minor  
20 remains the right of a parent or legal guardian in accordance with § 20-9-601  
21 et seq.

22           (c) Healthcare services provided by telemedicine, including without  
23 limitation a prescription through telemedicine, shall be held to the same  
24 standard of care as healthcare services provided in person.

25           (d)(1) A healthcare professional who is treating patients in Arkansas  
26 through telemedicine shall be fully licensed or certified to practice in  
27 Arkansas and is subject to the rules of the appropriate state licensing or  
28 certification board.

29           (2) The requirement in subdivision (d)(1) of this section does  
30 not apply to the acts of a healthcare professional located in another  
31 jurisdiction who provides only episodic consultation services.

32           (e) A healthcare professional shall follow applicable state and  
33 federal law, rules, and regulations for:

34                   (1) Informed consent;

35                   (2) Privacy of individually identifiable health information;

36                   (3) Medical recordkeeping and confidentiality; and

1                   (4) Fraud and abuse.

2

3                   17-80-405. Liability – Noncompliance.

4                   (a) If a decision is made to provide healthcare services through  
5 telemedicine, the healthcare professional accepts responsibility and  
6 liability for the care of the patient.

7                   (b) Noncompliance with this subchapter is a violation of the practice  
8 act of the healthcare professional.

9

10                   17-80-406. Rules.

11                   State licensing and certification boards for a healthcare professional  
12 shall amend their rules where necessary to comply with this subchapter.

13

14                   17-80-407. Construction.

15                   This subchapter does not:

16                   (1) Alter existing state law or rules governing a healthcare  
17 professional's scope of practice; or

18                   (2) Authorize drug-induced, chemical, or surgical abortions  
19 performed through telemedicine.

20

21                   SECTION 3. Arkansas Code § 17-92-1003(15), concerning the definition  
22 of "proper practitioner-patient relationship" within the Arkansas Internet  
23 Prescription Consumer Protection Act, is amended to read as follows:

24                   (15) "Proper practitioner-patient relationship" means that  
25 before the issuance of a prescription, a practitioner, physician, or other  
26 prescribing health professional performs a history and in-person physical  
27 examination of the patient adequate to establish a diagnosis and to identify  
28 underlying conditions or contraindications to the treatment recommended or  
29 provided unless:

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

32                                   (i) Maintains an ongoing relationship with the  
33 patient;

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

36                                   (iii) Has agreed to supervise the patient's ongoing

1 care and use of prescribed medications; ~~or~~

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

4 (C) The relationship is established through telemedicine  
5 pursuant to the Telemedicine Act, § 17-80-401 et seq.

6

7 SECTION 4. Effective January 1, 2018, Arkansas Code §§ 23-79-1601 and  
8 23-79-1602 are amended to read as follows:

9 23-79-1601. Definitions.

10 As used in this subchapter:

11 (1) "Distant site" means the location of the healthcare  
12 professional delivering healthcare services through telemedicine at the time  
13 the services are provided;

14 (2)(A) "Health benefit plan" means:

15 (i) An individual, blanket, or group plan, policy,  
16 or contract for healthcare services issued or delivered by an insurer, health  
17 maintenance organization, hospital medical service corporation, or self-  
18 insured governmental or church plan in this state; and

19 (ii) Any health benefit program receiving state or  
20 federal appropriations from the State of Arkansas, including the Arkansas  
21 Medicaid Program, and the Health Care Independence Program, commonly referred  
22 to as the "Private Option", and the Arkansas Works Program, or any successor  
23 program.

24 (B) "Health benefit plan" includes:

25 (i) Indemnity and managed care plans; and

26 (ii) Nonfederal governmental plans as defined in 29  
27 U.S.C. § 1002(32), as it existed on January 1, 2015.

28 (C) "Health benefit plan" does not include:

29 (i) Disability income plans;

30 (ii) Credit insurance plans;

31 (iii) Insurance coverage issued as a supplement to  
32 liability insurance;

33 (iv) Medical payments under automobile or homeowners  
34 insurance plans;

35 (v) Health benefit plans provided under Arkansas  
36 Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et

1 seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

2 (vi) Plans that provide only indemnity for hospital

3 confinement;

4 (vii) Accident only plans;

5 (viii) Specified disease plans; or

6 (ix) Long-term care only plans;

7 (3) "Healthcare professional" means a person who is licensed,

8 certified, or otherwise authorized by the laws of this state to administer

9 health care in the ordinary course of the practice of his or her profession;

10 ~~(4) "Originating site" means:~~

11 ~~(A) The offices of a healthcare professional or a licensed~~

12 ~~healthcare entity where the patient is located at the time services are~~

13 ~~provided by a healthcare professional through telemedicine; and~~

14 ~~(B) The home of a patient in connection with treatment for~~

15 ~~end-stage renal disease; and~~

16 ~~(5) "Telemedicine" means the medium of delivering clinical~~

17 ~~healthcare services by means of real-time two-way electronic audio-visual~~

18 ~~communications, including without limitation the application of secure video~~

19 ~~conferencing, to provide or support healthcare delivery that facilitates the~~

20 ~~assessment, diagnosis, consultation, or treatment of a patient's health care~~

21 ~~while the patient is at an originating site and the healthcare professional~~

22 ~~is at a distant site.~~

23 (4) "Originating site" means a site at which a patient is

24 located at the time healthcare services are provided to him or her by means

25 of telemedicine;

26 (5) "Remote patient monitoring" means the use of synchronous or

27 asynchronous electronic information and communication technology to collect

28 personal health information and medical data from a patient at an originating

29 site that is transmitted to a healthcare professional at a distant site for

30 use in the treatment and management of medical conditions that require

31 frequent monitoring;

32 (6) "Store-and-forward technology" means the asynchronous

33 transmission of a patient's medical information from a healthcare

34 professional at an originating site to a healthcare professional at the

35 distant site; and

36 (7)(A) "Telemedicine" means the use of electronic information

1 and communication technology to deliver healthcare services, including  
2 without limitation the assessment, diagnosis, consultation, treatment,  
3 education, care management, and self-management of a patient.

4 (B) "Telemedicine" includes store-and-forward technology  
5 and remote patient monitoring.

6 (C) For the purposes of this subchapter, "telemedicine"  
7 does not include the use of:

8 (i) Audio-only communication, including without  
9 limitation interactive audio;

10 (ii) A facsimile machine;

11 (iii) Text messaging; or

12 (iv) Electronic mail systems.

13

14 23-79-1602. Coverage for telemedicine.

15 (a)(1) This subchapter ~~shall apply~~ applies to all health benefit plans  
16 delivered, issued for delivery, reissued, or extended in Arkansas on or after  
17 January 1, 2016, or at any time when any term of the health benefit plan is  
18 changed or any premium adjustment is made thereafter.

19 (2) Notwithstanding subdivision (a)(1) of this section, this  
20 subchapter ~~shall apply~~ applies to the Arkansas Medicaid Program on and after  
21 January 1, 2016.

22 (b) A healthcare professional providing a healthcare service provided  
23 through telemedicine shall comply with the requirements of the Telemedicine  
24 Act, § 17-80-117 17-80-401 et seq.

25 (c)(1) A health benefit plan shall ~~cover the services of a physician~~  
26 ~~who is licensed by the Arkansas State Medical Board for healthcare services~~  
27 ~~through telemedicine on the same basis as the health benefit plan provides~~  
28 ~~coverage for the same healthcare services provided by the physician in person~~  
29 provide coverage and reimbursement for healthcare services provided through  
30 telemedicine on the same basis as the health benefit plan provides coverage  
31 and reimbursement for health services provided in person, unless this  
32 subchapter specifically provides otherwise.

33 (2) ~~Subject to subdivision (d)(1) of this section, a health~~  
34 ~~benefit plan shall reimburse a physician licensed by the board for healthcare~~  
35 ~~services provided through telemedicine on the same basis as the health~~  
36 ~~benefit plan reimburses a physician for the same healthcare services provided~~

1 ~~in person.~~ A health benefit plan is not required to reimburse for a  
2 healthcare service provided through telemedicine that is not comparable to  
3 the same service provided in person.

4 (3) A health benefit plan may voluntarily reimburse for  
5 healthcare services provided through means described in § 23-79-1601(7)(C).

6 (d)(1) A health benefit plan shall provide a reasonable facility fee  
7 to an originating site operated by a healthcare professional or a licensed  
8 healthcare entity if the healthcare professional or licensed healthcare  
9 entity is authorized to bill the health benefit plan directly for healthcare  
10 services.

11 (2) The combined amount of reimbursement that a health benefit  
12 plan allows for the compensation to the distant site physician and the  
13 originating site shall not be less than the total amount allowed for  
14 healthcare services provided in person.

15 ~~(2)(3)~~ Payment for healthcare services provided through  
16 telemedicine shall be provided to the distant site physician and the  
17 originating site upon submission of the appropriate procedure codes.

18 ~~(3)(4)~~ This section does not:

19 (A) Prohibit:

20 ~~(i) A health benefit plan from reimbursing other~~  
21 ~~healthcare professionals; or~~

22 ~~(ii) A a health benefit plan from paying a facility~~  
23 ~~fee to a provider at the distant site in addition to a fee paid to the~~  
24 ~~healthcare professional; or~~

25 (B) Require an insurer a health benefit plan to pay more  
26 for a healthcare service provided through telemedicine than would have been  
27 paid if the healthcare service was delivered in person.

28 (e) A health benefit plan shall not impose on coverage for healthcare  
29 services provided through telemedicine:

30 (1) An annual or lifetime dollar maximum on coverage for  
31 services provided through telemedicine other than an annual or lifetime  
32 dollar maximum that applies to the aggregate of all items and services  
33 covered;

34 (2) A deductible, copayment, coinsurance, benefit limitation, or  
35 maximum benefit that is not equally imposed upon all healthcare services  
36 covered under the health benefit plan; or

1 (3) A prior authorization requirement for services provided  
2 through telemedicine that exceeds the prior authorization requirement for in-  
3 person healthcare services under the health benefit plan.

4 (f) This subchapter does not prohibit a health benefit plan from:

5 (1) Limiting coverage of healthcare services provided through  
6 telemedicine to medically necessary services, subject to the same terms and  
7 conditions of the covered person's health benefit plan that apply to services  
8 provided in person; or

9 (2)(A) Undertaking utilization review, including prior  
10 authorization, to determine the appropriateness of healthcare services  
11 provided through telemedicine, provided that:

12 (i) The determination of appropriateness is made in  
13 the same manner as determinations are made for the treatment of any illness,  
14 condition, or disorder covered by the health benefit plan whether the service  
15 was provided in-person or through telemedicine; and

16 (ii) All adverse determinations for healthcare  
17 services, medications, or equipment prescribed by a physician are made by a  
18 physician who possesses a current and valid unrestricted license to practice  
19 medicine in Arkansas.

20 (B) Utilization review shall not require prior  
21 authorization of emergent telemedicine services.

22 (g)(1) A health benefit plan may adopt policies to ensure that  
23 healthcare services provided through telemedicine submitted for payment  
24 comply with the same coding, documentation, and other requirements necessary  
25 for payment as an in-person service other than the in-person requirement.

26 (2) If deemed necessary, the State Insurance Department may  
27 promulgate rules containing additional standards and procedures for the  
28 utilization of telemedicine to provide healthcare ~~service~~ services through  
29 health benefit plans if the additional standards and procedures do not  
30 conflict with this subchapter or § 17-80-117 and are applied uniformly by all  
31 health benefit plans.

32 (h) A health benefit plan shall not prohibit a healthcare professional  
33 from charging a patient enrolled in a health benefit plan for healthcare  
34 services provided by audio-only communication that are not reimbursed under  
35 the health benefit plan.

36

1 SECTION 5. Arkansas Code § 23-86-123 is amended to read as follows:  
2 23-86-123. Prior authorization by physician — Definitions.

3 (a) As used in this section:

4 (1) "Prior authorization" means the process by which a health  
5 carrier determines the medical necessity or eligibility for coverage of a  
6 healthcare service before a covered person receives the healthcare service in  
7 order to provide coverage and reimbursement for the healthcare service; and

8 (2) "Telemedicine" means ~~the medium of delivering clinical~~  
9 ~~healthcare services by means of real-time two-way electronic audiovisual~~  
10 ~~communications, including without limitation the application of secure video~~  
11 ~~conferencing, to provide or support healthcare delivery that facilitates the~~  
12 ~~assessment, diagnosis, consultation, treatment, education, care management,~~  
13 ~~or self-management of a patient's health care while the patient is at an~~  
14 ~~originating site and the healthcare professional is at a distant site the~~  
15 ~~same as defined in § 23-79-1601.~~

16 (b) When conducting prior authorization, whether for healthcare  
17 services provided through telemedicine or provided in person, a physician who  
18 possesses a current and unrestricted license to practice medicine in the  
19 State of Arkansas shall make all adverse determinations for healthcare  
20 services, medications, or equipment prescribed by a physician.

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*/s/Bledsoe*

**APPROVED: 02/17/2017**