

## Arkansas State Board of Physical Therapy

Pursuant to the Arkansas Telemedicine Act, Ark. Code Ann. §§ 17-80-401 et seq., the following rule applies to the provision of services via telehealth by physical therapists and physical therapy assistants when acting within their respective scopes of practice.

**I. Requirement for all services provided by physical therapists using telehealth:**

1. A professional relationship shall be established in compliance with this rule to provide physical therapy services through telehealth.
2. Once a professional relationship is established, a licensee may provide healthcare services through telehealth, including interactive audio, if the healthcare services are within the physical therapy scope of practice.
3. The practice of physical therapy via telehealth shall be held to the same standards of care as traditional in-person encounters.
4. All licensees providing care via telemedicine to a patient located within the State of Arkansas shall be licensed to practice physical therapy in the State of Arkansas.
5. Licensees utilizing telehealth must follow applicable state/federal laws regarding informed consent, HIPAA, medical records and confidentiality, and fraud/waste/abuse.
6. If a decision is made to provide physical therapy through telehealth, the physical therapist accepts responsibility and liability for the care of the patient.

**II. Patient/ Physical Therapist Relationship**

1. For purposes of this rule, a professional relationship, at a minimum, requires that:
  - A. The licensee 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. The licensee personally knows the patient and the patient's general health status through an "ongoing" personal or professional relationship; and

C. Appropriate follow-up be provided or arranged, when necessary, at medically necessary intervals.

2. For the purposes of this rule, a professional relationship is deemed to exist in the following situations:

A. When treatment is provided in consultation with, or upon referral by, another healthcare professional 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.

B. On-call or cross-coverage situations arranged by the patient's treating physical therapist.

3. "Professional relationship" does not include a relationship between a licensee and a patient established only by the following:

A. An internet questionnaire;

B. An email message;

C. Patient-generated medical history;

D. Audio-only communication, including without limitation interactive audio;

E. Text messaging;

F. A facsimile machine; or

G. Any combination thereof.

1 State of Arkansas As Engrossed: H2/4/19 S4/5/19

2 92nd General Assembly

# A Bill

3 Regular Session, 2019

HOUSE BILL 1255

4

5 By: Representative Dotson

6 By: Senator Hester

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## For An Act To Be Entitled

9 AN ACT TO PROMOTE, RECRUIT, AND RETAIN A HIGHLY  
10 SKILLED WORKFORCE IN THE STATE OF ARKANSAS; TO AMEND  
11 THE LAW CONCERNING LICENSING, REGISTRATION, AND  
12 CERTIFICATION FOR CERTAIN PROFESSIONS; TO ESTABLISH A  
13 SYSTEM OF ENDORSEMENT, RECOGNITION, AND RECIPROCITY  
14 FOR LICENSING, REGISTRATION, AND CERTIFICATION FOR  
15 CERTAIN PROFESSIONS; AND FOR OTHER PURPOSES.

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## Subtitle

19 TO AMEND THE LAW CONCERNING LICENSING,  
20 REGISTRATION, AND CERTIFICATION FOR  
21 CERTAIN PROFESSIONS; AND TO ESTABLISH A  
22 SYSTEM OF ENDORSEMENT, RECOGNITION, AND  
23 RECIPROCITY FOR LICENSING.

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

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28 SECTION 1. Arkansas Code § 17-1-107 is amended to read as follows:

29 17-1-107. Reinstatement of licenses – Definition.

30 ~~(a)(1) It is not the intent of the General Assembly to cause the~~  
31 ~~licensing entity to engage in simple comparisons of the required hours of~~  
32 ~~training and other personal qualifications under Arkansas's occupational~~  
33 ~~licensing statutes with those qualifications required in the state where the~~  
34 ~~person is credentialed.~~

35 ~~(2) It is the intent of the General Assembly to ensure that a~~  
36 ~~person may be credentialed to work in Arkansas if he or she generally~~



1 ~~demonstrates the skills and ethics required by state law based on the~~  
2 ~~person's experience and credentials in another state.~~

3 ~~(b)(a)~~ A An occupational licensing entity shall by rule adopt reduced  
4 requirements for reinstatement of a license, registration, permit, or  
5 certification for a person who:

6 (1) Demonstrates that he or she:

7 (A) Was previously licensed, registered, permitted, or  
8 certified to practice in the field of his or her profession at any time in  
9 this state;

10 (B) Held his or her license, registration, permit, or  
11 certification in good standing at the time of licensing, registration,  
12 permitting, or certification;

13 (C) Did not have his or her license, registration, permit,  
14 or certification revoked for:

15 (i) An act of bad faith; or

16 (ii) A violation of law, rule, or ethics;

17 (D) Is not holding a suspended or probationary license,  
18 registration, permit, or certification in any state; and

19 (E) Is sufficiently competent in his or her field; and

20 (2) Pays any reinstatement fee required by law.

21 ~~(e)(b)~~ The occupational licensing entity may require that sufficient  
22 competency in a particular field be demonstrated by:

23 (1) Proficiency testing;

24 (2) Letters of recommendation; or

25 (3) Both proficiency testing and letters of recommendation.

26 ~~(d)(1)(c)(1)~~ Except as provided under subdivision ~~(e)(2)(b)~~ of this  
27 section, the occupational licensing entity shall not require a person who  
28 meets the requirements of subsection (a) of this section to participate in  
29 the apprenticeship, education, or training required as a prerequisite to  
30 licensing, registration, permitting, or certification of a new professional  
31 in the field.

32 (2) The occupational licensing entity may require the person to  
33 participate in continuing education or training if the continuing education  
34 or training is required for all professionals in the field to maintain the  
35 license, registration, permit, or certification.

36 ~~(e)(d)~~ A person shall not be required to comply with requirements

1 under this section to obtain reinstatement of his or her license,  
2 *registration, permit, or certification* if the person meets the requirements  
3 for reciprocity.

4 ~~(f)~~(e) If a criminal background check is required of an applicant for  
5 an original license, registration, permit, or certification, or of a person  
6 currently holding a license, *registration, permit, or certification*, then the  
7 occupational licensing entity may require a person seeking reinstatement  
8 under this section to meet the same criminal background check requirements as  
9 the applicant for an original license, registration, permit, or  
10 certification, or as the person currently holding a license, registration,  
11 permit, or certification.

12 ~~(g)~~(f)(1) As used in this section, "occupational licensing entity"  
13 means an agency, office, council, bureau, board, commission, department,  
14 committee, or other authority of the government of the State of Arkansas,  
15 whether within or subject to review by another agency, ~~except the General~~  
16 ~~Assembly, the courts, and the Governor~~, that has the duty to license,  
17 *register, permit, certify, or otherwise approve* a person to work in a  
18 particular field or industry.

19 (2) As used in subdivision (f)(1) of this section "agency"  
20 does not include the General Assembly, the courts, or the Governor.

21  
22 SECTION 2. Arkansas Code § 17-1-108, as added by Acts 2019, No. 426,  
23 is amended to read as follows:

24 17-1-108. Expedited temporary and provisional licensure – Legislative  
25 intent.

26 (a)(1) It is the intent of the General Assembly to ensure that an  
27 individual may be credentialed to work in Arkansas if he or she generally  
28 demonstrates the skills and ethics required by state law based on the  
29 individual's experience and credentials in another state.

30 (2) It is not the intent of the General Assembly to cause the  
31 licensing entity to engage in simple comparisons of the required hours of  
32 training and other personal qualifications under Arkansas's occupational  
33 licensing statutes with those qualifications required in the state where the  
34 individual is credentialed.

35 ~~(a)~~(b) As used in this section:

36 (1) "Individual" means a natural person, firm, association,

1 partnership, corporation, or other entity that may hold an occupational  
2 licensure;

3 (2) "Occupational licensing entity" means an office, board,  
4 commission, committee, department, council, bureau, or other agency of state  
5 government having authority to license, certify, register, permit, or  
6 otherwise authorize an individual to engage in a particular occupation or  
7 profession; and

8 (3) "Occupational licensure" means a license, certificate,  
9 registration, permit, or other form of authorization required by law or rule  
10 that is required for an individual to engage in a particular occupation or  
11 profession.

12 ~~(b)(c)~~ An occupational licensing entity shall by rule adopt the least  
13 restrictive requirements for occupational licensure for an individual who:

14 (1) Demonstrates that he or she:

15 (A) Holds an occupational licensure that is substantially  
16 similar to practice in the field of his or her occupation or profession in  
17 another state, territory, or district of the United States;

18 (B) Holds his or her occupational licensure in good  
19 standing;

20 (C) Has not had his or her occupational licensure revoked  
21 for:

22 (i) An act of bad faith; or

23 (ii) A violation of law, rule, or ethics;

24 (D) Is not holding a suspended or probationary  
25 occupational licensure in any state, territory, or district of the United  
26 States; and

27 (E) Is sufficiently competent in his or her field; and

28 (2) Pays any occupational licensure fee required by law or rule.

29 ~~(e)(1)(A)(d)(1)(A)~~ An occupational licensing entity shall comply with  
30 the requirements under subsection ~~(b)(c)~~ of this section by adopting the  
31 least restrictive rule that allows for reciprocity or licensure by  
32 endorsement.

33 (B) The rule adopted under subdivision ~~(e)(1)(A)(d)(1)(A)~~  
34 of this section shall provide the procedure by which an occupational  
35 licensing entity shall grant a temporary and provisional occupational  
36 licensure for ninety (90) days or longer to an individual under subsection

1 ~~(b)~~(c) of this section if presented with evidence of a current and active  
2 occupational licensure that is substantially similar to practice in the field  
3 of his or her occupation or profession in another state, territory, or  
4 district of the United States.

5 (2) If a state, territory, or district of the United States does  
6 not require occupational licensure for a profession that requires  
7 occupational licensure in this state, an occupational licensing entity shall  
8 adopt a rule that is least restrictive to permit an individual who is  
9 sufficiently competent in his or her field to obtain occupational licensure  
10 for that occupation or profession in this state.

11 (3) The occupational licensing entity may require additional  
12 state-specific education for an individual with an occupational licensure in  
13 another state, territory, or district of the United States that does not  
14 offer reciprocity similar to reciprocity under this section to individuals  
15 with occupational licensure in this state.

16 ~~(d)~~(1)(e)(1) Except as provided under subdivision ~~(d)~~(1)(e)(2) of this  
17 section, an occupational licensing entity shall not require an individual who  
18 meets the requirements of subsection ~~(b)~~(c) of this section to participate in  
19 the apprenticeship, education, or training required as a prerequisite to  
20 occupational licensure of a new professional in the field.

21 (2) The occupational licensing entity may require the individual  
22 to participate in continuing education or training if the continuing  
23 education or training is required for all professionals in the field to  
24 maintain the occupational licensure.

25 ~~(e)~~(f) If a criminal background check is required of an applicant for  
26 an initial occupational licensure or of ~~a person~~ an individual currently  
27 holding an occupational licensure, then the occupational licensing entity may  
28 require ~~a person~~ an individual seeking his or her occupational licensure  
29 under this section to meet the same criminal background check requirements as  
30 the applicant for an initial occupational licensure or as the ~~person~~  
31 individual currently holding an occupational licensure.

32 ~~(f)~~(g) The occupational licensing entity may require the individual  
33 applying for occupational licensure under this section to meet any bonding,  
34 financial statement, or insurance requirements that are applicable to all  
35 applicants.

36 ~~(g)~~(h) This section shall not apply to:

1           (1) Reciprocity or license by endorsement provisions under §§  
2 17-12-308, 17-26-315, 17-27-308, 17-28-306, 17-31-308, 17-36-304, 17-42-305,  
3 17-43-307, 17-83-305, 17-88-305, 17-89-305, 17-90-302, 17-92-114, 17-92-308,  
4 17-93-414, 17-97-306, 17-99-304, 17-100-304, and 17-103-302; or

5           (2) The occupational licensing entities that administer the  
6 reciprocity provisions under subdivision ~~(g)(1)~~(h)(1) of this section.

7       ~~(h)(i)~~ An occupational licensing entity may enter into written  
8 agreements with similar occupational licensing entities of another state,  
9 territory, or district of the United States as necessary to assure ~~for~~ that  
10 licensees in this state have comparable nonresident licensure opportunities  
11 as those opportunities available to nonresidents by occupational licensing  
12 entities in this state.

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/s/Dotson

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**APPROVED: 4/15/19**

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