

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 ist assistants when acting within their respective scopes of practice.

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I. Definitions

As used in this rule:

(1) "Distant site" means the location of the licensee delivering services through telemedicine at the time the services are provided;

(2) "Healthcare professional" has the same meaning as in Ark. Code Ann. § 17-80-402(2) of the Telemedicine Act.

(3) "Licensee" means a physical therapist or physical therapist assistant licensed by the Arkansas State Board of Physical Therapy;

(4)(A) "Originating site" means a site at which a patient is located at the time healthcare services are provided to him or her by means of telehealth.

(B) "Originating site" includes the home of a patient;

(5) "Professional relationship" means at a minimum a relationship established between a licensee and a patient when:

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

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

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

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

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

(F)(i) The licensee has access to a patient's personal health record maintained by a licensee and uses any technology deemed appropriate by the licensee, including the telephone, with a patient located in Arkansas to diagnose and treat the patient.

(ii) For purposes of this rule, a health record may be created with the use of telehealth and consists of relevant clinical information required to treat a patient, and is reviewed by the licensee who meets the same standard of care for a telehealth visit as an in-person visit;

(6) "Remote patient monitoring" means the use of synchronous or asynchronous electronic information and communication technology to collect personal health information and medical data from a patient at an originating site that is transmitted to a licensee at a distant site for use in the treatment and management of medical conditions that require frequent monitoring;

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

(8)(A) "Telehealth" means the use of electronic information and communication technology to deliver healthcare services, including without limitation the assessment,

diagnosis, consultation, treatment, education, care management, and self-management of a patient.

(B) "Telehealth" includes store-and-forward technology and remote patient monitoring.

II. Establishment of professional relationship

(a)(1) A licensee at a distant site shall not utilize telehealth with respect to a patient located in Arkansas unless a professional relationship exists between the licensee and the patient or the licensee otherwise meets the requirements of a professional relationship as defined in Section I.(5) of this rule.

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

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

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

(b) If the establishment of the professional relationship is permitted via telemedicine under Section I.(5)(E) of this rule, telehealth may be used to establish the professional relationship only for situations in which the standard of care does not require an in-person encounter.

(c) "Professional relationship" does not include a relationship between a licensee and a patient established only by the following:

(1) An internet questionnaire;

(2) An email message;

(3) Patient-generated medical history;

(4) Text messaging;

(5) A facsimile machine; or

(6) Any combination of means listed in subdivisions (c)(1)-(5) of this section.

III. Requirement for all services provided by physical therapists licensees 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 regulation, 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
2 93rd General Assembly
3 Regular Session, 2021
4

As Engrossed: S3/31/21

A Bill

HOUSE BILL 1068

5 By: Representative Pilkington
6

For An Act To Be Entitled

8 AN ACT TO CLARIFY THE TELEMEDICINE ACT; TO SPECIFY
9 THAT THE HOME OF A PATIENT MAY BE AN ORIGINATING SITE
10 FOR TELEMEDICINE AND THAT GROUP MEETINGS MAY BE
11 PERFORMED VIA TELEMEDICINE; TO CLARIFY REIMBURSEMENT
12 OF TELEMEDICINE SERVICES; AND FOR OTHER PURPOSES.
13

Subtitle

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15
16 TO CLARIFY THE TELEMEDICINE ACT; TO
17 SPECIFY THAT THE HOME OF A PATIENT MAY BE
18 AN ORIGINATING SITE FOR TELEMEDICINE AND
19 THAT GROUP MEETINGS MAY BE PERFORMED VIA
20 TELEMEDICINE; AND TO CLARIFY
21 REIMBURSEMENT OF TELEMEDICINE SERVICES.
22

23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25 SECTION 1. Arkansas Code § 17-80-402(3), concerning the definition of
26 "originating site" within the Telemedicine Act, is amended to read as
27 follows:

28 (3)(A) "Originating site" means a site at which a patient is
29 located at the time healthcare services are provided to him or her by means
30 of telemedicine.

31 (B) "Originating site" includes the home of a patient;
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33 SECTION 2. Arkansas Code § 17-80-404, concerning the appropriate use
34 of telemedicine, is amended to add an additional subsection to read as
35 follows:

36 (f)(1) A healthcare professional may use telemedicine to perform group



1 meetings for healthcare services, including group therapy.

2 (2) Telemedicine for group therapy provided to adults who are
3 participants in a program or plan authorized and funded under 42 U.S.C. §
4 1396a, as approved by the United States Secretary of Health and Human
5 Services, may only be permitted if the Centers for Medicare and Medicaid
6 Services allows telemedicine for group therapy provided to adults.

7 (3) Telemedicine shall not be used for group therapy provided to
8 a child who is eighteen (18) years of age or younger.

9
10 SECTION 3. Arkansas Code § 23-79-1601(4), concerning the definition of
11 "originating site" regarding coverage for services provided through
12 telemedicine, is amended to read as follows:

13 (4)(A) "Originating site" means a site at which a patient is
14 located at the time healthcare services are provided to him or her by means
15 of telemedicine.

16 (B) "Originating site" includes the home of a patient;

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19 /s/Pilkington

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22 **APPROVED: 4/19/21**

1 State of Arkansas *As Engrossed: H1/25/21 H2/8/21 H2/10/21 S3/9/21 S3/17/21 S4/6/21 S4/12/21*

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1063

4
5 *By: Representatives Dotson, Pilkington*

6 By: Senator Hester

For An Act To Be Entitled

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

Subtitle

16 *TO AMEND THE TELEMEDICINE ACT; TO*
17 *AUTHORIZE ADDITIONAL REIMBURSEMENT FOR*
18 *TELEMEDICINE VIA TELEPHONE; AND TO*
19 *DECLARE AN EMERGENCY.*

22 *BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:*

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

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

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

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



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

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

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

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

17 (G)(i) The healthcare professional who is licensed in
18 Arkansas has access to a patient's personal health record maintained by a
19 healthcare professional and uses any technology deemed appropriate by the
20 healthcare professional, including the telephone, with a patient located in
21 Arkansas to diagnose, treat, and if clinically appropriate, prescribe a
22 noncontrolled drug to the patient.

23 (ii) For purposes of this subchapter, a health
24 record may be created with the use of telemedicine and consists of relevant
25 clinical information required to treat a patient, and is reviewed by the
26 healthcare professional who meets the same standard of care for a
27 telemedicine visit as an in-person visit;

28
29 *SECTION 2. Arkansas Code § 17-80-403(c), concerning the establishment*
30 *of a professional relationship, is amended to read as follows:*

31 (c) "Professional relationship" does not include a relationship
32 between a healthcare professional and a patient established only by the
33 following:

- 34 (1) An internet questionnaire;
35 (2) An email message;

- 1 (3) Patient-generated medical history;
2 (4) ~~Audio-only communication, including without limitation~~
3 ~~interactive audio;~~
4 (5) Text messaging;
5 (6)(5) A facsimile machine; or
6 (7)(6) Any combination thereof of means listed in subdivisions
7 (c)(1)-(5) of this section.
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10 SECTION 3. Arkansas Code § 23-79-1601(2)(C), concerning the definition
11 of "health benefit plan", is amended to read as follows:

- 12 (C) "Health benefit plan" does not include:
13 (i) Disability income plans;
14 (ii) Credit insurance plans;
15 (iii) Insurance coverage issued as a supplement to
16 liability insurance;
17 (iv) Medical payments under automobile or homeowners
18 insurance plans;
19 (v) Health benefit plans provided under Arkansas
20 Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et
21 seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;
22 (vi) Plans that provide only indemnity for hospital
23 confinement;
24 (vii) Accident-only plans;
25 (viii) Specified disease plans; ~~or~~
26 (ix) Long-term-care-only plans; or
27 (x) Stand-alone dental or vision benefit plans;
28

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

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

35 (B) "Telemedicine" includes store-and-forward technology

1 and remote patient monitoring.

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

4 (i)(a) Audio-only communication, including without
5 limitation interactive audio unless the audio-only communication is real-
6 time, interactive, and substantially meets the requirements for a healthcare
7 service that would otherwise be covered by the health benefit plan.

8 (b) As with other medical services covered by
9 a health benefit plan, documentation of the engagement between patient and
10 provider via audio-only communication shall be placed in the medical record
11 addressing the problem, content of conversation, medical decision-making, and
12 plan of care after the contact.

13 (c) The documentation described in subdivision
14 (7)(C)(i)(b) of this section is subject to the same audit and review process
15 required by payers and governmental agencies when requesting documentation of
16 other care delivery such as in-office or face-to-face visits;

17 (ii) A facsimile machine;

18 (iii) Text messaging; or

19 (iv) ~~Electronic mail systems~~ Email.

20

21 SECTION 5. Arkansas Code § 23-79-1602(e), concerning prohibitions on
22 the coverage for telemedicine services, is amended to read as follows:

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

25 (1) An annual or lifetime dollar maximum on coverage for
26 services provided through telemedicine other than an annual or lifetime
27 dollar maximum that applies to the aggregate of all items and services
28 covered;

29 (2) A deductible, copayment, coinsurance, benefit limitation, or
30 maximum benefit that is not equally imposed upon all healthcare services
31 covered under the health benefit plan; ~~or~~

32 (3) A prior authorization requirement for services provided
33 through telemedicine that exceeds the prior authorization requirement for in-
34 person healthcare services under the health benefit plan;

35 (4) A requirement for a covered person to choose any commercial

1 telemedicine service provider or a restricted network of telemedicine-only
2 providers rather than the covered person's regular doctor or provider of
3 choice; or

4 (5) A copayment, coinsurance, or deductible that is not equally
5 imposed upon commercial telemedicine providers as those imposed on network
6 providers.

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8 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
9 General Assembly of the State of Arkansas that due to the coronavirus 2019
10 (COVID-19) pandemic, the Governor removed barriers to the use of telemedicine
11 in an attempt to combat the coronavirus 2019 (COVID-19) pandemic; that these
12 emergency actions will expire when the emergency proclamation expires, which
13 could occur quickly; that on February 26, 2021, the Governor announced that
14 the public health emergency was extended but that the Governor was going to
15 lift some regulations related to the pandemic; that removing barriers to the
16 use of telemedicine ensured that the citizens of Arkansas had the services
17 that they needed, and removing these emergency proclamations regarding
18 telemedicine would greatly disadvantage and harm the citizens of Arkansas who
19 are utilizing telemedicine for healthcare services; that this bill maintains
20 the policy changes allowed under the emergency proclamation, which would
21 allow the citizens of Arkansas greater access to the use of telemedicine for
22 healthcare services; and that this act is immediately necessary to ensure
23 that the citizens of Arkansas have access to healthcare services provided via
24 telemedicine. Therefore, an emergency is declared to exist, and this act
25 being immediately necessary for the preservation of the public peace, health,
26 and safety shall become effective on:

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

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

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

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34 /s/Pilkington

35 **APPROVED: 4/21/21**