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

INTERIM STUDY PROPOSAL 2015-064
As Engrossed: S3/10/15 S3/17/15

A Bill

SENATE BILL 845

6 By: Senator J. Cooper

7 Filed with: Senate Committee on Public Health, Welfare, and Labor
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

10 AN ACT TO INCREASE ACCESS TO HEALTH CARE AND REDUCE
11 HEALTHCARE COSTS; TO ENCOURAGE THE USE OF
12 TELEMEDICINE; TO DECLARE AN EMERGENCY; AND FOR OTHER
13 PURPOSES.

Subtitle

17 TO INCREASE ACCESS TO HEALTH CARE AND
18 REDUCE HEALTHCARE COSTS; TO ENCOURAGE THE
19 USE OF TELEMEDICINE; AND TO DECLARE AN
20 EMERGENCY.

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

25 SECTION 1. DO NOT CODIFY. Legislative findings and purpose.

26 (a) The General Assembly finds that:

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

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

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

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

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

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

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

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

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

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

22
23 SECTION 2. Arkansas Code Title 17, Chapter 80, Subchapter 1, is
24 amended to add an additional section to read as follows:

25 17-80-117. Telemedicine.

26 (a) As used in this section:

27 (1) "Distant site" means the location of the healthcare
28 practitioner delivering healthcare services through telemedicine at the time
29 the services are provided;

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

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

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

4 (5) "Telemedicine" means the delivery of clinical healthcare
5 services by means of a telemedicine technology to provide or support
6 healthcare delivery that facilitates the assessment, diagnosis, consultation,
7 treatment, education, care management, and self-management of a patient's
8 health care while the patient is at an originating site and the healthcare
9 practitioner is at a distant site; and

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

14 (i) Interactive audio;

15 (ii) Audiovisual connection;

16 (iii) Secure video conferencing; and

17 (iv) Asynchronous store and forward technology.

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

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

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

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

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

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

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

4 (e) State licensing and certification boards for healthcare
5 practitioners shall amend their rules relating to telemedicine to be
6 consistent with, and no more restrictive than, this section.

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

9
10 SECTION 3. *Arkansas Code § 17-92-1003(15), concerning the definition*
11 *of "proper practitioner-patient relationship", is amended to read as follows:*

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

18 (A) *The prescribing practitioner is consulting at the*
19 *specific request of another practitioner who:*

20 (i) *Maintains an ongoing relationship with the*
21 *patient;*

22 (ii) *Has performed an in-person physical examination*
23 *of the patient; and*

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

26 (B) *The prescribing practitioner interacts with the*
27 *patient through an on-call or cross-coverage situation; ~~or~~*

28 (C) *The professional relationship is established as*
29 *provided in § 17-80-117.*

30
31 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the
32 General Assembly of the State of Arkansas that the state of Arkansas is
33 experiencing a healthcare practitioner maldistribution resulting in medically
34 underserved areas throughout the state; that allowing healthcare
35 practitioners to provided healthcare services through telemedicine will ease
36 the burden on medically underserved areas; and that this act is immediately

1 necessary because the citizens and healthcare practitioners of Arkansas need
2 immediate guidance concerning the law regarding healthcare services provided
3 through telemedicine. Therefore, an emergency is declared to exist, and this
4 act being immediately necessary for the preservation of the public peace,
5 health, and safety shall become effective on:

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

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

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

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13 */s/J. Cooper*
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16 Referred by the Arkansas Senate

17 Prepared by: VJF
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