

State of Arkansas
92nd General Assembly
Regular Session, 2019

A Bill

HOUSE BILL 1727

By: Representative Dotson
By: Senator Rapert

For An Act To Be Entitled

AN ACT TO MANDATE COVERAGE BY AN INSURER FOR
INTRAOPERATIVE NEUROPHYSIOLOGICAL MONITORING; AND FOR
OTHER PURPOSES.

Subtitle

TO MANDATE COVERAGE BY AN INSURER FOR
INTRAOPERATIVE NEUROPHYSIOLOGICAL
MONITORING.

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

SECTION 1. Arkansas Code Title 23, Chapter 79, is amended to add an
additional subchapter to read as follows:

Subchapter 19 – Coverage for Intraoperative Neurophysiological Monitoring

23-79-1901. Definitions.

As used in this subchapter:

(1)(A) “Health benefit plan” means:

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

(ii) Any health benefit program receiving state or
federal appropriations from the State of Arkansas, including the Arkansas
Medicaid Program and the Arkansas Works Program, or any successor program.



(B) "Health benefit plan" includes:

(i) Indemnity and managed care plans; and

(ii) Nonfederal governmental plans as defined in 29 U.S.C. § 1002(32), as it existed on January 1, 2019.

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

(i) Disability income plans;

(ii) Credit insurance plans;

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

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

(v) Health benefit plans provided under Arkansas Constitution, Article 5, § 32, the Workers' Compensation Law, § 11-9-101 et seq., or the Public Employee Workers' Compensation Act, § 21-5-601 et seq.;

(vi) Plans that provide only indemnity for hospital confinement;

(vii) Accident-only plans;

(viii) Specified disease plans; or

(ix) Long-term-care-only plans;

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

(3) "Intraoperative neurophysiological monitoring" means the use during surgery of electrophysiological methods of monitoring such as electroencephalography, electromyography, and evoked potentials:

(A) To localize anatomical structures, including peripheral nerves and sensorimotor complexes, in order to guide a healthcare professional during dissection; or

(B) To monitor the functional integrity of neural tissues such as the brain, spinal cords, or peripheral nerves in order to prevent irreversible damage, minimize neurological morbidity, and reduce the risk of neurological deficits that may result from surgeries that involve the nervous system.

23-79-1902. Intraoperative neurophysiological monitoring – Coverage

1 required.

2 (a)(1) This subchapter applies to a health benefit plan delivered,
3 issued for delivery, reissued, or extended in Arkansas on or after January 1,
4 2020, or at any time when any term of the health benefit plan is changed or
5 any premium adjustment is made thereafter.

6 (2) Notwithstanding subdivision (a)(1) of this section, this
7 subchapter applies to the Arkansas Medicaid Program on and after January 1,
8 2020.

9 (b)(1) A health benefit plan shall provide coverage and reimbursement
10 for intraoperative neurophysiological monitoring provided through
11 telemedicine under the Telemedicine Act, § 17-80-401 et seq., per hour, and
12 on the same basis as the health benefit plan provides coverage and
13 reimbursement for health services provided in person.

14 (2) Coverage and reimbursement required for intraoperative
15 neurophysiological monitoring under subdivision (b)(1) of this section
16 includes intraoperative neurophysiological monitoring provided:

17 (A) From outside the operating room, whether remotely or
18 on site; and

19 (B) For more than one (1) patient, while each patient is
20 in the operating room.

21 (c) A health benefit plan shall reimburse for intraoperative
22 neurophysiological monitoring if intraoperative neurophysiological monitoring
23 is ordered by a treating healthcare professional for the protection of a
24 patient's nervous system during a surgical procedure that may place the
25 patient's nervous system at risk for permanent or temporary injury in the
26 opinion of the treating healthcare professional.

27 (d) A health benefit plan shall reimburse for intraoperative
28 neurophysiological monitoring under Current Procedural Terminology code 95941
29 at the usual and customary rates if the interpreting healthcare professional
30 is:

31 (1) A physician licensed by the Arkansas State Medical Board;
32 and

33 (2) Privileged to render intraoperative neurophysiological
34 monitoring in a medical facility where the surgical procedure is performed.

35 (e) This subchapter prohibits a health benefit plan from:

36 (1) Limiting coverage of intraoperative neurophysiological

1 monitoring provided through telemedicine for medically necessary services,
2 subject to the same terms and conditions of the covered person's health
3 benefit plan that apply to services provided in person; or

4 (2) Undertaking utilization review, including prior
5 authorization, to determine the appropriateness of intraoperative
6 neurophysiological monitoring provided through telemedicine.

7 (f)(1) The Insurance Commissioner shall promulgate rules to implement
8 this subchapter.

9 (2)(A) When adopting the initial rules to implement this
10 subchapter, the final rule shall be filed with the Secretary of State for
11 adoption under § 25-15-204(f):

12 (i) On or before January 1, 2020; or

13 (ii) If approval under § 10-3-309 has not occurred
14 by January 1, 2020, as soon as practicable after approval under § 10-3-309.

15 (B) The commissioner shall file the proposed rule with the
16 Legislative Council under § 10-3-309(c) sufficiently in advance of January 1,
17 2020, so that the Legislative Council may consider the rule for approval
18 before January 1, 2020.