

1 State of Arkansas As Engrossed: H1/25/21 H2/8/21 H2/10/21 S3/9/21

2 93rd General Assembly

A Bill

3 Regular Session, 2021

HOUSE BILL 1063

4

5 By: Representative Pilkington

6 By: Senator Hester

7

8

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.

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Subtitle

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

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

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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:

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

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(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;

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(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*;

17 (G) A healthcare professional, who is licensed in Arkansas
18 and has access to a patient's personal health record that is maintained by a
19 physician, other licensed healthcare professional, or local educational
20 agency, using real-time interactive audio technology, including the
21 telephone; or

22 (H) Notwithstanding § 17-80-403(c), a healthcare
23 professional who is licensed in this state utilizes any telemedicine
24 technology sufficient to evaluate and appropriate to treat a patient in this
25 state for the condition as presented if the healthcare professional:

26 (i) Verifies the identity of the patient receiving
27 healthcare services through telemedicine;

28 (ii) Discloses to the patient the healthcare
29 professional's name, contact information, and type of healthcare professional
30 license held by the healthcare professional;

31 (iii) Obtains oral or written consent from the
32 patient or the parent or legal guardian of the patient if state law requires
33 consent; and

34 (iv) Meets the same standards of care that are
35 applicable to in-person healthcare settings;
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1 SECTION 2. Arkansas Code § 17-80-403(c), concerning the establishment
2 of a professional relationship, is amended to read as follows:

3 (c) "Professional relationship" does not include a relationship
4 between a healthcare professional and a patient established only by the
5 following:

- 6 (1) An internet questionnaire;
7 (2) An email message;
8 (3) Patient-generated medical history;
9 (4) ~~Audio only communication, including without limitation~~
10 ~~interactive audio;~~
11 ~~(5)~~ Text messaging;
12 ~~(6)~~(5) A facsimile machine; or
13 ~~(7)~~(6) Any combination thereof of means listed in subdivisions
14 (c)(1)-(5) of this section.

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17 SECTION 3. Arkansas Code § 23-79-1601(2)(C), concerning the definition
18 of "health benefit plan", is amended to read as follows:

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

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36 SECTION 4. Arkansas Code § 23-79-1601(7), concerning the definition of

1 "telemedicine", is amended to read as follows:

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

6 (B) "Telemedicine" includes store-and-forward technology
7 and remote patient monitoring.

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

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

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

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

23 (ii) A facsimile machine;

24 (iii) Text messaging; or

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

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

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

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

35 (2) A deductible, copayment, coinsurance, benefit limitation, or
36 maximum benefit that is not equally imposed upon all healthcare services

1 covered under the health benefit plan; ~~or~~

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

5 (4) A requirement for a covered person to choose any commercial
6 telemedicine service provider or a restricted network of telemedicine-only
7 providers rather than the covered person's regular doctor or provider of
8 choice.

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

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

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

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

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/s/Pilkington