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Arkansas Prepares New Telemedicine Practice Rules

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The Great State of *Arkansas* was ranked last among all states in a recent report by the **American Telemedicine Association** on telemedicine practice standards. The good news is the *Arkansas Board of Medicine* indicated plans to address this issue through new rules this year. Its Telemedicine Advisory Committee is working on an advisory opinion or new regulations regarding telemedicine. Currently, [Arkansas Code 17-80-117](#), enacted in April 2015, and [Regulation No. 2\(8\)](#) of the Arkansas State Medical Board, require an initial in-person encounter to establish a valid physician-patient relationship. The Board's Committee circulated [draft rules](#) in October, which if enacted would improve the practice environment by allowing a doctor to establish a relationship with a patient "using a face-to-face real-time audio and visual technology" in certain situations.

Interested telemedicine companies and healthcare providers looking to offer telemedicine services in Arkansas should review the draft rules and consider contacting policymakers to make your voice heard regarding the practice standards.

The draft rules provide as follows:

- 1. Establishing a provider-patient relationship.** The rules begin with the premise that an in-person exam is the preferred method of establishing a patient-physician relationship. However, the rules permit an initial encounter via "face-to-face real-time audio and visual technology" in the following circumstances:
 1. The patient (or guardian) provides a detailed explanation of their complaint to the physician;
 2. The technology and peripherals used are at least equal to an in-person examination by a physician; and
 3. Prior to treatment; the patient (or guardian) must provide informed consent:
 1. to be treated via telemedicine after being provided a description of the potential risks, consequences, and benefits of treatment through telemedicine; and
 2. for the physician to provide treatment through non-in-person real time interactive audio & video encounter or the use of audio, visual technologies.
- 2. If a patient-physician relationship is established via telemedicine,** then the following apply to each subsequent visit via telemedicine:
 1. **Informed Consent:** The physician must confirm that informed consent has been obtained.
 2. **Remote Prescribing:** Absent a prior in-person history and physical, physicians may not issue a prescription for: (i) any controlled substances; or (ii) lifestyle drugs.
 3. **Medical Records:** Physicians must send a medical record documenting the encounter to the patient via email or regular mail within twenty-four (24) hours of the encounter. The record must also be sent to a physician designated by the patient or the patient's primary care physician (PCP) within twenty-four (24) hours unless the patient specifically requests it not be sent.



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4. **Prompt Referral:** If the patient needs to be seen in person for their current medical issue, the treating physician must make every reasonable effort to refer the patient to an appropriate medical care provider/facility and document the recommendation in the patient chart.
5. **Standard of Care:** The same standard of care applies as an in-person encounter. Physicians must take an appropriate patient history and physical, when necessary using appropriate technology, during the initial encounter and keep a documented medical record.
6. **Follow-up Care Encouraged:** Every telemedicine encounter must include a documented statement encouraging and directing the patient to establish a relationship with a primary care provider and to seek follow-up care with a primary care provider after every telemedicine encounter.
7. **Licensure:** Physicians providing care via telemedicine to a patient located within the state of Arkansas must be licensed to practice medicine in Arkansas.
8. **Record Inspection:** Physicians who provide care via telemedicine must provide a complete copy of the patient's medical record to the Arkansas State Medical Board upon request.

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