

Analysis: Arkansas Act 203 of 2017

Prepared for South Central Telehealth Resource Center

Summary: SB 146 made a number of amendments to Arkansas' previous law governing telemedicine definitions, reimbursement, establishment of a professional relationship, and appropriate use standards.

DEFINITIONS

<i>Previous Language</i>	<i>New Law</i>	<i>Implication of change</i>
Defined originating site as "the offices of a healthcare professional or a licensed healthcare entity where the patient is located at the time services are provided by a healthcare professional through telemedicine; and the home of a patient in connection with end state renal disease."	Defines originating site as "a site at which a patient is located at the time healthcare services are provided to him or her by means of telemedicine."	An originating site is no longer required to be in a clinical setting. The new definition would allow the originating site to include the patient's home or other location.
Remote patient monitoring (RPM) not defined	Adds definition for RPM: "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 healthcare professional at a distant site for the use in the treatment and management of medical conditions that require frequent monitoring."	RPM is formally defined.
"Store and forward (S&F) technology means the transmission of a patient's medical information from an originating site to the provider at the distant site without the patient being present." Store and forward technology shall not be considered telemedicine.	"S&F 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."	The patient can be present during the asynchronous transmission. Clarifies that S&F is a provider-to-provider transmission.

<p>“Telemedicine means the medium of delivering clinical healthcare services by means of real-time two way electronic audio visual communication, including without limitation the application of secure video conferencing, to provide or support healthcare delivery that facilitates the assessment, diagnosis, consultation, or treatment of a patient’s health care while the patient is at an originating site and the healthcare professional is at a distant site.”</p>	<p>“Telemedicine 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. Telemedicine includes store and forward technology and remote patient monitoring.”</p> <p><u>Chapter on telemedicine coverage:</u></p> <p>Telemedicine does not mean the use of audio-only communication, including without limitation interactive audio; a facsimile machine; text messaging; or electronic mail systems.</p>	<p>Definition of telemedicine now includes S&F and RPM.</p> <p>However, for the purposes of reimbursement requirements, telemedicine doesn’t include telephone, email, text messaging or fax, although insurers may voluntarily pay for these items.</p>
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PROFESSIONAL RELATIONSHIP & APPROPRIATE USE OF TELEMEDICINE

<i>Previous Language</i>	<i>New Law</i>	<i>Implication of change</i>
Standards of appropriate practice in traditional healthcare professional patient settings shall govern the licensed healthcare professional’s treatment recommendations made via electronic means, including issuing a prescription via telemedicine.	Healthcare services provided by telemedicine, including prescription through telemedicine, shall be held to the same standard of care as in-person.	Different phrasing, however they both mean that a provider utilizing telemedicine will be held to the same standard as in-person care.
Allows a “professional relationship” to exist as a result of an on-call or cross-coverage arrangement with the patient’s regular treating healthcare professional (among other scenarios).	Allows a “professional relationship” to exist as a result of an on-call or cross-coverage arrangement with the patient’s regular treating healthcare professional <u>or another healthcare professional who has established a professional relationship with the patient.</u>	Allows the on-call or cross-coverage arrangement to exist with another healthcare professional, besides the patient’s regular treating provider.
A professional relationship must exist between a healthcare professional and the patient or the healthcare professional must otherwise meet the requirements as defined in sec. 17-80-118(a)(4). A professional relationship	Same, except replaces “sec. 17-80-118(a)(4) with “17-80-402”, the new code section for the law. If telemedicine is allowed to be used to establish a professional relationship under Secs. 17-80-	Moved language located in sec. 17-80-118 to sec. 17-80-402. Allows the appropriate licensing

<p>is not required in emergency situations where the life or health of a patient is in danger; or simply providing information of a generic nature, not meant to be individual specific.</p>	<p>402(4)(A(v) or 17-80-402(4)(A(vi) (which allow licensing boards to set parameters), telemedicine can only be used for situations where the standard of care does not require an in-person encounter.</p> <p>Professional relationship cannot be established only through:</p> <ul style="list-style-type: none"> • An internet questionnaire • Email message • Patient generated medical history • Audio only communication, including without limitation interactive audio • Text messaging • Facsimile machine • Any combination thereof 	<p>board to say whether or not to allow a professional relationship absent an in-person visit, ongoing relationship, professional consult, or on call/cross coverage arrangement.</p>
<p>N/A</p>	<p>If a decision is made to provide healthcare services through telemedicine, the healthcare professional accepts responsibility and liability for the care of the patient.</p>	<p>Liability rests with the professional treating the patient through telemedicine.</p>
<p>“Proper practitioner-patient relationship” means for the purposes of prescribing that certain conditions must be met.</p>	<p>Adds that a “proper practitioner-patient relationship” is established for the purposes of prescribing if the relationship was established through telemedicine as defined in Sec 17-80-401.</p>	<p>Allows the use of telemedicine to establish a proper practitioner-patient relationship for the purposes of prescribing if the establishment of the relationship meets certain criteria.</p>

Other Additions:

Regardless of whether the healthcare professional is compensated for the healthcare services, if a provider provides care to a minor through telemedicine in a school setting and the minor is enrolled in the AR Medicaid program, the healthcare professional shall:

- Be the designated primary care provider of the minor
- Have a cross-coverage arrangement with the designated primary care provider of the minor; or
- Have authorization from the designated primary care provider of the minor.

If the minor is not enrolled in AR Medicaid, the terms and conditions of the health benefit plan shall control.

Components that stayed the same from previous law:

- Healthcare professional shall follow applicable state and federal law, rules and regulations for informed consent, privacy, recordkeeping/confidentiality and fraud/abuse
- Must be licensed in AR.
- Requirements of the section doesn't apply to healthcare professionals located in another jurisdiction who provides only episodic consultation services.
- This chapter does not authorize drug induced chemical or surgical abortions.

REIMBURSEMENT

<i>Previous Language</i>	<i>New Law</i>	<i>Implication of change</i>
A health benefit plan shall cover the services of a physician who is licensed in AR State Medical board for healthcare services through telemedicine on the same basis as the health benefit plan providers coverage for the same healthcare services provided by the physician in person.	A health benefit plan shall provide coverage and reimbursement for healthcare services provided through telemedicine on the same basis as the health benefit plan provides coverage and reimbursement for health services provided in person, unless this subchapter specifically provides otherwise.	Requires coverage of other healthcare providers beyond physicians.
N/A	A health benefit plan shall provide a reasonable facility fee to an originating site operated by a healthcare professional or licensed healthcare entity if licensed to bill the health benefit plan.	A health benefit plan must provide a facility fee.
N/A	A health benefit plan shall not prohibit a healthcare professional from charging a patient enrolled in a health benefit plan for healthcare services provided by audio-only communication that are not reimbursed under the health benefit plan.	A health benefit plan cannot prohibit its providers from charging patients directly for telephone calls that aren't reimbursed by the plan.
N/A	A health benefit plan is not required to reimburse for a healthcare service provided via telemedicine that is not comparable to the same service provided in-person.	Certain services can be rejected for reimbursement if provided via telemedicine if it is found not comparable to what is provided in-person.

For more details about Arkansas policy, visit: <http://www.cchpca.org/jurisdiction/arkansas>