

AMENDMENT TO REGULATION 38

TELEMEDICINE

Requirement for all services provided by physicians using telemedicine:

1. A physician-patient or physician assistant/patient relationship must be established in accordance with Regulation 2.8 before the delivery of services via telemedicine. A patient completing a medical history online and forwarding it to a physician or physician assistant is not sufficient to establish the relationship, nor does it qualify as store-and-forward technology.
2. The following requirements apply to all services provided by physicians or physician assistants using telemedicine:
 - A. The practice of medicine via telemedicine shall be held to the same standards of care as traditional in-person encounters.
 - B. The physician or physician assistant must obtain a detailed explanation of the patient's complaint from the patient or the patient's treating physician or physician assistant.
 - C. If a decision is made to provide treatment, the physician or physician assistant must agree to accept responsibility for the care of the patient.
 - D. If follow-up care is indicated, the physician or physician assistant must agree to provide or arrange for such follow-up care.
 - E. A physician or physician assistant using telemedicine may NOT issue a prescription for any controlled substances defined as any scheduled medication under schedules II through V unless the physician or physician assistant has seen the patient for an in-person exam or unless a relationship exists through consultation or referral; on-call or cross-coverage situations; or through an ongoing personal or professional relationship.
 - F. The physician or physician assistant must keep a documented medical record, including medical history.
 - G. At the patient's request, the physician or physician assistant must make available to the patient an electronic or hardcopy version of the patient's medical record documenting the encounter. Additionally, unless the patient declines to consent, the physician or physician assistant must forward a copy of the record of the encounter to the patient's regular treating physician or physician assistant if that physician or physician assistant is not the same one delivering the service via telemedicine.
 - H. Services must be delivered in a transparent manner, including providing access to information identifying the physician or physician assistant in advance of the encounter, with licensure and board certifications, as well as patient financial responsibilities.
 - I. If the patient, at the recommendation of the physician or physician assistant, needs to be seen in person for their current medical issue, the physician or physician assistant must arrange to see the patient in person or direct the patient to their regular treating physician or physician assistant or other appropriate provider if the patient does not have a treating physician or physician assistant. Such recommendation shall be

documented in the patient's medical record.

- J. Physicians or physician assistants who deliver services through telemedicine must establish protocols for referrals for emergency services.
- K. All physicians or physician assistants providing care via telemedicine to a patient located within the State of Arkansas shall be licensed to practice medicine in the State of Arkansas.
- L. A physician shall not issue a written medical marijuana certification to a patient based on an assessment performed through telemedicine.