

REGULATION 38

Act 887 of 2015 codified in A.C.A. §17-80-117

Requirement for all services provided by physicians using telemedicine:

1. A physician-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 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 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 must obtain a detailed explanation of the patient's complaint from the patient or the patient's treating physician.
 - C. If a decision is made to provide treatment, the physician must agree to accept responsibility for the care of the patient.
 - D. If follow-up care is indicated, the physician must agree to provide or arrange for such follow-up care.
 - E. A physician using telemedicine may NOT issue a prescription for any controlled substances defined as any scheduled medication under schedules II through V unless the physician 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 must keep a documented medical record, including medical history.
 - G. At the patient's request, the physician 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 must forward a copy of the record of the encounter to the patient's regular treating physician if that physician 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 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, needs to be seen in person for their current medical issue, the physician must arrange to see the patient in person or direct the patient to their regular treating physician or other appropriate provider if the patient does not have a treating physician. Such recommendation shall be documented in the patient's medical record.
 - J. Physicians who deliver services through telemedicine must establish protocols for referrals for emergency services.
 - K. All physicians 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. Arkansas Act 887 of 2015 does not restrict the use of store-and-forward technology, such as X-rays, MRIs, and digital images. Store and forward technology is most commonly used in radiology, pathology, dermatology, and ophthalmology. A telemedicine vendor of a patient completing a medical history online and forwarding it to a physician does not qualify as store-and-forward technology.

History: Pending legislative approval.