

AMENDMENT TO REGULATION 38 – TELEMEDICINE

Requirement for all services provided by ~~physicians~~ **Providers** using telemedicine:

1. A ~~physician-patient or physician/physician-assistant/patient~~ **Patient/Provider** relationship must be established in accordance with Regulation 2.8 before the delivery of services via telemedicine. **Provider is defined as a person licensed by the Arkansas State Medical Board.** A patient completing a medical history online and forwarding it to a ~~physician or physician-assistant~~ **Provider** 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~~ **Providers** 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~~ **Provider** must obtain a detailed explanation of the patient's complaint from the patient or the patient's treating ~~physician or physician-assistant~~ **Provider**.
 - C. If a decision is made to provide treatment, the ~~physician or physician-assistant~~ **Provider** must agree to accept responsibility for the care of the patient.
 - D. If follow-up care is indicated, the ~~physician or physician-assistant~~ **Provider** must agree to provide or arrange for such follow-up care.
 - E. A ~~physician or physician-assistant~~ **Provider** 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~~ **Provider** 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~~ **Provider** must keep a documented medical record, including medical history.
 - G. At the patient's request, the ~~physician or physician-assistant~~ **Provider** 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~~ **Provider** must forward a copy of the record of the encounter to the patient's regular treating ~~physician or physician-assistant~~ **Provider** if that ~~physician or physician-assistant~~ **Provider** 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~~ **Provider** 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~~ **Provider**, needs to be seen in person for their current medical issue, the ~~physician or physician assistant~~ **Provider** must arrange to see the patient in person or direct the patient to their regular treating ~~physician or physician assistant~~ **Provider** or other appropriate provider if the patient does not have a treating ~~physician or physician assistant~~ **Provider**. Such recommendation shall be documented in the patient's medical record.
- J. ~~Physicians or physician assistants~~ **Providers** who deliver services through telemedicine must establish protocols for referrals for emergency services.
- K. All ~~physicians or physician assistants~~ **Providers** 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.

HISTORY: Adopted October 6, 2016. Effective December 25, 2016; Amended August 3, 2017, Effective October 4, 2017.