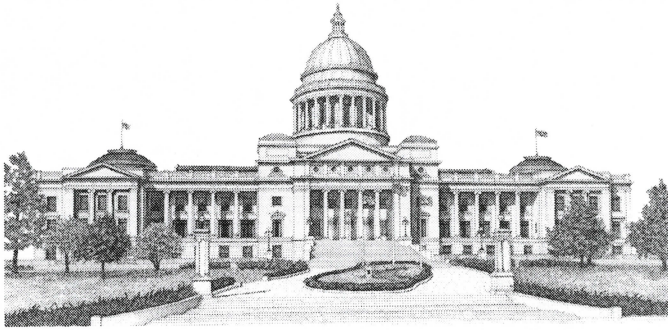


ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

John Thurston

500 Woodlane, Suite 026

Little Rock, Arkansas 72201-1094

(501) 682-5070

www.sos.arkansas.gov



For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Arkansas Department of Health

Department Division of Health and Related Boards and Commissions—Arkansas Psychology Board

Contact Susan Cooper E-mail susan.cooper@arkansas.gov Phone 501-682-6167

Statutory Authority for Promulgating Rules Arkansas Code 17-97-203

Rule Title: Arkansas Psychology Board Rule Section 19, Telepsychology

Intended Effective Date

(Check One)

☒ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☐ Other _____
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

N/A

N/A

3/18/2020

7/19/2019

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Susan Cooper

susan.cooper@arkansas.gov

3/20/2020

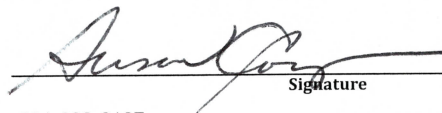
Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)


Signature

501-682-6167

susan.cooper@arkansas.gov

Phone Number

E-mail Address

Administrative Director

Title

3/20/2020

Date

ARKANSAS LEGISLATIVE COUNCIL

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**Room 315, State Capitol Building
Little Rock, AR 72201**

Marty Garrity

Executive Secretary

Tel: 501-682-1937

Fax: 501-682-1936

March 19, 2020

Ms. Susan Cooper, Administrative Director
Arkansas Psychology Board
101 E. Capitol Ave, Ste. 415
Little Rock, Arkansas 72201

Dear Ms. Cooper:

This letter is to notify you that, the Executive Subcommittee exercised the power granted to it under Arkansas Code § 10-3-309(d)(2)(B) and ALC Rule 22(f)(2)(B) to review and approve emergency rules in writing on March 18, 2020. The following emergency rule was reviewed and approved, and the review and approval was effective at 12:00 noon, Friday, March 20, 2020:

- ***Arkansas Dept. of Health, Division of Health Related Boards and Commissions/Arkansas Psychology Board, emergency rule for Arkansas Psychology Board Rules Section 19 – Telepsychology*** – Given the public health crisis posed by COVID-19, this emergency rule adds a section governing telemedicine to the Arkansas Psychology Board's rules in accordance with the Telemedicine Act, Ark. Code Ann. §§ 17-80-401 through 17-80-407. The rule sets forth minimum standards for establishing practitioner/patient relationships prior to utilizing telepsychology and for providing services using telepsychology.

A copy of the emergency rules are attached for your information.

Sincerely,

A handwritten signature in dark ink, appearing to read "Marty Garrity", is written over a horizontal line.

Marty Garrity
Executive Secretary

MG:sla

cc: Dr. Nathaniel Smith, MD, MPH, Secretary, Arkansas Department of Health (*via electronic mail*)

SECTION 19. TELEPSYCHOLOGY

19.1 Minimum standards for establishing psychologist/psychological examiner-patient/client relationships.

A psychologist/psychological examiner exhibits gross negligence if he provides and/or recommends any form of treatment/service, without first establishing a proper psychologist/psychological examiner-patient/client relationship.

19.1.A. For purposes of this rule, a proper psychologist/psychological examiner-patient/client relationship, at a minimum requires that:

19.1.A. (1) The psychologist/psychological examiner performs a history and an "in person" interview of the patient/client adequate to establish a diagnosis and identify underlying conditions and/or contraindications to the treatment/service recommended/provided, OR

19.1.A. (2) The psychologist/psychological examiner performs a face to face examination using real time audio and visual telepsychology technology that provides information at least equal to such information as would have been obtained by an in-person interview; OR

19.1. (3) The psychologist/psychological examiner personally knows the patient/client and the patient/client's general health status through an "ongoing" personal or professional relationship;

19.1.A. (2) Appropriate follow-up be provided or arranged, when necessary, at necessary intervals.

19.1.B. For the purposes of this rule, a proper psychologist/psychological examiner-patient/client relationship is deemed to exist in the following situations:

19.1.B. (1) When treatment/service is provided in consultation with, or upon referral by, another provider who has an ongoing relationship with the patient/client, and who has agreed to supervise the patient/client's treatment/service, including follow up care.

19.1.B. (2) On-call or cross-coverage situations arranged by the patient/client's treating psychologist/psychological examiner.

19.1.C. Exceptions -- Recognizing a psychologist/psychological examiner's duty to adhere to the applicable standard of care, the following situations are hereby excluded from the requirement of this rule:

1. Emergency situations where the life or health of the patient/client is in danger or imminent danger.
2. Simply providing information of a generic nature not meant to be specific to an individual patient/client.

19.2 Requirement for All Services Provided by Providers using Telepsychology

19.2.A. A Patient/client/Provider relationship must be established in accordance with Rule 19.1 before the delivery of services via telepsychology. Provider is defined as a person licensed by the Arkansas Psychology Board who has documented training in telepsychology. A patient/client completing a history online and forwarding it to a Provider is not sufficient to establish the relationship, nor does it qualify as store-and-forward technology.

19.2.B. The following requirements apply to all services provided by Providers using telepsychology:

19.2.B. (1) The practice of psychology via telepsychology shall be held to the same standards of care as traditional in-person encounters.

19.2.B. (2) The Provider must obtain a detailed explanation of the patient/client's complaint from the patient/client or the patient/client's treating Provider.

19.2.B. (3) If a decision is made to provide treatment/service, the Provider must agree to accept responsibility for the care of the patient/client.

19.2.B. (4) If follow-up care is indicated, the Provider must agree to provide or arrange for such follow-up care.

19.2.B. (5) The Provider must keep a documented record, including history.

19.2.B. (6) At the patient/client's request, the Provider must make available to the patient/client an electronic or hardcopy version of the patient/client's record documenting the encounter. Additionally, unless the patient/client declines to consent, the Provider must forward a copy of the record of the encounter to the patient/client's regular treating Provider if that Provider is not the same one delivering the service via telepsychology.

19.2.B. (7) Services must be delivered in a transparent manner with proper informed consent, including providing access to information

identifying the Provider in advance of the encounter, with licensure and board certifications, as well as patient/client financial responsibilities.

19.2.B. (8) If the patient/client, at the recommendation of the Provider, needs to be seen in person for their current issue, the Provider must arrange to see the patient/client in person or direct the patient/client to their regular treating Provider or other appropriate provider if the patient/client does not have a treating Provider. Such recommendation shall be documented in the patient/client's record.

19.2.B. (9) Providers who deliver services through telepsychology must establish protocols for referrals for emergency services.

19.2.B. (10) All Providers providing care via telepsychology to a patient/client located within the State of Arkansas shall be licensed to practice psychology in the State of Arkansas.