

ARKANSAS REGISTER

Proposed Rule Cover Sheet



Secretary of State
John Thurston
500 Woodlane Street, Suite 026
Little Rock, Arkansas 72201-1094
(501) 682-5070
www.sos.arkansas.gov



Name of Department _____

Agency or Division Name _____

Other Subdivision or Department, If Applicable _____

Previous Agency Name, If Applicable _____

Contact Person _____

Contact E-mail _____

Contact Phone _____

Name of Rule _____

Newspaper Name _____

Date of Publishing _____

Final Date for Public Comment _____

Location and Time of Public Meeting _____

NOTICE OF RULEMAKING

Pursuant to Arkansas Code Annotated §25-15-201 et seq., notice is hereby given that the Arkansas State Board of Physical Therapy (Board) is considering proposed revisions to its Telehealth Rule.

The proposed revisions and modifications to the Telehealth Rule include, but are not limited to, the following subjects and issues: to incorporate definitions and relevant provisions of the Telemedicine Act, A.C.A. §§ 17-80-401 et seq; specify originating site for telemedicine, as required by Act 767 of 2021, and; specify how a professional relationship may be created via telehealth, as required by Act 829 of 2021.

The proposed amendments are posted on the Secretary of State's website at <https://www.sos.arkansas.gov/rules-regulations>, the Board's website at www.arptb.org or you may contact the Board to obtain a written copy by email at arptb@arkansas.gov or by phone at 501-228-7100.

Written comments from the public will be accepted until February 2, 2022. Written comments should be emailed to arptb@arkansas.gov or mailed to the Board at P.O. Box 250254, Little Rock, AR 72225.

Subject: Re: Full Run Ad
Date: Wednesday, December 29, 2021 at 8:32:57 AM Central Standard Time
From: legalads@arkansasonline.com <legalads@arkansasonline.com>
To: ADH ARPTB <arptb@arkansas.gov>
Attachments: image001.jpg

Thanks, Nancy. Will run Sun 1/2, Mon 1/3, and Tues 1/4.

Thanks,

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette

From: "ADH ARPTB" <arptb@arkansas.gov>
To: legalads@arkansasonline.com
Sent: Tuesday, December 28, 2021 10:57:01 AM
Subject: Full Run Ad

I would like the attached notice to run in the Arkansas Democrat-Gazette on January 2, January 3, and January 4, 2022.

Please confirm receipt of this email.

Please send the invoice by email to arptb@arkansas.gov.

Please note the mailing address for the PT Board has changed to P.O. Box 250254, Little Rock, AR 72225.

Thank you.

Nancy Worthen, Director
AR State Board of Physical Therapy
P.O. Box 250254
Little Rock, AR 72225
www.arptb.org
Phone: 501-228-7100
Fax: 501-228-0294



Arkansas State Board of Physical Therapy

Pursuant to the Arkansas Telemedicine Act, Ark. Code Ann. §§ 17-80-401 et seq., ~~the following~~this rule applies to the provision of services via telehealth by physical therapists and physical therapy~~ist~~ist assistants when acting within their respective scopes of practice.

I. Definitions

As used in this rule:

(1) "Distant site" means the location of the licensee delivering services through telemedicine at the time the services are provided;

(2) "Healthcare professional" has the same meaning as in Ark. Code Ann. § 17-80-402(2) of the Telemedicine Act.

(3) "Licensee" means a physical therapist or physical therapist assistant licensed by the Arkansas State Board of Physical Therapy;

(4)(A) "Originating site" means a site at which a patient is located at the time healthcare services are provided to him or her by means of telehealth.

_____ (B) "Originating site" includes the home of a patient;

(5) "Professional relationship" means at a minimum a relationship established between a licensee and a patient when:

_____ (A) The licensee has previously conducted an in-person examination of the patient and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;

_____ (B) The licensee personally knows the patient and the patient's relevant health status through an ongoing personal or professional relationship and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;

(C) The treatment is provided by a licensee in consultation with, or upon referral by, another healthcare professional who has an ongoing professional relationship with the patient and who has agreed to supervise the patient's treatment, including follow-up care;

(D) An on-call or cross-coverage arrangement exists with the patient's regular treating healthcare professional or another healthcare professional who has established a professional relationship with the patient;

(E) A relationship exists in other circumstances as defined by rule of the Arkansas State Medical Board for healthcare professionals under its jurisdiction and their patients; or

(F)(i) The licensee has access to a patient's personal health record maintained by a licensee and uses any technology deemed appropriate by the licensee, including the telephone, with a patient located in Arkansas to diagnose and treat the patient.

(ii) For purposes of this rule, a health record may be created with the use of telehealth and consists of relevant clinical information required to treat a patient, and is reviewed by the licensee who meets the same standard of care for a telehealth visit as an in-person visit;

(6) "Remote patient monitoring" means 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 licensee at a distant site for use in the treatment and management of medical conditions that require frequent monitoring;

(7) "Store-and-forward 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; and

(8)(A) "Telehealth" 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.

(B) "Telehealth" includes store-and-forward technology and remote patient monitoring.

II. Establishment of professional relationship

(a)(1) A licensee at a distant site shall not utilize telehealth with respect to a patient located in Arkansas unless a professional relationship exists between the licensee and the patient or the licensee otherwise meets the requirements of a professional relationship as defined in Section I.(5) of this rule.

(2) The existence of a professional relationship is not required in the following circumstances:

(A) Emergency situations where the life or health of the patient is in danger or imminent danger; or

(B) Simply providing information of a generic nature, not meant to be specific to an individual patient.

(b) If the establishment of the professional relationship is permitted via telemedicine under Section I.(5)(E) or (F) of this rule, telehealth may be used to establish the professional relationship only for situations in which the standard of care does not require an in-person encounter.

(c) "Professional relationship" does not include a relationship between a licensee and a patient established only by the following:

(1) An internet questionnaire;

(2) An email message;

(3) Patient-generated medical history;

(4) Text messaging;

(5) A facsimile machine; or

(6) Any combination of means listed in subdivisions (c)(1)-(5) of this section.

III. Requirement for all services provided by ~~physical therapists~~ licensees using telehealth:

1. A professional relationship shall be established in compliance with this rule to provide physical therapy services through telehealth.
2. Once a professional relationship is established, a licensee may provide healthcare services through telehealth, including interactive audio, if the healthcare services are within the physical therapy scope of practice.
3. The practice of physical therapy via telehealth shall be held to the same standards of care as traditional in-person encounters.
4. All licensees providing care via telemedicine to a patient located within the State of Arkansas shall be licensed to practice physical therapy in the State of Arkansas.
5. Licensees utilizing telehealth must follow applicable state/federal laws regarding informed consent, HIPAA, medical records and confidentiality, and fraud/waste/abuse.
6. If a decision is made to provide physical therapy through telehealth, the physical therapist accepts responsibility and liability for the care of the patient.

II. Patient/ Physical Therapist Relationship

~~1. For purposes of this rule, a professional relationship, at a minimum, requires that:~~

~~A. The licensee performs a history and an "in person" physical examination of the patient adequate to establish a diagnosis and identify underlying conditions and/or contraindications to the treatment recommended/provided, OR~~

~~B. The licensee personally knows the patient and the patient's general health status through an "ongoing" personal or professional relationship; and~~

~~C. Appropriate follow up be provided or arranged, when necessary, at medically necessary intervals.~~

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2. For the purposes of this regulation, a professional relationship is deemed to exist in the following situations:

A. When treatment is provided in consultation with, or upon referral by, another healthcare professional who has an ongoing relationship with the patient, and who has agreed to supervise the patient's treatment, including follow-up care and the use of any prescribed medications.

B. On-call or cross-coverage situations arranged by the patient's treating physical therapist.

3. "Professional relationship" does not include a relationship between a licensee and a patient established only by the following:

A. An internet questionnaire;

B. An email message;

C. Patient-generated medical history;

D. Audio-only communication, including without limitation interactive audio; E. Text messaging;

F. A facsimile machine; or

G. Any combination thereof.

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Arkansas State Board of Physical Therapy

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 - (A) The licensee has previously conducted an in-person examination of the patient and is available to provide appropriate follow-up care, when necessary, at medically necessary intervals;
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