



# Transmittal Sheet

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

Secretary of State  
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**For Office Use Only:**

Effective Date \_\_\_\_\_ Code Number \_\_\_\_\_

Name of Agency Arkansas State Medical Board

Department \_\_\_\_\_

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Statutory Authority for Promulgating Rules ACA §17-95-303

**Rule Title:** Regulation 38 - Telemedicine

**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.)

	Date
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Reviewed by Legislatice Council .....	12/13/2016
Adopted by State Agency .....	10/06/2013

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

Kevin M. O'Dwyer kodwyer@htolaw.com \_\_\_\_\_  
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.)

Karen D. Whalley  
Signature

501-296-1802 support@armedicalboard.org  
Phone Number E-mail Address

Executive Secretary \_\_\_\_\_  
Title

12/13/16  
Date

**Act 887 of 2015 codified in A.C.A. §17-80-118****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.