

# ARKANSAS REGISTER

## Transmittal Sheet Use only for **FINAL** and **EMERGENCY RULES**



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

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

Name of Agency Arkansas State Medical Board

Department \_\_\_\_\_

Contact Kevin M. O'Dwyer E-mail kodwyer@htolaw.com Phone 501-372-4144

Statutory Authority for Promulgating Rules \_\_\_\_\_

**Rule Title:** Proposed Amendment to Regulation 2.8: Minimum Requirements to Establish Provider/Patient Relationship

**Intended Effective Date**  
(Check One)

Date

<input type="checkbox"/> Emergency (ACA 25-15-204)	Legal Notice Published .....	<u>11/6, 11/13, 11/20, 2018</u>
<input checked="" type="checkbox"/> 10 Days After Filing (ACA 25-15-204)	Final Date for Public Comment .....	<u>12/6/2018</u>
<input type="checkbox"/> Other _____ (Must be more than 10 days after filing date.)	Reviewed by Legislative Council .....	<u>5/17/2019</u>
	Adopted by State Agency .....	<u>12/6/2018</u>

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

Kevin M. O'Dwyer kodwyer@htolaw.com May 30, 2019  
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.)

Amy E. Embry  
Signature

Amy Embry amy.embry@armedicalboard.org  
Phone Number E-mail Address

501-296-1802 Executive Director  
Title

5/30/2019  
Date

## Hope, Trice, O'Dwyer & Wilson, P.A.

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WILLIAM H. TRICE III (1946-2014)

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May 30, 2019

Mr. John Thurston  
Secretary of State  
State Capitol – Room 026  
Little Rock, AR 72201-1094

**Re: My Client: Arkansas State Medical Board  
Proposed Amendment to Regulation 2.8 – Minimum Requirements to Establish  
Provider/Patient Relationship**

To Whom It May Concern:

Enclosed is an Arkansas Register Transmittal Sheet and a copy of the Proposed Amendment to Regulation 2.8 – Minimum Requirements to Establish Provider/Patient Relationship.

Please file this accordingly.

Sincerely,

**HOPE, TRICE, O'DWYER & WILSON, P.A.**



Kevin M. O'Dwyer  
Attorney for the Arkansas State Medical Board

KMO:ena  
enclosure

cc: Ms. Amy Embry, Executive Director  
[register@sos.arkansas.gov](mailto:register@sos.arkansas.gov)

**AMENDMENT TO REGULATION NO. 2.8**  
**MINIMUM REQUIREMENTS TO ESTABLISH PROVIDER/PATIENT RELATIONSHIP**

8. \*\*Requiring minimum standards for establishing Patient/Provider relationships. Provider is defined as a person licensed by the Arkansas State Medical Board. A Provider exhibits gross negligence if he provides and/or recommends any form of treatment, including prescribing legend drugs, without first establishing a proper Patient/Provider relationship.

A. For purposes of this regulation, a proper Patient/Provider relationship, at a minimum requires that:

1. A. The Provider 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 Provider performs a face to face examination using real time audio and visual telemedicine technology that provides information at least equal to such information as would have been obtained by an in-person examination; OR

C. The Provider personally knows the patient and the patient’s general health status through an “ongoing” personal or professional relationship;

2. Appropriate follow-up be provided or arranged, when necessary, at medically necessary intervals.

B. For the purposes of this regulation, a proper Patient/Provider relationship is deemed to exist in the following situations:

1. When treatment is provided in consultation with, or upon referral by, another Provider 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.

2. On-call or cross-coverage situations arranged by the patient’s treating Provider.

C. Exceptions – Recognizing a Provider’s duty to adhere to the applicable standard of care, the following situations are hereby excluded from the requirement of this regulation:

1. Emergency situations where the life or health of the patient is in danger or imminent danger.

2. Simply providing information of a generic nature not meant to be specific to an individual patient.

**PROPOSED**

3. This Regulation does not apply to prescriptions written or medications issued for use in expedited heterosexual partner therapy for the sexually transmitted diseases of gonorrhea and/or chlamydia.
4. This Regulation does not apply to the administration of vaccines containing tetanus toxoid (e.g., DTaP, DTP, DT, Tdap, Td, or TT) or inactive influenza vaccines.

**History:** Adopted June 17, 1976; Amended March 13, 1997; Adopted December 3, 1998; Adopted April 6, 2001; Amended February 7, 2002; Amended April 3, 2008; Amended April 12, 2012; Amended December 14, 2015; Amended June 9, 2016, Effective September 6, 2016; Amended April 5, 2018, Effective August 8, 2018.