

ARKANSAS REGISTER

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 Department of Health

Department State Medical Board

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Statutory Authority for Promulgating Rules 17-95-303

Rule Title: Rule No. 2.8: Requiring Minimum Standards for Establishing Provider/Patient Relationships

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.)

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Date

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4/7/22

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

Amy Embry amy.embry@armedicalboard.org

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. Embrey
Signature

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Phone Number E-mail Address

Executive Director

Title

9/30/22

Date

RULE 2

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 has access to a patient’s personal health record, defined by ACA §17-80-401 *et seq.*, as relevant clinical information required to treat a patient, that is maintained by a Provider and uses any technology deemed appropriate by the Provider, including the telephone, with a patient located in Arkansas to diagnose, treat, and if clinically appropriate, prescribe a noncontrolled drug to the patient.

1. A proper professional relationship does not include one established only by internet questionnaire, email message, patient-generated medical history, text message, facsimile, or any combination of these means.

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

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

2. A health record may be created with the use of telemedicine and consists of relevant clinical information required to treat a patient, and is reviewed by the healthcare professional who meets the same standard of care for a telemedicine visit as an in-person visit.

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.

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.