

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
90th General Assembly  
Regular Session, 2015

As Engrossed: S3/10/15 S3/17/15  
**A Bill**

SENATE BILL 845

By: Senator J. Cooper

### **For An Act To Be Entitled**

AN ACT TO INCREASE ACCESS TO HEALTH CARE AND REDUCE HEALTHCARE COSTS; TO ENCOURAGE THE USE OF TELEMEDICINE; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

### **Subtitle**

TO INCREASE ACCESS TO HEALTH CARE AND REDUCE HEALTHCARE COSTS; TO ENCOURAGE THE USE OF TELEMEDICINE; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings and purpose.

(a) The General Assembly finds that:

(1) Despite continuous efforts to encourage and develop access to health care in all areas of our state, many of our citizens still face critical barriers and are an underserved sector as it pertains to meaningful access for appropriate primary health care when it is needed;

(2) The lack of access decreases healthcare outcomes and increases the cost of health care as:

(A) Patients can develop complications and increase the length of their illness while waiting to access health care and require additional or more intensive medical attention; and

(B) Patients without ready access to primary care often turn to very high cost alternatives, such as emergency room visits for a minor illness;



(3)(A) In addition to healthcare costs, the lack of access adds indirect but significant costs to our businesses and state economy.

(B) When patients must take an entire day off work to drive to a distant city to be treated for a minor illness, employers lose productivity and efficiency;

(4) The strength of the state economy is based upon the health of our residents and the health of our business economy.

(5) Businesses in Arkansas have stressed that healthcare costs are an increasing burden and have asked the General Assembly to protect all tools that help them control costs and improve the health outcomes of their employees; and

(6) Given these barriers, the advancement of modern technology as a communication medium to increase access and reduce the cost of primary health care is highly beneficial and should be encouraged.

(b) The purpose of this act is to clarify that the existing scope of practice and professional standards for physicians, nurses, and other licensed professionals permits the use of technology as a communication medium to expand access to primary health care.

SECTION 2. Arkansas Code Title 17, Chapter 80, Subchapter 1, is amended to add an additional section to read as follows:

17-80-117. Telemedicine.

(a) As used in this section:

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

(2) "Healthcare practitioner" means a person who is licensed, certified, or otherwise authorized by the laws of this state to administer health care in the ordinary course of the practice of his or her profession;

(3) "Originating site" means a site at which the patient is located at the time that healthcare services are provided to him or her by means of telemedicine;

(4) "Store and forward technology" means the transmission of a patient's medical information from an originating site to the provider at the distant site without the patient being present;

(5) "Telemedicine" means the delivery of clinical healthcare

services by means of a telemedicine technology to provide or support healthcare delivery that facilitates the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient's health care while the patient is at an originating site and the healthcare practitioner is at a distant site; and

(6)(A) "Telemedicine technology" means technology and devices that allow real-time communication and information exchange between a licensed healthcare practitioner at a distant site and a patient at an originating site, including without limitation:

(i) Interactive audio;

(ii) Audiovisual connection;

(iii) Secure video conferencing; and

(iv) Asynchronous store and forward technology.

(B) If, due to the lack of widespread high-speed Internet access, the patient is not able to connect through video conferencing, the patient shall be given an option of either an interactive audio or an audiovisual connection that shall be available twenty-four (24) hours per day.

(C) "Telemedicine technology" does not include audio only, email, text messages, or online questionnaires.

(b) A licensed healthcare practitioner shall be held to the same standard of care and scope of practice for treating a patient by telemedicine as for treating a patient in a traditional face-to-face setting.

(c)(1) Before providing a healthcare service by telemedicine, a professional relationship shall be established between the licensed healthcare practitioner and patient.

(2) The professional relationship may be established by a prior in-person encounter or virtually through interactive audio or video technology, or both.

(3) After a professional relationship has been established, a healthcare practitioner may diagnose, treat, consult, prescribe, or provide other care to a patient by telemedicine.

(d) Telemedicine only may be provided to a patient by a healthcare practitioner who is licensed to practice in this state and who also is residing in this state.

(e) State licensing and certification boards for healthcare

practitioners shall amend their rules relating to telemedicine to be consistent with, and no more restrictive than, this section.

(f) This section does not authorize drug-induced, chemical, or surgical abortions performed through telemedicine.

SECTION 3. Arkansas Code § 17-92-1003(15), concerning the definition of "proper practitioner-patient relationship", is amended to read as follows:

(15) "Proper practitioner-patient relationship" means that before the issuance of a prescription, a practitioner, physician, or other prescribing ~~health~~ healthcare professional performs a history and in-person physical examination of the patient adequate to establish a diagnosis and to identify underlying conditions or contraindications to the treatment recommended or provided unless:

(A) The prescribing practitioner is consulting at the specific request of another practitioner who:

(i) Maintains an ongoing relationship with the patient;

(ii) Has performed an in-person physical examination of the patient; and

(iii) Has agreed to supervise the patient's ongoing care and use of prescribed medications; ~~or~~

(B) The prescribing practitioner interacts with the patient through an on-call or cross-coverage situation; or

(C) The professional relationship is established as provided in § 17-80-117.

SECTION 4. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the state of Arkansas is experiencing a healthcare practitioner maldistribution resulting in medically underserved areas throughout the state; that allowing healthcare practitioners to provided healthcare services through telemedicine will ease the burden on medically underserved areas; and that this act is immediately necessary because the citizens and healthcare practitioners of Arkansas need immediate guidance concerning the law regarding healthcare services provided through telemedicine. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace,

health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

*/s/J. Cooper*