



ERIC The ERISA Industry Committee

The Only National Association Advocating Solely for the Employee Benefit and Compensation Interests of America's Largest Employers

1400 L Street, NW, Suite 350, Washington, DC 20005 • (202) 789-1400 • www.eric.org

Annette Guarisco Fildes, President & CEO

October 30, 2015

Telemedicine Advisory Committee
Arkansas State Medical Board
1401 West Capitol Avenue, Suite 340
Little Rock, AR 72201-2936

ATTN: Peggy Cryer, Executive Secretary
RE: Draft Telemedicine Proposal

Sent via email to support@armedicalboard.org

Dear Ms. Cryer,

Thank you for engaging the stakeholder community as you develop the Arkansas State Medical Board (ASMB) telemedicine rules. As the only national trade association advocating solely for the employee benefit and compensation interests of America's largest employers, The ERISA Industry Committee (ERIC) speaks in one voice for large employers on public policy issues relating to employee benefits, including telemedicine. ERIC is pleased to participate in this rulemaking process on behalf of our members, large health care payors, on this critically important issue.

On July 30, 2015, ERIC submitted comments (attached) in response to the ASMB's telemedicine questionnaire. In that letter, ERIC lauded the ASMB's recognition of the potential benefits of telemedicine and offered policy recommendations that strike a balance between increased access to telemedicine services and maintaining a high standard for health care practice in Arkansas. Specifically, we encouraged the Board to:

- ADOPT technology-neutral requirements, permitting use of different types of technology platforms that are designed for telemedicine;
- AVOID imposing additional requirements on providers that offer telemedicine services that are not imposed on in-person visits;
- AVOID originating site restrictions that require patients to visit certain locations in order to access telemedicine services; and
- CONSIDER the needs of patients to have better access to care that can be provided via telemedicine, either through a telemedicine visit or remote monitoring of health conditions.

ERIC continues to support these policy positions and appreciates that the ASMB has considered the needs of patients and avoided originating site restrictions that require a patient to visit certain locations in order to access telemedicine services.

We also applaud the ASMB for acknowledging that the same standard of care should apply to provider-patient relationships whether the relationship was established by an in-person or telemedicine visit. As we mentioned in our previous letter to the Board, we believe that there should not be artificial barriers that unnecessarily limit

access to medical services provided through telemedicine when there are existing requirements in place to hold providers to a high standard of care.

Since the ASMB's standard practice rules are already structured to hold providers to a high standard of care, ERIC is disappointed that the Board has placed additional requirements on providers treating patients via telemedicine. For example, requiring a physician, during every telemedicine visit, to direct the patient to seek follow-up care with a primary care provider uniformly overrides the judgment of the provider and adds a regulatory burden that is either superfluous (if such a recommendation is reasonable based on the circumstances, a physician would make such a recommendation regardless of the additional requirement) or unnecessary (if the provider sees no reason to suggest such course of action based on her professional judgment as the treating physician.) As this rule is written, it appears to override the discretion of the provider simply because the physician is communicating with a patient via telemedicine rather than in-person. ERIC believes that adding this requirement simply puts an additional regulatory compliance burden on the provider, an additional enforcement burden on the ASMB, does not increase the quality of care provided, and is, therefore, not a necessary regulation. Moreover, this requirement subjects patients to additional visits, adding to the costs for the patient and the overall cost to the health care system. We urge the Board to reevaluate the draft proposed rules to avoid requirements that increase regulations, without necessarily increasing the quality of care.

ERIC would also like to note concern with the narrow definition of telemedicine technology. By permitting a physician to establish a relationship with a patient "by conducting a face-to-face exam using real-time audio and visual technology," the ASMB is taking an important step towards permitting the practice of telemedicine. However, by limiting the establishment of a patient-physician relationship only to real-time audio and visual technology, and permitting this practice only in certain circumstances, the ASMB significantly curtails the advantages of telemedicine that may be available by allowing providers to establish patient-physician relationships over a variety of other technology platforms (including, for example, audio-only communications). We urge the Board to consider a technology-neutral definition of telemedicine (to the extent permitted by law), that allows more flexibility as technology continues to advance and telemedicine creates new opportunities for medical care that may not fit within the limited definition of telemedicine put forth in the ASMB's draft proposal.

ERIC continues to respect and support the role of the Board in protecting the health, safety, and welfare of the people of the State of Arkansas, with the goal of ensuring that the highest quality of care is provided in the state. We believe that the draft telemedicine proposal is a positive step towards increasing needed access to care for the people of Arkansas, and that the proposed rules could be enhanced if modified to address the concerns stated above.

Thank you for considering large employers' interests as you finalize your telemedicine rules. ERIC is pleased to represent large employers with the goal of ensuring telemedicine benefits are accessible for millions of workers, retirees, and their families. We welcome additional questions and opportunities to contribute to your rulemaking process.

Sincerely,



Annette Guarisco Fildes
President & CEO

Encl: ERIC's July 30, 2015 Letter to ASMB



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July 30, 2015

Telemedicine Advisory Committee
Arkansas State Medical Board
1401 West Capitol Avenue, Suite 340
Little Rock, AR 72201-2936

Sent via email to support@armedicalboard.org

Dear Arkansas State Medical Board Telemedicine Advisory Committee,

On behalf of The ERISA Industry Committee (ERIC), thank you for inviting comments from interested stakeholders on your telemedicine rulemaking process. ERIC is the only national trade association advocating solely for the employee benefit and compensation interests of America's largest employers. ERIC speaks in one voice for large employers with workers in every state across the country on public policy issues relating to employee benefits.

ERIC's members are committed to, and known for, providing high-quality, affordable health care to millions of workers and their families. Our members operate all over the country, including a considerable presence in Arkansas. ERIC has a strong interest in proposals that affect its members' ability to deliver cost-effective benefits. ERIC's members devote considerable time and resources to their benefit plans. In order to provide these benefits, large employers must balance the provision of high-quality, affordable health care with the need to contain costs for these programs.

Our members need consistent telehealth policies around the country so that their workers and their families can enjoy the same company benefits regardless of the state in which they live or work. It is imperative that funds to pay benefits are maximized and not diverted to coping with administrative and legal challenges stemming from a myriad of disparate and potentially conflicting state rules and regulations.

As you note in your request for information, telemedicine offers unique benefits to rural populations and has the "great potential to improve patient access to health care" while ensuring the services provided protect the safety and welfare of the patient. We agree.

We would also add that, in addition to improved access to health care, telemedicine can offer:

- **Accessibility. Flexibility. Without barriers.** Telemedicine allows employees and their families to gain access to health care 24 hours a day, seven days a week, whether at home, in transit, or at work. With telemedicine, standard office hours and proximity to a doctor are no longer barriers to needed care.
- **Benefits for rural, urban, and working families.** Telemedicine has long been seen as a means for providing access to care for rural populations, but the impact of the virtual service doesn't stop there. Urban underserved populations, retirees, disabled employees, and those with language barriers also stand to benefit from increased access to care, as well as working parents and others struggling to balance work and family demands. Using telemedicine to remotely monitor health conditions is also an important benefit.

- **Increased workforce satisfaction.** The response from employees who have used telemedicine services is very positive. They like the service and want it to continue. Employees want to minimize the time spent attending to their health needs, or that of loved ones, and appreciate the opportunity to reach a health care professional at times and locations that are convenient to them.
- **Connection to workplace clinics, rural health centers and employer wellness initiatives.** Telemedicine services can be tied to employer workplace clinics as well as rural health centers. These services also support wellness initiatives that employers offer to further employee health and wellbeing.
- **Cost-effective care.** Employees, retirees, and their families need access to health care that they can utilize because it is provided at an affordable, cost-effective rate.

ERIC respects and supports the role of the Arkansas State Medical Board (ASMB) in protecting the health, safety, and welfare of the people of the State of Arkansas, and the goal of ensuring that the highest quality of health care is provided in the state. ERIC believes that the standards governing in-person visits should apply in the same manner to telemedicine visits. In other words, there should not be artificial barriers that unnecessarily limit access to medical services provided through telemedicine when there are existing requirements in place to hold providers to high standards of care.

To achieve a balanced regulatory environment for telemedicine, ERIC encourages the ASMB, to the extent permitted by law, to:

- ADOPT technology-neutral requirements, permitting use of different types of technology platforms that are designed for telemedicine;
- AVOID imposing additional requirements on providers that offer telemedicine services that are not imposed on in-person visits;
- AVOID originating site restrictions that require patients to visit certain locations in order to access telemedicine services; and,
- CONSIDER the needs of patients to have better access to care that can be provided via telemedicine, either through a telemedicine visit or remote monitoring of health conditions.

Thank you for soliciting input from interested stakeholders. ERIC is pleased to represent large employers with the goal of ensuring that telehealth benefits are accessible for millions of workers, retirees, and their families. We welcome additional questions and opportunities to contribute to your rulemaking process.

Sincerely,



Annette Guarisco Fildes
President & CEO