

House _____ Amendment NO. _____

Offered By _____

1 AMEND House Committee Substitute for Senate Committee Substitute for Senate Bill No. 107,
2 Page 18, Section 195.070, Line 27, by inserting after all of said section and line the following:

3
4 "196.990. 1. As used in this section, the following terms shall mean:

5 (1) "Administer", the direct application of an epinephrine auto-injector to the body of an
6 individual;

7 (2) "Authorized entity", any entity or organization at or in connection with which allergens
8 capable of causing anaphylaxis may be present, including but not limited to restaurants, recreation
9 camp, youth sports leagues, amusement parks, and sports arenas;

10 (3) "Caretaker", a person or entity under whose care a child has been entrusted by such child's
11 parent or guardian for consideration;

12 (4) "Epinephrine auto-injector", a single-use device used for the automatic injection of a
13 premeasured dose of epinephrine into the human body;

14 (5) "Physician", a physician licensed in this state under chapter 334;

15 (6) "Provide", the supply of one or more epinephrine auto-injectors to an individual;

16 (7) "Self-administration", a person's discretionary use of an epinephrine auto-injector.

17 2. A physician may prescribe epinephrine auto-injectors in the name of an authorized entity
18 for use in accordance with this section, and pharmacists, physicians, and other persons authorized to
19 dispense prescription medications may dispense epinephrine auto-injectors under a prescription
20 issued in the name of an authorized entity.

21 3. An authorized entity may acquire and stock a supply of epinephrine auto-injectors under a
22 prescription issued in accordance with this section. Such epinephrine auto-injectors shall be stored
23 in a location readily accessible in an emergency and in accordance with the epinephrine
24 auto-injector's instructions for use and any additional requirements established by the department of
25 health and senior services by rule. An authorized entity shall designate employees or agents who
26 have completed the training required under this section to be responsible for the storage,
27 maintenance, and general oversight of epinephrine auto-injectors acquired by the authorized entity.

28 4. An employee or agent of an authorized entity or any other person who has completed the
29 training required under this section may use epinephrine auto-injectors prescribed under this section
30 on the premises of or in connection with the authorized entity to:

31 (1) Provide an epinephrine auto-injector to any individual who the employee, agent, or other
32 person believes in good faith is experiencing anaphylaxis for immediate self-administration,
33 regardless of whether the individual has a prescription for an epinephrine auto-injector or has
34 previously been diagnosed with an allergy;

35 (2) Administer an epinephrine auto-injector to any individual who the employee, agent, or
36 other person believes in good faith is experiencing anaphylaxis, regardless of whether the individual

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1 has a prescription for an epinephrine auto-injector or has previously been diagnosed with an allergy.

2 5. Notwithstanding the provisions of subsection 4 of this section, an employee or agent of an
 3 authorized entity shall not provide or administer an epinephrine auto-injector to any individual who
 4 is twelve years of age or younger without the verbal consent of a parent or guardian who is present at
 5 the time when provision or administration of the epinephrine auto-injector is needed. Provided,
 6 however, that an employee or agent of an authorized entity may provide or administer an epinephrine
 7 auto-injector to such an individual without the consent of a parent or guardian if the parent or
 8 guardian is not physically present and the employee or agent reasonably believes the individual shall
 9 be in imminent danger without the provision or administration of the epinephrine auto-injector.

10 6. An employee, agent, or other person described in subsection 4 of this section shall
 11 successfully complete an anaphylaxis training program prior to providing or administering an
 12 epinephrine auto-injector made available by an authorized entity and at least every two years
 13 following successful completion of the initial anaphylaxis training program. Such training shall be
 14 conducted by a nationally recognized organization experienced in training laypersons in emergency
 15 health treatment or other entity or person approved by the department of health and senior services.
 16 Training may be conducted online or in person and, at a minimum, shall cover:

17 (1) Techniques on how to recognize symptoms of severe allergic reactions, including
 18 anaphylaxis;

19 (2) Standards and procedures for the storage and administration of an epinephrine
 20 auto-injector; and

21 (3) Emergency follow-up procedures.

22 The entity that conducts the training shall issue a certificate, on a form developed or approved by the
 23 department of health and senior services, to each person who successfully completes the anaphylaxis
 24 training program.

25 7. The following persons and entities shall not be liable for any injuries or related damages
 26 that result from the administration of, self-administration of, or failure to administer an epinephrine
 27 auto-injector in accordance with this section that may constitute ordinary negligence:

28 (1) An authorized entity that possesses and makes available epinephrine auto-injectors and
 29 its employees, agents, and other trained persons;

30 (2) Any person who uses an epinephrine auto-injector made available under this section;

31 (3) A physician that prescribes epinephrine auto-injectors to an authorized entity; or

32 (4) Any person or entity that conducts the training described in subsection 6 of this section.

33 Such immunity does not apply to acts or omissions constituting a reckless disregard for the safety of
 34 others or willful or wanton conduct. The administration of an epinephrine auto-injector in
 35 accordance with this section shall not be considered the practice of medicine. The immunity from
 36 liability provided under this subsection is in addition to and not in lieu of that provided under section
 37 537.037. An authorized entity located in this state shall not be liable for any injuries or related
 38 damages that result from the provision or administration of an epinephrine auto-injector by its
 39 employees or agents outside of this state if the entity or its employee or agent are not liable for such
 40 injuries or related damages under the laws of the state in which such provision or administration
 41 occurred.

42 8. No immunity provided under this section shall apply to a caretaker if the individual who
 43 experienced anaphylaxis:

44 (1) Was a minor child;

45 (2) Had a known allergy at the time of anaphylaxis;

46 (3) Was under the care or supervision of a caretaker other than a parent or guardian;

47 (4) Was prescribed an epinephrine auto-injector;

48 (5) Was not administered an epinephrine auto-injector by a caretaker; and

1 (6) Had an epinephrine auto-injector available to him or her at the time of anaphylaxis due to
 2 one of following:

3 (a) The minor child being in possession of his or her epinephrine auto-injector, an
 4 epinephrine auto-injector present on the premises where the anaphylaxis occurred, or the caretaker
 5 being in possession of an epinephrine auto-injector;

6 (b) The parent of guardian of the minor child providing an epinephrine auto-injector to the
 7 caretaker; or

8 (c) The caretaker representing to the parent of guardian of the minor child that an epinephrine
 9 auto-injector is available on the premises where the anaphylaxis occurred.

10 9. No immunity provided under this section shall apply to any licensed health care provider if
 11 the administration of an epinephrine auto-injector is within his or her scope of practice except when
 12 the alleged liability is based upon:

13 (1) Such provider's actions in prescribing or dispensing the prescription; or

14 (2) Such provider's action in providing training to authorized entities under this section.

15 10. An authorized entity that possesses and makes available epinephrine auto-injectors shall
 16 submit to the department of health and senior services, on a form developed by the department, a
 17 report of each incident on the authorized entity's premises involving the administration of an
 18 epinephrine auto-injector. The department shall annually publish a report that summarizes all reports
 19 submitted to it under this subsection, but shall not include any identifying information regarding the
 20 persons to whom such epinephrine auto-injectors were administered.

21 11. An authorized entity that acquires a stock supply of epinephrine auto-injectors
 22 under a prescription issued in accordance with this section may make such epinephrine auto-injectors
 23 available to individuals other than the trained persons described in subsection 4 of this section if the
 24 epinephrine auto-injectors are stored in a locked secure container in accordance with manufacturer
 25 specifications and are made available only upon remote authorization by a physician via audio,
 26 televideo, or other similar means of electronic communication. Consultation with a physician for
 27 such purpose shall not be considered the practice of telemedicine or otherwise be construed as
 28 violating any law or rule regulating the physician's professional practice.

29 208.670. 1. As used in this section, these terms shall have the following meaning:

30 (1) "Provider", any provider of medical services and mental health services, including all
 31 other medical disciplines;

32 (2) "Telehealth", the use of medical information exchanged from one site to another via
 33 electronic communications to improve the health status of a patient.

34 2. The department of social services, in consultation with the departments of mental health
 35 and health and senior services, shall promulgate rules governing the practice of telehealth in the MO
 36 HealthNet program. Such rules shall address, but not be limited to, appropriate standards for the use
 37 of telehealth, certification of agencies offering telehealth, and payment for services by providers.
 38 Telehealth providers shall be required to obtain patient consent before telehealth services are
 39 initiated and to ensure confidentiality of medical information.

40 3. Telehealth may be utilized to service individuals who are qualified as MO HealthNet
 41 participants under Missouri law. Reimbursement for such services shall be made in the same way as
 42 reimbursement for in-person contacts.

43 4. The provisions of section 208.671 shall apply to the use of asynchronous
 44 store-and-forward technology in the practice of telehealth.

45 208.671. 1. As used in this section and section 208.673, the following terms shall mean:

(1) "Asynchronous store-and-forward", the transfer of a patient's clinically important digital samples, such as still images, videos, audio, and text files, and relevant data from an originating site through the use of a camera or similar recording device that stores digital samples that are forwarded via telecommunication to a distant site for consultation by a consulting provider without requiring the simultaneous presence of the patient and the patient's treating provider;

(2) "Asynchronous store-and-forward technology", cameras or other recording devices that store images which may be forwarded via telecommunication devices at a later time;

(3) "Consultation", a type of evaluation and management service as defined by the most recent edition of the Current Procedural Terminology published annually by the American Medical Association;

(4) "Consulting provider", a provider who, upon referral by the treating provider, evaluates a patient and appropriate medical data or images delivered through asynchronous store-and-forward technology. If a consulting provider is unable to render an opinion due to insufficient information, the consulting provider may request additional information to facilitate the rendering of an opinion or decline to render an opinion;

(5) "Distant site", a site where the consulting provider is located at the time the consultation service is provided;

(6) "Originating site", the site where a MO HealthNet participant receiving services and such participant's treating provider are both physically located;

(7) "Provider", any provider of medical services, mental health services, or dental services, including all other medical disciplines, licensed in this state who has the authority to refer patients for medical services or mental health services within the scope of practice and licensure of the provider;

(8) "Telehealth", the same meaning as such term is defined in section 208.670. Telehealth shall include the use of asynchronous store-and-forward technology for orthopedics, dermatology, ophthalmology in cases of diabetic retinopathy, burn and wound care, and maternal-fetal medicine ultrasounds;

(9) "Treating provider", a provider who:

(a) Evaluates a patient;

(b) Determines the need for a consultation;

(c) Arranges the services of a consulting provider for the purpose of diagnosis and treatment;

(d) Provides or supplements the patient's history and provides pertinent physical examination findings and medical information to the consulting provider; and

(e) Is physically present in the same location as the patient during the time of the asynchronous store-and-forward services.

2. The department of social services, in consultation with the departments of mental health and health and senior services, shall promulgate rules governing the use of asynchronous store-and-forward technology in the practice of telehealth in the MO HealthNet program. Such rules shall address, but not be limited to:

(1) Appropriate standards for the use of asynchronous store-and-forward technology in the practice of telehealth;

1 (2) Certification of agencies offering asynchronous store-and-forward technology in the
 2 practice of telehealth;

3 (3) Time lines for completion and communication of a consulting provider's consultation or
 4 opinion, or if the consulting provider is unable to render an opinion, time lines for communicating a
 5 request for additional information or that the consulting provider declines to render an opinion;

6 (4) Length of time digital files of such asynchronous store-and-forward services are to be
 7 maintained;

8 (5) Security and privacy of such digital files;

9 (6) Patient consent for asynchronous store-and-forward services; and

10 (7) Payment for services by providers; except that, consulting providers who decline to
 11 render an opinion shall not receive payment under this section unless and until an opinion is
 12 rendered.

13
 14 Telehealth providers using asynchronous store-and-forward technology shall be required to obtain
 15 patient consent before asynchronous store-and-forward services are initiated and to ensure
 16 confidentiality of medical information.

17 3. Asynchronous store-and-forward technology in the practice of telehealth may be utilized
 18 to service individuals who are qualified as MO HealthNet participants under Missouri law. The total
 19 payment for both the treating provider and the consulting provider shall not exceed the payment for a
 20 face-to-face consultation of the same level.

21 4. The standard of care for the use of asynchronous store-and-forward technology in the
 22 practice of telehealth shall be the same as the standard of care for face-to-face care.

23 208.673. 1. There is hereby established the "Telehealth Services Advisory Committee" to
 24 advise the department of social services and propose rules regarding the coverage of telehealth
 25 services utilizing asynchronous store-and-forward technology.

26 2. The committee shall be comprised of the following members:

27 (1) The director of the MO HealthNet division, or the director's designee;

28 (2) The medical director of the MO HealthNet division;

29 (3) A representative from a Missouri institution of higher education with expertise in
 30 telemedicine;

31 (4) A representative from the Missouri office of primary care and rural health;

32 (5) Two board-certified specialists licensed to practice medicine in this state;

33 (6) A representative from a hospital located in this state that utilizes telehealth medicine;

34 (7) A primary care provider from a federally qualified health center (FQHC) or rural health
 35 clinic; and

36 (8) A primary care provider from a rural setting other than from an FQHC or rural health
 37 clinic.

38 3. Members of the committee listed in subdivisions (3) to (8) of subsection 2 of this section
 39 shall be appointed by the governor, with the advice and consent of the senate. The first appointments
 40 to the committee shall consist of three members to serve three-year terms, two members to serve
 41 two-year terms, and two members to serve one-year terms as designated by the governor. Each

1 member of the committee shall serve for a term of three years thereafter.

2 4. Members of the committee shall not receive any compensation for their services but shall
3 be reimbursed for any actual and necessary expenses incurred in the performance of their duties.

4 5. Any member appointed by the governor may be removed from office by the governor
5 without cause. If there is a vacancy for any cause, the governor shall make an appointment to
6 become effective immediately for the unexpired term.

7 6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
8 under the authority delegated in this section shall become effective only if it complies with and is
9 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
10 chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to
11 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
12 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
13 August 28, 2015, shall be invalid and void.

14 208.675. For purposes of the provision of telehealth services, the following individuals,
15 licensed in Missouri, shall be considered eligible health care providers:

16 (1) Physicians, assistant physicians, and physician assistants;

17 (2) Advanced practice registered nurses;

18 (3) Dentists, oral surgeons, and dental hygienists under the supervision of a currently
19 registered and licensed dentist;

20 (4) Psychologists and provisional licensees;

21 (5) Pharmacists;

22 (6) Speech, occupational, or physical therapists;

23 (7) Clinical social workers;

24 (8) Podiatrists;

25 (9) Licensed professional counselors; or

26 (10) Eligible health care providers under subdivisions (1) through (9) of this section
27 practicing in a rural health clinic, federally qualified health center, or community mental health
28 center.

29 208.677. 1. For purposes of the provision of telehealth services, the term “originating site”
30 shall mean a telehealth site where the MO HealthNet participant receiving the telehealth service is
31 located for the encounter, and the term “clinical staff” shall mean any health care provider licensed in
32 this state. The originating site shall ensure immediate availability of clinical staff during a telehealth
33 encounter if a participant requires assistance. No originating site for services or activities provided
34 under section 208.686 shall be required to maintain immediate availability of on-site clinical staff
35 during the telemonitoring services or activities. An originating site shall be one of the following
36 locations:

37 (1) Office of a physician or health care provider;

38 (2) Hospital;

39 (3) Critical access hospital;

40 (4) Rural health clinic;

41 (5) Federally qualified health center;

- (6) Long-term care facility licensed under chapter 198;
- (7) Dialysis center;
- (8) Missouri state habilitation center or regional office;
- (9) Community mental health center;
- (10) Missouri state mental health facility;
- (11) Missouri state facility;
- (12) Missouri residential treatment facility licensed by and under contract with the children's division (CD) that has a contract with the CD. Facilities shall have multiple campuses and have the ability to adhere to technology requirements. Only Missouri licensed psychiatrists, licensed psychologists, or provisionally licensed psychologists, and advanced practice registered nurses who are enrolled MO HealthNet providers shall be consulting providers at these locations;
- (13) Comprehensive substance treatment and rehabilitation (CSTAR) program;
- (14) School;
- (15) The MO HealthNet recipient's home; or
- (16) Clinical designated area in a pharmacy.

2. If the originating site is a school, the school shall obtain permission from the parent or guardian of any student receiving telehealth services prior to each provision of service.

208.686. 1. Subject to appropriations, the department shall establish a statewide program that permits reimbursement under the MO HealthNet program for home telemonitoring services. For the purposes of this section, "home telemonitoring service" shall mean a health care service that requires scheduled remote monitoring of data related to a patient's health and transmission of the data to a Utilization Review Accreditation Commission (URAC) accredited health call center.

2. The program shall:

(1) Provide that home telemonitoring services are available only to persons who:

(a) Are diagnosed with one or more of the following conditions:

a. Pregnancy;

b. Diabetes;

c. Heart disease;

d. Cancer;

e. Chronic obstructive pulmonary disease;

f. Hypertension;

g. Congestive heart failure;

h. Mental illness or serious emotional disturbance;

i. Asthma;

j. Myocardial infarction; or

k. Stroke; and

(b) Exhibit two or more of the following risk factors:

a. Two or more hospitalizations in the prior twelve-month period;

b. Frequent or recurrent emergency department admissions;

c. A documented history of poor adherence to ordered medication regimens;

d. A documented history of falls in the prior six-month period;

1 e. Limited or absent informal support systems;

2 f. Living alone or being home alone for extended periods of time; or

3 g. A documented history of care access challenges;

4 (2) Ensure that clinical information gathered by a home health agency or hospital while
5 providing home telemonitoring services is shared with the patient's physician; and

6 (3) Ensure that the program does not duplicate any disease management program services
7 provided by MO HealthNet.

8 3. If, after implementation, the department determines that the program established under
9 this section is not cost effective, the department may discontinue the program and stop providing
10 reimbursement under the MO HealthNet program for home telemonitoring services.

11 4. The department shall determine whether the provision of home telemonitoring services to
12 persons who are eligible to receive benefits under both the MO HealthNet and Medicare programs
13 achieves cost savings for the Medicare program.

14 5. If, before implementing any provision of this section, the department determines that a
15 waiver or authorization from a federal agency is necessary for implementation of that provision, the
16 department shall request the waiver or authorization and may delay implementing that provision
17 until the waiver or authorization is granted.

18 6. The department shall promulgate rules and regulations to implement the provisions of this
19 section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under
20 the authority delegated in this section shall become effective only if it complies with and is subject to
21 all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536
22 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536
23 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held
24 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
25 August 28, 2015, shall be invalid and void."; and

26
27 Further amend said bill by amending the title, enacting clause, and intersectional references
28 accordingly.
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