

FIRST REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 495

101ST GENERAL ASSEMBLY

1148H.02P

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal sections 191.1145, 191.1146, 334.108, and 376.1900, RSMo, and to enact in lieu thereof five new sections relating to telemedicine services.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 191.1145, 191.1146, 334.108, and 376.1900, RSMo, are repealed
2 and five new sections enacted in lieu thereof, to be known as sections 191.1145, 191.1146,
3 334.108, 376.1900, and 376.1905, to read as follows:

191.1145. 1. As used in sections 191.1145 and 191.1146, the following terms shall
2 mean:

3 (1) "Asynchronous store-and-forward transfer", the collection of a patient's relevant
4 health information and the subsequent transmission of that information from an originating site
5 to a health care provider at a distant site without the patient being present;

6 (2) "Clinical staff", any health care provider licensed in this state;

7 (3) "Distant site", a site at which a health care provider is located while providing health
8 care services by means of telemedicine;

9 (4) "Health care provider", as that term is defined in section 376.1350;

10 (5) "Originating site", a site at which a patient is located at the time health care services
11 are provided to him or her by means of telemedicine. For the purposes of asynchronous
12 store-and-forward transfer, originating site shall also mean the location at which the health care
13 provider transfers information to the distant site;

14 (6) "Telehealth" or "telemedicine", the delivery of health care services by means of
15 information and communication technologies which facilitate the assessment, diagnosis,
16 consultation, treatment, education, care management, and self-management of a patient's health

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 care while such patient is at the originating site and the health care provider is at the distant site.
18 Telehealth or telemedicine shall also include the use of asynchronous store-and-forward
19 technology, **including the use of such technology through an adaptive questionnaire.**

20 2. Any licensed health care provider shall be authorized to provide telehealth services
21 if such services are within the scope of practice for which the health care provider is licensed and
22 are provided with the same standard of care as services provided in person. This section shall
23 not be construed to prohibit a health carrier, as defined in section 376.1350, from reimbursing
24 nonclinical staff for services otherwise allowed by law.

25 3. In order to treat patients in this state through the use of telemedicine or telehealth,
26 health care providers shall be fully licensed to practice in this state and shall be subject to
27 regulation by their respective professional boards.

28 4. Nothing in subsection 3 of this section shall apply to:

29 (1) Informal consultation performed by a health care provider licensed in another state,
30 outside of the context of a contractual relationship, and on an irregular or infrequent basis
31 without the expectation or exchange of direct or indirect compensation;

32 (2) Furnishing of health care services by a health care provider licensed and located in
33 another state in case of an emergency or disaster; provided that, no charge is made for the
34 medical assistance; or

35 (3) Episodic consultation by a health care provider licensed and located in another state
36 who provides such consultation services on request to a physician in this state.

37 5. Nothing in this section shall be construed to alter the scope of practice of any health
38 care provider or to authorize the delivery of health care services in a setting or in a manner not
39 otherwise authorized by the laws of this state.

40 6. No originating site for services or activities provided under this section shall be
41 required to maintain immediate availability of on-site clinical staff during the telehealth services,
42 except as necessary to meet the standard of care for the treatment of the patient's medical
43 condition if such condition is being treated by an eligible health care provider who is not at the
44 originating site, has not previously seen the patient in person in a clinical setting, and is not
45 providing coverage for a health care provider who has an established relationship with the
46 patient.

47 7. Nothing in this section shall be construed to alter any collaborative practice
48 requirement as provided in chapters 334 and 335.

191.1146. 1. Physicians licensed under chapter 334 who use telemedicine shall ensure
2 that a properly established physician-patient relationship exists with the person who receives the
3 telemedicine services. The physician-patient relationship may be established by:

4 (1) An in-person encounter through a medical interview and physical examination;

5 (2) Consultation with another physician, or that physician's delegate, who has an
6 established relationship with the patient and an agreement with the physician to participate in the
7 patient's care; or

8 (3) A telemedicine encounter, if the standard of care does not require an in-person
9 encounter, and in accordance with evidence-based standards of practice and telemedicine
10 practice guidelines that address the clinical and technological aspects of telemedicine.

11 2. In order to establish a physician-patient relationship through telemedicine:

12 (1) The technology utilized, **including any use of an adaptive questionnaire**, shall be
13 sufficient to establish an informed diagnosis as though the medical interview ~~and~~ or physical
14 examination has been performed in person; and

15 (2) Prior to providing treatment, including issuing prescriptions or physician
16 certifications under Article XIV of the Missouri Constitution, a physician who uses telemedicine
17 shall interview the patient, collect or review relevant medical history, and perform an
18 examination sufficient for the diagnosis and treatment of the patient. A **static** questionnaire
19 completed by the patient, whether via the internet or telephone, does not constitute an acceptable
20 medical interview and examination for the provision of treatment by telehealth.

334.108. 1. Prior to prescribing any drug, controlled substance, or other treatment
2 through telemedicine, as defined in section 191.1145, or the internet, a physician shall establish
3 a valid physician-patient relationship as described in section 191.1146. This relationship shall
4 include:

5 (1) Obtaining a reliable medical history and performing a physical examination of the
6 patient, adequate to establish the diagnosis for which the drug is being prescribed and to identify
7 underlying conditions or contraindications to the treatment recommended or provided;

8 (2) Having sufficient dialogue with the patient regarding treatment options and the risks
9 and benefits of treatment or treatments;

10 (3) If appropriate, following up with the patient to assess the therapeutic outcome;

11 (4) Maintaining a contemporaneous medical record that is readily available to the patient
12 and, subject to the patient's consent, to the patient's other health care professionals; and

13 (5) Maintaining the electronic prescription information as part of the patient's medical
14 record.

15 2. The requirements of subsection 1 of this section may be satisfied by the prescribing
16 physician's designee when treatment is provided in:

17 (1) A hospital as defined in section 197.020;

18 (2) A hospice program as defined in section 197.250;

19 (3) Home health services provided by a home health agency as defined in section
20 197.400;

21 (4) Accordance with a collaborative practice agreement as ~~defined~~ **described** in section
22 334.104;

23 (5) Conjunction with a physician assistant licensed pursuant to section 334.738;

24 (6) Conjunction with an assistant physician licensed under section 334.036;

25 (7) Consultation with another physician who has an ongoing physician-patient
26 relationship with the patient, and who has agreed to supervise the patient's treatment, including
27 use of any prescribed medications; ~~or~~

28 (8) On-call or cross-coverage situations; **or**

29 (9) **A digital format through an adaptive questionnaire based on professional**
30 **practice standards.**

31 3. No health care provider, as defined in section 376.1350, shall prescribe any drug,
32 controlled substance, or other treatment to a patient based solely on an evaluation over the
33 telephone; except that, a physician or such physician's on-call designee, or an advanced practice
34 registered nurse, a physician assistant, or an assistant physician in a collaborative practice
35 arrangement with such physician, may prescribe any drug, controlled substance, or other
36 treatment that is within his or her scope of practice to a patient based solely on a telephone
37 evaluation if a previously established and ongoing physician-patient relationship exists between
38 such physician and the patient being treated.

39 4. No health care provider shall prescribe any drug, controlled substance, or other
40 treatment to a patient based solely on an internet request or ~~an~~ **a static** internet questionnaire.

376.1900. 1. As used in this section, the following terms shall mean:

2 (1) "Electronic visit", or "e-visit", an online electronic medical evaluation and
3 management service completed using a secured web-based or similar electronic-based
4 communications network for a single patient encounter. **The sole use of technology through**
5 **an adaptive questionnaire shall not constitute an electronic visit.** An electronic visit shall
6 be initiated by a patient or by the guardian of a patient with the health care provider, be
7 completed using a federal Health Insurance Portability and Accountability Act (HIPAA)-
8 compliant online connection, and include a permanent record of the electronic visit;

9 (2) "Health benefit plan" shall have the same meaning ascribed to it in section 376.1350;

10 (3) "Health care provider" shall have the same meaning ascribed to it in section
11 376.1350;

12 (4) "Health care service", a service for the diagnosis, prevention, treatment, cure or relief
13 of a physical or mental health condition, illness, injury or disease;

14 (5) "Health carrier" shall have the same meaning ascribed to it in section 376.1350;

15 (6) "Telehealth" shall have the same meaning ascribed to it in section 208.670.

16 2. Each health carrier or health benefit plan that offers or issues health benefit plans
17 which are delivered, issued for delivery, continued, or renewed in this state on or after January
18 1, 2014, shall not deny coverage for a health care service on the basis that the health care service
19 is provided through telehealth if the same service would be covered if provided through face-to-
20 face diagnosis, consultation, or treatment.

21 3. A health carrier may not exclude an otherwise covered health care service from
22 coverage solely because the service is provided through telehealth rather than face-to-face
23 consultation or contact between a health care provider and a patient.

24 4. A health carrier shall not be required to reimburse a telehealth provider or a consulting
25 provider for site origination fees or costs for the provision of telehealth services; however,
26 subject to correct coding, a health carrier shall reimburse a health care provider for the diagnosis,
27 consultation, or treatment of an insured or enrollee when the health care service is delivered
28 through telehealth on the same basis that the health carrier covers the service when it is delivered
29 in person.

30 5. A health care service provided through telehealth shall not be subject to any greater
31 deductible, co-payment, or coinsurance amount than would be applicable if the same health care
32 service was provided through face-to-face diagnosis, consultation, or treatment.

33 6. A health carrier shall not impose upon any person receiving benefits under this section
34 any co-payment, coinsurance, or deductible amount, or any policy year, calendar year, lifetime,
35 or other durational benefit limitation or maximum for benefits or services that is not equally
36 imposed upon all terms and services covered under the policy, contract, or health benefit plan.

37 7. Nothing in this section shall preclude a health carrier from undertaking utilization
38 review to determine the appropriateness of telehealth as a means of delivering a health care
39 service, provided that the determinations shall be made in the same manner as those regarding
40 the same service when it is delivered in person.

41 8. A health carrier or health benefit plan may limit coverage for health care services that
42 are provided through telehealth to health care providers that are in a network approved by the
43 plan or the health carrier.

44 9. Nothing in this section shall be construed to require a health care provider to be
45 physically present with a patient where the patient is located unless the health care provider who
46 is providing health care services by means of telehealth determines that the presence of a health
47 care provider is necessary.

48 10. The provisions of this section shall not apply to a supplemental insurance policy,
49 including a life care contract, accident-only policy, specified disease policy, hospital policy
50 providing a fixed daily benefit only, Medicare supplement policy, long-term care policy, short-

51 term major medical policies of six months' or less duration, or any other supplemental policy as
52 determined by the director of the department of commerce and insurance.

**376.1905. 1. For purposes of this section, the term "telemedicine" shall have the
2 same meaning given to the term in section 191.1145.**

**3 2. Telemedicine benefits offered by employers are not insurance and shall not be
4 treated as insurance or an insurance product in this state.**

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