

SECOND REGULAR SESSION

HOUSE BILL NO. 2702

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE KNIGHT.

5882H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal sections 191.1146 and 334.108, RSMo, and to enact in lieu thereof two new sections relating to telemedicine.

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

Section A. Sections 191.1146 and 334.108, RSMo, are repealed and two new sections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

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

4 (1) An in-person encounter through a medical ~~[interview]~~ **evaluation** and physical
5 examination;

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

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

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

13 (1) The technology utilized shall be sufficient to establish an informed diagnosis as
14 though the medical ~~[interview]~~ **evaluation** and, **if required to meet the standard of care,**
15 **the** physical examination has been performed in person; ~~[and]~~

16 (2) Prior to providing treatment, including issuing prescriptions or physician
17 certifications under Article XIV of the Missouri Constitution, a physician who uses

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.

18 telemedicine shall ~~[interview]~~ **evaluate** the patient, collect or review **the patient's** relevant
19 medical history, and perform an examination sufficient for the diagnosis and treatment of the
20 patient. **[A] Any** questionnaire completed by the patient, whether via the internet or
21 telephone, **shall be reviewed by the treating health care professional, as defined in section**
22 **376.1350, and shall include such information sufficient to provide the information as**
23 **though the medical evaluation has been performed in person, otherwise such**
24 **questionnaire** does not constitute an acceptable medical ~~[interview]~~ **evaluation** and
25 examination for the provision of treatment by telehealth; **and**

26 **(3) Any provider that uses a questionnaire to establish a physician-patient**
27 **relationship through telemedicine shall be employed or contracted with a business entity**
28 **that is licensed to provide health care in this state.**

29 **3. A health care provider that uses a medical evaluation questionnaire completed**
30 **by the patient by way of the internet or telephone shall provide a written report within**
31 **fourteen days of evaluation to the patient's primary health care provider, if provided by**
32 **the patient, that contains:**

33 **(1) The identity of the patient;**

34 **(2) The date of the evaluation;**

35 **(3) The diagnosis and treatment provided, if any; and**

36 **(4) Any further instructions provided to the patient.**

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
3 establish a valid physician-patient relationship as described in section 191.1146. This
4 relationship shall include:

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

9 **(2) Having sufficient ~~[dialogue]~~ exchange** with the patient regarding treatment
10 options and the risks and benefits of treatment or treatments;

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

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

15 **(5) Maintaining the electronic prescription information as part of the patient's medical**
16 **record.**

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

- 19 (1) A hospital as defined in section 197.020;
- 20 (2) A hospice program as defined in section 197.250;
- 21 (3) Home health services provided by a home health agency as defined in section
- 22 197.400;
- 23 (4) Accordance with a collaborative practice agreement as ~~[defined]~~ **described** in
- 24 section 334.104;
- 25 (5) Conjunction with a physician assistant licensed pursuant to section 334.738;
- 26 (6) Conjunction with an assistant physician licensed under section 334.036;
- 27 (7) Consultation with another physician who has an ongoing physician-patient
- 28 relationship with the patient, and who has agreed to supervise the patient's treatment,
- 29 including use of any prescribed medications; or
- 30 (8) On-call or cross-coverage situations.
- 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]~~ **through telemedicine**; except that, a physician or such physician's on-call
- 34 designee, or an advanced practice registered nurse, a physician assistant, or an assistant
- 35 physician in a collaborative practice arrangement with such physician, may prescribe any
- 36 drug, controlled substance, or other treatment that is within his or her scope of practice to a
- 37 patient based solely on a ~~[telephone]~~ **telemedicine** evaluation if a previously established and
- 38 ongoing physician-patient relationship exists between such physician and the patient being
- 39 treated.
- 40 4. No health care provider shall prescribe any drug, controlled substance, or other
- 41 treatment to a patient ~~[based solely on an internet request or an internet questionnaire]~~ **in the**
- 42 **absence of a proper provider-patient relationship, as described in section 191.1146.**
- 43 5. **Medical records of any drug, controlled substance, or other treatment**
- 44 **prescribed through telemedicine, as defined in section 191.1145, shall be collected,**
- 45 **stored, and maintained in accordance with the Health Insurance Portability and**
- 46 **Accountability Act of 1996, which allows for the sharing of protected health information**
- 47 **for continuity of care between health care providers for treatment, payment, and health**
- 48 **care operations.**

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