

SECOND REGULAR SESSION

# HOUSE BILL NO. 2702

## 103RD GENERAL ASSEMBLY

---

INTRODUCED BY REPRESENTATIVE KNIGHT.

5882H.01I

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Section A. Sections 191.1146 and 334.108, RSMo, are repealed and two new sections 2 enacted in lieu thereof, to be known as sections 191.1146 and 334.108, to read as follows:  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

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.

✓