SECOND REGULAR SESSION
[C O R R E C T E D]
[TRULY AGREED TO AND FINALLY PASSED]

SENATE BILL NO. 579

98TH GENERAL ASSEMBLY
2016

4862S.02T

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AN ACT

To repeal sections 192.020, 192.667, 208.670, 334.108, and 335.175, RSMo, and to enact in lieu thereof twelve new sections relating to health care, with existing penalty provisions.

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

Section A. Sections 192.020, 192.667, 208.670, 334.108, and 335.175,
2 RSMo, are repealed and twelve new sections enacted in lieu thereof, to be known
3 as sections 191.1145, 191.1146, 192.020, 192.667, 208.670, 208.671, 208.673,
4 208.675, 208.677, 208.686, 334.108, and 335.175, to read as follows:

191.1145. 1. As used in sections 191.1145 and 191.1146, the
2 **following terms shall mean:**
3 **(1) "Asynchronous store-and-forward transfer", the collection of**
4 **a patient's relevant health information and the subsequent**
5 **transmission of that information from an originating site to a health**
6 **care provider at a distant site without the patient being present;**
7 **(2) "Clinical staff", any health care provider licensed in this**
8 **state;**
9 **(3) "Distant site", a site at which a health care provider is located**
10 **while providing health care services by means of telemedicine;**
11 **(4) "Health care provider", as that term is defined in section**
12 **376.1350;**
13 **(5) "Originating site", a site at which a patient is located at the**
14 **time health care services are provided to him or her by means of**
15 **telemedicine. For the purposes of asynchronous store-and-forward**

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EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 **transfer, originating site shall also mean the location at which the**
17 **health care provider transfers information to the distant site;**
18 **(6) "Telehealth" or "telemedicine", the delivery of health care**
19 **services by means of information and communication technologies**
20 **which facilitate the assessment, diagnosis, consultation, treatment,**
21 **education, care management, and self-management of a patient's health**
22 **care while such patient is at the originating site and the health care**
23 **provider is at the distant site. Telehealth or telemedicine shall also**
24 **include the use of asynchronous store-and-forward technology.**
25 **2. Any licensed health care provider shall be authorized to**
26 **provide telehealth services if such services are within the scope of**
27 **practice for which the health care provider is licensed and are**
28 **provided with the same standard of care as services provided in**
29 **person.**
30 **3. In order to treat patients in this state through the use of**
31 **telemedicine or telehealth, health care providers shall be fully licensed**
32 **to practice in this state and shall be subject to regulation by their**
33 **respective professional boards.**
34 **4. Nothing in subsection 3 of this section shall apply to:**
35 **(1) Informal consultation performed by a health care provider**
36 **licensed in another state, outside of the context of a contractual**
37 **relationship, and on an irregular or infrequent basis without the**
38 **expectation or exchange of direct or indirect compensation;**
39 **(2) Furnishing of health care services by a health care provider**
40 **licensed and located in another state in case of an emergency or**
41 **disaster; provided that, no charge is made for the medical assistance;**
42 **or**
43 **(3) Episodic consultation by a health care provider licensed and**
44 **located in another state who provides such consultation services on**
45 **request to a physician in this state.**
46 **5. Nothing in this section shall be construed to alter the scope of**
47 **practice of any health care provider or to authorize the delivery of**
48 **health care services in a setting or in a manner not otherwise**
49 **authorized by the laws of this state.**
50 **6. No originating site for services or activities provided under**
51 **this section shall be required to maintain immediate availability of on-**
52 **site clinical staff during the telehealth services, except as necessary to**

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53 **meet the standard of care for the treatment of the patient's medical**
54 **condition if such condition is being treated by an eligible health care**
55 **provider who is not at the originating site, has not previously seen the**
56 **patient in person in a clinical setting, and is not providing coverage for**
57 **a health care provider who has an established relationship with the**
58 **patient.**

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

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

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

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

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

14 **2. In order to establish a physician-patient relationship through**
15 **telemedicine:**

16 **(1) The technology utilized shall be sufficient to establish an**
17 **informed diagnosis as though the medical interview and physical**
18 **examination has been performed in person; and**

19 **(2) Prior to providing treatment, including issuing prescriptions,**
20 **a physician who uses telemedicine shall interview the patient, collect**
21 **or review relevant medical history, and perform an examination**
22 **sufficient for the diagnosis and treatment of the patient. A**
23 **questionnaire completed by the patient, whether via the internet or**
24 **telephone, does not constitute an acceptable medical interview and**
25 **examination for the provision of treatment by telehealth.**

192.020. 1. It shall be the general duty and responsibility of the
2 department of health and senior services to safeguard the health of the people in
3 the state and all its subdivisions. It shall make a study of the causes and
4 prevention of diseases. It shall designate those diseases which are infectious,

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5 contagious, communicable or dangerous in their nature and shall make and
6 enforce adequate orders, findings, rules and regulations to prevent the spread of
7 such diseases and to determine the prevalence of such diseases within the state.
8 It shall have power and authority, with approval of the director of the
9 department, to make such orders, findings, rules and regulations as will prevent
10 the entrance of infectious, contagious and communicable diseases into the state.
11 2. The department of health and senior services shall include in its list
12 of communicable or infectious diseases which must be reported to the department
13 methicillin-resistant staphylococcus aureus (MRSA)**, carbapenem-resistant**
14 **enterobacteriaceae (CRE) as specified by the department,** and
15 vancomycin-resistant enterococcus (VRE).

192.667. 1. All health care providers shall at least annually provide to
2 the department charge data as required by the department. All hospitals shall
3 at least annually provide patient abstract data and financial data as required by
4 the department. Hospitals as defined in section 197.020 shall report patient
5 abstract data for outpatients and inpatients. **[**Within one year of August 28,
6 1992,**]** Ambulatory surgical centers as defined in section 197.200 shall provide
7 patient abstract data to the department. The department shall specify by rule
8 the types of information which shall be submitted and the method of submission.
9 2. The department shall collect data **[**on required nosocomial infection
10 incidence rates**] on the incidence of health care-associated infections** from
11 hospitals, ambulatory surgical centers, and other facilities as necessary to
12 generate the reports required by this section. Hospitals, ambulatory surgical
13 centers, and other facilities shall provide such data in compliance with this
14 section.
15 3. **[**No later than July 1, 2005,**]** The department shall promulgate rules
16 specifying the standards and procedures for the collection, analysis, risk
17 adjustment, and reporting of **[**nosocomial infection incidence rates**] the**
18 **incidence of health care-associated infections** and the types of infections
19 and procedures to be monitored pursuant to subsection 12 of this section. In
20 promulgating such rules, the department shall:
21 (1) Use methodologies and systems for data collection established by the
22 federal Centers for Disease Control and Prevention National **[**Nosocomial
23 Infection Surveillance System**] Healthcare Safety Network**, or its successor;
24 and
25 (2) Consider the findings and recommendations of the infection control

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26 advisory panel established pursuant to section 197.165.
27 4. **By January 1, 2017,** the infection control advisory panel created by
28 section 197.165 shall make [a recommendation] **recommendations** to the
29 department regarding the [appropriateness of implementing all or part of the
30 nosocomial] **Centers for Medicare and Medicaid Services' health care-**
31 **associated** infection data collection, analysis, and public reporting requirements
32 [of this act by authorizing] **for** hospitals, ambulatory surgical centers, and other
33 facilities [to participate] in the federal Centers for Disease Control and
34 [Prevention's] **Prevention** National [Nosocomial Infection Surveillance System]
35 **Healthcare Safety Network**, or its successor**, in lieu of all or part of the**
36 **data collection, analysis, and public reporting requirements of this**
37 **section. The advisory panel recommendations shall address which**
38 **hospitals shall be required as a condition of licensure to use the**
39 **National Healthcare Safety Network for data collection; the use of the**
40 **National Healthcare Safety Network for risk adjustment and analysis**
41 **of hospital submitted data; and the use of the Centers for Medicare and**
42 **Medicaid Services' Hospital Compare website, or its successor, for**
43 **public reporting of the incidence of health care-associated infection**
44 **metrics**. The advisory panel shall consider the following factors in developing
45 its recommendation:
46 (1) Whether the public is afforded the same or greater access to facility-
47 specific infection control indicators and [rates than would be provided under
48 subsections 2, 3, and 6 to 12 of this section] **metrics**;
49 (2) Whether the data provided to the public [are] **is** subject to the same
50 or greater accuracy of risk adjustment [than would be provided under subsections
51 2, 3, and 6 to 12 of this section];
52 (3) Whether the public is provided with the same or greater specificity of
53 reporting of infections by type of facility infections and procedures [than would
54 be provided under subsections 2, 3, and 6 to 12 of this section];
55 (4) Whether the data [are] **is** subject to the same or greater level of
56 confidentiality of the identity of an individual patient [than would be provided
57 under subsections 2, 3, and 6 to 12 of this section];
58 (5) Whether the National [Nosocomial Infection Surveillance System]
59 **Healthcare Safety Network**, or its successor, has the capacity to receive,
60 analyze, and report the required data for all facilities;
61 (6) Whether the cost to implement the [nosocomial] **National**

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62 **Healthcare Safety Network** infection data collection and reporting system is
63 the same or less **[**than under subsections 2, 3, and 6 to 12 of this section**]**.
64 5. **[**Based on**]** **After considering** the **[**affirmative recommendation**]**
65 **recommendations** of the infection control advisory panel, and provided that the
66 requirements of subsection 12 of this section can be met, the department **[**may or
67 may not**]** **shall** implement **guidelines from** the federal Centers for Disease
68 Control and **[**Prevention Nosocomial Infection Surveillance System**]**
69 **Prevention's National Healthcare Safety Network**, or its successor**[**, as an
70 alternative means of complying with the requirements of subsections 2, 3, and 6
71 to 12 of this section. If the department chooses to implement the use of the
72 federal Centers for Disease Control Prevention Nosocomial Infection Surveillance
73 System, or its successor, as an alternative means of complying with the
74 requirements of subsections 2, 3, and 6 to 12 of this section,**]**. It shall be a
75 condition of licensure for hospitals **[**and ambulatory surgical centers which opt
76 to participate in the federal program to**]** **that meet the minimum public**
77 **reporting requirements of the National Healthcare Safety Network and**
78 **the Centers for Medicare and Medicaid Services to participate in the**
79 **National Healthcare Safety Network, or its successor. Such hospitals**
80 **shall** permit the **[**federal program**]** **National Healthcare Safety Network, or**
81 **its successor,** to disclose facility-specific **infection** data to the department as
82 **required under this section, and as** necessary to provide the public reports
83 required by the department. **It shall be a condition of licensure for** any
84 **[**hospital or**]** ambulatory surgical center which does not voluntarily participate
85 in the National **[**Nosocomial Infection Surveillance System**]** **Healthcare Safety**
86 **Network**, or its successor, **[**shall be**]** **to submit facility-specific data to the**
87 **department as** required **[**to abide by all of the requirements of subsections 2,
88 3, and 6 to 12 of this section**]** **under this section, and as necessary to**
89 **provide the public reports required by the department**.
90 6. The department shall not require the resubmission of data which has
91 been submitted to the department of health and senior services or the department
92 of social services under any other provision of law. The department of health and
93 senior services shall accept data submitted by associations or related
94 organizations on behalf of health care providers by entering into binding
95 agreements negotiated with such associations or related organizations to obtain
96 data required pursuant to section 192.665 and this section. A health care
97 provider shall submit the required information to the department of health and

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98 senior services:
99 (1) If the provider does not submit the required data through such
100 associations or related organizations;
101 (2) If no binding agreement has been reached within ninety days of
102 August 28, 1992, between the department of health and senior services and such
103 associations or related organizations; or
104 (3) If a binding agreement has expired for more than ninety days.
105 7. Information obtained by the department under the provisions of section
106 192.665 and this section shall not be public information. Reports and studies
107 prepared by the department based upon such information shall be public
108 information and may identify individual health care providers. The department
109 of health and senior services may authorize the use of the data by other research
110 organizations pursuant to the provisions of section 192.067. The department
111 shall not use or release any information provided under section 192.665 and this
112 section which would enable any person to determine any health care provider's
113 negotiated discounts with specific preferred provider organizations or other
114 managed care organizations. The department shall not release data in a form
115 which could be used to identify a patient. Any violation of this subsection is a
116 class A misdemeanor.
117 8. The department shall undertake a reasonable number of studies and
118 publish information, including at least an annual consumer guide, in
119 collaboration with health care providers, business coalitions and consumers based
120 upon the information obtained pursuant to the provisions of section 192.665 and
121 this section. The department shall allow all health care providers and
122 associations and related organizations who have submitted data which will be
123 used in any [report] **publication** to review and comment on the [report]
124 **publication** prior to its publication or release for general use. [The department
125 shall include any comments of a health care provider, at the option of the
126 provider, and associations and related organizations in the publication if the
127 department does not change the publication based upon those comments.] The
128 [report] **publication** shall be made available to the public for a reasonable
129 charge.
130 9. Any health care provider which continually and substantially, as these
131 terms are defined by rule, fails to comply with the provisions of this section shall
132 not be allowed to participate in any program administered by the state or to
133 receive any moneys from the state.

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134 10. A hospital, as defined in section 197.020, aggrieved by the
135 department's determination of ineligibility for state moneys pursuant to
136 subsection 9 of this section may appeal as provided in section 197.071. An
137 ambulatory surgical center as defined in section 197.200 aggrieved by the
138 department's determination of ineligibility for state moneys pursuant to
139 subsection 9 of this section may appeal as provided in section 197.221.

140 11. The department of health may promulgate rules providing for
141 collection of data and publication of [nosocomial infection incidence rates] **the**
142 **incidence of health care-associated infections** for other types of health
143 facilities determined to be sources of infections; except that, physicians' offices
144 shall be exempt from reporting and disclosure of [infection incidence rates] **such**
145 **infections**.

146 12. **By January 1, 2017, the advisory panel shall recommend and**
147 **the department shall adopt in regulation with an effective date of no**
148 **later than January 1, 2018, the requirements for the reporting of the**
149 **following types of infections as specified in this subsection:**

150 **(1) Infections associated with a minimum of four surgical**
151 **procedures for hospitals and a minimum of two surgical procedures for**
152 **ambulatory surgical centers that meet the following criteria:**

153 **(a) Are usually associated with an elective surgical procedure. An**
154 **elective surgical procedure is a planned, nonemergency surgical**
155 **procedure, that may be either medically required such as a hip**
156 **replacement or optional such as breast augmentation;**

157 **(b) Demonstrate a high priority aspect such as affecting a large**
158 **number of patients, having a substantial impact for a smaller**
159 **population, or being associated with substantial cost, morbidity, or**
160 **mortality; or**

161 **(c) Are infections for which reports are collected by the National**
162 **Healthcare Safety Network or its successor;**

163 **(2) Central line-related bloodstream infections;**

164 **(3) Health care-associated infections specified for reporting by**
165 **hospitals, ambulatory surgical centers, and other health care facilities**
166 **by the rules of the Centers for Medicare and Medicaid Services to the**
167 **federal Centers for Disease Control and Prevention's National**
168 **Healthcare Safety Network, or its successor; and**

169 **(4) Other categories of infections that may be established by rule**

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170 **by the department.**

171 **The department, in consultation with the advisory panel, shall be**
172 **authorized to collect and report data on subsets of each type of**
173 **infection described in this subsection.**

174 **13.** In consultation with the infection control advisory panel established
175 pursuant to section 197.165, the department shall develop and disseminate to the
176 public reports based on data compiled for a period of twelve months. Such
177 reports shall be updated quarterly and shall show for each hospital, ambulatory
178 surgical center, and other facility **[**a risk-adjusted nosocomial infection incidence
179 rate for the following types of infection:

180 (1) Class I Surgical site infections;

181 (2) Ventilator-associated pneumonia;

182 (3) Central line-related bloodstream infections;

183 (4) Other categories of infections that may be established by rule by the
184 department.

185 The department, in consultation with the advisory panel, shall be authorized to
186 collect and report data on subsets of each type of infection described in this
187 subsection**] metrics on risk adjusted health care-associated infections**
188 **under this section**.

189 **[**13. In the event the provisions of this act are implemented by requiring
190 hospitals, ambulatory surgical centers, and other facilities to participate in the
191 federal Centers for Disease Control and Prevention National Nosocomial Infection
192 Surveillance System, or its successor,**]**

193 **14.** The types of infections **under subsection 12 of this section** to be
194 publicly reported shall be determined by the department by rule and shall be
195 consistent with the infections tracked by the National **[**Nosocomial Infection
196 Surveillance System**] Healthcare Safety Network**, or its successor.

197 **[**14.**] 15.** Reports published pursuant to subsection **[**12**] 13** of this section
198 shall be published **and readily accessible** on the department's internet
199 website. **[**The initial report shall be issued by the department not later than
200 December 31, 2006.**]** The reports shall be distributed at least annually to the
201 governor and members of the general assembly. **The department shall make**
202 **such reports available to the public for a period of at least two years.**

203 **[**15.**] 16.** The Hospital Industry Data Institute shall publish a report of
204 Missouri hospitals' and ambulatory surgical centers' compliance with
205 standardized quality of care measures established by the federal Centers for

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206 Medicare and Medicaid Services for prevention of infections related to surgical
207 procedures. If the Hospital Industry Data Institute fails to do so by July 31,
208 2008, and annually thereafter, the department shall be authorized to collect
209 information from the Centers for Medicare and Medicaid Services or from
210 hospitals and ambulatory surgical centers and publish such information in
211 accordance with **[**subsection 14 of**]** this section.

212 **[**16.**]** **17.** The data collected or published pursuant to this section shall
213 be available to the department for purposes of licensing hospitals and ambulatory
214 surgical centers pursuant to chapter 197.

215 **[**17.**]** **18.** The department shall promulgate rules to implement the
216 provisions of section 192.131 and sections 197.150 to 197.160. Any rule or portion
217 of a rule, as that term is defined in section 536.010 that is created under the
218 authority delegated in this section shall become effective only if it complies with
219 and is subject to all of the provisions of chapter 536 and, if applicable, section
220 536.028. This section and chapter 536 are nonseverable and if any of the powers
221 vested with the general assembly pursuant to chapter 536 to review, to delay the
222 effective date, or to disapprove and annul a rule are subsequently held
223 unconstitutional, then the grant of rulemaking authority and any rule proposed
224 or adopted after August 28, 2004, shall be invalid and void.

225 **19. No later than August 28, 2017, each hospital, excluding**
226 **mental health facilities as defined in section 632.005, and each**
227 **ambulatory surgical center as defined in section 197.200, shall in**
228 **consultation with its medical staff establish an antimicrobial**
229 **stewardship program for evaluating the judicious use of antimicrobials,**
230 **especially antibiotics that are the last line of defense against resistant**
231 **infections. The hospital's stewardship program and the results of the**
232 **program shall be monitored and evaluated by hospital quality**
233 **improvement departments and shall be available upon inspection to the**
234 **department. At a minimum, the antimicrobial stewardship program**
235 **shall be designed to evaluate that hospitalized patients receive, in**
236 **accordance with accepted medical standards of practice, the**
237 **appropriate antimicrobial, at the appropriate dose, at the appropriate**
238 **time, and for the appropriate duration.**

239 **20. Hospitals described in subsection 19 of this section shall meet**
240 **the National Healthcare Safety Network requirements for reporting**
241 **antimicrobial usage or resistance by using the Centers for Disease**

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242 **Control and Prevention's Antimicrobial Use and Resistance (AUR)**
243 **Module when regulations concerning Stage 3 of the Medicare and**
244 **Medicaid Electronic Health Records Incentive Programs promulgated**
245 **by the Centers for Medicare and Medicaid Services that enable the**
246 **electronic interface for such reporting are effective. When such**
247 **antimicrobial usage or resistance reporting takes effect, hospitals shall**
248 **authorize the National Healthcare Safety Network, or its successor, to**
249 **disclose to the department facility-specific information reported to the**
250 **AUR Module. Facility-specific data on antibiotic usage and resistance**
251 **collected under this subsection shall not be disclosed to the public, but**
252 **the department may release case-specific information to other facilities,**
253 **physicians, and the public if the department determines on a case-by-**
254 **case basis that the release of such information is necessary to protect**
255 **persons in a public health emergency.**
256 **21. The department shall make a report to the general assembly**
257 **beginning January 1, 2018, and on every January first thereafter on the**
258 **incidence, type, and distribution of antimicrobial-resistant infections**
259 **identified in the state and within regions of the state.**

208.670. 1. As used in this section, these terms shall have the following
2 meaning:
3 (1) "Provider", any provider of medical services and mental health
4 services, including all other medical disciplines;
5 (2) "Telehealth", **[**the use of medical information exchanged from one site
6 to another via electronic communications to improve the health status of a
7 patient**] the same meaning as such term is defined in section 191.1145.**
8 **2. Reimbursement for the use of asynchronous store-and-forward**
9 **technology in the practice of telehealth in the MO HealthNet program**
10 **shall be allowed for orthopedics, dermatology, ophthalmology and**
11 **optometry, in cases of diabetic retinopathy, burn and wound care,**
12 **dental services which require a diagnosis, and maternal-fetal medicine**
13 **ultrasounds**.
14 **[**2.**] 3.** The department of social services, in consultation with the
15 departments of mental health and health and senior services, shall promulgate
16 rules governing the practice of telehealth in the MO HealthNet program. Such
17 rules shall address, but not be limited to, appropriate standards for the use of
18 telehealth, certification of agencies offering telehealth, and payment for services

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19 by providers. Telehealth providers shall be required to obtain [patient]
20 **participant** consent before telehealth services are initiated and to ensure
21 confidentiality of medical information.

22 [3.] **4.** Telehealth may be utilized to service individuals who are qualified
23 as MO HealthNet participants under Missouri law. Reimbursement for such
24 services shall be made in the same way as reimbursement for in-person contacts.

25 **5. The provisions of section 208.671 shall apply to the use of**
26 **asynchronous store-and-forward technology in the practice of**
27 **telehealth in the MO HealthNet program.**

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

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

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

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

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

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

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

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29 **(7) "Provider", any provider of medical, mental health,**
30 **optometric, or dental health services, including all other medical**
31 **disciplines, licensed and providing MO HealthNet services who has the**
32 **authority to refer participants for medical, mental health, optometric,**
33 **dental, or other health care services within the scope of practice and**
34 **licensure of the provider;**
35 **(8) "Telehealth", as that term is defined in section 191.1145;**
36 **(9) "Treating provider", a provider who:**
37 **(a) Evaluates a participant;**
38 **(b) Determines the need for a consultation;**
39 **(c) Arranges the services of a consulting provider for the**
40 **purpose of diagnosis and treatment; and**
41 **(d) Provides or supplements the participant's history and**
42 **provides pertinent physical examination findings and medical**
43 **information to the consulting provider.**
44 **2. The department of social services, in consultation with the**
45 **departments of mental health and health and senior services, shall**
46 **promulgate rules governing the use of asynchronous store-and-forward**
47 **technology in the practice of telehealth in the MO HealthNet**
48 **program. Such rules shall include, but not be limited to:**
49 **(1) Appropriate standards for the use of asynchronous store-and-**
50 **forward technology in the practice of telehealth;**
51 **(2) Certification of agencies offering asynchronous store-and-**
52 **forward technology in the practice of telehealth;**
53 **(3) Timelines for completion and communication of a consulting**
54 **provider's consultation or opinion, or if the consulting provider is**
55 **unable to render an opinion, timelines for communicating a request for**
56 **additional information or that the consulting provider declines to**
57 **render an opinion;**
58 **(4) Length of time digital files of such asynchronous store-and-**
59 **forward services are to be maintained;**
60 **(5) Security and privacy of such digital files;**
61 **(6) Participant consent for asynchronous store-and-forward**
62 **services; and**
63 **(7) Payment for services by providers; except that, consulting**
64 **providers who decline to render an opinion shall not receive payment**
65 **under this section unless and until an opinion is rendered.**

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66 **Telehealth providers using asynchronous store-and-forward technology**
67 **shall be required to obtain participant consent before asynchronous**
68 **store-and-forward services are initiated and to ensure confidentiality**
69 **of medical information.**
70 **3. Asynchronous store-and-forward technology in the practice of**
71 **telehealth may be utilized to service individuals who are qualified as**
72 **MO HealthNet participants under Missouri law. The total payment for**
73 **both the treating provider and the consulting provider shall not exceed**
74 **the payment for a face-to-face consultation of the same level.**
75 **4. The standard of care for the use of asynchronous store-and-**
76 **forward technology in the practice of telehealth shall be the same as**
77 **the standard of care for services provided in person.**

208.673. 1. There is hereby established the "Telehealth Services
2 **Advisory Committee" to advise the department of social services and**
3 **propose rules regarding the coverage of telehealth services in the MO**
4 **HealthNet program utilizing asynchronous store-and-forward**
5 **technology.**
6 **2. The committee shall be comprised of the following members:**
7 **(1) The director of the MO HealthNet division, or the director's**
8 **designee;**
9 **(2) The medical director of the MO HealthNet division;**
10 **(3) A representative from a Missouri institution of higher**
11 **education with expertise in telehealth;**
12 **(4) A representative from the Missouri office of primary care and**
13 **rural health;**
14 **(5) Two board-certified specialists licensed to practice medicine**
15 **in this state;**
16 **(6) A representative from a hospital located in this state that**
17 **utilizes telehealth;**
18 **(7) A primary care physician from a federally qualified health**
19 **center (FQHC) or rural health clinic;**
20 **(8) A primary care physician from a rural setting other than**
21 **from an FQHC or rural health clinic;**
22 **(9) A dentist licensed to practice in this state; and**
23 **(10) A psychologist, or a physician who specializes in psychiatry,**
24 **licensed to practice in this state.**
25 **3. Members of the committee listed in subdivisions (3) to (10) of**

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26 **subsection 2 of this section shall be appointed by the governor with the**
27 **advice and consent of the senate. The first appointments to the**
28 **committee shall consist of three members to serve three-year terms,**
29 **three members to serve two-year terms, and three members to serve a**
30 **one-year term as designated by the governor. Each member of the**
31 **committee shall serve for a term of three years thereafter.**

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

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

39 **6. Any rule or portion of a rule, as that term is defined in section**
40 **536.010, that is created under the authority delegated in this section**
41 **shall become effective only if it complies with and is subject to all of**
42 **the provisions of chapter 536 and, if applicable, section 536.028. This**
43 **section and chapter 536 are nonseverable, and if any of the powers**
44 **vested with the general assembly pursuant to chapter 536 to review, to**
45 **delay the effective date, or to disapprove and annul a rule are**
46 **subsequently held unconstitutional, then the grant of rulemaking**
47 **authority and any rule proposed or adopted after August 28, 2016, shall**
48 **be invalid and void.**

208.675. For purposes of the provision of telehealth services in
2 **the MO HealthNet program, the following individuals, licensed in**
3 **Missouri, shall be considered eligible health care providers:**

4 **(1) Physicians, assistant physicians, and physician assistants;**

5 **(2) Advanced practice registered nurses;**

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

8 **(4) Psychologists and provisional licensees;**

9 **(5) Pharmacists;**

10 **(6) Speech, occupational, or physical therapists;**

11 **(7) Clinical social workers;**

12 **(8) Podiatrists;**

13 **(9) Optometrists;**

14 **(10) Licensed professional counselors; and**

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15 **(11) Eligible health care providers under subdivisions (1) to (10)**
16 **of this section practicing in a rural health clinic, federally qualified**
17 **health center, or community mental health center.**

208.677. 1. For purposes of the provision of telehealth services
2 **in the MO HealthNet program, the term "originating site" shall mean a**
3 **telehealth site where the MO HealthNet participant receiving the**
4 **telehealth service is located for the encounter. The standard of care in**
5 **the practice of telehealth shall be the same as the standard of care for**
6 **services provided in person. An originating site shall be one of the**
7 **following locations:**
8 **(1) An office of a physician or health care provider;**
9 **(2) A hospital;**
10 **(3) A critical access hospital;**
11 **(4) A rural health clinic;**
12 **(5) A federally qualified health center;**
13 **(6) A long-term care facility licensed under chapter 198;**
14 **(7) A dialysis center;**
15 **(8) A Missouri state habilitation center or regional office;**
16 **(9) A community mental health center;**
17 **(10) A Missouri state mental health facility;**
18 **(11) A Missouri state facility;**
19 **(12) A Missouri residential treatment facility licensed by and**
20 **under contract with the children's division. Facilities shall have**
21 **multiple campuses and have the ability to adhere to technology**
22 **requirements. Only Missouri licensed psychiatrists, licensed**
23 **psychologists, or provisionally licensed psychologists, and advanced**
24 **practice registered nurses who are MO HealthNet providers shall be**
25 **consulting providers at these locations;**
26 **(13) A comprehensive substance treatment and rehabilitation**
27 **(CSTAR) program;**
28 **(14) A school;**
29 **(15) The MO HealthNet recipient's home;**
30 **(16) A clinical designated area in a pharmacy; or**
31 **(17) A child assessment center as described in section 210.001.**
32 **2. If the originating site is a school, the school shall obtain**
33 **permission from the parent or guardian of any student receiving**
34 **telehealth services prior to each provision of service.**

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208.686. 1. Subject to appropriations, the department shall
2 **establish a statewide program that permits reimbursement under the**
3 **MO HealthNet program for home telemonitoring services. For the**
4 **purposes of this section, "home telemonitoring service" shall mean a**
5 **health care service that requires scheduled remote monitoring of data**
6 **related to a participant's health and transmission of the data to a**
7 **health call center accredited by the Utilization Review Accreditation**
8 **Commission (URAC).**
9 **2. The program shall:**
10 **(1) Provide that home telemonitoring services are available only**
11 **to persons who:**
12 **(a) Are diagnosed with one or more of the following conditions:**
13 **a. Pregnancy;**
14 **b. Diabetes;**
15 **c. Heart disease;**
16 **d. Cancer;**
17 **e. Chronic obstructive pulmonary disease;**
18 **f. Hypertension;**
19 **g. Congestive heart failure;**
20 **h. Mental illness or serious emotional disturbance;**
21 **i. Asthma;**
22 **j. Myocardial infarction; or**
23 **k. Stroke; and**
24 **(b) Exhibit two or more of the following risk factors:**
25 **a. Two or more hospitalizations in the prior twelve-month**
26 **period;**
27 **b. Frequent or recurrent emergency department admissions;**
28 **c. A documented history of poor adherence to ordered**
29 **medication regimens;**
30 **d. A documented history of falls in the prior six-month period;**
31 **e. Limited or absent informal support systems;**
32 **f. Living alone or being home alone for extended periods of time;**
33 **g. A documented history of care access challenges; or**
34 **h. A documented history of consistently missed appointments**
35 **with health care providers;**
36 **(2) Ensure that clinical information gathered by a home health**
37 **agency or hospital while providing home telemonitoring services is**

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38 **shared with the participant's physician; and**

39 **(3) Ensure that the program does not duplicate any disease**
40 **management program services provided by MO HealthNet.**

41 **3. If, after implementation, the department determines that the**
42 **program established under this section is not cost effective, the**
43 **department may discontinue the program and stop providing**
44 **reimbursement under the MO HealthNet program for home**
45 **telemonitoring services.**

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

50 **5. If, before implementing any provision of this section, the**
51 **department determines that a waiver or authorization from a federal**
52 **agency is necessary for implementation of that provision, the**
53 **department shall request the waiver or authorization and may delay**
54 **implementing that provision until the waiver or authorization is**
55 **granted.**

56 **6. The department shall promulgate rules and regulations to**
57 **implement the provisions of this section. Any rule or portion of a rule,**
58 **as that term is defined in section 536.010, that is created under the**
59 **authority delegated in this section shall become effective only if it**
60 **complies with and is subject to all of the provisions of chapter 536 and,**
61 **if applicable, section 536.028. This section and chapter 536 are**
62 **nonseverable, and if any of the powers vested with the general**
63 **assembly pursuant to chapter 536 to review, to delay the effective date,**
64 **or to disapprove and annul a rule are subsequently held**
65 **unconstitutional, then the grant of rulemaking authority and any rule**
66 **proposed or adopted after August 28, 2016, shall be invalid and void.**

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

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

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9 (2) Having sufficient dialogue 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
12 outcome;
13 (4) Maintaining a contemporaneous medical record that is readily
14 available to the patient and, subject to the patient's consent, to the patient's other
15 health care professionals; and
16 (5) **[**Including**]** **Maintaining** the electronic prescription information as
17 part of the patient's medical record.
18 2. The requirements of subsection 1 of this section may be satisfied by the
19 prescribing physician's designee when treatment is provided in:
20 (1) A hospital as defined in section 197.020;
21 (2) A hospice program as defined in section 197.250;
22 (3) Home health services provided by a home health agency as defined in
23 section 197.400;
24 (4) Accordance with a collaborative practice agreement as defined in
25 section 334.104;
26 (5) Conjunction with a physician assistant licensed pursuant to section
27 334.738;
28 (6) **Conjunction with an assistant physician licensed under**
29 **section 334.036;**
30 **(7)** Consultation with another physician who has an ongoing physician-
31 patient relationship with the patient, and who has agreed to supervise the
32 patient's treatment, including use of any prescribed medications; or
33 **[**(7)**]** **(8)** On-call or cross-coverage situations.
34 **3. No health care provider, as defined in section 376.1350, shall**
35 **prescribe any drug, controlled substance, or other treatment to a**
36 **patient based solely on an evaluation over the telephone; except that,**
37 **a physician, such physician's on-call designee, an advanced practice**
38 **registered nurse in a collaborative practice arrangement with such**
39 **physician, a physician assistant in a supervision agreement with such**
40 **physician, or an assistant physician in a supervision agreement with**
41 **such physician may prescribe any drug, controlled substance, or other**
42 **treatment that is within his or her scope of practice to a patient based**
43 **solely on a telephone evaluation if a previously established and ongoing**
44 **physician-patient relationship exists between such physician and the**

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45 **patient being treated.**

46 **4. No health care provider shall prescribe any drug, controlled**
47 **substance, or other treatment to a patient based solely on an internet**
48 **request or an internet questionnaire.**

335.175. 1. No later than January 1, 2014, there is hereby established
2 within the state board of registration for the healing arts and the state board of
3 nursing the "Utilization of Telehealth by Nurses". An advanced practice
4 registered nurse (APRN) providing nursing services under a collaborative practice
5 arrangement under section 334.104 may provide such services outside the
6 geographic proximity requirements of section 334.104 if the collaborating
7 physician and advanced practice registered nurse utilize telehealth in the care of
8 the patient and if the services are provided in a rural area of need. Telehealth
9 providers shall be required to obtain patient consent before telehealth services
10 are initiated and ensure confidentiality of medical information.

11 2. As used in this section, "telehealth" **[**means the use of medical
12 information exchanged from one site to another via electronic communications to
13 improve the health status of a patient, as defined in section 208.670**] shall have**
14 **the same meaning as such term is defined in section 191.1145**.

15 3. (1) The boards shall jointly promulgate rules governing the practice of
16 telehealth under this section. Such rules shall address, but not be limited to,
17 appropriate standards for the use of telehealth.

18 (2) Any rule or portion of a rule, as that term is defined in section
19 536.010, that is created under the authority delegated in this section shall
20 become effective only if it complies with and is subject to all of the provisions of
21 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
22 nonseverable and if any of the powers vested with the general assembly pursuant
23 to chapter 536 to review, to delay the effective date, or to disapprove and annul
24 a rule are subsequently held unconstitutional, then the grant of rulemaking
25 authority and any rule proposed or adopted after August 28, 2013, shall be
26 invalid and void.

27 4. For purposes of this section, "rural area of need" means any rural area
28 of this state which is located in a health professional shortage area as defined in
29 section 354.650.

30 5. Under section 23.253 of the Missouri sunset act:

31 (1) The provisions of the new program authorized under this section shall
32 automatically sunset six years after August 28, 2013, unless reauthorized by an

33 act of the general assembly; and

34 (2) If such program is reauthorized, the program authorized under this
35 section shall automatically sunset twelve years after the effective date of the
36 reauthorization of this section; and

37 (3) This section shall terminate on September first of the calendar year
38 immediately following the calendar year in which the program authorized under
39 this section is sunset.

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