

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1617
99TH GENERAL ASSEMBLY

Reported from the Committee on General Laws, April 5, 2018, with recommendation that the Senate Committee Substitute do pass.

4389S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To repeal sections 191.1145, 208.670, 208.671, 208.673, 208.675, and 208.677, RSMo, and to enact in lieu thereof three new sections relating to telehealth.

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

Section A. Sections 191.1145, 208.670, 208.671, 208.673, 208.675, and
2 208.677, RSMo, are repealed and three new sections enacted in lieu thereof, to be
3 known as sections 191.1145, 208.670, and 208.677, to read as follows:

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

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

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

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

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

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

16 (6) "Telehealth" or "telemedicine", the delivery of health care services by

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

17 means of information and communication technologies which facilitate the
18 assessment, diagnosis, consultation, treatment, education, care management, and
19 self-management of a patient's health care while such patient is at the originating
20 site and the health care provider is at the distant site. Telehealth or
21 telemedicine shall also include the use of asynchronous store-and-forward
22 technology.

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

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

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

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

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

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

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

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

53 with the patient.

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

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

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

6 (2) **"Distant site", the same meaning as such term is defined in**
7 **section 191.1145;**

8 (3) **"Originating site", the same meaning as such term is defined**
9 **in section 191.1145;**

10 (4) **"Provider", [any provider of medical services and mental health**
11 **services, including all other medical disciplines] the same meaning as the**
12 **term "health care provider" is defined in section 191.1145, and such**
13 **provider meets all other MO HealthNet eligibility requirements;**

14 [(2)] (5) **"Telehealth", the same meaning as such term is defined in**
15 **section 191.1145 or as the term "home telemonitoring service" is defined**
16 **in section 208.686.**

17 2. [Reimbursement for the use of asynchronous store-and-forward
18 technology in the practice of telehealth in the MO HealthNet program shall be
19 allowed for orthopedics, dermatology, ophthalmology and optometry, in cases of
20 diabetic retinopathy, burn and wound care, dental services which require a
21 diagnosis, and maternal-fetal medicine ultrasounds.

22 3. The department of social services, in consultation with the departments
23 of mental health and health and senior services, shall promulgate rules governing
24 the practice of telehealth in the MO HealthNet program. Such rules shall
25 address, but not be limited to, appropriate standards for the use of telehealth,
26 certification of agencies offering telehealth, and payment for services by
27 providers. Telehealth providers shall be required to obtain participant consent
28 before telehealth services are initiated and to ensure confidentiality of medical
29 information.

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

33 5. The provisions of section 208.671 shall apply to the use of asynchronous

34 store-and-forward technology in the practice of telehealth in the MO HealthNet
35 program] **The department of social services shall reimburse providers**
36 **for services provided through telehealth if such providers can ensure**
37 **services are rendered meeting the standard of care that would**
38 **otherwise be expected should such services be provided in person. The**
39 **department shall not restrict the originating site through rule or**
40 **payment so long as the provider can ensure services are rendered**
41 **meeting the standard of care that would otherwise be expected should**
42 **such services be provided in person. Payment for services rendered via**
43 **telehealth shall not depend on any minimum distance requirement**
44 **between the originating and distant site. Reimbursement for telehealth**
45 **services shall be made in the same way as reimbursement for in-person**
46 **contact; however, consideration shall also be made for reimbursement**
47 **to the originating site. Reimbursement for asynchronous store-and-**
48 **forward may be capped at the reimbursement rate had the service been**
49 **provided in person.**

208.677. [1. For purposes of the provision of telehealth services in the
2 MO HealthNet program, the term "originating site" shall mean a telehealth site
3 where the MO HealthNet participant receiving the telehealth service is located
4 for the encounter. The standard of care in the practice of telehealth shall be the
5 same as the standard of care for services provided in person. An originating site
6 shall be one of the following locations:

- 7 (1) An office of a physician or health care provider;
- 8 (2) A hospital;
- 9 (3) A critical access hospital;
- 10 (4) A rural health clinic;
- 11 (5) A federally qualified health center;
- 12 (6) A long-term care facility licensed under chapter 198;
- 13 (7) A dialysis center;
- 14 (8) A Missouri state habilitation center or regional office;
- 15 (9) A community mental health center;
- 16 (10) A Missouri state mental health facility;
- 17 (11) A Missouri state facility;
- 18 (12) A Missouri residential treatment facility licensed by and under
19 contract with the children's division. Facilities shall have multiple campuses and
20 have the ability to adhere to technology requirements. Only Missouri licensed

21 psychiatrists, licensed psychologists, or provisionally licensed psychologists, and
22 advanced practice registered nurses who are MO HealthNet providers shall be
23 consulting providers at these locations;

24 (13) A comprehensive substance treatment and rehabilitation (CSTAR)
25 program;

26 (14) A school;

27 (15) The MO HealthNet recipient's home;

28 (16) A clinical designated area in a pharmacy; or

29 (17) A child assessment center as described in section 210.001.

30 2. If the originating site is a school, the school shall obtain permission
31 from the parent or guardian of any student receiving telehealth services prior to
32 each provision of service.] **Prior to the provision of telehealth services in**
33 **a school, the parent or guardian of the child shall provide**
34 **authorization for the provision of such service. Such authorization**
35 **shall include the ability for the parent or guardian to authorize**
36 **services via telehealth in the school for the remainder of the school**
37 **year.**

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

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

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

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

18 (4) "Consulting provider", a provider who, upon referral by
19 the treating provider, evaluates a participant and appropriate

20 medical data or images delivered through asynchronous
21 store-and-forward technology. If a consulting provider is unable to
22 render an opinion due to insufficient information, the consulting
23 provider may request additional information to facilitate the
24 rendering of an opinion or decline to render an opinion;

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

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

30 (7) "Provider", any provider of medical, mental health,
31 optometric, or dental health services, including all other medical
32 disciplines, licensed and providing MO HealthNet services who has
33 the authority to refer participants for medical, mental health,
34 optometric, dental, or other health care services within the scope
35 of practice and licensure of the provider;

36 (8) "Telehealth", as that term is defined in section 191.1145;

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

38 (a) Evaluates a participant;

39 (b) Determines the need for a consultation;

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

42 (d) Provides or supplements the participant's history and
43 provides pertinent physical examination findings and medical
44 information to the consulting provider.

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

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

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

55 (3) Timelines for completion and communication of a

consulting provider's consultation or opinion, or if the consulting provider is unable to render an opinion, timelines for communicating a request for additional information or that the consulting provider declines to render an opinion;

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

(5) Security and privacy of such digital files;

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

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

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

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

4. The standard of care for the use of asynchronous store-and-forward technology in the practice of telehealth shall be the same as the standard of care for services provided in person.]

[208.673. 1. There is hereby established the "Telehealth Services Advisory Committee" to advise the department of social services and propose rules regarding the coverage of telehealth services in the MO HealthNet program utilizing asynchronous store-and-forward technology.

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

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

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

11 (3) A representative from a Missouri institution of higher
12 education with expertise in telehealth;

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

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

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

19 (7) A primary care physician from a federally qualified
20 health center (FQHC) or rural health clinic;

21 (8) A primary care physician from a rural setting other than
22 from an FQHC or rural health clinic;

23 (9) A dentist licensed to practice in this state; and

24 (10) A psychologist, or a physician who specializes in
25 psychiatry, licensed to practice in this state.

26 3. Members of the committee listed in subdivisions (3) to
27 (10) of subsection 2 of this section shall be appointed by the
28 governor with the advice and consent of the senate. The first
29 appointments to the committee shall consist of three members to
30 serve three-year terms, three members to serve two-year terms,
31 and three members to serve a one-year term as designated by the
32 governor. Each member of the committee shall serve for a term of
33 three years thereafter.

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

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

42 6. Any rule or portion of a rule, as that term is defined in
43 section 536.010, that is created under the authority delegated in
44 this section shall become effective only if it complies with and is
45 subject to all of the provisions of chapter 536 and, if applicable,
46 section 536.028. This section and chapter 536 are nonseverable

47 and if any of the powers vested with the general assembly pursuant
48 to chapter 536 to review, to delay the effective date, or to
49 disapprove and annul a rule are subsequently held
50 unconstitutional, then the grant of rulemaking authority and any
51 rule proposed or adopted after August 28, 2016, shall be invalid
52 and void.]

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

- 5 (1) Physicians, assistant physicians, and physician
6 assistants;
- 7 (2) Advanced practice registered nurses;
- 8 (3) Dentists, oral surgeons, and dental hygienists under the
9 supervision of a currently registered and licensed dentist;
- 10 (4) Psychologists and provisional licensees;
- 11 (5) Pharmacists;
- 12 (6) Speech, occupational, or physical therapists;
- 13 (7) Clinical social workers;
- 14 (8) Podiatrists;
- 15 (9) Optometrists;
- 16 (10) Licensed professional counselors; and
- 17 (11) Eligible health care providers under subdivisions (1) to
18 (10) of this section practicing in a rural health clinic, federally
19 qualified health center, or community mental health center.]