

FIRST REGULAR SESSION

# SENATE BILL NO. 284

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR CRAWFORD.

1189S.01H

ADRIANE D. CROUSE, Secretary

## AN ACT

To repeal sections 191.1145, 191.1146, and 334.108, 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Section A. Sections 191.1145, 191.1146, and 334.108, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 191.1145, 191.1146, and 334.108, to read as follows:

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

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

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

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

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

(5) "Originating site", a site at which a patient is located at the time health care services are provided to him or her by means of telemedicine. For the purposes of

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

18 asynchronous store-and-forward transfer, originating site  
19 shall also mean the location at which the health care  
20 provider transfers information to the distant site;

21 (6) "Telehealth" or "telemedicine", the delivery of  
22 health care services by means of information and  
23 communication technologies which facilitate the assessment,  
24 diagnosis, consultation, treatment, education, care  
25 management, and self-management of a patient's health care  
26 while such patient is at the originating site and the health  
27 care provider is at the distant site. Telehealth or  
28 telemedicine shall also include the use of asynchronous  
29 store-and-forward technology, **including through an adaptive**  
30 **nonstatic questionnaire.**

31 2. Any licensed health care provider shall be  
32 authorized to provide telehealth services if such services  
33 are within the scope of practice for which the health care  
34 provider is licensed and are provided with the same standard  
35 of care as services provided in person. This section shall  
36 not be construed to prohibit a health carrier, as defined in  
37 section 376.1350, from reimbursing nonclinical staff for  
38 services otherwise allowed by law.

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

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

46 (1) Informal consultation performed by a health care  
47 provider licensed in another state, outside of the context  
48 of a contractual relationship, and on an irregular or

49 infrequent basis without the expectation or exchange of  
50 direct or indirect compensation;

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

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

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

64 6. No originating site for services or activities  
65 provided under this section shall be required to maintain  
66 immediate availability of on-site clinical staff during the  
67 telehealth services, except as necessary to meet the  
68 standard of care for the treatment of the patient's medical  
69 condition if such condition is being treated by an eligible  
70 health care provider who is not at the originating site, has  
71 not previously seen the patient in person in a clinical  
72 setting, and is not providing coverage for a health care  
73 provider who has an established relationship with the  
74 patient.

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

191.1146. 1. Physicians licensed under chapter 334  
2 who use telemedicine shall ensure that a properly  
3 established physician-patient relationship exists with the

person who receives the telemedicine services. The physician-patient relationship may be established by:

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

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

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

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

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

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

334.108. 1. Prior to prescribing any drug, controlled substance, or other treatment through telemedicine, as defined in section 191.1145, or the internet, a physician

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

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

12 (2) Having sufficient dialogue with the patient  
13 regarding treatment options and the risks and benefits of  
14 treatment or treatments;

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

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

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

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

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

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

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

30 (4) Accordance with a collaborative practice agreement  
31 as defined in section 334.104;

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

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

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

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

**(9) Digital format through an adaptive questionnaire based on professional practice standards.**

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

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

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