

SENATE BILL NO. 851

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (16).

3415S.01H

KRISTINA MARTIN, Secretary

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
2 repealed and two new sections enacted in lieu thereof, to be
3 known as sections 191.1146 and 334.108, to read as follows:

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

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

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

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

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

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

19 (1) The technology utilized shall be sufficient to
20 establish an informed diagnosis as though the medical
21 interview and physical examination has been performed in
22 person; and

23 (2) Prior to providing treatment, including issuing
24 prescriptions or physician certifications under Article XIV
25 of the Missouri Constitution, a physician who uses
26 telemedicine shall interview the patient, collect or review
27 relevant medical history, and perform an examination
28 sufficient for the diagnosis and treatment of the patient.

29 **[A] Any** questionnaire completed by the patient, whether via
30 the internet or telephone, **shall include such information**
31 **sufficient to provide the information as though the medical**
32 **interview has been performed in person, otherwise such**
33 **questionnaire** does not constitute an acceptable medical
34 interview and examination for the provision of treatment by
35 telehealth.

334.108. 1. Prior to prescribing any drug, controlled
2 substance, or other treatment through telemedicine, as
3 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] exchange** with the
13 patient regarding treatment options and the risks and
14 benefits of 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;

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

40 (8) On-call or cross-coverage situations.

41 3. No health care provider, as defined in section
42 376.1350, shall prescribe any drug, controlled substance, or
43 other treatment to a patient based solely on an evaluation
44 over the telephone; except that, a physician or such
45 physician's on-call designee, or an advanced practice
46 registered nurse, a physician assistant, or an assistant

47 physician in a collaborative practice arrangement with such
48 physician, may prescribe any drug, controlled substance, or
49 other treatment that is within his or her scope of practice
50 to a patient based solely on a telephone evaluation if a
51 previously established and ongoing physician-patient
52 relationship exists between such physician and the patient
53 being treated.

54 4. No health care provider shall prescribe any drug,
55 controlled substance, or other treatment to a patient based
56 solely on an internet request or an internet questionnaire,
57 **as described in section 191.1146.**

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