

SENATE BILL NO. 1453

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (16).

6201S.011

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2 repealed and two new sections enacted in lieu thereof, to be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
7 **[interview] evaluation** 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.

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

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

19 (1) The technology utilized shall be sufficient to
20 establish an informed diagnosis as though the medical
21 **[interview] evaluation and, if required to meet the standard**
22 **of care, the** physical examination has been performed in
23 person; **[and]**

24 (2) Prior to providing treatment, including issuing
25 prescriptions or physician certifications under Article XIV
26 of the Missouri Constitution, a physician who uses
27 telemedicine shall **[interview] evaluate** the patient, collect
28 or review **the patient's** relevant medical history, and
29 perform an examination sufficient for the diagnosis and
30 treatment of the patient. **[A] Any** questionnaire completed
31 by the patient, whether via the internet or telephone, **shall**
32 **be reviewed by the treating health care professional, as**
33 **defined in section 376.1350, and shall include such**
34 **information sufficient to provide the information as though**
35 **the medical evaluation has been performed in person,**
36 **otherwise such questionnaire** does not constitute an
37 acceptable medical **[interview] evaluation** and examination
38 for the provision of treatment by telehealth; **and**

39 (3) Any provider that uses a questionnaire to
40 establish a physician-patient relationship through
41 telemedicine shall be employed or contracted with a business
42 entity that is licensed to provide health care in this state.

43 3. A health care provider, utilizing a medical
44 evaluation questionnaire completed by the patient by way of
45 the internet or telephone, shall provide a written report to
46 the patient's primary health care provider within fourteen
47 days of evaluation, if provided by the patient, that
48 contains:

- 49 (1) **The identity of the patient;**
50 (2) **The date of the evaluation;**
51 (3) **The diagnosis and treatment provided, if any; and**
52 (4) **Any further instructions provided to the patient.**

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, **if**
8 **required to meet the standard of care**, performing a physical
9 examination of the patient, adequate to establish the
10 diagnosis for which the drug is being prescribed and to
11 identify underlying conditions or contraindications to the
12 treatment recommended or provided;

13 (2) Having **a** sufficient **[dialogue] exchange** with the
14 patient regarding treatment options and the risks and
15 benefits of treatment or treatments;

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

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

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

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

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

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

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

31 (4) Accordance with a collaborative practice agreement
32 as **[defined] described** in section 334.104;

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

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

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

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

42 3. No health care provider, as defined in section
43 376.1350, shall prescribe any drug, controlled substance, or
44 other treatment to a patient based solely on an evaluation
45 **[over the telephone] through telemedicine**; except that, a
46 physician or such physician's on-call designee, or an
47 advanced practice registered nurse, a physician assistant,
48 or an assistant physician in a collaborative practice
49 arrangement with such physician, may prescribe any drug,
50 controlled substance, or other treatment that is within his
51 or her scope of practice to a patient based solely on a
52 **[telephone] telemedicine** evaluation if a previously
53 established and ongoing physician-patient relationship
54 exists between such physician and the patient being treated.

55 4. No health care provider shall prescribe any drug,
56 controlled substance, or other treatment to a patient **[based**
57 **solely on an internet request or an internet questionnaire]**
58 **in the absence of a proper provider-patient relationship, as**
59 **described in section 191.1146.**

60 5. Medical records of any drug, controlled substance,
61 or other treatment prescribed through telemedicine, as
62 defined in section 191.1145, shall be collected, stored, and
63 maintained in accordance with the Health Insurance
64 Portability and Accountability Act of 1996, which allows for
65 the sharing of protected health information for continuity
66 of care between health care providers for treatment,
67 payment, and health care operations.

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