

SECOND REGULAR SESSION

# HOUSE BILL NO. 1532

## 102ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BUCHHEIT-COURTWAY.

4334H.011

DANA RADEMAN MILLER, Chief Clerk

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### AN ACT

To repeal sections 191.1146 and 334.108, RSMo, and to enact in lieu thereof two new sections relating to telemedicine.

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

Section A. Sections 191.1146 and 334.108, RSMo, are repealed and two new sections  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

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

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

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

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

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

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

14 (2) Prior to providing treatment, including issuing prescriptions or physician  
15 certifications under Article XIV of the Missouri Constitution, a physician who uses  
16 telemedicine shall interview the patient, collect or review relevant medical history, and  
17 perform an examination sufficient for the diagnosis and treatment of the patient. ~~[A]~~ **Any**

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 questionnaire completed by the patient, whether via the internet or telephone, **shall include**  
19 **questions sufficient to elicit information as though the medical interview has been**  
20 **performed in person. Any questionnaire that fails to elicit information as though the**  
21 **medical interview has been performed in person** does not constitute an acceptable medical  
22 interview and examination for the provision of treatment by telehealth.

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

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

9 (2) Having sufficient ~~[dialogue]~~ **exchange** 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 outcome;

12 (4) Maintaining a contemporaneous medical record that is readily available to the  
13 patient and, subject to the patient's consent, to the patient's other health care professionals;  
14 and

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

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

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

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

21 (3) Home health services provided by a home health agency as defined in section  
22 197.400;

23 (4) Accordance with a collaborative practice agreement as ~~[defined]~~ **described** in  
24 section 334.104;

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

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

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

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

31 3. No health care provider, as defined in section 376.1350, shall prescribe any drug,  
32 controlled substance, or other treatment to a patient based solely on an evaluation over the

33 telephone; except that, a physician or such physician's on-call designee, or an advanced  
34 practice registered nurse, a physician assistant, or an assistant physician in a collaborative  
35 practice arrangement with such physician, may prescribe any drug, controlled substance, or  
36 other treatment that is within his or her scope of practice to a patient based solely on a  
37 telephone evaluation if a previously established and ongoing physician-patient relationship  
38 exists between such physician and the patient being treated.

39         4. No health care provider shall prescribe any drug, controlled substance, or other  
40 treatment to a patient based solely on an internet request or an internet questionnaire **that fails**  
41 **to elicit or provide information as though the medical interview has been performed in**  
42 **person as described in section 191.1146.**

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