

SECOND REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 2510**  
**101ST GENERAL ASSEMBLY**

4604H.03C

DANA RADEMAN MILLER, Chief Clerk

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**AN ACT**

To repeal sections 191.1145, 191.1146, and 334.108, RSMo, and to enact in lieu thereof three 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Section A. Sections 191.1145, 191.1146, and 334.108, RSMo, are repealed and three  
2 new sections enacted in lieu thereof, to be known as sections 191.1145, 191.1146, and  
3 334.108, to read as follows:

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

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

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

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

9 (4) "Health care provider", as that term is defined in section 376.1350, **except that**  
10 **the term "health care provider" shall also include any health care professional licensed**  
11 **in another state, a territory of the United States, or the District of Columbia;**

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

16 (6) "Telehealth" or "telemedicine", the delivery of health care services by means of  
17 information and communication technologies which facilitate the assessment, diagnosis,

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 consultation, treatment, education, care management, and self-management of a patient's  
19 health care while such patient is at the originating site and the health care provider is at the  
20 distant site. Telehealth or telemedicine shall also include the use of asynchronous store-and-  
21 forward technology **but not the use of voicemail, email, or facsimile transmissions. The**  
22 **term "telehealth" or "telemedicine" shall not include the prescription, administration,**  
23 **dispensation, or any other manner of authorization of any instrument, device, medicine,**  
24 **drug, or any other means or substance to be used for the purpose of performing or**  
25 **inducing an abortion, as defined in section 188.015.**

26         2. Any licensed health care provider shall be authorized to provide telehealth services  
27 if such services are within the scope of practice for which the health care provider is licensed  
28 and are provided with the same standard of care as services provided in person. **Medical**  
29 **records, including video, audio, electronic, or other records generated as a result of**  
30 **providing such services, shall be confidential.** This section shall not be construed to  
31 prohibit a health carrier, as defined in section 376.1350, from reimbursing nonclinical staff for  
32 services otherwise allowed by law.

33         3. In order to treat patients in this state through the use of telemedicine or telehealth,  
34 health care providers shall be fully licensed to practice in this state, **another state, a territory**  
35 **of the United States, or the District of Columbia** and shall be subject to regulation by their  
36 respective professional boards.

37         4. ~~[Nothing in subsection 3 of this section shall apply to:]~~

38         (1) ~~[Informal consultation performed by a health care provider licensed in another~~  
39 ~~state, outside of the context of a contractual relationship, and on an irregular or infrequent~~  
40 ~~basis without the expectation or exchange of direct or indirect compensation;]~~ **Any health**  
41 **care provider not licensed in this state who provides telehealth services to a patient**  
42 **located in this state shall:**

43             (a) **Before providing such services, register with this state's applicable regulatory**  
44 **board or, if there is no applicable board, the department of health and senior services;**  
45 **and**

46             (b) **Provide such services within the applicable scope of practice established by**  
47 **the laws and rules of this state.**

48         (2) ~~[Furnishing of health care services by a health care provider licensed and located~~  
49 ~~in another state in case of an emergency or disaster; provided that, no charge is made for the~~  
50 ~~medical assistance; or]~~ (a) **Any health care provider who applies for registration under**  
51 **subdivision (1) of this subsection shall hold a current, valid, unrestricted license to**  
52 **practice as a health care professional in another state, a territory of the United States, or**  
53 **the District of Columbia that is substantially similar to a license issued in this state. The**  
54 **health care provider shall not have been the subject of disciplinary action related to his**

55 or her license within the five-year period immediately before the submission of the  
56 application for registration.

57 (b) Any health care provider who registers under subdivision (1) of this  
58 subsection shall notify the entity with which he or she registered within five days of the  
59 placement of any restrictions on the health care provider's license or of the initiation or  
60 imposition of any disciplinary action.

61 (3) ~~Episodic consultation by a health care provider licensed and located in another~~  
62 ~~state who provides such consultation services on request to a physician in this state]~~ Any  
63 application for registration described in this subsection shall contain:

64 (a) The name of the health care provider;

65 (b) The address, email address, and telephone number of the health care  
66 provider;

67 (c) Proof of current licensure as a health care professional in another state, a  
68 territory of the United States, or the District of Columbia, including each jurisdiction in  
69 which the health care provider is licensed and relevant license numbers;

70 (d) Evidence of professional liability insurance coverage that has not expired;  
71 and

72 (e) The designation of a duly appointed statutory agent for service of process in  
73 this state.

74 (4) Any health care provider who registers under subdivision (1) of this  
75 subsection shall update the information under subdivision (3) of this subsection if any  
76 changes occur during the period in which the registration is active.

77 (5) Any health care provider who registers under subdivision (1) of this  
78 subsection shall pay a registration fee, as determined by the entity with which he or she  
79 registers.

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

83 6. If a health care provider providing telehealth services under this section fails  
84 to comply with the applicable laws and rules of this state, the applicable regulatory  
85 board or, if there is no applicable board, the department of health and senior services  
86 may investigate and discipline as necessary under such laws and rules and may suspend  
87 or revoke the health care provider's privileges in this state. Any such regulatory board  
88 or the department of health and senior services may share any related disciplinary  
89 information in its possession with any licensing authority in the state or states in which  
90 the health care provider possesses a professional license.

91           7. No originating site for services or activities provided under this section shall be  
92 required to maintain immediate availability of on-site clinical staff during the telehealth  
93 services, except as necessary to meet the standard of care for the treatment of the patient's  
94 medical condition if such condition is being treated by an eligible health care provider who is  
95 not at the originating site, has not previously seen the patient in person in a clinical setting,  
96 and is not providing coverage for a health care provider who has an established relationship  
97 with the patient.

98           [7-] 8. Nothing in this section shall be construed to alter any collaborative practice  
99 requirement as provided in chapters 334 and 335.

          191.1146. 1. Physicians licensed under chapter 334 **or licensed by another state, a**  
2 **territory of the United States, or the District of Columbia** who use telemedicine **in order**  
3 **to treat patients in this state** shall ensure that a properly established physician-patient  
4 relationship exists with the person who receives the telemedicine services. The physician-  
5 patient relationship may be established by:

- 6           (1) An in-person encounter through a medical interview and physical examination;  
7           (2) Consultation with another physician, or that physician's delegate, who has an  
8 established relationship with the patient and an agreement with the physician to participate in  
9 the patient's care; or  
10          (3) A telemedicine encounter, if the standard of care does not require an in-person  
11 encounter, and in accordance with evidence-based standards of practice and telemedicine  
12 practice guidelines that address the clinical and technological aspects of telemedicine.

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

- 14          (1) The technology utilized shall be sufficient to establish an informed diagnosis as  
15 though the medical interview and physical examination has been performed in person; and  
16          (2) Prior to providing treatment, including issuing prescriptions or physician  
17 certifications under Article XIV of the Missouri Constitution, a physician who uses  
18 telemedicine shall interview the patient, collect or review relevant medical history, and  
19 perform an examination sufficient for the diagnosis and treatment of the patient. A  
20 questionnaire completed by the patient, whether via the internet or telephone, does not  
21 constitute an acceptable medical interview and examination for the provision of treatment by  
22 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 with the patient regarding treatment options and the  
10 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 **in this state** based solely on an evaluation  
33 over the telephone; except that, a physician or such physician's on-call designee, or an  
34 advanced practice registered nurse, a physician assistant, or an assistant physician in a  
35 collaborative practice arrangement with such physician, may prescribe any drug, controlled  
36 substance, or other treatment that is within his or her scope of practice to a patient **in this**  
37 **state** based solely on a telephone evaluation if a previously established and ongoing  
38 physician-patient relationship 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 **in this state** based solely on an internet request or an internet  
41 questionnaire.

42           **5. For purposes of this section, the term "health care provider" shall include any**  
43 **health care professional licensed in another state, a territory of the United States, or the**  
44 **District of Columbia.**

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