

# SENATE BILL NO. 829

## 101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

3944S.01I

ADRIANE D. CROUSE, Secretary

### AN ACT

To repeal sections 191.1145, 191.1146, 334.108, and 376.1900, RSMo, and to enact in lieu thereof four new sections relating to telemedicine services.

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

Section A. Sections 191.1145, 191.1146, 334.108, and  
2 376.1900, RSMo, are repealed and four new sections enacted in  
3 lieu thereof, to be known as sections 191.1145, 191.1146,  
4 334.108, and 376.1900, to read as follows:

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

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

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

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

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

15 (5) "Originating site", a site at which a patient is  
16 located at the time health care services are provided to him  
17 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 the use of such**  
30 **technology through an adaptive 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

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:

19 (1) The technology utilized, **including any use of an**  
20 **adaptive questionnaire**, shall be sufficient to establish an  
21 informed diagnosis as though the medical interview [and] or  
22 physical examination has been performed in 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 **static** questionnaire completed by the patient, whether via  
30 the internet or telephone, does not constitute an acceptable  
31 medical interview and examination for the provision of  
32 treatment by 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 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]** **described** 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; or

41 **(9) A digital format through an adaptive questionnaire**  
42 **based on professional practice standards.**

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

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

376.1900. 1. As used in this section, the following  
2 terms shall mean:

3 (1) "Electronic visit", or "e-visit", an online  
4 electronic medical evaluation and management service  
5 completed using a secured web-based or similar electronic-  
6 based communications network for a single patient  
7 encounter. **The sole use of technology through an adaptive**  
8 **questionnaire shall not constitute an electronic visit.** An

9 electronic visit shall be initiated by a patient or by the  
10 guardian of a patient with the health care provider, be  
11 completed using a federal Health Insurance Portability and  
12 Accountability Act (HIPAA)-compliant online connection, and  
13 include a permanent record of the electronic visit;

14 (2) "Health benefit plan" shall have the same meaning  
15 ascribed to it in section 376.1350;

16 (3) "Health care provider" shall have the same meaning  
17 ascribed to it in section 376.1350;

18 (4) "Health care service", a service for the  
19 diagnosis, prevention, treatment, cure or relief of a  
20 physical or mental health condition, illness, injury or  
21 disease;

22 (5) "Health carrier" shall have the same meaning  
23 ascribed to it in section 376.1350;

24 (6) "Telehealth" shall have the same meaning ascribed  
25 to it in section 208.670.

26 2. Each health carrier or health benefit plan that  
27 offers or issues health benefit plans which are delivered,  
28 issued for delivery, continued, or renewed in this state on  
29 or after January 1, 2014, shall not deny coverage for a  
30 health care service on the basis that the health care  
31 service is provided through telehealth if the same service  
32 would be covered if provided through face-to-face diagnosis,  
33 consultation, or treatment.

34 3. A health carrier may not exclude an otherwise  
35 covered health care service from coverage solely because the  
36 service is provided through telehealth rather than face-to-  
37 face consultation or contact between a health care provider  
38 and a patient.

39 4. A health carrier shall not be required to reimburse  
40 a telehealth provider or a consulting provider for site

41 origination fees or costs for the provision of telehealth  
42 services; however, subject to correct coding, a health  
43 carrier shall reimburse a health care provider for the  
44 diagnosis, consultation, or treatment of an insured or  
45 enrollee when the health care service is delivered through  
46 telehealth on the same basis that the health carrier covers  
47 the service when it is delivered in person.

48         5. A health care service provided through telehealth  
49 shall not be subject to any greater deductible, co-payment,  
50 or coinsurance amount than would be applicable if the same  
51 health care service was provided through face-to-face  
52 diagnosis, consultation, or treatment.

53         6. A health carrier shall not impose upon any person  
54 receiving benefits under this section any co-payment,  
55 coinsurance, or deductible amount, or any policy year,  
56 calendar year, lifetime, or other durational benefit  
57 limitation or maximum for benefits or services that is not  
58 equally imposed upon all terms and services covered under  
59 the policy, contract, or health benefit plan.

60         7. Nothing in this section shall preclude a health  
61 carrier from undertaking utilization review to determine the  
62 appropriateness of telehealth as a means of delivering a  
63 health care service, provided that the determinations shall  
64 be made in the same manner as those regarding the same  
65 service when it is delivered in person.

66         8. A health carrier or health benefit plan may limit  
67 coverage for health care services that are provided through  
68 telehealth to health care providers that are in a network  
69 approved by the plan or the health carrier.

70         9. Nothing in this section shall be construed to  
71 require a health care provider to be physically present with  
72 a patient where the patient is located unless the health



73 care provider who is providing health care services by means  
74 of telehealth determines that the presence of a health care  
75 provider is necessary.

76 10. The provisions of this section shall not apply to  
77 a supplemental insurance policy, including a life care  
78 contract, accident-only policy, specified disease policy,  
79 hospital policy providing a fixed daily benefit only,  
80 Medicare supplement policy, long-term care policy, short-  
81 term major medical policies of six months' or less duration,  
82 or any other supplemental policy as determined by the  
83 director of the department of commerce and insurance.

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