AN ACT

To repeal sections 208.670, 335.175, and 376.1900, RSMo, and to enact in lieu thereof nine new sections relating to telehealth services.

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

Section A. Sections 208.670, 335.175, and 376.1900, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 191.1145, 208.670, 208.671, 208.673, 208.675, 208.677, 208.686, 335.175, and 376.1900, to read as follows:

191.1145. 1. As used in this chapter, the term “telehealth” or “telemedicine” shall mean the delivery of health care services by means of information and communication technologies consisting of telephones, remote patient monitoring devices, real-time two-way electronic audio-visual communications, and other electronic means, including the application of secure video conferencing and asynchronous store-and-forward technology, to provide or support the delivery of health care services that facilitate the assessment, diagnosis, consultation, treatment, education, care management, and self-management of a patient’s health care while such patient is at an originating site and the health care provider is at a distant site.

2. Any licensed health care provider shall be authorized to provide telehealth services if such services are within the scope of practice for which the health care provider is licensed and are provided under the same standard of care as services provided in person.

208.670. 1. As used in this section, these terms shall have the following meaning:

(1) "Provider", any provider of medical services and mental health services, including all other medical disciplines;

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.
(2) "Telehealth" or "telemedicine", [the use of medical information exchanged from one site to another via electronic communications to improve the health status of a patient] shall have the same meaning ascribed to it as in section 191.1145.

2. The department of social services, in consultation with the departments of mental health and health and senior services, shall promulgate rules governing the practice of telehealth generally and in the MO HealthNet program. Such rules shall address, but not be limited to, appropriate standards for the use of telehealth, certification of agencies offering telehealth, and payment for services by providers if services are provided under MO HealthNet. Telehealth providers shall be required to obtain patient consent before telehealth services are initiated and to ensure confidentiality of medical information.

3. If telehealth [may be] is utilized to service individuals who are qualified as MO HealthNet participants under Missouri law, reimbursement for such services shall be made in the same way as reimbursement for in-person contacts.

4. The provisions of section 208.671 shall apply to the use of asynchronous store-and-forward technology in the practice of telehealth.

208.671. 1. As used in this section and section 208.673, the following terms shall mean:

(1) "Asynchronous store-and-forward", the transfer of a patient's clinically important digital samples, such as still images, videos, audio, and text files, and relevant data from an originating site through the use of a camera or similar recording device that stores digital samples that are forwarded via telecommunication to a distant site for consultation by a consulting provider without requiring the simultaneous presence of the patient and the patient's treating provider;

(2) "Asynchronous store-and-forward technology", cameras or other recording devices that store images that may be forwarded via telecommunication devices at a later time;

(3) "Consultation", a type of evaluation and management service as defined by the most recent edition of the Current Procedural Terminology published annually by the American Medical Association;

(4) "Consulting provider", a provider who, upon referral by the treating provider, evaluates a patient and appropriate medical data or images delivered through asynchronous store-and-forward technology. If a consulting provider is unable to render an opinion due to insufficient information, the consulting provider may request additional information to facilitate the rendering of an opinion or decline to render an opinion;

(5) "Distant site", the site where a consulting provider is located at the time the consultation service is provided;
(6) "Originating site", the site where a patient is receiving services and such participant's treating provider are both physically located;

(7) "Provider", any provider of medical services, mental health services, or dental services, including all other medical disciplines, licensed in this state who has the authority to refer patients for medical services or mental health services within the scope of practice and licensure of the provider;

(8) "Telehealth", the same meaning ascribed to it as in section 191.1145. Telehealth shall include the use of asynchronous store-and-forward technology for orthopedics, dermatology, ophthalmology in cases of diabetic retinopathy, burn and wound care, and maternal-fetal medicine ultrasounds;

(9) "Treating provider", a provider who:

(a) Evaluates a patient;

(b) Determines the need for a consultation;

(c) Arranges the services of a consulting provider for the purpose of diagnosis and treatment; and

(d) Provides or supplements the patient's history and provides pertinent physical examination findings and medical information to the consulting provider.

2. The department of social services, in consultation with the departments of mental health and health and senior services, shall promulgate rules governing the use of asynchronous store-and-forward technology in the practice of telehealth. Such rules shall include, but not be limited to:

(1) Appropriate standards for the use of asynchronous store-and-forward technology in the practice of telehealth;

(2) Certification of agencies offering asynchronous store-and-forward technology in the practice of telehealth;

(3) Timelines for completion and communication of a consulting provider's consultation or opinion, or if the consulting provider is unable to render an opinion, timelines for communicating a request for additional information or that the consulting provider declines to render an opinion;

(4) Length of time digital files of such asynchronous store-and-forward services are to be maintained;

(5) Security and privacy of such digital files;

(6) Patient consent for asynchronous store-and-forward services; and

(7) Payment for services by providers to patients under the MO HealthNet program; except that, consulting providers who decline to render an opinion shall not receive payment under this section unless and until an opinion is rendered.
Telehealth providers using asynchronous store-and-forward technology shall be required to obtain patient consent before asynchronous store-and-forward services are initiated and to ensure confidentiality of medical information.

3. Asynchronous store-and-forward technology in the practice of telehealth may be utilized to service individuals if the patient is under MO HealthNet. The total payment for both the treating provider and the consulting provider shall not exceed the payment for a face-to-face consultation of the same level.

4. The standard of care for the use of asynchronous store-and-forward technology in the practice of telehealth shall be the same as the standard of care for services provided in person.

208.673. 1. There is hereby established the "Telehealth Services Advisory Committee" to advise the department of social services and propose rules regarding the coverage of telehealth services utilizing asynchronous store-and-forward technology.

   2. The committee shall be comprised of the following members:

   (1) The director of the MO HealthNet division or the director's designee;

   (2) The medical director of the MO HealthNet division;

   (3) A representative from a Missouri institution of higher education with expertise in telemedicine;

   (4) A representative from the Missouri office of primary care and rural health;

   (5) Two board-certified specialists licensed to practice medicine in this state;

   (6) A representative from a hospital located in this state that utilizes telemedicine;

   (7) A primary care physician from a federally qualified health center (FQHC) or rural health clinic; and

   (8) A primary care physician from a rural setting other than from an FQHC or rural health clinic.

3. Members of the committee listed in subdivisions (3) to (8) of subsection 2 of this section shall be appointed by the governor with the advice and consent of the senate. The first appointments to the committee shall consist of three members to serve three-year terms, two members to serve two-year terms, and two members to serve one-year terms as designated by the governor. Each member of the committee shall serve for a term of three years thereafter.

4. Members of the committee shall not receive any compensation for their services but shall be reimbursed for any actual and necessary expenses incurred in the performance of their duties.
5. Any member appointed by the governor may be removed from office by the governor without cause. If there is a vacancy for any cause, the governor shall make an appointment to become effective immediately for the unexpired term.

6. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

208.675. For purposes of the provision of telehealth services, the following individuals, licensed in Missouri, shall be considered eligible health care providers:

(1) Physicians, assistant physicians, and physician assistants;
(2) Advanced practice registered nurses;
(3) Dentists, oral surgeons, and dental hygienists under the supervision of a currently registered and licensed dentist;
(4) Psychologists and provisional licensees;
(5) Pharmacists;
(6) Speech, occupational, or physical therapists;
(7) Clinical social workers;
(8) Podiatrists;
(9) Licensed professional counselors; and
(10) Eligible health care providers under subdivisions (1) through (9) of this section practicing in a rural health clinic, federally qualified health center, or community mental health center.

208.677. 1. For purposes of the provision of telehealth services, the term “originating site” shall mean a telehealth site where the patient receiving the telehealth service is located for the encounter, and the term “clinical staff” shall mean any health care provider licensed in this state. The standard of care in the practice of telehealth shall be the same as the standard of care for services provided in person. No originating site for services or activities provided under section 208.686 shall be required to maintain immediate availability of on-site clinical staff during the telemonitoring services or activities. An originating site shall be one of the following locations:

(1) Office of a physician or health care provider;
(2) Hospital;
(3) Critical access hospital;
(4) Rural health clinic;
(5) Federally qualified health center;
(6) Long-term care facility licensed under chapter 198;
(7) Dialysis center;
(8) Missouri state habilitation center or regional office;
(9) Community mental health center;
(10) Missouri state mental health facility;
(11) Missouri state facility;
(12) Missouri residential treatment facility licensed by and under contract with the children’s division (CD) that has a contract with the CD. Facilities shall have multiple campuses and have the ability to adhere to technology requirements. Only Missouri-licensed psychiatrists, licensed psychologists or provisionally licensed psychologists, and advanced practice registered nurses who are enrolled MO HealthNet providers shall be consulting providers at these locations;
(13) Comprehensive substance treatment and rehabilitation (CSTAR) program;
(14) School;
(15) The MO HealthNet recipient’s home;
(16) Clinical designated area in a pharmacy; or
(17) Child assessment centers as described in section 210.001.

2. If the originating site is a school, the school shall obtain permission from the parent or guardian of any student receiving telehealth services prior to each provision of service.

208.686. 1. Subject to appropriations, the department shall establish a statewide program that permits reimbursement under the MO HealthNet program for home telemonitoring services. For the purposes of this section, “home telemonitoring service” shall mean a health care service that requires scheduled remote monitoring of data related to a patient’s health and transmission of the data to a Utilization Review Accreditation Commission (URAC) accredited health call center.

2. The program shall:
(1) Provide that home telemonitoring services are available only to persons who:
(a) Are diagnosed with one or more of the following conditions:
   a. Pregnancy;
   b. Diabetes;
   c. Heart disease;
   d. Cancer;
e. Chronic obstructive pulmonary disease;
f. Hypertension;
g. Congestive heart failure;
h. Mental illness or serious emotional disturbance;
i. Asthma;
j. Myocardial infarction; or
k. Stroke; and
(b) Exhibit two or more of the following risk factors:
   a. Two or more hospitalizations in the prior twelve-month period;
b. Frequent or recurrent emergency department admissions;
c. A documented history of poor adherence to ordered medication regimens;
d. A documented history of falls in the prior six-month period;
e. Limited or absent informal support systems;
f. Living alone or being home alone for extended periods of time; or
g. A documented history of care access challenges;
(2) Ensure that clinical information gathered by a home health agency or hospital
while providing home telemonitoring services is shared with the patient’s physician; and
(3) Ensure that the program does not duplicate any disease management program
services provided by MO HealthNet.
3. If, after implementation, the department determines that the program
   established under this section is not cost effective, the department may discontinue the
   program and stop providing reimbursement under the MO HealthNet program for home
   telemonitoring services.
4. The department shall determine whether the provision of home telemonitoring
   services to persons who are eligible to receive benefits under both the MO HealthNet and
   Medicare programs achieves cost savings for the Medicare program.
5. If, before implementing any provision of this section, the department determines
   that a waiver or authorization from a federal agency is necessary for implementation of
   that provision, the department shall request the waiver or authorization and may delay
   implementing that provision until the waiver or authorization is granted.
6. The department shall promulgate rules and regulations to implement the
   provisions of this section. Any rule or portion of a rule, as that term is defined in section
   536.010, that is created under the authority delegated in this section shall become effective
   only if it complies with and is subject to all of the provisions of chapter 536 and, if
   applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of
   the powers vested with the general assembly pursuant to chapter 536 to review, to delay
the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2016, shall be invalid and void.

335.175. 1. No later than January 1, 2014, there is hereby established within the state board of registration for the healing arts and the state board of nursing the "Utilization of Telehealth by Nurses". An advanced practice registered nurse (APRN) providing nursing services under a collaborative practice arrangement under section 334.104 may provide such services outside the geographic proximity requirements of section 334.104 if the collaborating physician and advanced practice registered nurse utilize telehealth in the care of the patient and if the services are provided in a rural area of need. Telehealth providers shall be required to obtain patient consent before telehealth services are initiated and ensure confidentiality of medical information.

2. As used in this section, "telehealth" means the use of medical information exchanged from one site to another via electronic communications to improve the health status of a patient, as defined in section 208.670 shall have the same meaning ascribed to it as in section 191.1145.

3. (1) The boards shall jointly promulgate rules governing the practice of telehealth under this section. Such rules shall address, but not be limited to, appropriate standards for the use of telehealth.

(2) Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2013, shall be invalid and void.

4. For purposes of this section, "rural area of need" means any rural area of this state which is located in a health professional shortage area as defined in section 354.650.

5. Under section 23.253 of the Missouri sunset act:

(1) The provisions of the new program authorized under this section shall automatically sunset six years after August 28, 2013, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under this section shall automatically sunset twelve years after the effective date of the reauthorization of this section; and

(3) This section shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under this section is sunset.
376.1900. 1. As used in this section, the following terms shall mean:

(1) "Electronic visit", or "e-visit", an online electronic medical evaluation and management service completed using a secured web-based or similar electronic-based communications network for a single patient encounter. An electronic visit shall be initiated by a patient or by the guardian of a patient with the health care provider, be completed using a federal Health Insurance Portability and Accountability Act (HIPAA)-compliant online connection, and include a permanent record of the electronic visit;

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

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

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

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

(6) "Telehealth" shall have the same meaning ascribed to it as in section 191.1145.

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

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

4. A health carrier shall not be required to reimburse a telehealth provider or a consulting provider for site origination fees or costs for the provision of telehealth services; however, subject to correct coding, a health carrier shall reimburse a health care provider for the diagnosis, consultation, or treatment of an insured or enrollee when the health care service is delivered through telehealth on the same basis that the health carrier covers the service when it is delivered in person.

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

6. A health carrier shall not impose upon any person receiving benefits under this section any co-payment, coinsurance, or deductible amount, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services that is not equally imposed upon all terms and services covered under the policy, contract, or health benefit plan.
7. Nothing in this section shall preclude a health carrier from undertaking utilization review to determine the appropriateness of telehealth as a means of delivering a health care service, provided that the determinations shall be made in the same manner as those regarding the same service when it is delivered in person.

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

9. Nothing in this section shall be construed to require a health care provider to be physically present with a patient where the patient is located unless the health care provider who is providing health care services by means of telehealth determines that the presence of a health care provider is necessary.

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