

SECOND REGULAR SESSION

HOUSE BILL NO. 1923

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BARNES.

4616H.011

D. ADAM CRUMBLISS, Chief Clerk

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Section A. Sections 208.670, 335.175, and 376.1900, RSMo, are repealed and nine new sections enacted in lieu thereof, to be known as sections 191.1145, 208.670, 208.671, 208.673, 208.675, 208.677, 208.686, 335.175, and 376.1900,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

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

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

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

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

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

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

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

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

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

20 (5) **"Distant site", the site where a consulting provider is located at the time the**
21 **consultation service is provided;**

22 (6) "Originating site", the site where a patient is receiving services and such
23 participant's treating provider are both physically located;

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

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

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

33 (a) Evaluates a patient;

34 (b) Determines the need for a consultation;

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

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

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

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

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

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

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

53 (5) Security and privacy of such digital files;

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

55 (7) Payment for services by providers to patients under the MO HealthNet
56 program; except that, consulting providers who decline to render an opinion shall not
57 receive payment under this section unless and until an opinion is rendered.

58 **Telehealth providers using asynchronous store-and-forward technology shall be required**
59 **to obtain patient consent before asynchronous store-and-forward services are initiated and**
60 **to ensure confidentiality of medical information.**

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

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

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

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

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

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

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

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

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

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

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

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

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

22 **4. Members of the committee shall not receive any compensation for their services**
23 **but shall be reimbursed for any actual and necessary expenses incurred in the performance**
24 **of their duties.**

25 **5. Any member appointed by the governor may be removed from office by the**
26 **governor without cause. If there is a vacancy for any cause, the governor shall make an**
27 **appointment to become effective immediately for the unexpired term.**

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

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

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

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

- 9 **(1) Office of a physician or health care provider;**
- 10 **(2) Hospital;**

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

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

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

7 **2. The program shall:**

- 8 **(1) Provide that home telemonitoring services are available only to persons who:**
9 **(a) Are diagnosed with one or more of the following conditions:**
10 **a. Pregnancy;**
11 **b. Diabetes;**
12 **c. Heart disease;**
13 **d. Cancer;**

- 14 e. Chronic obstructive pulmonary disease;
15 f. Hypertension;
16 g. Congestive heart failure;
17 h. Mental illness or serious emotional disturbance;
18 i. Asthma;
19 j. Myocardial infarction; or
20 k. Stroke; and
21 (b) Exhibit two or more of the following risk factors:
22 a. Two or more hospitalizations in the prior twelve-month period;
23 b. Frequent or recurrent emergency department admissions;
24 c. A documented history of poor adherence to ordered medication regimens;
25 d. A documented history of falls in the prior six-month period;
26 e. Limited or absent informal support systems;
27 f. Living alone or being home alone for extended periods of time; or
28 g. A documented history of care access challenges;
29 (2) Ensure that clinical information gathered by a home health agency or hospital
30 while providing home telemonitoring services is shared with the patient's physician; and
31 (3) Ensure that the program does not duplicate any disease management program
32 services provided by MO HealthNet.
33 3. If, after implementation, the department determines that the program
34 established under this section is not cost effective, the department may discontinue the
35 program and stop providing reimbursement under the MO HealthNet program for home
36 telemonitoring services.
37 4. The department shall determine whether the provision of home telemonitoring
38 services to persons who are eligible to receive benefits under both the MO HealthNet and
39 Medicare programs achieves cost savings for the Medicare program.
40 5. If, before implementing any provision of this section, the department determines
41 that a waiver or authorization from a federal agency is necessary for implementation of
42 that provision, the department shall request the waiver or authorization and may delay
43 implementing that provision until the waiver or authorization is granted.
44 6. The department shall promulgate rules and regulations to implement the
45 provisions of this section. Any rule or portion of a rule, as that term is defined in section
46 536.010, that is created under the authority delegated in this section shall become effective
47 only if it complies with and is subject to all of the provisions of chapter 536 and, if
48 applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of
49 the powers vested with the general assembly pursuant to chapter 536 to review, to delay

50 **the effective date, or to disapprove and annul a rule are subsequently held**
51 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
52 **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
2 board of registration for the healing arts and the state board of nursing the "Utilization of
3 Telehealth by Nurses". An advanced practice registered nurse (APRN) providing nursing
4 services under a collaborative practice arrangement under section 334.104 may provide such
5 services outside the geographic proximity requirements of section 334.104 if the collaborating
6 physician and advanced practice registered nurse utilize telehealth in the care of the patient and
7 if the services are provided in a rural area of need. Telehealth providers shall be required to
8 obtain patient consent before telehealth services are initiated and ensure confidentiality of
9 medical information.

10 2. As used in this section, "telehealth" [means the use of medical information exchanged
11 from one site to another via electronic communications to improve the health status of a patient,
12 as defined in section 208.670] **shall have the same meaning ascribed to it as in section**
13 **191.1145.**

14 3. (1) The boards shall jointly promulgate rules governing the practice of telehealth
15 under this section. Such rules shall address, but not be limited to, appropriate standards for the
16 use of telehealth.

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

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

26 5. Under section 23.253 of the Missouri sunset act:

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

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

32 (3) This section shall terminate on September first of the calendar year immediately
33 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:

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

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

9 (3) "Health care provider" shall have the same meaning ascribed to it in section
10 376.1350;

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

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

14 (6) "Telehealth" shall have the same meaning ascribed to it **as** in section [208.670]
15 **191.1145**.

16 2. Each health carrier or health benefit plan that offers or issues health benefit plans
17 which are delivered, issued for delivery, continued, or renewed in this state on or after January
18 1, 2014, shall not deny coverage for a health care service on the basis that the health care service
19 is provided through telehealth if the same service would be covered if provided through
20 face-to-face diagnosis, consultation, or treatment.

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

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

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

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

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

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

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

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

✓