

SENATE SUBSTITUTE
FOR
SENATE COMMITTEE SUBSTITUTE
FOR
HOUSE COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1617

AN ACT

To repeal sections 191.1145, 208.670, 208.671, 208.673, 208.675, and 208.677, RSMo, and to enact in lieu thereof three new sections relating to telehealth.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 191.1145, 208.670, 208.671, 208.673,
2 208.675, and 208.677, RSMo, are repealed and three new sections
3 enacted in lieu thereof, to be known as sections 191.1145,
4 208.670, and 208.677, to read as follows:

5 191.1145. 1. As used in sections 191.1145 and 191.1146,
6 the following terms shall mean:

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

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

14 (3) "Distant site", a site at which a health care provider

1 is located while providing health care services by means of
2 telemedicine;

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

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

11 (6) "Telehealth" or "telemedicine", the delivery of health
12 care services by means of information and communication
13 technologies which facilitate the assessment, diagnosis,
14 consultation, treatment, education, care management, and self-
15 management of a patient's health care while such patient is at
16 the originating site and the health care provider is at the
17 distant site. Telehealth or telemedicine shall also include the
18 use of asynchronous store-and-forward technology.

19 2. Any licensed health care provider shall be authorized to
20 provide telehealth services if such services are within the scope
21 of practice for which the health care provider is licensed and
22 are provided with the same standard of care as services provided
23 in person. This section shall not be construed to prohibit a
24 health carrier, as defined in section 376.1350, from reimbursing
25 non-clinical staff for services otherwise allowed by law.

26 3. In order to treat patients in this state through the use
27 of telemedicine or telehealth, health care providers shall be
28 fully licensed to practice in this state and shall be subject to

1 regulation by their respective professional boards.

2 4. Nothing in subsection 3 of this section shall apply to:

3 (1) Informal consultation performed by a health care
4 provider licensed in another state, outside of the context of a
5 contractual relationship, and on an irregular or infrequent basis
6 without the expectation or exchange of direct or indirect
7 compensation;

8 (2) Furnishing of health care services by a health care
9 provider licensed and located in another state in case of an
10 emergency or disaster; provided that, no charge is made for the
11 medical assistance; or

12 (3) Episodic consultation by a health care provider
13 licensed and located in another state who provides such
14 consultation services on request to a physician in this state.

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

19 6. No originating site for services or activities provided
20 under this section shall be required to maintain immediate
21 availability of on-site clinical staff during the telehealth
22 services, except as necessary to meet the standard of care for
23 the treatment of the patient's medical condition if such
24 condition is being treated by an eligible health care provider
25 who is not at the originating site, has not previously seen the
26 patient in person in a clinical setting, and is not providing
27 coverage for a health care provider who has an established
28 relationship with the patient.

1 7. Nothing in this section shall be construed to alter any
2 collaborative practice requirement as provided in chapters 334
3 and 335.

4 208.670. 1. As used in this section, these terms shall
5 have the following meaning:

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

10 (2) "Distant site", the same meaning as such term is
11 defined in section 191.1145;

12 (3) "Originating site", the same meaning as such term is
13 defined in section 191.1145;

14 (4) "Provider", [any provider of medical services and
15 mental health services, including all other medical disciplines]
16 the same meaning as the term "health care provider" is defined in
17 section 191.1145, and such provider meets all other MO HealthNet
18 eligibility requirements;

19 [(2)] (5) "Telehealth", the same meaning as such term is
20 defined in section 191.1145.

21 2. [Reimbursement for the use of asynchronous
22 store-and-forward technology in the practice of telehealth in the
23 MO HealthNet program shall be allowed for orthopedics,
24 dermatology, ophthalmology and optometry, in cases of diabetic
25 retinopathy, burn and wound care, dental services which require a
26 diagnosis, and maternal-fetal medicine ultrasounds.

27 3. The department of social services, in consultation with
28 the departments of mental health and health and senior services,

1 shall promulgate rules governing the practice of telehealth in
2 the MO HealthNet program. Such rules shall address, but not be
3 limited to, appropriate standards for the use of telehealth,
4 certification of agencies offering telehealth, and payment for
5 services by providers. Telehealth providers shall be required to
6 obtain participant consent before telehealth services are
7 initiated and to ensure confidentiality of medical information.

8 4. Telehealth may be utilized to service individuals who
9 are qualified as MO HealthNet participants under Missouri law.
10 Reimbursement for such services shall be made in the same way as
11 reimbursement for in-person contacts.

12 5. The provisions of section 208.671 shall apply to the use
13 of asynchronous store-and-forward technology in the practice of
14 telehealth in the MO HealthNet program] The department of social
15 services shall reimburse providers for services provided through
16 telehealth if such providers can ensure services are rendered
17 meeting the standard of care that would otherwise be expected
18 should such services be provided in person. The department shall
19 not restrict the originating site through rule or payment so long
20 as the provider can ensure services are rendered meeting the
21 standard of care that would otherwise be expected should such
22 services be provided in person. Payment for services rendered
23 via telehealth shall not depend on any minimum distance
24 requirement between the originating and distant site.
25 Reimbursement for telehealth services shall be made in the same
26 way as reimbursement for in-person contact; however,
27 consideration shall also be made for reimbursement to the
28 originating site. Reimbursement for asynchronous store-and-

1 forward may be capped at the reimbursement rate had the service
2 been provided in person.

3 208.677. [1. For purposes of the provision of telehealth
4 services in the MO HealthNet program, the term "originating site"
5 shall mean a telehealth site where the MO HealthNet participant
6 receiving the telehealth service is located for the encounter.
7 The standard of care in the practice of telehealth shall be the
8 same as the standard of care for services provided in person. An
9 originating site shall be one of the following locations:

- 10 (1) An office of a physician or health care provider;
- 11 (2) A hospital;
- 12 (3) A critical access hospital;
- 13 (4) A rural health clinic;
- 14 (5) A federally qualified health center;
- 15 (6) A long-term care facility licensed under chapter 198;
- 16 (7) A dialysis center;
- 17 (8) A Missouri state habilitation center or regional
18 office;
- 19 (9) A community mental health center;
- 20 (10) A Missouri state mental health facility;
- 21 (11) A Missouri state facility;
- 22 (12) A Missouri residential treatment facility licensed by
23 and under contract with the children's division. Facilities
24 shall have multiple campuses and have the ability to adhere to
25 technology requirements. Only Missouri licensed psychiatrists,
26 licensed psychologists, or provisionally licensed psychologists,
27 and advanced practice registered nurses who are MO HealthNet
28 providers shall be consulting providers at these locations;

- 1 (13) A comprehensive substance treatment and rehabilitation
2 (CSTAR) program;
3 (14) A school;
4 (15) The MO HealthNet recipient's home;
5 (16) A clinical designated area in a pharmacy; or
6 (17) A child assessment center as described in section
7 210.001.

8 2. If the originating site is a school, the school shall
9 obtain permission from the parent or guardian of any student
10 receiving telehealth services prior to each provision of
11 service.] Prior to the provision of telehealth services in a
12 school, the parent or guardian of the child shall provide
13 authorization for the provision of such service. Such
14 authorization shall include the ability for the parent or
15 guardian to authorize services via telehealth in the school for
16 the remainder of the school year.

17
18 [208.671. 1. As used in this section and section
19 208.673, the following terms shall mean:

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

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

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

38 (4) "Consulting provider", a provider who, upon

1 referral by the treating provider, evaluates a
2 participant and appropriate medical data or images
3 delivered through asynchronous store-and-forward
4 technology. If a consulting provider is unable to
5 render an opinion due to insufficient information, the
6 consulting provider may request additional information
7 to facilitate the rendering of an opinion or decline to
8 render an opinion;

9 (5) "Distant site", the site where a consulting
10 provider is located at the time the consultation
11 service is provided;

12 (6) "Originating site", the site where a MO
13 HealthNet participant receiving services and such
14 participant's treating provider are both physically
15 located;

16 (7) "Provider", any provider of medical, mental
17 health, optometric, or dental health services,
18 including all other medical disciplines, licensed and
19 providing MO HealthNet services who has the authority
20 to refer participants for medical, mental health,
21 optometric, dental, or other health care services
22 within the scope of practice and licensure of the
23 provider;

24 (8) "Telehealth", as that term is defined in
25 section 191.1145;

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

27 (a) Evaluates a participant;

28 (b) Determines the need for a consultation;

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

32 (d) Provides or supplements the participant's
33 history and provides pertinent physical examination
34 findings and medical information to the consulting
35 provider.

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

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

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

49 (3) Timelines for completion and communication of
50 a consulting provider's consultation or opinion, or if
51 the consulting provider is unable to render an opinion,

1 timelines for communicating a request for additional
2 information or that the consulting provider declines to
3 render an opinion;

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

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

8 (6) Participant consent for asynchronous
9 store-and-forward services; and

10 (7) Payment for services by providers; except
11 that, consulting providers who decline to render an
12 opinion shall not receive payment under this section
13 unless and until an opinion is rendered.

14
15 Telehealth providers using asynchronous
16 store-and-forward technology shall be required to
17 obtain participant consent before asynchronous
18 store-and-forward services are initiated and to ensure
19 confidentiality of medical information.

20 3. Asynchronous store-and-forward technology in
21 the practice of telehealth may be utilized to service
22 individuals who are qualified as MO HealthNet
23 participants under Missouri law. The total payment for
24 both the treating provider and the consulting provider
25 shall not exceed the payment for a face-to-face
26 consultation of the same level.

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

31
32 [208.673. 1. There is hereby established the
33 "Telehealth Services Advisory Committee" to advise the
34 department of social services and propose rules
35 regarding the coverage of telehealth services in the MO
36 HealthNet program utilizing asynchronous
37 store-and-forward technology.

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

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

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

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

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

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

50 (6) A representative from a hospital located in
51 this state that utilizes telehealth;

- 1 (7) A primary care physician from a federally
2 qualified health center (FQHC) or rural health clinic;
3 (8) A primary care physician from a rural setting
4 other than from an FQHC or rural health clinic;
5 (9) A dentist licensed to practice in this state;
6 and
7 (10) A psychologist, or a physician who
8 specializes in psychiatry, licensed to practice in this
9 state.

10 3. Members of the committee listed in
11 subdivisions (3) to (10) of subsection 2 of this
12 section shall be appointed by the governor with the
13 advice and consent of the senate. The first
14 appointments to the committee shall consist of three
15 members to serve three-year terms, three members to
16 serve two-year terms, and three members to serve a
17 one-year term as designated by the governor. Each
18 member of the committee shall serve for a term of three
19 years thereafter.

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

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

29 6. Any rule or portion of a rule, as that term is
30 defined in section 536.010, that is created under the
31 authority delegated in this section shall become
32 effective only if it complies with and is subject to
33 all of the provisions of chapter 536 and, if
34 applicable, section 536.028. This section and chapter
35 536 are nonseverable and if any of the powers vested
36 with the general assembly pursuant to chapter 536 to
37 review, to delay the effective date, or to disapprove
38 and annul a rule are subsequently held
39 unconstitutional, then the grant of rulemaking
40 authority and any rule proposed or adopted after August
41 28, 2016, shall be invalid and void.】

42
43 [208.675. For purposes of the provision of
44 telehealth services in the MO HealthNet program, the
45 following individuals, licensed in Missouri, shall be
46 considered eligible health care providers:

- 47 (1) Physicians, assistant physicians, and
48 physician assistants;
49 (2) Advanced practice registered nurses;
50 (3) Dentists, oral surgeons, and dental
51 hygienists under the supervision of a currently

1 registered and licensed dentist;
2 (4) Psychologists and provisional licensees;
3 (5) Pharmacists;
4 (6) Speech, occupational, or physical therapists;
5 (7) Clinical social workers;
6 (8) Podiatrists;
7 (9) Optometrists;
8 (10) Licensed professional counselors; and
9 (11) Eligible health care providers under
10 subdivisions (1) to (10) of this section practicing in
11 a rural health clinic, federally qualified health
12 center, or community mental health center.]