

SENATE BILL NO. 108

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (16).

1277S.01H

KRISTINA MARTIN, Secretary

AN ACT

To repeal sections 191.1146 and 334.108, RSMo, and to enact in lieu thereof two new sections relating to telemedicine.

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

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2 repealed and two new sections enacted in lieu thereof, to be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

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
7 **[interview] evaluation** 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:

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 (1) The technology utilized shall be sufficient to
20 establish an informed diagnosis as though the medical
21 **[interview] evaluation** and, **if required to meet the standard**
22 **of care, the** physical examination has been performed in
23 person; and

24 (2) Prior to providing treatment, including issuing
25 prescriptions or physician certifications under Article XIV
26 of the Missouri Constitution, a physician who uses
27 telemedicine shall **[interview] evaluate** the patient, collect
28 or review **the patient's** relevant medical history, and
29 perform an examination sufficient for the diagnosis and
30 treatment of the patient. **[A] Any** questionnaire completed
31 by the patient, whether via the internet or telephone, **shall**
32 **include such information sufficient to provide the**
33 **information as though the medical evaluation has been**
34 **performed in person, otherwise such questionnaire** does not
35 constitute an acceptable medical **[interview] evaluation** and
36 examination for the provision of 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, **if**
8 **required to meet the standard of care,** performing a physical
9 examination of the patient, adequate to establish the
10 diagnosis for which the drug is being prescribed and to
11 identify underlying conditions or contraindications to the
12 treatment recommended or provided;

13 (2) Having sufficient **[dialogue] exchange** with the
14 patient regarding treatment options and the risks and
15 benefits of treatment or treatments;

16 (3) If appropriate, following up with the patient to
17 assess the therapeutic outcome;

18 (4) Maintaining a contemporaneous medical record that
19 is readily available to the patient and, subject to the
20 patient's consent, to the patient's other health care
21 professionals; and

22 (5) Maintaining the electronic prescription
23 information as part of the patient's medical record.

24 2. The requirements of subsection 1 of this section
25 may be satisfied by the prescribing physician's designee
26 when treatment is provided in:

27 (1) A hospital as defined in section 197.020;

28 (2) A hospice program as defined in section 197.250;

29 (3) Home health services provided by a home health
30 agency as defined in section 197.400;

31 (4) Accordance with a collaborative practice agreement
32 as **[defined] described** in section 334.104;

33 (5) Conjunction with a physician assistant licensed
34 pursuant to section 334.738;

35 (6) Conjunction with an assistant physician licensed
36 under section 334.036;

37 (7) Consultation with another physician who has an
38 ongoing physician-patient relationship with the patient, and
39 who has agreed to supervise the patient's treatment,
40 including use of any prescribed medications; or

41 (8) On-call or cross-coverage situations.

42 3. No health care provider, as defined in section
43 376.1350, shall prescribe any drug, controlled substance, or
44 other treatment to a patient based solely on an evaluation

45 over the telephone; except that, a physician or such
46 physician's on-call designee, or an advanced practice
47 registered nurse, a physician assistant, or an assistant
48 physician in a collaborative practice arrangement with such
49 physician, may prescribe any drug, controlled substance, or
50 other treatment that is within his or her scope of practice
51 to a patient based solely on a telephone evaluation if a
52 previously established and ongoing physician-patient
53 relationship exists between such physician and the patient
54 being treated.

55 4. No health care provider shall prescribe any drug,
56 controlled substance, or other treatment to a patient [based
57 solely on an internet request or an internet questionnaire]
58 **in the absence of a proper provider-patient relationship, as**
59 **described in section 191.1146.**

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