

House _____ Amendment NO. _____

Offered By

1 AMEND Senate Bill No. 579, Page 1, In the Title, Line 3, by deleting the words "infection
2 reporting" and inserting in lieu thereof the words "health care"; and

3
4 Further amend said bill and page, Section A, Line 3, by inserting after all of said section and line
5 the following:

6
7 "191.1145. 1. As used in sections 191.1145 and 191.1146, the following terms shall mean:

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

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

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

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

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

19 (6) "Telehealth" or "telemedicine", the delivery of health care services by means of
20 information and communication technologies which facilitate the assessment, diagnosis,
21 consultation, treatment, education, care management, and self-management of a patient's health care
22 while such patient is at the originating site and the health care provider is at the distant site.
23 Telehealth or telemedicine shall also include the use of asynchronous store-and-forward technology.

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

27 3. In order to treat patients in this state through the use of telemedicine or telehealth, health
28 care providers shall be fully licensed to practice in this state and shall be subject to regulation by
29 their respective professional boards.

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

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

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

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

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

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

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

14 191.1146. 1. Physicians licensed under chapter 334 who use telemedicine shall ensure that
 15 a properly established physician-patient relationship exists with the person who receives the
 16 telemedicine services. The physician-patient relationship may be established by:

17 (1) An in-person encounter through a medical interview and physical examination;

18 (2) Consultation with another physician, or that physician's delegate, who has an established
 19 relationship with the patient and an agreement with the physician to participate in the patient's care;
 20 or

21 (3) A telemedicine encounter, if the standard of care does not require an in-person
 22 encounter, and in accordance with evidence-based standards of practice and telemedicine practice
 23 guidelines that address the clinical and technological aspects of telemedicine.

24 2. In order to establish a physician-patient relationship through telemedicine:

25 (1) The technology utilized shall be sufficient to establish an informed diagnosis as though
 26 the medical interview and physical examination has been performed in person; and

27 (2) Prior to providing treatment, including issuing prescriptions, a physician who uses
 28 telemedicine shall interview the patient, collect or review relevant medical history, and perform an
 29 examination sufficient for the diagnosis and treatment of the patient. A questionnaire completed by
 30 the patient, whether via the internet or telephone, does not constitute an acceptable medical
 31 interview and examination for the provision of treatment by telehealth."; and

32
 33 Further amend said bill, Page 8, Section 192.667, Line 247, by inserting after all of said section and
 34 line the following:

35
 36 "208.670. 1. As used in this section, these terms shall have the following meaning:

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

39 (2) "Telehealth", [the use of medical information exchanged from one site to another via
 40 electronic communications to improve the health status of a patient] the same meaning as such term
 41 is defined in section 191.1145.

42 2. Reimbursement for the use of asynchronous store-and-forward technology in the practice
 43 of telehealth in the MO HealthNet program shall be allowed for orthopedics, dermatology,
 44 ophthalmology and optometry, in cases of diabetic retinopathy, burn and wound care, dental services
 45 which require a diagnosis, and maternal-fetal medicine ultrasounds.

46 [2.] 3. The department of social services, in consultation with the departments of mental
 47 health and health and senior services, shall promulgate rules governing the practice of telehealth in
 48 the MO HealthNet program. Such rules shall address, but not be limited to, appropriate standards

1 for the use of telehealth, certification of agencies offering telehealth, and payment for services by
2 providers. Telehealth providers shall be required to obtain [patient] participant consent before
3 telehealth services are initiated and to ensure confidentiality of medical information.

4 [3.] 4. Telehealth may be utilized to service individuals who are qualified as MO HealthNet
5 participants under Missouri law. Reimbursement for such services shall be made in the same way as
6 reimbursement for in-person contacts.

7 5. The provisions of section 208.671 shall apply to the use of asynchronous store-and-
8 forward technology in the practice of telehealth in the MO HealthNet program.

9 208.671. 1. As used in this section and section 208.673, the following terms shall mean:

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

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

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

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

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

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

29 (7) "Provider", any provider of medical, mental health, optometric, or dental health services,
30 including all other medical disciplines, licensed and providing MO HealthNet services who has the
31 authority to refer participants for medical, mental health, optometric, dental, or other health care
32 services within the scope of practice and licensure of the provider;

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

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

35 (a) Evaluates a participant;

36 (b) Determines the need for a consultation;

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

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

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

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

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

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

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

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

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

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

11
 12 Telehealth providers using asynchronous store-and-forward technology shall be required to obtain
 13 participant consent before asynchronous store-and-forward services are initiated and to ensure
 14 confidentiality of medical information.

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

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

21 208.673. 1. There is hereby established the "Telehealth Services Advisory Committee" to
 22 advise the department of social services and propose rules regarding the coverage of telehealth
 23 services in the MO HealthNet program utilizing asynchronous store-and-forward technology.

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

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

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

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

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

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

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

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

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

36 (9) A dentist licensed to practice in this state; and

37 (10) A psychologist, or a physician who specializes in psychiatry, licensed to practice in this
 38 state.

39 3. Members of the committee listed in subdivisions (3) to (10) of subsection 2 of this
 40 section shall be appointed by the governor with the advice and consent of the senate. The first
 41 appointments to the committee shall consist of three members to serve three-year terms, three
 42 members to serve two-year terms, and three members to serve a one-year term as designated by the
 43 governor. Each member of the committee shall serve for a term of three years thereafter.

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

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

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

8 208.675. For purposes of the provision of telehealth services in the MO HealthNet program,
 9 the following individuals, licensed in Missouri, shall be considered eligible health care providers:

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

23 208.677. 1. For purposes of the provision of telehealth services in the MO HealthNet
 24 program, the term "originating site" shall mean a telehealth site where the MO HealthNet participant
 25 receiving the telehealth service is located for the encounter. The standard of care in the practice of
 26 telehealth shall be the same as the standard of care for services provided in person. An originating
 27 site shall be one of the following locations:

- 28 (1) An office of a physician or health care provider;
 29 (2) A hospital;
 30 (3) A critical access hospital;
 31 (4) A rural health clinic;
 32 (5) A federally qualified health center;
 33 (6) A long-term care facility licensed under chapter 198;
 34 (7) A dialysis center;
 35 (8) A Missouri state habilitation center or regional office;
 36 (9) A community mental health center;
 37 (10) A Missouri state mental health facility;
 38 (11) A Missouri state facility;
 39 (12) A Missouri residential treatment facility licensed by and under contract with the
 40 children's division. Facilities shall have multiple campuses and have the ability to adhere to
 41 technology requirements. Only Missouri licensed psychiatrists, licensed psychologists, or
 42 provisionally licensed psychologists, and advanced practice registered nurses who are MO
 43 HealthNet providers shall be consulting providers at these locations;
 44 (13) A comprehensive substance treatment and rehabilitation (CSTAR) program;
 45 (14) A school;
 46 (15) The MO HealthNet recipient's home;
 47 (16) A clinical designated area in a pharmacy; or
 48 (17) A child assessment center as described in section 210.001.

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

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

9 2. The program shall:

10 (1) Provide that home telemonitoring services are available only to persons who:

11 (a) Are diagnosed with one or more of the following conditions:

12 a. Pregnancy;

13 b. Diabetes;

14 c. Heart disease;

15 d. Cancer;

16 e. Chronic obstructive pulmonary disease;

17 f. Hypertension;

18 g. Congestive heart failure;

19 h. Mental illness or serious emotional disturbance;

20 i. Asthma;

21 j. Myocardial infarction; or

22 k. Stroke; and

23 (b) Exhibit two or more of the following risk factors:

24 a. Two or more hospitalizations in the prior twelve-month period;

25 b. Frequent or recurrent emergency department admissions;

26 c. A documented history of poor adherence to ordered medication regimens;

27 d. A documented history of falls in the prior six-month period;

28 e. Limited or absent informal support systems;

29 f. Living alone or being home alone for extended periods of time;

30 g. A documented history of care access challenges; or

31 h. A documented history of consistently missed appointments with health care providers;

32 (2) Ensure that clinical information gathered by a home health agency or hospital while
33 providing home telemonitoring services is shared with the participant's physician; and

34 (3) Ensure that the program does not duplicate any disease management program services
35 provided by MO HealthNet.

36 3. If, after implementation, the department determines that the program established under
37 this section is not cost effective, the department may discontinue the program and stop providing
38 reimbursement under the MO HealthNet program for home telemonitoring services.

39 4. The department shall determine whether the provision of home telemonitoring services to
40 persons who are eligible to receive benefits under both the MO HealthNet and Medicare programs
41 achieves cost savings for the Medicare program.

42 5. If, before implementing any provision of this section, the department determines that a
43 waiver or authorization from a federal agency is necessary for implementation of that provision, the
44 department shall request the waiver or authorization and may delay implementing that provision
45 until the waiver or authorization is granted.

46 6. The department shall promulgate rules and regulations to implement the provisions of
47 this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created
48 under the authority delegated in this section shall become effective only if it complies with and is

1 subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
2 chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to
3 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently
4 held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
5 August 28, 2016, shall be invalid and void.

6 334.108. 1. Prior to prescribing any drug, controlled substance, or other treatment through
7 telemedicine, as defined in section 191.1145, or the internet, a physician shall establish a valid
8 physician-patient relationship as described in section 191.1146. This relationship shall include:

9 (1) Obtaining a reliable medical history and performing a physical examination of the
10 patient, adequate to establish the diagnosis for which the drug is being prescribed and to identify
11 underlying conditions or contraindications to the treatment recommended or provided;

12 (2) Having sufficient dialogue with the patient regarding treatment options and the risks and
13 benefits of treatment or treatments;

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

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

17 (5) [Including] Maintaining the electronic prescription information as part of the patient's
18 medical record.

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

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

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

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

24 (4) Accordance with a collaborative practice agreement as defined in section 334.104;

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

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

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

30 [(7)] (8) On-call or cross-coverage situations.

31 3. No health care provider, as defined in section 376.1350, shall prescribe any drug,
32 controlled substance, or other treatment to a patient based solely on an evaluation over the
33 telephone; except that, a physician, such physician's on-call designee, an advanced practice
34 registered nurse in a collaborative practice arrangement with such physician, a physician assistant in
35 a supervision agreement with such physician, or an assistant physician in a supervision agreement
36 with such physician may prescribe any drug, controlled substance, or other treatment that is within
37 his or her scope of practice to a patient based solely on a telephone evaluation if a previously
38 established and ongoing physician-patient relationship exists between such physician and the patient
39 being treated.

40 4. No health care provider shall prescribe any drug, controlled substance, or other treatment
41 to a patient based solely on an internet request or an internet questionnaire.

42 335.175. 1. No later than January 1, 2014, there is hereby established within the state board
43 of registration for the healing arts and the state board of nursing the "Utilization of Telehealth by
44 Nurses". An advanced practice registered nurse (APRN) providing nursing services under a
45 collaborative practice arrangement under section 334.104 may provide such services outside the
46 geographic proximity requirements of section 334.104 if the collaborating physician and advanced
47 practice registered nurse utilize telehealth in the care of the patient and if the services are provided
48 in a rural area of need. Telehealth providers shall be required to obtain patient consent before

1 telehealth services are initiated and ensure confidentiality of medical information.

2 2. As used in this section, "telehealth" [means the use of medical information exchanged
3 from one site to another via electronic communications to improve the health status of a patient, as
4 defined in section 208.670] shall have the same meaning as such term is defined in section
5 191.1145.

6 3. (1) The boards shall jointly promulgate rules governing the practice of telehealth under
7 this section. Such rules shall address, but not be limited to, appropriate standards for the use of
8 telehealth.

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

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

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

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

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

23 (3) This section shall terminate on September first of the calendar year immediately
24 following the calendar year in which the program authorized under this section is sunset.

25 Section B. Because immediate action is necessary to ensure the provision of health care
26 services for Missouri citizens, the enactment of section 191.1145 of this act is deemed necessary for
27 the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to
28 be an emergency act within the meaning of the constitution, and the enactment of section 191.1145
29 of this act shall be in full force and effect upon its passage and approval."; and

30
31 Further amend said bill by amending the title, enacting clause, and intersectional references
32 accordingly.

33
34