

# HOUSE BILL NO. 1617

## 99TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE BARNES (60).

4389H.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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

Section A. Sections 208.670, 208.671, 208.673, and 208.677, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 208.670 and 208.677, to read as follows:

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

(1) **“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;**

(2) **“Consulting provider”, a provider who, upon referral by the treating provider, evaluates a participant 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;**

(3) **“Distant site”, the same meaning as such term is defined in section 191.1145;**

(4) **“Originating site”, the same meaning as such term is defined in section 191.1145;**

(5) **“Provider”, ~~[any provider of medical services and mental health services, including all other medical disciplines]~~ the same meaning as the term “health care provider” is defined in section 191.1145;**

~~[(2)]~~ (6) **“Telehealth”, the same meaning as such term is defined in section 191.1145;**

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.

- 17           **(7) “Treating provider”, a provider who:**  
18           **(a) Evaluates a participant;**  
19           **(b) Determines the need for a consultation;**  
20           **(c) Arranges the services of a consulting provider for the purpose of diagnosis and**  
21 **treatment; and**  
22           **(d) Provides or supplements the participant’s history and provides pertinent**  
23 **physical examination findings and medical information to the consulting provider.**

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

28           ~~3. The department of social services, in consultation with the departments of mental~~  
29 ~~health and health and senior services, shall promulgate rules governing the practice of telehealth~~  
30 ~~in the MO HealthNet program. Such rules shall address, but not be limited to, appropriate~~  
31 ~~standards for the use of telehealth, certification of agencies offering telehealth, and payment for~~  
32 ~~services by providers. Telehealth providers shall be required to obtain participant consent before~~  
33 ~~telehealth services are initiated and to ensure confidentiality of medical information.~~

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

37           ~~5. The provisions of section 208.671 shall apply to the use of asynchronous~~  
38 ~~store and forward technology in the practice of telehealth in the MO HealthNet program]~~ **The**  
39 **department of social services shall reimburse providers for services provided through**  
40 **telehealth as defined in section 191.1145 if such providers can ensure services are rendered**  
41 **meeting the standard of care that would otherwise be expected should such services be**  
42 **provided in person. The department shall not promulgate rules or otherwise place**  
43 **restrictions on providing such services via telehealth. The prohibition of such additional**  
44 **requirements includes, but is not limited to:**

45           **(1) Requiring another individual to be present beyond the patient and provider**  
46 **unless this would be required for a similar visit provided in person;**

47           **(2) Precluding any device or technology which otherwise meets HIPAA standards,**  
48 **as attested to by the provider, from being used in the visit;**

49           **(3) Creating mileage limitations for reimbursement to either the originating or**  
50 **distant site outside of a distance that could be traversed by the average individual on foot**  
51 **in fewer than twenty minutes;**

52           **(4) Creating equipment and technical training requirements on either the**  
53 **originating or distant site beyond basic comprehension of the operations of the equipment;**  
54 **and**

55           **(5) Limitations on place of service if the standard of care can be met based on the**  
56 **provider's clinical judgment.**

57           **3. The department of social services shall reimburse providers of telehealth services**  
58 **in the same manner regardless of the originating and distant sites' proximity, provided the**  
59 **distance is greater than what could be traversed by the average individual on foot in fewer**  
60 **than twenty minutes.**

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

- 6           (1) An office of a physician or health care provider;
- 7           (2) A hospital;
- 8           (3) A critical access hospital;
- 9           (4) A rural health clinic;
- 10          (5) A federally qualified health center;
- 11          (6) A long-term care facility licensed under chapter 198;
- 12          (7) A dialysis center;
- 13          (8) A Missouri state habilitation center or regional office;
- 14          (9) A community mental health center;
- 15          (10) A Missouri state mental health facility;
- 16          (11) A Missouri state facility;
- 17          (12) A Missouri residential treatment facility licensed by and under contract with the  
18 children's division. Facilities shall have multiple campuses and have the ability to adhere to  
19 technology requirements. Only Missouri licensed psychiatrists, licensed psychologists, or  
20 provisionally licensed psychologists, and advanced practice registered nurses who are MO  
21 HealthNet providers shall be consulting providers at these locations;
- 22          (13) A comprehensive substance treatment and rehabilitation (CSTAR) program;
- 23          (14) A school;
- 24          (15) The MO HealthNet recipient's home;
- 25          (16) A clinical designated area in a pharmacy; or
- 26          (17) A child assessment center as described in section 210.001.

27           2. ~~[If the originating site is a school, the school shall obtain permission from the parent~~  
 28 ~~or guardian of any student receiving telehealth services prior to each provision of service.]~~ **Prior**  
 29 **to the provision of telehealth services in a school, the parent or guardian of the child shall**  
 30 **provide authorization for the provision of such service. Such authorization shall include**  
 31 **the ability for the parent or guardian to authorize services via telehealth in the school for**  
 32 **the remainder of the school year.**

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

- 2           ~~(1) “Asynchronous store-and-forward”, the transfer of a participant’s~~  
 3 ~~clinically important digital samples, such as still images, videos, audio, text files,~~  
 4 ~~and relevant data from an originating site through the use of a camera or similar~~  
 5 ~~recording device that stores digital samples that are forwarded via~~  
 6 ~~telecommunication to a distant site for consultation by a consulting provider~~  
 7 ~~without requiring the simultaneous presence of the participant and the~~  
 8 ~~participant’s treating provider;~~
- 9           ~~(2) “Asynchronous store-and-forward technology”, cameras or other~~  
 10 ~~recording devices that store images which may be forwarded via~~  
 11 ~~telecommunication devices at a later time;~~
- 12           ~~(3) “Consultation”, a type of evaluation and management service as~~  
 13 ~~defined by the most recent edition of the Current Procedural Terminology~~  
 14 ~~published annually by the American Medical Association;~~
- 15           ~~(4) “Consulting provider”, a provider who, upon referral by the treating~~  
 16 ~~provider, evaluates a participant and appropriate medical data or images delivered~~  
 17 ~~through asynchronous store-and-forward technology. If a consulting provider is~~  
 18 ~~unable to render an opinion due to insufficient information, the consulting~~  
 19 ~~provider may request additional information to facilitate the rendering of an~~  
 20 ~~opinion or decline to render an opinion;~~
- 21           ~~(5) “Distant site”, the site where a consulting provider is located at the~~  
 22 ~~time the consultation service is provided;~~
- 23           ~~(6) “Originating site”, the site where a MO HealthNet participant~~  
 24 ~~receiving services and such participant’s treating provider are both physically~~  
 25 ~~located;~~
- 26           ~~(7) “Provider”, any provider of medical, mental health, optometric, or~~  
 27 ~~dental health services, including all other medical disciplines, licensed and~~  
 28 ~~providing MO HealthNet services who has the authority to refer participants for~~  
 29 ~~medical, mental health, optometric, dental, or other health care services within~~  
 30 ~~the scope of practice and licensure of the provider;~~
- 31           ~~(8) “Telehealth”, as that term is defined in section 191.1145;~~
- 32           ~~(9) “Treating provider”, a provider who:~~
- 33           ~~(a) Evaluates a participant;~~
- 34           ~~(b) Determines the need for a consultation;~~
- 35

36 ~~\_\_\_\_\_ (c) Arranges the services of a consulting provider for the purpose of~~  
37 ~~diagnosis and treatment; and~~

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

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

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

48 ~~\_\_\_\_\_ (2) Certification of agencies offering asynchronous store-and-forward~~  
49 ~~technology in the practice of telehealth;~~

50 ~~\_\_\_\_\_ (3) Timelines for completion and communication of a consulting~~  
51 ~~provider’s consultation or opinion, or if the consulting provider is unable to~~  
52 ~~render an opinion, timelines for communicating a request for additional~~  
53 ~~information or that the consulting provider declines to render an opinion;~~

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

56 ~~\_\_\_\_\_ (5) Security and privacy of such digital files;~~

57 ~~\_\_\_\_\_ (6) Participant consent for asynchronous store-and-forward services; and~~

58 ~~\_\_\_\_\_ (7) Payment for services by providers; except that, consulting providers~~  
59 ~~who decline to render an opinion shall not receive payment under this section~~  
60 ~~unless and until an opinion is rendered.~~

61  
62 ~~\_\_\_\_\_ Telehealth providers using asynchronous store-and-forward technology shall be~~  
63 ~~required to obtain participant consent before asynchronous store-and-forward~~  
64 ~~services are initiated and to ensure confidentiality of medical information.~~

65 ~~\_\_\_\_\_ 3. Asynchronous store-and-forward technology in the practice of~~  
66 ~~telehealth may be utilized to service individuals who are qualified as MO~~  
67 ~~HealthNet participants under Missouri law. The total payment for both the~~  
68 ~~treating provider and the consulting provider shall not exceed the payment for a~~  
69 ~~face-to-face consultation of the same level.~~

70 ~~\_\_\_\_\_ 4. The standard of care for the use of asynchronous store-and-forward~~  
71 ~~technology in the practice of telehealth shall be the same as the standard of care~~  
72 ~~for services provided in person.]~~

~~[208.673. 1. There is hereby established the “Telehealth Services~~  
2 ~~Advisory Committee” to advise the department of social services and propose~~  
3 ~~rules regarding the coverage of telehealth services in the MO HealthNet program~~  
4 ~~utilizing asynchronous store-and-forward technology.~~

5 ~~\_\_\_\_\_ 2. The committee shall be comprised of the following members:~~

6 ~~\_\_\_\_\_ (1) The director of the MO HealthNet division, or the director’s designee;~~

- 7 ~~\_\_\_\_\_ (2) The medical director of the MO HealthNet division;~~  
8 ~~\_\_\_\_\_ (3) A representative from a Missouri institution of higher education with~~  
9 ~~expertise in telehealth;~~  
10 ~~\_\_\_\_\_ (4) A representative from the Missouri office of primary care and rural~~  
11 ~~health;~~  
12 ~~\_\_\_\_\_ (5) Two board-certified specialists licensed to practice medicine in this~~  
13 ~~state;~~  
14 ~~\_\_\_\_\_ (6) A representative from a hospital located in this state that utilizes~~  
15 ~~telehealth;~~  
16 ~~\_\_\_\_\_ (7) A primary care physician from a federally qualified health center~~  
17 ~~(FQHC) or rural health clinic;~~  
18 ~~\_\_\_\_\_ (8) A primary care physician from a rural setting other than from an~~  
19 ~~FQHC or rural health clinic;~~  
20 ~~\_\_\_\_\_ (9) A dentist licensed to practice in this state; and~~  
21 ~~\_\_\_\_\_ (10) A psychologist, or a physician who specializes in psychiatry,~~  
22 ~~licensed to practice in this state.~~  
23 ~~\_\_\_\_\_ 3. Members of the committee listed in subdivisions (3) to (10) of~~  
24 ~~subsection 2 of this section shall be appointed by the governor with the advice~~  
25 ~~and consent of the senate. The first appointments to the committee shall consist~~  
26 ~~of three members to serve three-year terms, three members to serve two-year~~  
27 ~~terms, and three members to serve a one-year term as designated by the governor.~~  
28 ~~Each member of the committee shall serve for a term of three years thereafter.~~  
29 ~~\_\_\_\_\_ 4. Members of the committee shall not receive any compensation for~~  
30 ~~their services but shall be reimbursed for any actual and necessary expenses~~  
31 ~~incurred in the performance of their duties.~~  
32 ~~\_\_\_\_\_ 5. Any member appointed by the governor may be removed from office~~  
33 ~~by the governor without cause. If there is a vacancy for any cause, the governor~~  
34 ~~shall make an appointment to become effective immediately for the unexpired~~  
35 ~~term.~~  
36 ~~\_\_\_\_\_ 6. Any rule or portion of a rule, as that term is defined in section 536.010,~~  
37 ~~that is created under the authority delegated in this section shall become effective~~  
38 ~~only if it complies with and is subject to all of the provisions of chapter 536 and,~~  
39 ~~if applicable, section 536.028. This section and chapter 536 are nonseverable and~~  
40 ~~if any of the powers vested with the general assembly pursuant to chapter 536 to~~  
41 ~~review, to delay the effective date, or to disapprove and annul a rule are~~  
42 ~~subsequently held unconstitutional, then the grant of rulemaking authority and~~  
43 ~~any rule proposed or adopted after August 28, 2016, shall be invalid and void.]~~

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