

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE BILL NO. 621
98TH GENERAL ASSEMBLY

4556H.07C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 208.152, 208.670, 334.108, and 335.175, RSMo, and to enact in lieu thereof fourteen new sections relating to health care, with an emergency clause for certain sections.

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

Section A. Sections 208.152, 208.670, 334.108, and 335.175, RSMo, are repealed and
2 fourteen new sections enacted in lieu thereof, to be known as sections 9.154, 191.594, 191.596,
3 191.1145, 191.1146, 208.152, 208.670, 208.671, 208.673, 208.675, 208.677, 208.686, 334.108,
4 and 335.175, to read as follows:

**9.154. 1. August 28, 2016, and thereafter the date designated by the show-me
2 compassionate medical education research project committee established in section
3 191.596, shall be designated as "Show-Me Compassionate Medical Education Day" in
4 Missouri. The citizens of the state of Missouri are encouraged to participate in appropriate
5 activities and events to increase awareness regarding medical education, medical student
6 well-being, and measures that have been shown to be effective, are currently being
7 evaluated for effectiveness, and are being proposed for effectiveness in positively impacting
8 medical student well-being and education.**

**2. The director of the department of mental health shall notify the revisor of
9 statutes of the date selected by the show-me compassionate medical education research
10 project committee for the show-me compassionate medical education day.**

**191.594. 1. Sections 191.594 to 191.596 shall be known and may be cited as the
2 "Show-Me Compassionate Medical Education Act".**

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.

3 **2. No medical school in this state shall prohibit, discourage, or otherwise restrict**
4 **a medical student organization or medical organization from undertaking or conducting**
5 **a study of the prevalence of depression and suicide or other mental health issues among**
6 **medical students. No medical school in this state shall penalize, discipline, or otherwise**
7 **take any adverse action against a student or a medical student organization in connection**
8 **with such student's or medical student organization's participation in, planning, or**
9 **conducting a study of the prevalence of depression and suicide or other mental health**
10 **issues among medical students.**

11 **3. For purposes of this section, the following terms shall mean:**

12 **(1) "Medical organization" includes, but is not limited to, organizations such as the**
13 **Missouri State Medical Association and the Missouri Association of Osteopathic Physicians**
14 **and Surgeons;**

15 **(2) "Medical school", any allopathic or osteopathic school of medicine in this state;**

16 **(3) "Medical student organization" includes, but is not limited to, organizations**
17 **such as the American Medical Student Association, the Student Osteopathic Medical**
18 **Association, and any medical student section of a medical organization.**

191.596. 1. Medical schools in this state may, in collaboration with the show-me
2 **compassionate medical education research project committee, conduct a single center or**
3 **multicenter study or studies, which, if conducted, shall be known as the "Show-Me**
4 **Compassionate Medical Education Research Project", in order to facilitate the collection**
5 **of data and implement practices and protocols to minimize stress and reduce the risk of**
6 **depression and suicide for medical students in this state.**

7 **2. There is hereby established the "Show-Me Compassionate Medical Education**
8 **Research Project Committee", which shall consist of representatives from each of the**
9 **medical schools in this state and the director of the department of mental health, or the**
10 **director's designee. The committee shall:**

11 **(1) Conduct an initial meeting on August 28, 2016, to organize, and meet as**
12 **necessary thereafter to implement any research project conducted; and**

13 **(2) Set the date for the show-me compassionate medical education day designated**
14 **under section 9.154. The date selected shall be for 2017 and every year thereafter.**

15 **3. Any single center or multicenter study undertaken by the committee or its**
16 **member schools may include, but need not be limited to, the following:**

17 **(1) Development of study protocols designed to identify the root causes that**
18 **contribute to the risk of depression and suicide for medical students;**

19 **(2) Examination of the culture and academic program of medical schools that may**
20 **contribute to the risk of depression and suicide for medical students;**

21 (3) Collection of any relevant additional data including, but not limited to,
22 consultation and collaboration with mental health professionals and mental health
23 resources in the communities where medical schools are located;

24 (4) Collaboration between the medical schools in this state in order to share
25 information and to identify and make recommendations under subdivision (5) of this
26 subsection; and

27 (5) Based on the data and findings under subdivisions (1) to (3) of this subsection:

28 (a) Identification of the best practices to be implemented at each medical school
29 designed to address the root causes and changes in medical school culture in order to
30 minimize stress and reduce the risk of depression and suicide for medical students;

31 (b) Recommendation of any statutory or regulatory changes regarding licensure
32 of medical professionals and recommendation of any changes to common practices
33 associated with medical training or medical practice that the committee believes will
34 accomplish the goals set out in this section.

35 4. The committee shall prepare an annual report that shall include any information
36 under subdivision (5) of subsection 3 of this section and any measures reported by any
37 medical school as a result of the findings under this section. The report shall be made
38 available annually on each medical school's website and to the Missouri general assembly.

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

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

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

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

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

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

14 (6) "Telehealth" or "telemedicine", the delivery of health care services by means
15 of information and communication technologies which facilitate the assessment, diagnosis,
16 consultation, treatment, education, care management, and self-management of a patient's
17 health care while such patient is at the originating site and the health care provider is at

18 the distant site. Telehealth or telemedicine shall also include the use of asynchronous store-
19 and-forward technology.

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

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

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

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

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

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

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

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

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

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

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

6 **(2) Consultation with another physician, or that physician's delegate, who has an**
7 **established relationship with the patient and an agreement with the physician to**
8 **participate in the patient's care; or**

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

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

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

15 **(2) Prior to providing treatment, including issuing prescriptions, a physician who**
16 **uses telemedicine shall interview the patient, collect or review relevant medical history, and**
17 **perform an examination sufficient for the diagnosis and treatment of the patient. A**
18 **questionnaire completed by the patient, whether via the internet or telephone, does not**
19 **constitute an acceptable medical interview and examination for the provision of treatment**
20 **by telehealth.**

208.152. 1. MO HealthNet payments shall be made on behalf of those eligible needy
2 persons as [defined] **described** in section 208.151 who are unable to provide for it in whole or
3 in part, with any payments to be made on the basis of the reasonable cost of the care or
4 reasonable charge for the services as defined and determined by the MO HealthNet division,
5 unless otherwise hereinafter provided, for the following:

6 (1) Inpatient hospital services, except to persons in an institution for mental diseases who
7 are under the age of sixty-five years and over the age of twenty-one years; provided that the MO
8 HealthNet division shall provide through rule and regulation an exception process for coverage
9 of inpatient costs in those cases requiring treatment beyond the seventy-fifth percentile
10 professional activities study (PAS) or the MO HealthNet children's diagnosis length-of-stay
11 schedule; and provided further that the MO HealthNet division shall take into account through
12 its payment system for hospital services the situation of hospitals which serve a disproportionate
13 number of low-income patients;

14 (2) All outpatient hospital services, payments therefor to be in amounts which represent
15 no more than eighty percent of the lesser of reasonable costs or customary charges for such
16 services, determined in accordance with the principles set forth in Title XVIII A and B, Public
17 Law 89-97, 1965 amendments to the federal Social Security Act (42 U.S.C. Section 301, et
18 seq.), but the MO HealthNet division may evaluate outpatient hospital services rendered under
19 this section and deny payment for services which are determined by the MO HealthNet division
20 not to be medically necessary, in accordance with federal law and regulations;

21 (3) Laboratory and X-ray services;

22 (4) Nursing home services for participants, except to persons with more than five
23 hundred thousand dollars equity in their home or except for persons in an institution for mental
24 diseases who are under the age of sixty-five years, when residing in a hospital licensed by the
25 department of health and senior services or a nursing home licensed by the department of health
26 and senior services or appropriate licensing authority of other states or government-owned and
27 -operated institutions which are determined to conform to standards equivalent to licensing
28 requirements in Title XIX of the federal Social Security Act (42 U.S.C. Section 301, et seq.), as
29 amended, for nursing facilities. The MO HealthNet division may recognize through its payment
30 methodology for nursing facilities those nursing facilities which serve a high volume of MO
31 HealthNet patients. The MO HealthNet division when determining the amount of the benefit
32 payments to be made on behalf of persons under the age of twenty-one in a nursing facility may
33 consider nursing facilities furnishing care to persons under the age of twenty-one as a
34 classification separate from other nursing facilities;

35 (5) Nursing home costs for participants receiving benefit payments under subdivision
36 (4) of this subsection for those days, which shall not exceed twelve per any period of six
37 consecutive months, during which the participant is on a temporary leave of absence from the
38 hospital or nursing home, provided that no such participant shall be allowed a temporary leave
39 of absence unless it is specifically provided for in his plan of care. As used in this subdivision,
40 the term "temporary leave of absence" shall include all periods of time during which a participant
41 is away from the hospital or nursing home overnight because he is visiting a friend or relative;

42 (6) Physicians' services, whether furnished in the office, home, hospital, nursing home,
43 or elsewhere;

44 (7) Drugs and medicines when prescribed by a licensed physician, dentist, podiatrist, or
45 an advanced practice registered nurse; except that no payment for drugs and medicines
46 prescribed on and after January 1, 2006, by a licensed physician, dentist, podiatrist, or an
47 advanced practice registered nurse may be made on behalf of any person who qualifies for
48 prescription drug coverage under the provisions of P.L. 108-173;

49 (8) Emergency ambulance services and, effective January 1, 1990, medically necessary
50 transportation to scheduled, physician-prescribed nonelective treatments;

51 (9) Early and periodic screening and diagnosis of individuals who are under the age of
52 twenty-one to ascertain their physical or mental defects, and health care, treatment, and other
53 measures to correct or ameliorate defects and chronic conditions discovered thereby. Such
54 services shall be provided in accordance with the provisions of Section 6403 of P.L. 101-239 and
55 federal regulations promulgated thereunder;

56 (10) Home health care services;

57 (11) Family planning as defined by federal rules and regulations; provided, however, that
58 such family planning services shall not include abortions unless such abortions are certified in
59 writing by a physician to the MO HealthNet agency that, in the physician's professional
60 judgment, the life of the mother would be endangered if the fetus were carried to term;

61 (12) Inpatient psychiatric hospital services for individuals under age twenty-one as
62 defined in Title XIX of the federal Social Security Act (42 U.S.C. Section 1396d, et seq.);

63 (13) Outpatient surgical procedures, including presurgical diagnostic services performed
64 in ambulatory surgical facilities which are licensed by the department of health and senior
65 services of the state of Missouri; except, that such outpatient surgical services shall not include
66 persons who are eligible for coverage under Part B of Title XVIII, Public Law 89-97, 1965
67 amendments to the federal Social Security Act, as amended, if exclusion of such persons is
68 permitted under Title XIX, Public Law 89-97, 1965 amendments to the federal Social Security
69 Act, as amended;

70 (14) Personal care services which are medically oriented tasks having to do with a
71 person's physical requirements, as opposed to housekeeping requirements, which enable a person
72 to be treated by his or her physician on an outpatient rather than on an inpatient or residential
73 basis in a hospital, intermediate care facility, or skilled nursing facility. Personal care services
74 shall be rendered by an individual not a member of the participant's family who is qualified to
75 provide such services where the services are prescribed by a physician in accordance with a plan
76 of treatment and are supervised by a licensed nurse. Persons eligible to receive personal care
77 services shall be those persons who would otherwise require placement in a hospital,
78 intermediate care facility, or skilled nursing facility. Benefits payable for personal care services
79 shall not exceed for any one participant one hundred percent of the average statewide charge for
80 care and treatment in an intermediate care facility for a comparable period of time. Such
81 services, when delivered in a residential care facility or assisted living facility licensed under
82 chapter 198 shall be authorized on a tier level based on the services the resident requires and the
83 frequency of the services. A resident of such facility who qualifies for assistance under section
84 208.030 shall, at a minimum, if prescribed by a physician, qualify for the tier level with the
85 fewest services. The rate paid to providers for each tier of service shall be set subject to
86 appropriations. Subject to appropriations, each resident of such facility who qualifies for
87 assistance under section 208.030 and meets the level of care required in this section shall, at a
88 minimum, if prescribed by a physician, be authorized up to one hour of personal care services
89 per day. Authorized units of personal care services shall not be reduced or tier level lowered
90 unless an order approving such reduction or lowering is obtained from the resident's personal
91 physician. Such authorized units of personal care services or tier level shall be transferred with
92 such resident if he or she transfers to another such facility. Such provision shall terminate upon

93 receipt of relevant waivers from the federal Department of Health and Human Services. If the
94 Centers for Medicare and Medicaid Services determines that such provision does not comply
95 with the state plan, this provision shall be null and void. The MO HealthNet division shall notify
96 the revisor of statutes as to whether the relevant waivers are approved or a determination of
97 noncompliance is made;

98 (15) Mental health services. The state plan for providing medical assistance under Title
99 XIX of the Social Security Act, 42 U.S.C. Section 301, as amended, shall include the following
100 mental health services when such services are provided by community mental health facilities
101 operated by the department of mental health or designated by the department of mental health
102 as a community mental health facility or as an alcohol and drug abuse facility or as a child-
103 serving agency within the comprehensive children's mental health service system established in
104 section 630.097. The department of mental health shall establish by administrative rule the
105 definition and criteria for designation as a community mental health facility and for designation
106 as an alcohol and drug abuse facility. Such mental health services shall include:

107 (a) Outpatient mental health services including preventive, diagnostic, therapeutic,
108 rehabilitative, and palliative interventions rendered to individuals in an individual or group
109 setting by a mental health professional in accordance with a plan of treatment appropriately
110 established, implemented, monitored, and revised under the auspices of a therapeutic team as a
111 part of client services management;

112 (b) Clinic mental health services including preventive, diagnostic, therapeutic,
113 rehabilitative, and palliative interventions rendered to individuals in an individual or group
114 setting by a mental health professional in accordance with a plan of treatment appropriately
115 established, implemented, monitored, and revised under the auspices of a therapeutic team as a
116 part of client services management;

117 (c) Rehabilitative mental health and alcohol and drug abuse services including home and
118 community-based preventive, diagnostic, therapeutic, rehabilitative, and palliative interventions
119 rendered to individuals in an individual or group setting by a mental health or alcohol and drug
120 abuse professional in accordance with a plan of treatment appropriately established,
121 implemented, monitored, and revised under the auspices of a therapeutic team as a part of client
122 services management. As used in this section, mental health professional and alcohol and drug
123 abuse professional shall be defined by the department of mental health pursuant to duly
124 promulgated rules. With respect to services established by this subdivision, the department of
125 social services, MO HealthNet division, shall enter into an agreement with the department of
126 mental health. Matching funds for outpatient mental health services, clinic mental health
127 services, and rehabilitation services for mental health and alcohol and drug abuse shall be
128 certified by the department of mental health to the MO HealthNet division. The agreement shall

129 establish a mechanism for the joint implementation of the provisions of this subdivision. In
130 addition, the agreement shall establish a mechanism by which rates for services may be jointly
131 developed;

132 (16) Such additional services as defined by the MO HealthNet division to be furnished
133 under waivers of federal statutory requirements as provided for and authorized by the federal
134 Social Security Act (42 U.S.C. Section 301, et seq.) subject to appropriation by the general
135 assembly;

136 (17) The services of an advanced practice registered nurse with a collaborative practice
137 agreement to the extent that such services are provided in accordance with chapters 334 and 335,
138 and regulations promulgated thereunder;

139 (18) Nursing home costs for participants receiving benefit payments under subdivision
140 (4) of this subsection to reserve a bed for the participant in the nursing home during the time that
141 the participant is absent due to admission to a hospital for services which cannot be performed
142 on an outpatient basis, subject to the provisions of this subdivision:

143 (a) The provisions of this subdivision shall apply only if:

144 a. The occupancy rate of the nursing home is at or above ninety-seven percent of MO
145 HealthNet certified licensed beds, according to the most recent quarterly census provided to the
146 department of health and senior services which was taken prior to when the participant is
147 admitted to the hospital; and

148 b. The patient is admitted to a hospital for a medical condition with an anticipated stay
149 of three days or less;

150 (b) The payment to be made under this subdivision shall be provided for a maximum of
151 three days per hospital stay;

152 (c) For each day that nursing home costs are paid on behalf of a participant under this
153 subdivision during any period of six consecutive months such participant shall, during the same
154 period of six consecutive months, be ineligible for payment of nursing home costs of two
155 otherwise available temporary leave of absence days provided under subdivision (5) of this
156 subsection; and

157 (d) The provisions of this subdivision shall not apply unless the nursing home receives
158 notice from the participant or the participant's responsible party that the participant intends to
159 return to the nursing home following the hospital stay. If the nursing home receives such
160 notification and all other provisions of this subsection have been satisfied, the nursing home shall
161 provide notice to the participant or the participant's responsible party prior to release of the
162 reserved bed;

163 (19) Prescribed medically necessary durable medical equipment. An electronic web-
164 based prior authorization system using best medical evidence and care and treatment guidelines
165 consistent with national standards shall be used to verify medical need;

166 (20) Hospice care. As used in this subdivision, the term "hospice care" means a
167 coordinated program of active professional medical attention within a home, outpatient and
168 inpatient care which treats the terminally ill patient and family as a unit, employing a medically
169 directed interdisciplinary team. The program provides relief of severe pain or other physical
170 symptoms and supportive care to meet the special needs arising out of physical, psychological,
171 spiritual, social, and economic stresses which are experienced during the final stages of illness,
172 and during dying and bereavement and meets the Medicare requirements for participation as a
173 hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO
174 HealthNet division to the hospice provider for room and board furnished by a nursing home to
175 an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement
176 which would have been paid for facility services in that nursing home facility for that patient,
177 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget
178 Reconciliation Act of 1989);

179 (21) Prescribed medically necessary dental services. Such services shall be subject to
180 appropriations. An electronic web-based prior authorization system using best medical evidence
181 and care and treatment guidelines consistent with national standards shall be used to verify
182 medical need;

183 (22) Prescribed medically necessary optometric services. Such services shall be subject
184 to appropriations. An electronic web-based prior authorization system using best medical
185 evidence and care and treatment guidelines consistent with national standards shall be used to
186 verify medical need;

187 (23) Blood clotting products-related services. For persons diagnosed with a bleeding
188 disorder, as defined in section 338.400, reliant on blood clotting products, as defined in section
189 338.400, such services include:

190 (a) Home delivery of blood clotting products and ancillary infusion equipment and
191 supplies, including the emergency deliveries of the product when medically necessary;

192 (b) Medically necessary ancillary infusion equipment and supplies required to administer
193 the blood clotting products; and

194 (c) Assessments conducted in the participant's home by a pharmacist, nurse, or local
195 home health care agency trained in bleeding disorders when deemed necessary by the
196 participant's treating physician;

197 (24) The MO HealthNet division shall, by January 1, 2008, and annually thereafter,
198 report the status of MO HealthNet provider reimbursement rates as compared to one hundred

199 percent of the Medicare reimbursement rates and compared to the average dental reimbursement
200 rates paid by third-party payors licensed by the state. The MO HealthNet division shall, by July
201 1, 2008, provide to the general assembly a four-year plan to achieve parity with Medicare
202 reimbursement rates and for third-party payor average dental reimbursement rates. Such plan
203 shall be subject to appropriation and the division shall include in its annual budget request to the
204 governor the necessary funding needed to complete the four-year plan developed under this
205 subdivision.

206 2. Additional benefit payments for medical assistance shall be made on behalf of those
207 eligible needy children, pregnant women and blind persons with any payments to be made on the
208 basis of the reasonable cost of the care or reasonable charge for the services as defined and
209 determined by the MO HealthNet division, unless otherwise hereinafter provided, for the
210 following:

211 (1) Dental services;

212 (2) Services of podiatrists as defined in section 330.010;

213 (3) Optometric services as [defined] **described** in section 336.010;

214 (4) Orthopedic devices or other prosthetics, including eye glasses, dentures, hearing aids,
215 and wheelchairs;

216 (5) Hospice care. As used in this subdivision, the term "hospice care" means a
217 coordinated program of active professional medical attention within a home, outpatient and
218 inpatient care which treats the terminally ill patient and family as a unit, employing a medically
219 directed interdisciplinary team. The program provides relief of severe pain or other physical
220 symptoms and supportive care to meet the special needs arising out of physical, psychological,
221 spiritual, social, and economic stresses which are experienced during the final stages of illness,
222 and during dying and bereavement and meets the Medicare requirements for participation as a
223 hospice as are provided in 42 CFR Part 418. The rate of reimbursement paid by the MO
224 HealthNet division to the hospice provider for room and board furnished by a nursing home to
225 an eligible hospice patient shall not be less than ninety-five percent of the rate of reimbursement
226 which would have been paid for facility services in that nursing home facility for that patient,
227 in accordance with subsection (c) of Section 6408 of P.L. 101-239 (Omnibus Budget
228 Reconciliation Act of 1989);

229 (6) Comprehensive day rehabilitation services beginning early posttrauma as part of a
230 coordinated system of care for individuals with disabling impairments. Rehabilitation services
231 must be based on an individualized, goal-oriented, comprehensive and coordinated treatment
232 plan developed, implemented, and monitored through an interdisciplinary assessment designed
233 to restore an individual to optimal level of physical, cognitive, and behavioral function. The MO
234 HealthNet division shall establish by administrative rule the definition and criteria for

235 designation of a comprehensive day rehabilitation service facility, benefit limitations and
236 payment mechanism. Any rule or portion of a rule, as that term is defined in section 536.010,
237 that is created under the authority delegated in this subdivision shall become effective only if it
238 complies with and is subject to all of the provisions of chapter 536 and, if applicable, section
239 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the
240 general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove
241 and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority
242 and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

243 3. The MO HealthNet division may require any participant receiving MO HealthNet
244 benefits to pay part of the charge or cost until July 1, 2008, and an additional payment after July
245 1, 2008, as defined by rule duly promulgated by the MO HealthNet division, for all covered
246 services except for those services covered under subdivisions (14) and (15) of subsection 1 of
247 this section and sections 208.631 to 208.657 to the extent and in the manner authorized by Title
248 XIX of the federal Social Security Act (42 U.S.C. Section 1396, et seq.) and regulations
249 thereunder. When substitution of a generic drug is permitted by the prescriber according to
250 section 338.056, and a generic drug is substituted for a name-brand drug, the MO HealthNet
251 division may not lower or delete the requirement to make a co-payment pursuant to regulations
252 of Title XIX of the federal Social Security Act. A provider of goods or services described under
253 this section must collect from all participants the additional payment that may be required by the
254 MO HealthNet division under authority granted herein, if the division exercises that authority,
255 to remain eligible as a provider. Any payments made by participants under this section shall be
256 in addition to and not in lieu of payments made by the state for goods or services described
257 herein except the participant portion of the pharmacy professional dispensing fee shall be in
258 addition to and not in lieu of payments to pharmacists. A provider may collect the co-payment
259 at the time a service is provided or at a later date. A provider shall not refuse to provide a service
260 if a participant is unable to pay a required payment. If it is the routine business practice of a
261 provider to terminate future services to an individual with an unclaimed debt, the provider may
262 include uncollected co-payments under this practice. Providers who elect not to undertake the
263 provision of services based on a history of bad debt shall give participants advance notice and
264 a reasonable opportunity for payment. A provider, representative, employee, independent
265 contractor, or agent of a pharmaceutical manufacturer shall not make co-payment for a
266 participant. This subsection shall not apply to other qualified children, pregnant women, or blind
267 persons. If the Centers for Medicare and Medicaid Services does not approve the MO HealthNet
268 state plan amendment submitted by the department of social services that would allow a provider
269 to deny future services to an individual with uncollected co-payments, the denial of services shall

270 not be allowed. The department of social services shall inform providers regarding the
271 acceptability of denying services as the result of unpaid co-payments.

272 4. The MO HealthNet division shall have the right to collect medication samples from
273 participants in order to maintain program integrity.

274 5. Reimbursement for obstetrical and pediatric services under subdivision (6) of
275 subsection 1 of this section shall be timely and sufficient to enlist enough health care providers
276 so that care and services are available under the state plan for MO HealthNet benefits at least to
277 the extent that such care and services are available to the general population in the geographic
278 area, as required under subparagraph (a)(30)(A) of 42 U.S.C. Section 1396a and federal
279 regulations promulgated thereunder.

280 6. Beginning July 1, 1990, reimbursement for services rendered in federally funded
281 health centers shall be in accordance with the provisions of subsection 6402(c) and Section 6404
282 of P.L. 101-239 (Omnibus Budget Reconciliation Act of 1989) and federal regulations
283 promulgated thereunder.

284 7. Beginning July 1, 1990, the department of social services shall provide notification
285 and referral of children below age five, and pregnant, breast-feeding, or postpartum women who
286 are determined to be eligible for MO HealthNet benefits under section 208.151 to the special
287 supplemental food programs for women, infants and children administered by the department
288 of health and senior services. Such notification and referral shall conform to the requirements
289 of Section 6406 of P.L. 101-239 and regulations promulgated thereunder.

290 8. Providers of long-term care services shall be reimbursed for their costs in accordance
291 with the provisions of Section 1902 (a)(13)(A) of the Social Security Act, 42 U.S.C. Section
292 1396a, as amended, and regulations promulgated thereunder.

293 9. Reimbursement rates to long-term care providers with respect to a total change in
294 ownership, at arm's length, for any facility previously licensed and certified for participation in
295 the MO HealthNet program shall not increase payments in excess of the increase that would
296 result from the application of Section 1902 (a)(13)(C) of the Social Security Act, 42 U.S.C.
297 Section 1396a (a)(13)(C).

298 10. The MO HealthNet division[,] may enroll qualified residential care facilities and
299 assisted living facilities, as defined in chapter 198, as MO HealthNet personal care providers.

300 11. Any income earned by individuals eligible for certified extended employment at a
301 sheltered workshop under chapter 178 shall not be considered as income for purposes of
302 determining eligibility under this section.

303 12. If the Missouri Medicaid audit and compliance unit changes any interpretation or
304 application of the requirements for reimbursement for MO HealthNet services from the
305 interpretation or application that has been applied previously by the state in any audit of a MO

306 HealthNet provider, the Missouri Medicaid audit and compliance unit shall notify all affected
307 MO HealthNet providers five business days before such change shall take effect. Failure of the
308 Missouri Medicaid audit and compliance unit to notify a provider of such change shall entitle the
309 provider to continue to receive and retain reimbursement until such notification is provided and
310 shall waive any liability of such provider for recoupment or other loss of any payments
311 previously made prior to the five business days after such notice has been sent. Each provider
312 shall provide the Missouri Medicaid audit and compliance unit a valid email address and shall
313 agree to receive communications electronically. The notification required under this section
314 shall be delivered in writing by the United States Postal Service or electronic mail to each
315 provider.

316 13. Nothing in this section shall be construed to abrogate or limit the department's
317 statutory requirement to promulgate rules under chapter 536.

318 **14. Beginning July 1, 2016, and subject to appropriations, providers of behavioral,**
319 **social, and psychophysiological services for the prevention, treatment, or management of**
320 **physical health problems shall be reimbursed utilizing the behavior assessment and**
321 **intervention reimbursement codes 96150 to 96154 or their successor codes under the**
322 **Current Procedural Terminology (CPT) coding system. Providers eligible for such**
323 **reimbursement shall include psychologists.**

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

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

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

7 **2. Reimbursement for the use of asynchronous store-and-forward technology in the**
8 **practice of telehealth in the MO HealthNet program shall only be allowed for orthopedics,**
9 **dermatology, ophthalmology and optometry, in cases of diabetic retinopathy, burn and**
10 **wound care, dental services which require a diagnosis, and maternal-fetal medicine**
11 **ultrasounds.**

12 [2.] **3.** The department of social services, in consultation with the departments of mental
13 health and health and senior services, shall promulgate rules governing the practice of telehealth
14 in the MO HealthNet program. Such rules shall address, but not be limited to, appropriate
15 standards for the use of telehealth, certification of agencies offering telehealth, and payment for
16 services by providers. Telehealth providers shall be required to obtain [patient] **participant**
17 consent before telehealth services are initiated and to ensure confidentiality of medical
18 information.

19 [3.] 4. Telehealth may be utilized to service individuals who are qualified as MO
20 HealthNet participants under Missouri law. Reimbursement for such services shall be made in
21 the same way as reimbursement for in-person contacts.

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

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

9 (2) "Asynchronous store-and-forward technology", cameras or other recording
10 devices that store images which 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 participant 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 MO HealthNet participant receiving services
23 and such participant's treating provider are both physically located;

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

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

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

30 (a) Evaluates a participant;

31 (b) Determines the need for a consultation;

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

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

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

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

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

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

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

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

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

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

55

56 Telehealth providers using asynchronous store-and-forward technology shall be required
57 to obtain participant consent before asynchronous store-and-forward services are initiated
58 and to ensure confidentiality of medical information.

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

63 4. The standard of care for the use of asynchronous store-and-forward technology
64 in the practice of telehealth shall be the same as the standard of care for services provided
65 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 in the MO HealthNet program utilizing asynchronous store-
4 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 expertise
9 in telehealth;

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

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

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

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

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

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

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

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

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

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

32 6. Any rule or portion of a rule, as that term is defined in section 536.010, that is
33 created under the authority delegated in this section shall become effective only if it
34 complies with and is subject to all of the provisions of chapter 536 and, if applicable,
35 section 536.028. This section and chapter 536 are nonseverable, and if any of the powers
36 vested with the general assembly pursuant to chapter 536 to review, to delay the effective
37 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the

38 grant of rule making authority and any rule proposed or adopted after August 28, 2016,
39 shall be invalid and void.

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

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

208.677. 1. For purposes of the provision of telehealth services in the MO
2 HealthNet program, the term "originating site" shall mean a telehealth site where the MO
3 HealthNet participant receiving the telehealth service is located for the encounter. The
4 standard of care in the practice of telehealth shall be the same as the standard of care for
5 services provided in person. 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**
18 **the children’s division. Facilities shall have multiple campuses and have the ability to**
19 **adhere to technology requirements. Only Missouri licensed psychiatrists, licensed**
20 **psychologists, or provisionally licensed psychologists, and advanced practice registered**
21 **nurses who are enrolled MO HealthNet providers shall be consulting providers at these**
22 **locations;**

23 **(13) A comprehensive substance treatment and rehabilitation (CSTAR) program;**

24 **(14) A school;**

25 **(15) The MO HealthNet recipient's home;**

26 **(16) A clinical designated area in a pharmacy; or**

27 **(17) A child assessment center as described in section 210.001.**

28 **2. If the originating site is a school, the school shall obtain permission from the**
29 **parent or guardian of any student receiving telehealth services prior to each provision of**
30 **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 participant’s health and transmission of the data to a health call center accredited by**
6 **the Utilization Review Accreditation Commission (URAC).**

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;**
28 **g. A documented history of care access challenges; or**
29 **h. A documented history of consistently missed appointments with health care**
30 **providers;**

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

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

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

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

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

47 **6. The department shall promulgate rules and regulations to implement the**
48 **provisions of this section. Any rule or portion of a rule, as that term is defined in section**
49 **536.010, that is created under the authority delegated in this section shall become effective**
50 **only if it complies with and is subject to all of the provisions of chapter 536 and, if**
51 **applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of**
52 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**
53 **the effective date, or to disapprove and annul a rule are subsequently held**
54 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**
55 **after August 28, 2016, shall be invalid and void.**

334.108. 1. Prior to prescribing any drug, controlled substance, or other treatment
2 through telemedicine, as defined in section 191.1145, or the internet, a physician shall establish

3 a valid physician-patient relationship **as described in section 191.1146**. This relationship shall
4 include:

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

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

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

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

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

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

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

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

19 (3) Home health services provided by a home health agency as defined in section
20 197.400;

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

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

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

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

27 [(7)] (8) On-call or cross-coverage situations.

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

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

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

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

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

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

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

5. Under section 23.253 of the Missouri sunset act:

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

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

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

Section B. Because immediate action is necessary to ensure the provision of health care services for and the well-being of Missouri citizens, the enactment of sections 9.154, 191.594, 191.596, 191.1145, and 208.152 of this act is deemed necessary for the immediate preservation

4 of the public health, welfare, peace and safety, and is hereby declared to be an emergency act
5 within the meaning of the constitution, and the enactment of sections 9.154, 191.594, 191.596,
6 191.1145, and 208.152 of this act shall be in full force and effect upon its passage and approval.

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