

THE FLORIDA SENATE
2019 SUMMARY OF LEGISLATION PASSED
Committee on Health Policy

CS/CS/HB 23 — Telehealth

by Health and Human Services Committee; Ways and Means Committee; and Rep. Yarborough and others (CS/SB 1526 by Appropriations Committee and Senator Harrell)

The bill establishes a regulatory framework for telehealth under a new section of law, s. 456.47, F.S., including the following components:

- Establishing standards of practice for telehealth providers;
- Creating a registration process and requirements for out-of-state telehealth providers;
- Authorizing the prescribing of controlled substances in certain situations by telehealth;
- Providing record-keeping requirements for providers;
- Requiring the Department of Health (DOH) to create and maintain an informational website of out-of-state registered telehealth providers;
- Authorizing a disciplinary process for registered out-of-state telehealth providers;
- Establishing venue requirements for a civil or administrative action initiated by DOH, the appropriate health practitioner regulatory board, or a patient who receives telehealth services from an out-of-state telehealth provider;
- Providing rulemaking authority to administer these new requirements; and
- Creating insurance and health maintenance organization (HMO) contracting requirements relating to the voluntary acceptance of payment rates for telehealth services to ensure that telehealth providers are aware of the reimbursement provisions through initialing any specific telehealth payment terms, if different from in-person services, effective January 1, 2020.

The bill defines telehealth as the use of synchronous or asynchronous telecommunication technology to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of a medical data; patient and professional health-related education; public health services; and health administration. The definition does not include audio-only telephone call, e-mail messages, or facsimile transmissions.

The DOH is required to publish specific information about all out-of-state registrants via a public website. The required information includes the following information for each registrant:

- Name;
- Health care occupation;
- Completed health care training and education, including completion dates and any dates and certificates or degrees obtained;
- Out-of-state health care license with the license number;
- Florida telehealth provider registration number;
- Specialty;
- Board certification;
- Five-year disciplinary history, including sanctions and board actions;

- Medical malpractice insurance provider and policy limits, including whether the policy covers claims that arise in this state; and
- Name and address of the provider's registered agent designated for service of process in this state.

The definition of a telehealth provider includes any individual who provides health care and related services using telehealth and who is licensed or certified under one of 27 professions or occupations or is a member of a multi-state health care licensure compact of which Florida is a member state.

Disciplinary action against an out-of-state telehealth registrant will be taken by the appropriate board, or the DOH if there is no board. Action may be taken if the registrant:

- Fails to notify the appropriate entity of any adverse actions taken against his or her license;
- Has restrictions placed on or disciplinary action taken against his or her license in any state or jurisdiction;
- Violates any of the requirements of the telehealth provider statutory provisions; or
- Commits any act that constitutes grounds for disciplinary action under s. 456.072(1), F.S., the general provisions for discipline with penalties and enforcement.

The bill creates mechanisms for discipline of a telehealth provider registrant which may include a suspension or revocation of his or her registration or issuance of a reprimand or letter of concern. A corrective action plan could also be issued with a suspension which could require successful completion before reinstatement based on the rules that may be adopted by the respective board or the DOH. Florida-licensed providers who deliver medical services through telehealth are still subject to the review and discipline of their respective professional or occupational boards or the DOH through their Florida license.

The bill also directs the DOH to conduct an annual review of registration fees collected under the bill and determine the sufficiency of the fees for DOH and the boards to implement s. 456.47, F.S. A separate fee bill, HB 7067, imposes an initial out-of-state telehealth provider registration fee of \$150 and a biennial renewal fee of \$150.

For state fiscal year 2019-2020, \$261,389 in recurring funds and \$15,000 in non-recurring funds are appropriated from the Medical Quality Assurance Trust Fund and four full-time equivalent positions with an associated salary rate of \$145,870, are authorized for the implementation of the bill.

If approved by the Governor, these provisions take effect July 1, 2019, except as otherwise provided.

Vote: Senate 30-9; House 113-0