Florida House of Representatives - 2000

CS/HB 1953

By the Committees on Health Care Licensing & Regulation, Health Care Licensing & Regulation and Representatives Fasano and Kyle

1	A bill to be entitled
2	An act relating to telehealth; creating s.
3	455.5641, F.S.; providing legislative findings
4	and intent; requiring separate licensure to
5	provide telehealth services to patients in this
6	state; providing that telehealth licensure
7	requirements and responsibilities shall be
8	identical to those provided for full licensure
9	in the applicable profession; requiring certain
10	information to be provided in all telehealth
11	communications; providing responsibility for
12	confidentiality of medical records; providing
13	for prosecution of unlicensed and other
14	criminal activity; authorizing certain
15	consultative services without a license;
16	requiring licensure to order out-of-state
17	electronic communications diagnostic-imaging or
18	treatment services for persons in this state;
19	providing exemption from telehealth licensure
20	for registered nonresident pharmacies and their
21	employees; providing applicability to
22	regulation of Florida licensees; providing
23	rulemaking authority; amending s. 766.102,
24	F.S.; authorizing the bringing of telehealth
25	malpractice actions in this state regardless of
26	provider location; providing an effective date.
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28	Be It Enacted by the Legislature of the State of Florida:
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30	Section 1. Section 455.5641, Florida Statutes, is
31	created to read:
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1	455.5641 Telehealth; findings and intent; licensure
2	(1) The Legislature finds that there is a great and
3	recognizable potential for harm if persons without the
4	appropriate level of education, training, experience,
5	supervision, and competence are allowed to provide health care
6	services to the people of this state. The potential for harm
7	could arise through substandard care or fraud, or both. The
8	Legislature further finds that there is a compelling state
9	interest in protecting the health, safety, and welfare of the
10	public from incompetent, impaired, or unscrupulous
11	practitioners and that no less restrictive means are available
12	to effectively protect the public than through licensure in
13	this state. Therefore, it is the intent of the Legislature
14	that the use of untested, ineffective, and potentially harmful
15	health care services be prohibited and that the delivery of
16	all health care services to the people of this state be
17	regulated through the licensure of health care practitioners.
18	(2) The Legislature finds that the methods for
19	delivering health care services to the people of this state
20	are rapidly changing due to advances in technology and
21	telecommunications. However, the Legislature finds that the
22	compelling state interest in protecting the public health,
23	safety, and welfare exists regardless of the method of
24	communication or the method of delivery of services.
25	Therefore, it is the intent of the Legislature that all health
26	care practitioners providing health care services to the
27	people of this state should be regulated in a similar manner
28	regardless of the method of communication or the method of
29	delivery of services.
30	(3) Persons who wish to provide health care services
31	to patients located in this state must apply to the
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appropriate regulatory board, or the department when there is 1 2 no board, for a Florida telehealth license and subsequently for renewal of such license. The requirements for an initial 3 telehealth license and subsequent renewal of such license 4 5 shall be identical to the requirements for full licensure as б set forth in the appropriate practice act in this state for 7 the applicable profession, including requirements such as 8 profiling, credentialing, informed consent, and financial 9 responsibility and malpractice insurance. Telehealth licensees must comply with all Florida laws and rules regulating the 10 11 practice of that profession. 12 (4) All telehealth communications, including, but not 13 limited to, Internet web sites, advertisements, e-mail, and 14 other offers to provide health care services to the people of this state, must clearly identify the practitioner's Florida 15 16 license number and must include a disclaimer which clearly 17 states that only Florida-licensed health care practitioners may provide health care services directly to persons located 18 19 in this state. The disclaimer must also include the 20 department's mailing and Internet addresses. It is the 21 responsibility of the health care practitioner to ensure the 22 confidentiality of electronic medical records as required by the laws of this state. 23 24 (5) The provision of telehealth services to patients 25 in this state without holding an active Florida license to 26 practice that profession may be prosecuted as unlicensed 27 activity in accordance with this chapter. In addition, any act 28 performed through telehealth communication that would 29 constitute a criminal violation if performed physically in this state may be prosecuted under Florida law as if the crime 30 were physically carried out in this state. 31

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1	(6) Notwithstanding any other provision of law to the
2	contrary, persons holding a valid, active license to practice
3	in another jurisdiction may provide episodic consultative
4	services to a Florida licensee without being licensed in this
5	state so long as the out-of-state practitioner does not
6	exercise primary authority for the care or diagnosis of the
7	Florida patient.
8	(7) Only practitioners licensed in this state or
9	otherwise authorized to practice in this state may order, from
10	a person located outside this state, electronic communications
11	diagnostic-imaging or treatment services for a person located
12	in this state.
13	(8) The provisions of subsection (3) do not apply to
14	nonresident pharmacies registered pursuant to s. 465.0156 or
15	the employees thereof.
16	(9) Nothing in this section shall be construed to
17	prohibit or limit the board, or the department when there is
18	no board, from regulating Florida licensees regardless of the
19	location of the patient.
20	(10) The board, or the department when there is no
21	board, may adopt rules pursuant to ss. 120.536(1) and 120.54
22	necessary to administer this section.
23	Section 2. Subsection (7) is added to section 766.102,
24	Florida Statutes, to read:
25	766.102 Medical negligence; standards of recovery
26	(7) If the injury or death is alleged to have resulted
27	from health care provided to a patient located in this state
28	through means of telecommunications, the action for recovery
29	of damages may be brought in this state regardless of the
30	location of the provider alleged to have caused the injury.
31	Section 3. This act shall take effect July 1, 2000.
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