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LEGISLATIVE ACTION

Senate

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House

The Committee on Health Policy (Galvano) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 456.4501, Florida Statutes, is created
to read:

456.4501 Short title.—Sections 465.4501-465.4506 may be
cited as the "Florida Telemedicine Act."



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9 Section 2. Section 456.4502, Florida Statutes, is created
10 to read:

11 456.4502 Definitions.—As used in this act, the term:

12 (1) "Act" means the Florida Telemedicine Act.

13 (2) "Advanced communications technology" means:

14 (a) Compressed digital interactive video, audio, or data
15 transmissions;

16 (b) Real-time synchronous video- or web-conferencing
17 communications;

18 (c) Secure web-based communications;

19 (d) Still-image capture or asynchronous store and forward;

20 (e) Health care service transmissions supported by mobile
21 devices (mHealth); or

22 (f) Other technology that facilitates access to health care
23 services or medical specialty expertise.

24 (3) "Distant site" means the location at which the
25 telemedicine provider delivering the health care service is
26 located at the time the service is provided via telemedicine.

27 (4) "Encounter" means an examination, consultation,
28 monitoring, or other health care service.

29 (5) "Health care provider" means a health care practitioner
30 or out-of-state licensed individual who provides health care
31 services within the scope of his or her professional license.

32 (6) "In person" means that a patient is in the physical
33 presence of the health care provider without regard to whether
34 portions of the encounter are conducted by other providers.

35 (7) "Originating site" means the location of the patient
36 receiving telemedicine services which site meets the standards
37 of this act as verified by the telemedicine provider.



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38 (8) "Patient presenter" means an individual who has
39 clinical background training in the use of advanced
40 communications technology equipment and who is available at the
41 originating site to present the patient, manage the cameras or
42 equipment, and perform any hands-on activity necessary to
43 successfully complete the telemedicine encounter under the
44 direction and supervision of a telemedicine provider.

45 (9) "Store and forward" means the type of telemedicine
46 encounter that uses still digital images of patient data for
47 rendering a medical opinion or diagnosis. The term includes the
48 asynchronous transmission of clinical data from one site to
49 another.

50 (10) "Telehealth" means the use of advanced communications
51 technology to provide access to health assessment, diagnosis,
52 intervention, consultation, supervision, and information across
53 distances. The term includes the use of remote patient
54 monitoring devices that are used to collect and transmit data
55 for telemonitoring and interpretation.

56 (11) "Telemedicine" means the use of advanced
57 communications technology by a health care provider or by a
58 health care provider acting under an appropriate delegation or
59 supervision as may be required by the appropriate board, or the
60 department if there is no board, to provide a health care
61 service. Services provided through telemedicine may include
62 patient assessment, diagnosis, consultation, treatment,
63 prescription of medicine, transfer of medical data, or other
64 medical-related services. The term does not include audio-only
65 calls, e-mail messages, or facsimile transmissions. Telemedicine
66 includes telehealth and telemonitoring.



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67 (12) "Telemedicine provider" means a health care
68 practitioner who provides telemedicine services, or an out-of-
69 state health care provider who provides telemedicine services to
70 a patient physically located in this state and who meets the
71 requirements of s. 456.4503, as applicable.

72 Section 3. Section 456.4503, Florida Statutes, is created
73 to read:

74 456.4503 Telemedicine requirements.—

75 (1) An out-of-state health care provider who provides
76 telemedicine across state lines to a patient physically located
77 in this state must have a Florida license to practice a health
78 care profession, except as provided under subsection (2).

79 (2) An out-of-state physician who does not meet the
80 requirements of subsection (1) may provide telemedicine services
81 across state lines to patients located in this state if the
82 physician:

83 (a) Holds an unrestricted active license to practice
84 allopathic or osteopathic medicine in the state of the distant
85 site and that state's licensure requirements meet or exceed
86 those of this state under chapter 458 or chapter 459, as
87 determined by the appropriate board;

88 (b) Maintains professional liability coverage that includes
89 coverage for telemedicine services, in an amount and manner
90 consistent with s. 458.320 and appropriate to the physician's
91 scope of practice and location;

92 (c) Has at least one of the following:

93 1. Privileges at or is on the medical staff of an out-of-
94 state hospital that is a certified Medicare provider;

95 2. Affiliation with an out-of-state health insurer or



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96 health plan that is also licensed in this state and that uses
97 credentialing requirements that are equivalent to those used in
98 this state; and

99 (d) Practices in a state that allows Florida-licensed
100 physicians to provide telemedicine services to patients located
101 in that state without having to be licensed to practice medicine
102 in that state.

103 (3) An out-of-state physician provider authorized under
104 subsection (2) to provide telemedicine services to patients in
105 this state is subject to appropriate disciplinary action by a
106 regulatory entity in this state which has regulatory
107 jurisdiction over the hospital, insurer, or health plan
108 affiliated with the physician as described in paragraph (2)(c).
109 Such affiliated hospital, insurer, or health plan shall be held
110 responsible by the appropriate state regulatory entities and
111 other legal and regulatory authorities in this state, as
112 applicable, for the actions of their affiliated physician
113 providers providing telemedicine services to patients in this
114 state.

115 (4) The telemedicine provider and any affiliated hospital,
116 insurer, or health plan described under paragraph (2)(c), if
117 applicable, shall make any pertinent records available upon
118 request of the board, the department, or other regulatory
119 authority as applicable. Failure to comply with such request may
120 result in the revocation of a health care practitioner's license
121 or imposition of a fine by the applicable board, or department
122 if there is no board; or in the case of an affiliated hospital,
123 insurer or health plan, a fine, a license restriction, or
124 revocation of an affiliated entity's authorization to conduct



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125 business in this state.

126 (5) Venue for a civil or administrative action initiated by
127 the telemedicine recipient, the department, or the appropriate
128 board shall be based on the location of the patient or shall be
129 in Leon County.

130 (6) Physician consultations that occur on an emergency
131 basis and that are conducted via telemedicine are exempt from
132 subsections (1) and (2). Emergency services and care provided to
133 relieve an emergency medical condition have the same meaning as
134 defined under s. 395.002.

135 (7) This section does not prohibit consultations between an
136 out-of-state health care provider and a health care practitioner
137 in this state or for the transmission and review of digital
138 images, pathology specimens, test results, or other medical data
139 by an out-of-state health care provider or other qualified
140 providers related to the care of a patient in this state.

141 (8) This section does not preclude a health care provider
142 who acts within the scope of his or her Florida professional
143 license from using the technology of telemedicine within his or
144 her practice or under the direction and supervision of another
145 health care provider whose scope of practice includes the use of
146 such technology. A health care provider or patient presenter
147 acting under the direction and supervision of a physician
148 through the use of telemedicine may not be interpreted as
149 practicing medicine without a license. However, a health care
150 provider must be trained in, educated on, and knowledgeable
151 about the procedure and technology and may not perform duties
152 for which the practitioner does not have sufficient training,
153 education, and knowledge. Failure to have adequate training,



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154 education, and knowledge is grounds for disciplinary action by
155 the appropriate board, or the department if there is no board,
156 or the affiliated regulatory entity for affiliated providers.

157 (9) The boards, or the department if there is no board, may
158 adopt rules to administer the requirements of this act and must
159 repeal rules that are inconsistent with this act, including
160 rules that prohibit the use of telemedicine in this state. The
161 appropriate board, or the department if there is no board, may
162 also develop standards and adopt rules relating to requirements
163 for patient presenters. Such rules may not require the use of
164 patient presenters in telemedicine services if special skills or
165 training is not needed for a patient to participate in the
166 encounter.

167 (10) A health care practitioner who engages in telemedicine
168 services must complete 2 hours of continuing education credit
169 related to the provision of services through telemedicine during
170 each license renewal period.

171 Section 4. Section 456.4504, Florida Statutes, is created
172 to read:

173 456.4504 Telemedicine standards.—

174 (1) The standard of care as provided in s. 766.102 is the
175 same regardless of whether a health care provider provides
176 health care services in person or by telemedicine. The
177 applicable board for each health care provider, or the
178 department if there is no board, may adopt rules specifically
179 related to the standard of care for telemedicine.

180 (2) A telemedicine provider providing telemedicine services
181 under this act is responsible for the quality of the equipment
182 and technology employed and for its safe use. Telemedicine



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183 equipment and advanced communications technology must, at a
184 minimum, be able to provide the same information to the
185 telemedicine provider as the information that would be obtained
186 in an in-person encounter with a health care provider and enable
187 the telemedicine provider to meet or exceed the prevailing
188 standard of care for the practice of the profession.

189 (3) The telemedicine provider is not required to conduct a
190 patient history or physical examination of the patient before
191 engaging in a telemedicine encounter if the telemedicine
192 provider conducts a patient evaluation sufficient to meet the
193 prevailing standard of care for the services provided.

194 (4) Before each telemedicine encounter, the identification
195 and location of the telemedicine provider and any other
196 individuals present via advanced communications technology who
197 will view the patient or the patient's information must be
198 identified to the patient.

199 (5) For the purposes of this act, the nonemergency
200 prescribing of a legend drug based solely on an electronic
201 questionnaire without a visual examination is considered a
202 failure to practice medicine with the level of care, skill, and
203 treatment which is recognized by a reasonably prudent physician
204 or other authorized practitioner and is not authorized under
205 this act.

206 (6) A controlled substance may not be prescribed through
207 the use of telemedicine.

208 (7) Medical records must be kept by each telemedicine
209 provider that participates in a patient telemedicine encounter
210 to the same extent as required for an in-person encounter under
211 state and federal law. Telemedicine providers are encouraged to



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212 create electronic health records to document the encounter and
213 to transmit information in the most efficient manner possible.

214 (8) Any medical records generated, including records
215 maintained via video, audio, electronic, or other means, due to
216 a telemedicine encounter must conform to the confidentiality and
217 recordkeeping requirements of federal law, nationally recognized
218 health care accreditation organizations, and the laws and rules
219 of this state regardless of where the medical records of a
220 patient in this state are maintained.

221 (9) Telemedicine technology used by a telemedicine provider
222 must be encrypted and must use a recordkeeping program to verify
223 each interaction.

224 (10) In those situations in which a telemedicine provider
225 uses telemedicine technology provided by a third-party vendor,
226 the telemedicine provider must:

227 (a) Require a business associate agreement with the third-
228 party vendor; and

229 (b) Ensure that the third-party vendor complies with the
230 administrative, physical, and technical safeguards and standards
231 set forth by the Health Information Technology for Economic and
232 Clinical Health (HITECH) Act and by federal regulations
233 implemented pursuant to HITECH.

234 (11) If a patient provides any of the telemedicine
235 technology, such as a patient-owned smartphone, tablet, laptop,
236 desktop computer, or video equipment, the telemedicine provider
237 must take steps to ensure that such technology:

238 (a) Complies with the administrative, physical, and
239 technical safeguards set forth by HITECH and by federal
240 regulations implemented pursuant to HITECH; and



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241 (b) Is appropriate for the medical discipline for which the
242 technology is provided.

243 Section 5. Section 456.4505, Florida Statutes, is created
244 to read:

245 456.4505 Interstate compacts for telemedicine.—The
246 Legislature finds that lack of access to high-quality,
247 affordable health care services is an increasing problem, both
248 in this state and nationwide. The Legislature finds that this
249 problem could be alleviated by greater interstate cooperation
250 among, and by the mobility of, health care providers through the
251 use of telemedicine. Therefore, the executive directors of the
252 boards, together with the department, may participate in the
253 development of one or more interstate compacts for the provision
254 of telemedicine services across state lines. The department
255 shall annually submit a report on the status of any pending
256 compacts for legislative consideration to the Governor, the
257 President of the Senate, and the Speaker of the House of
258 Representatives. Any finalized compacts shall be submitted by
259 December 31 for consideration by the Legislature during the next
260 regular legislative session. A compact negotiated or proposed by
261 a board or the department is not valid until enacted by the
262 Legislature.

263 Section 6. Section 456.4506, Florida Statutes, is created
264 to read:

265 456.4506 Telemedicine services under Medicaid.—

266 (1) The Agency for Health Care Administration shall
267 reimburse for Medicaid services provided through telemedicine in
268 the same manner and equivalent to Medicaid services provided in
269 person under parts III and IV of chapter 409, except as provided



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270 in subsection (7).

271 (2) Telemedicine services reimbursed under Medicaid must
272 meet the standards and requirements of this act.

273 (3) Except as provided in subsection (7), the agency may
274 not require in-person contact between a health care provider and
275 Medicaid recipient as a prerequisite for payment for services
276 appropriately provided through telemedicine in accordance with
277 generally accepted health care practices and standards
278 prevailing in the applicable health care community at the time
279 the services are provided.

280 (4) Before receipt of telemedicine services, a Medicaid
281 recipient or the legal representative of a Medicaid recipient
282 must provide informed consent for telemedicine services. A
283 Medicaid recipient shall also be provided the opportunity to
284 receive the same service through an in-person encounter.

285 (5) A Medicaid service that is provided through a fee-for-
286 service or managed care program may not be denied as a
287 creditable Medicaid service solely because that service is
288 provided through telemedicine.

289 (6) Reimbursement of telemedicine services under Medicaid
290 shall be the amount negotiated between the parties involved to
291 the extent permitted under state and federal law. Regardless of
292 the reimbursement methodology or amount, telemedicine providers
293 located at the originating site and the distant site should both
294 receive reimbursement based on the services rendered, if any,
295 during the telemedicine encounter.

296 (7) If, after implementation, the agency determines that
297 the delivery of a particular service through telemedicine is not
298 cost-effective or does not adequately meet the clinical needs of



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299 recipients and the determination has been documented, the agency
300 may discontinue Medicaid reimbursement for that telemedicine
301 service.

302 (8) The agency shall submit a report on the usage and
303 costs, including savings, if any, associated with the provision
304 of health care services through telemedicine under the Medicaid
305 program by January 1, 2017, to the President of the Senate, the
306 Speaker of the House of Representatives, and the minority
307 leaders of the Senate and House of Representatives.

308 (9) This section is repealed June 30, 2017.

309 Section 7. Paragraph (i) is added to subsection (1) of
310 section 458.311, Florida Statutes, to read:

311 458.311 Licensure by examination; requirements; fees.—

312 (1) Any person desiring to be licensed as a physician, who
313 does not hold a valid license in any state, shall apply to the
314 department on forms furnished by the department. The department
315 shall license each applicant who the board certifies:

316 (i) For an applicant who graduates from medical school
317 after October 1, 2015, has completed at least 2 credit hours of
318 medical education related to telemedicine.

319 Section 8. Paragraph (n) is added to subsection (1) of
320 section 459.0055, Florida Statutes, to read:

321 459.0055 General licensure requirements.—

322 (1) Except as otherwise provided herein, any person
323 desiring to be licensed or certified as an osteopathic physician
324 pursuant to this chapter shall:

325 (n) For an applicant who graduates from medical school
326 after October 1, 2015, have completed at least 2 credit hours of
327 medical education related to telemedicine.



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328 Section 9. This act shall take effect October 1, 2014.

329

330 ===== T I T L E A M E N D M E N T =====

331 And the title is amended as follows:

332 Delete everything before the enacting clause

333 and insert:

334 A bill to be entitled

335 An act relating to telemedicine; creating s. 456.4501,

336 F.S.; providing a short title; creating s. 456.4502,

337 F.S.; defining terms applicable to the act; creating

338 s. 456.4503, F.S.; requiring health care providers

339 providing telemedicine services to patients in this

340 state to be licensed in this state; providing

341 alternative requirements for out-of-state physicians;

342 providing for disciplining out-of-state physicians

343 through affiliated entities operating in this state;

344 requiring pertinent records to be made available upon

345 request; establishing venue; providing exceptions for

346 emergency services; providing applicability;

347 authorizing the health care boards and the Department

348 of Health to adopt rules; creating s. 456.4504, F.S.;

349 providing standards and prohibitions for the provision

350 of telemedicine services; creating s. 456.4505, F.S.;

351 providing legislative findings; authorizing the

352 regulatory boards and the department to participate in

353 the development of interstate compacts for the

354 provision of telemedicine services; requiring an

355 annual report to the Governor and the Legislature on

356 the status of such compacts; requiring legislative



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357 enactment of such compacts; creating s. 456.4506,
358 F.S.; providing requirements for reimbursement of
359 telemedicine services under the Medicaid program;
360 requiring a report to the Legislature on the usage and
361 costs of telemedicine in Medicaid by a certain date;
362 providing for future repeal; amending ss. 458.311 and
363 459.0055, F.S.; requiring an applicant for licensure
364 as a physician who graduates after a certain date to
365 complete 2 credit hours of medical education related
366 to telemedicine; providing an effective date.