

A bill to be entitled

An act relating to telehealth; creating s. 456.47, F.S.; defining terms; providing for certain practice standards for telehealth providers; providing for the maintenance and confidentiality of medical records; requiring the registration of health care professionals not licensed in this state in order to use telehealth to deliver health care services; providing registration requirements; prohibiting registrants from opening an office or providing in-person health care services in this state; requiring a registrant to notify the appropriate board or the Department of Health of certain actions against the registrant's professional license; prohibiting a health care professional with a revoked license from being registered as a telehealth provider; providing exemptions to the registration requirement; providing rulemaking authority; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 456.47, Florida Statutes, is created to read:

456.47 Use of telehealth to provide services.-

(1) DEFINITIONS.-As used in this section, the term:

26 (a) "Telehealth" means the use of synchronous or
 27 asynchronous telecommunications technology by a telehealth
 28 provider to provide health care services, including, but not
 29 limited to, patient assessment, diagnosis, consultation,
 30 treatment, monitoring and transfer of medical data, patient and
 31 professional health-related education, public health, and health
 32 administration. The term does not include audio-only telephone
 33 calls, e-mail messages, or facsimile transmissions.

34 (b) "Telehealth provider" means any person who provides
 35 health care and related services using telehealth and who is
 36 licensed under chapter 457; chapter 458; chapter 459; chapter
 37 460; chapter 461; chapter 463; chapter 464; chapter 465; chapter
 38 466; chapter 467; part I, part III, part IV, part V, part X,
 39 part XIII, or part XIV of chapter 468; chapter 478; chapter 480;
 40 part III of chapter 483; chapter 484; chapter 486; chapter 490;
 41 or chapter 491; or who is registered under this section and is
 42 in compliance with paragraph (4) (a).

43 (2) PRACTICE STANDARD.—

44 (a) The standard of care for telehealth providers
 45 providing medical care is the same as the standard of care for
 46 health care professionals providing in-person health care
 47 services to patients. A telehealth provider is not required to
 48 research a patient's medical history or conduct a physical
 49 examination of the patient before using telehealth to provide
 50 services to the patient if the telehealth provider conducts a

51 patient evaluation sufficient to diagnose and treat the patient.
52 The evaluation may be performed using telehealth.

53 (b) A telehealth provider and a patient may each be in any
54 location when telehealth is used to provide health care services
55 to a patient.

56 (c) A nonphysician telehealth provider using telehealth
57 and acting within the relevant scope of practice may not be
58 interpreted as practicing medicine without a license.

59 (3) RECORDS.—A telehealth provider shall document in the
60 patient's medical record the health care services rendered using
61 telehealth according to the same standard as used for in-person
62 services. Medical records, including video, audio, electronic,
63 or other records generated as a result of providing such
64 services, are confidential pursuant to ss. 395.3025(4) and
65 456.057.

66 (4) REGISTRATION OF OUT-OF-STATE TELEHEALTH PROVIDERS.—

67 (a) A health care professional not licensed in this state
68 may provide health care services to a patient located in this
69 state using telehealth if the telehealth provider annually
70 registers with the applicable board, or the department if there
71 is no board.

72 (b) The board, or the department if there is no board,
73 shall register a health care professional as a telehealth
74 provider if the health care professional:

75 1. Completes an application form developed by the
76 department;

77 2. Pays a \$75 registration fee; and

78 3. Holds an active, unencumbered license for a profession
 79 included in paragraph (1) (b) issued by another state, the
 80 District of Columbia, or a possession or territory of the United
 81 States and against whom no disciplinary action has been taken
 82 during the 5 years before submission of the application. The
 83 department shall use the National Practitioner Data Bank to
 84 verify information submitted by an applicant.

85 (c) A health care professional registered under this
 86 section is prohibited from opening an office in this state and
 87 from providing in-person health care services to patients
 88 located in this state.

89 (d) A health care professional registered under this
 90 section must immediately notify the appropriate board, or the
 91 department if there is no board, of restrictions placed on the
 92 health care professional's license to practice, or disciplinary
 93 action taken against the health care professional, in any state
 94 or jurisdiction.

95 (e) A health care professional whose license to provide
 96 health care services has been revoked in any state or
 97 jurisdiction may not register under this section.

98 (5) EXEMPTIONS.—A health care professional who is not
 99 licensed to provide health care services in this state but who
 100 holds an active license to provide health care services in
 101 another state or jurisdiction, and who provides health care
 102 services using telehealth to a patient located in this state, is

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103 not subject to the registration requirement under this section
104 if the services are provided:

105 (a) In response to an emergency medical condition as
106 defined in s. 395.002;

107 (b) No more than 10 times per calendar year; or

108 (c) In consultation with a health care professional
109 licensed in this state and that health care professional retains
110 ultimate authority over the diagnosis and care of the patient.

111 (6) RULEMAKING.—The applicable board, or the department if
112 there is no board, may adopt rules to administer the
113 requirements of this section.

114 Section 2. This act shall take effect July 1, 2014.