

1                   A bill to be entitled  
2           An act relating to telehealth; creating s. 456.47,  
3           F.S.; providing definitions; establishing certain  
4           practice standards for telehealth providers; providing  
5           for the maintenance and confidentiality of medical  
6           records; providing registration requirements for out-  
7           of-state telehealth providers; providing limitations  
8           and notification requirements for out-of-state  
9           telehealth providers; requiring the Department of  
10          Health to publish certain information on its website;  
11          providing for the department to revoke a telehealth  
12          provider's registration under certain circumstances;  
13          providing venue; providing exemptions to the  
14          registration requirement; providing rulemaking  
15          authority; requiring the Agency for Health Care  
16          Administration, the Department of Health, and the  
17          Office of Insurance Regulation to collect certain  
18          information; requiring the agency to report such  
19          information to the Governor and Legislature by a  
20          specified date; providing certain enforcement  
21          authority to each agency; providing for expiration of  
22          the reporting requirement; providing an effective  
23          date.

24  
25   Be It Enacted by the Legislature of the State of Florida:  
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27 Section 1. Section 456.47, Florida Statutes, is created to  
 28 read:

29 456.47 Use of telehealth to provide services.—

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

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

39 (b) "Telehealth provider" means any individual who  
 40 provides health care and related services using telehealth and  
 41 who is licensed under s. 393.17; part III of chapter 401;  
 42 chapter 457; chapter 458; chapter 459; chapter 460; chapter 461;  
 43 chapter 463; chapter 464; chapter 465; chapter 466; chapter 467;  
 44 part I, part III, part IV, part V, part X, part XIII, or part  
 45 XIV of chapter 468; chapter 478; chapter 480; part III of  
 46 chapter 483; chapter 484; chapter 486; chapter 490; or chapter  
 47 491; or who is registered under and complies with subsection  
 48 (4).

49 (2) PRACTICE STANDARD.—

50 (a) The standard of care for telehealth providers who  
 51 provide health care services is the same as the standard of care  
 52 for health care professionals who provide in-person health care

53 services to patients in this state. If the telehealth provider  
54 conducts a patient evaluation sufficient to diagnose and treat  
55 the patient, the telehealth provider is not required to research  
56 a patient's medical history or conduct a physical examination of  
57 the patient before using telehealth to provide services to the  
58 patient. The evaluation may be performed using telehealth.

59 (b) A telehealth provider may not use telehealth to  
60 prescribe a controlled substance to treat chronic nonmalignant  
61 pain, as defined under s. 456.44, unless the controlled  
62 substance is ordered for inpatient treatment at a hospital  
63 licensed under chapter 395, is prescribed for a patient  
64 receiving hospice services, as defined under s. 400.601, or is  
65 prescribed for a resident of a nursing home facility as defined  
66 under s. 400.021(12).

67 (c) A telehealth provider and a patient may each be in any  
68 location when telehealth is used to provide health care services  
69 to a patient.

70 (d) A nonphysician telehealth provider using telehealth  
71 and acting within the relevant scope of practice, as established  
72 by Florida law and rule, is not a violation of s. 458.327(1)(a)  
73 or s. 459.013(1)(a).

74 (3) RECORDS.—A telehealth provider shall document in the  
75 patient's medical record the health care services rendered using  
76 telehealth according to the same standard as used for in-person  
77 services. Medical records, including video, audio, electronic,  
78 or other records generated as a result of providing such

79 services, are confidential pursuant to ss. 395.3025(4) and  
 80 456.057.

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

82 (a) A health care professional not licensed in this state  
 83 may provide health care services to a patient located in this  
 84 state using telehealth if the telehealth provider annually  
 85 registers with the applicable board, or the department if there  
 86 is no board, and provides health care services within the  
 87 relevant scope of practice established by Florida law or rule.

88 (b) The board, or the department if there is no board,  
 89 shall register a health care professional not licensed in this  
 90 state as a telehealth provider if the health care professional:

91 1. Completes an application in the format prescribed by  
 92 the department;

93 2. Pays a \$150 registration fee; and

94 3. Holds an active, unencumbered license for a profession  
 95 listed in paragraph (1) (b) which is issued by another state, the  
 96 District of Columbia, or a possession or territory of the United  
 97 States and against whom no disciplinary action has been taken  
 98 during the 5 years before submission of the application. The  
 99 department shall use the National Practitioner Data Bank to  
 100 verify information submitted by an applicant.

101 (c) A health care professional may not register under this  
 102 subsection if his or her license to provide health care services  
 103 is subject to a pending disciplinary investigation or action, or  
 104 has been revoked in any state or jurisdiction. A health care

105 professional registered under this section must immediately  
106 notify the appropriate board, or the department if there is no  
107 board, of restrictions placed on the health care professional's  
108 license to practice, or disciplinary action taken or pending  
109 against the health care professional, in any state or  
110 jurisdiction.

111 (d) A health care professional registered under this  
112 subsection may not open an office in this state and may not  
113 provide in-person health care services to patients located in  
114 this state.

115 (e) A pharmacist registered under this subsection may only  
116 use a pharmacy permitted under chapter 465, or a nonresident  
117 pharmacy registered under s. 465.0156, to dispense medicinal  
118 drugs to patients located in this state.

119 (f) The department shall publish on its website a list of  
120 all registrants and include, to the extent applicable, each  
121 registrant's:

- 122 1. Name.
- 123 2. Health care occupation.
- 124 3. Completed health care training and education, including  
125 completion dates and any certificates or degrees obtained.
- 126 4. Out-of-state health care license with license number.
- 127 5. Florida telehealth provider registration number.
- 128 6. Specialty.
- 129 7. Board certification.
- 130 8. Five-year disciplinary history, including sanctions and

131 board actions.

132 9. Medical malpractice insurance provider and policy  
133 limits, including whether the policy covers claims which arise  
134 in this state.

135 (g) The department may revoke an out-of-state telehealth  
136 provider's registration if the registrant:

137 1. Fails to immediately notify the department of any  
138 adverse actions taken against his or her license as required  
139 under paragraph (c).

140 2. Has restrictions placed on or disciplinary action taken  
141 against his or her license in any state or jurisdiction.

142 3 . Violates any of the requirements of this section.

143 (5) VENUE.-For the purposes of this section, any act that  
144 constitutes the delivery of health care services is deemed to  
145 occur at the place where the patient is located at the time the  
146 act is performed.

147 (6) EXEMPTIONS.-A health care professional who is not  
148 licensed to provide health care services in this state but who  
149 holds an active license to provide health care services in  
150 another state or jurisdiction, and who provides health care  
151 services using telehealth to a patient located in this state, is  
152 not subject to the registration requirement under this section  
153 if the services are provided:

154 (a) In response to an emergency medical condition as  
155 defined in s. 395.002; or

156 (b) In consultation with a health care professional

157 licensed in this state and that health care professional retains  
158 ultimate authority over the diagnosis and care of the patient.

159 (7) RULEMAKING.—The applicable board, or the department if  
160 there is no board, may adopt rules to administer this section.

161 Section 2. Telehealth utilization and insurance coverage  
162 report.—

163 (1) The Agency for Health Care Administration, the  
164 Department of Health, and the Office of Insurance Regulation  
165 shall, within existing resources, survey health care facilities,  
166 health maintenance organizations, health care practitioners, and  
167 health insurers, respectively, and perform any other research  
168 necessary to collect the following information:

169 (a) The types of health care services provided via  
170 telehealth.

171 (b) The extent to which telehealth is used by health care  
172 practitioners and health care facilities nationally and in the  
173 state.

174 (c) The estimated costs and cost savings to health care  
175 entities, health care practitioners, and the state associated  
176 with using telehealth to provide health care services.

177 (d) Which health care insurers, health maintenance  
178 organizations, and managed care organizations cover health care  
179 services provided to patients in Florida via telehealth, whether  
180 the coverage is restricted or limited, and how such coverage  
181 compares to that insurer's coverage for services provided in  
182 person. The comparison shall at a minimum include:

183 1. Covered medical or other health care services.

184 2. A description of whether payment rates for such  
185 services provided via telehealth are less than, equal to, or  
186 greater than payment rates for such services provided in person.

187 3. Any annual or lifetime dollar maximums on coverage for  
188 services provided via telehealth and in person.

189 4. Any copayments, coinsurance, or deductible amounts, or  
190 policy year, calendar year, lifetime, or other durational  
191 benefit limitation or maximum for benefits or services provided  
192 via telehealth and in person.

193 5. Any conditions imposed for coverage for services  
194 provided via telehealth that are not imposed for coverage for  
195 the same services provided in person.

196 (e) The barriers to using, implementing the use of, or  
197 accessing services via telehealth.

198 (2) The Agency for Health Care Administration shall  
199 compile the surveys and research findings required by this  
200 section and submit a report to the Governor, the President of  
201 the Senate, and the Speaker of the House of Representatives by  
202 June 30, 2018.

203 (3) The Department of Health and the Office of Insurance  
204 Regulation shall submit their survey and research findings to  
205 the agency and shall assist the agency in compiling the  
206 information to prepare the report.

207 (4) The Agency for Health Care Administration, the  
208 Department of Health, and the Office of Insurance Regulation may



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209 assess fines under s. 408.813(2)(d), s. 456.072(2)(d), and s.  
210 624.310(5), respectively, against a health care facility, health  
211 maintenance organization, health care practitioner, and health  
212 insurer for failure to complete the surveys required under this  
213 section.

214 (5) This section expires July 1, 2018.

215 Section 3. This act shall take effect July 1, 2016.