

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 appropriation
23 and authorizing positions; providing an effective
24 date.

25
26 Be It Enacted by the Legislature of the State of Florida:

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

30 456.47 Use of telehealth to provide services.—

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

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

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

49 (4).

50 (2) PRACTICE STANDARD.—

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

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

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

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

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

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

79 or other records generated as a result of providing such
 80 services, are confidential pursuant to ss. 395.3025(4) and
 81 456.057.

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

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

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

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

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

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

102 (c) A health care professional may not register under this
 103 subsection if his or her license to provide health care services
 104 is subject to a pending disciplinary investigation or action, or

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

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

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

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

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

131 8. Five-year disciplinary history, including sanctions and
132 board actions.

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

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

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

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

143 3 . Violates any of the requirements of this section.

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

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

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

157 (b) In consultation with a health care professional
158 licensed in this state and that health care professional retains
159 ultimate authority over the diagnosis and care of the patient.

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

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

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

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

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

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

178 (d) Which health care insurers, health maintenance
179 organizations, and managed care organizations cover health care
180 services provided to patients in Florida via telehealth, whether
181 the coverage is restricted or limited, and how such coverage
182 compares to that insurer's coverage for services provided in

183 person. The comparison shall at a minimum include:

184 1. Covered medical or other health care services.

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

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

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

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

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

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

204 (3) The Department of Health shall survey all health care
205 practitioners, as defined under s. 456.001, Florida Statutes,
206 upon and as a condition of licensure renewal to compile the
207 information required pursuant to this section. The Department of
208 Health and the Office of Insurance Regulation shall submit their

209 survey and research findings to the agency and shall assist the
210 agency in compiling the information to prepare the report.

211 (4) The Agency for Health Care Administration, the
212 Department of Health, and the Office of Insurance Regulation may
213 assess fines under ss. 408.813(2)(d), 456.072(2)(d), and
214 624.310(5), Florida Statutes, respectively, against a health
215 care facility, health maintenance organization, health care
216 practitioner, and health insurer for failure to complete the
217 surveys required under this section.

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

219 Section 3. For the 2016-2017 fiscal year, the sums of
220 \$261,389 in recurring funds and \$15,528 in nonrecurring funds
221 from the Medical Quality Assurance Trust Fund are appropriated
222 to the Department of Health, and four full-time equivalent
223 positions with associated salary rate of 145,870 are authorized,
224 for the purpose of implementing this act.

225 Section 4. This act shall take effect July 1, 2016.