

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 authorizing a board or the department if there is no
12 board, to revoke a telehealth provider's registration
13 under certain circumstances; providing venue;
14 providing exemptions to the registration requirement;
15 providing rulemaking authority; amending s. 636.202,
16 F.S.; revising the definition of the term "discount
17 medical plan" to exclude certain products; requiring
18 the Agency for Health Care Administration, the
19 Department of Health, and the Office of Insurance
20 Regulation to collect certain information; requiring
21 the agency to report such information to the Governor
22 and Legislature by a specified date; providing certain
23 enforcement authority to each agency; providing for
24 expiration of the reporting requirement; providing an
25 appropriation and authorizing positions; providing an
26 effective date.

27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52

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:

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

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

(4) .

(2) PRACTICE STANDARD.-

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

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

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

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

77 (3) RECORDS.—A telehealth provider shall document in the
78 patient's medical record the health care services rendered using

79 telehealth according to the same standard as used for in-person
 80 services. Medical records, including video, audio, electronic,
 81 or other records generated as a result of providing such
 82 services, are confidential pursuant to ss. 395.3025(4) and
 83 456.057.

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

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

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

94 1. Completes an application in the format prescribed by
 95 the department;

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

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

104 (c) A telehealth provider registered pursuant to paragraph
105 (b) must, as a condition of biennial registration renewal,
106 complete a renewal application and pay a renewal registration
107 fee of \$150.

108 (d) A health care professional may not register under this
109 subsection if his or her license to provide health care services
110 is subject to a pending disciplinary investigation or action, or
111 has been revoked in any state or jurisdiction. A health care
112 professional registered under this section must notify the
113 appropriate board, or the department if there is no board, of
114 restrictions placed on the health care professional's license to
115 practice, or disciplinary action taken or pending against the
116 health care professional, in any state or jurisdiction. The
117 notification must be provided within 5 business days after the
118 restriction is placed or disciplinary action is initiated or
119 taken.

120 (e) A health care professional registered under this
121 subsection may not open an office in this state and may not
122 provide in-person health care services to patients located in
123 this state.

124 (f) A pharmacist registered under this subsection may only
125 use a pharmacy permitted under chapter 465, a nonresident
126 pharmacy registered under s. 465.0156, or a nonresident pharmacy
127 or outsourcing facility holding an active permit pursuant to s.
128 465.0158, to dispense medicinal drugs to patients located in
129 this state.

130 (g) The department shall publish on its website a list of
 131 all registrants and include, to the extent applicable, each
 132 registrant's:

- 133 1. Name.
- 134 2. Health care occupation.
- 135 3. Completed health care training and education, including
 136 completion dates and any certificates or degrees obtained.
- 137 4. Out-of-state health care license with license number.
- 138 5. Florida telehealth provider registration number.
- 139 6. Specialty.
- 140 7. Board certification.
- 141 8. Five-year disciplinary history, including sanctions and
 142 board actions.
- 143 9. Medical malpractice insurance provider and policy
 144 limits, including whether the policy covers claims which arise
 145 in this state.

146 (h) The board, or the department if there is no board, may
 147 revoke an out-of-state telehealth provider's registration if the
 148 registrant:

- 149 1. Fails to notify the applicable board, or the
 150 department, of any adverse actions taken against his or her
 151 license as required under paragraph (d).
- 152 2. Has restrictions placed on or disciplinary action taken
 153 against his or her license in any state or jurisdiction.
- 154 3. Violates any of the requirements of this section.

155 (5) VENUE.—For the purposes of this section, any act that
 156 constitutes the delivery of health care services is deemed to
 157 occur at the place where the patient is located at the time the
 158 act is performed.

159 (6) EXEMPTIONS.—A health care professional who is not
 160 licensed to provide health care services in this state but who
 161 holds an active license to provide health care services in
 162 another state or jurisdiction, and who provides health care
 163 services using telehealth to a patient located in this state, is
 164 not subject to the registration requirement under this section
 165 if the services are provided:

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

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

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

173 Section 2. Subsection (1) of section 636.202, Florida
 174 Statutes, is amended to read:

175 636.202 Definitions.—As used in this part, the term:

176 (1) "Discount medical plan" means a business arrangement
 177 or contract in which a person, in exchange for fees, dues,
 178 charges, or other consideration, provides access for plan
 179 members to providers of medical services and the right to
 180 receive medical services from those providers at a discount. The

181 term "discount medical plan" does not include any product
 182 regulated under chapter 627, chapter 641, or part I of this
 183 chapter or any product used for the delivery of services through
 184 telehealth as defined under s. 456.47.

185 Section 3. Telehealth utilization and insurance coverage
 186 report.—

187 (1) The Agency for Health Care Administration, the
 188 Department of Health, and the Office of Insurance Regulation
 189 shall, within existing resources, survey health care facilities,
 190 health maintenance organizations, health care practitioners, and
 191 health insurers, respectively, and perform any other research
 192 necessary to collect the following information:

193 (a) The types of health care services provided via
 194 telehealth.

195 (b) The extent to which telehealth is used by health care
 196 practitioners and health care facilities nationally and in the
 197 state.

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

201 (d) Which health care insurers, health maintenance
 202 organizations, and managed care organizations cover health care
 203 services provided to patients in Florida via telehealth, whether
 204 the coverage is restricted or limited, and how such coverage
 205 compares to that insurer's coverage for services provided in
 206 person. The comparison shall at a minimum include:

207 1. Covered medical or other health care services.
 208 2. A description of whether payment rates for such
 209 services provided via telehealth are less than, equal to, or
 210 greater than payment rates for such services provided in person.
 211 3. Any annual or lifetime dollar maximums on coverage for
 212 services provided via telehealth and in person.
 213 4. Any copayments, coinsurance, or deductible amounts, or
 214 policy year, calendar year, lifetime, or other durational
 215 benefit limitation or maximum for benefits or services provided
 216 via telehealth and in person.
 217 5. Any conditions imposed for coverage for services
 218 provided via telehealth that are not imposed for coverage for
 219 the same services provided in person.
 220 (e) The barriers to using, implementing the use of, or
 221 accessing services via telehealth.
 222 (2) The Agency for Health Care Administration shall
 223 compile the surveys and research findings required by this
 224 section and submit a report to the Governor, the President of
 225 the Senate, and the Speaker of the House of Representatives by
 226 June 30, 2018.
 227 (3) The Department of Health shall survey all health care
 228 practitioners, as defined under s. 456.001, Florida Statutes,
 229 upon and as a condition of licensure renewal to compile the
 230 information required pursuant to this section. The Department of
 231 Health and the Office of Insurance Regulation shall submit their
 232 survey and research findings to the agency and shall assist the

233 agency in compiling the information to prepare the report.

234 (4) The Agency for Health Care Administration, the
 235 Department of Health, and the Office of Insurance Regulation may
 236 assess fines under ss. 408.813(2)(d), 456.072(2)(d), and
 237 624.310(5), Florida Statutes, respectively, against a health
 238 care facility, health maintenance organization, health care
 239 practitioner, and health insurer for failure to complete the
 240 surveys required under this section.

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

242 Section 4. For the 2016-2017 fiscal year, the sums of
 243 \$261,389 in recurring funds and \$15,528 in nonrecurring funds
 244 from the Medical Quality Assurance Trust Fund are appropriated
 245 to the Department of Health, and four full-time equivalent
 246 positions with associated salary rate of 145,870 are authorized,
 247 for the purpose of implementing this act.

248 Section 5. This act shall take effect July 1, 2016.