



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; creating
21 the Telehealth Advisory Council within the agency for
22 specified purposes; specifying council membership;
23 providing for council membership requirements;
24 requiring the council to review certain findings and
25 make recommendations in a report to the Governor and
26 the Legislature by a specified date; requiring the



27 | agency to report such information to the Governor and
 28 | Legislature by a specified date; providing certain
 29 | enforcement authority to each agency; providing for
 30 | expiration of the reporting requirement; providing an
 31 | appropriation and authorizing positions; providing an
 32 | effective date.

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

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

38 | 456.47 Use of telehealth to provide services.-

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

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

48 | (b) "Telehealth provider" means any individual who
 49 | provides health care and related services using telehealth and
 50 | who is licensed under s. 393.17; part III of chapter 401;
 51 | chapter 457; chapter 458; chapter 459; chapter 460; chapter 461;
 52 | chapter 463; chapter 464; chapter 465; chapter 466; chapter 467;



53 part I, part III, part IV, part V, part X, part XIII, or part
54 XIV of chapter 468; chapter 478; chapter 480; part III of
55 chapter 483; chapter 484; chapter 486; chapter 490; or chapter
56 491; or who is registered under and complies with subsection
57 (4).

58 (2) PRACTICE STANDARD.—

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

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

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



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

83 (3) RECORDS.—A telehealth provider shall document in the
84 patient's medical record the health care services rendered using
85 telehealth according to the same standard as used for in-person
86 services. Medical records, including video, audio, electronic,
87 or other records generated as a result of providing such
88 services, are confidential pursuant to ss. 395.3025(4) and
89 456.057.

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

91 (a) A health care professional not licensed in this state
92 may provide health care services to a patient located in this
93 state using telehealth if the telehealth provider registers with
94 the applicable board, or the department if there is no board,
95 and provides health care services within the relevant scope of
96 practice established by Florida law or rule.

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

100 1. Completes an application in the format prescribed by
101 the department;

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

103 3. Holds an active, unencumbered license for a profession
104 listed in paragraph (1)(b) which is issued by another state, the



105 District of Columbia, or a possession or territory of the United
106 States and against whom no disciplinary action has been taken
107 during the 5 years before submission of the application. The
108 department shall use the National Practitioner Data Bank to
109 verify information submitted by an applicant.

110 (c) A telehealth provider registered pursuant to paragraph
111 (b) must, as a condition of biennial registration renewal,
112 complete a renewal application and pay a renewal registration
113 fee of \$150.

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

126 (e) A health care professional registered under this
127 subsection may not open an office in this state and may not
128 provide in-person health care services to patients located in
129 this state.



130 (f) A pharmacist registered under this subsection may only
131 use a pharmacy permitted under chapter 465, a nonresident
132 pharmacy registered under s. 465.0156, or a nonresident pharmacy
133 or outsourcing facility holding an active permit pursuant to s.
134 465.0158, to dispense medicinal drugs to patients located in
135 this state.

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

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

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

- 155 1. Fails to notify the applicable board, or the



156 department, of any adverse actions taken against his or her
157 license as required under paragraph (d).

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

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

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

165 (6) EXEMPTIONS.—A health care professional who is not
166 licensed to provide health care services in this state but who
167 holds an active license to provide health care services in
168 another state or jurisdiction, and who provides health care
169 services using telehealth to a patient located in this state, is
170 not subject to the registration requirement under this section
171 if the services are provided:

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

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

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

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

181 636.202 Definitions.—As used in this part, the term:



182 (1) "Discount medical plan" means a business arrangement
183 or contract in which a person, in exchange for fees, dues,
184 charges, or other consideration, provides access for plan
185 members to providers of medical services and the right to
186 receive medical services from those providers at a discount. The
187 term "discount medical plan" does not include any product
188 regulated under chapter 627, chapter 641, or part I of this
189 chapter or any product used for the delivery of services through
190 telehealth as defined under s. 456.47.

191 Section 3. Telehealth utilization and insurance coverage
192 report.—

193 (1) The Agency for Health Care Administration, the
194 Department of Health, and the Office of Insurance Regulation
195 shall, within existing resources, survey health care facilities,
196 health maintenance organizations, health care practitioners, and
197 health insurers, respectively, and perform any other research
198 necessary to collect the following information:

199 (a) The types of health care services provided via
200 telehealth.

201 (b) The extent to which telehealth is used by health care
202 practitioners and health care facilities nationally and in the
203 state.

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

207 (d) Which health care insurers, health maintenance



208 organizations, and managed care organizations cover health care
209 services provided to patients in Florida via telehealth, whether
210 the coverage is restricted or limited, and how such coverage
211 compares to that insurer's coverage for services provided in
212 person. The comparison shall at a minimum include:

213 1. Covered medical or other health care services.

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

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

219 4. Any copayments, coinsurance, or deductible amounts, or
220 policy year, calendar year, lifetime, or other durational
221 benefit limitation or maximum for benefits or services provided
222 via telehealth and in person.

223 5. Any conditions imposed for coverage for services
224 provided via telehealth that are not imposed for coverage for
225 the same services provided in person.

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

228 (2) The Telehealth Advisory Council is created within the
229 Agency for Health Care Administration for the purpose of making
230 recommendations based on the surveys and research findings
231 required by this section. The agency shall use existing and
232 available resources to administer and support the activities of
233 the council under this section.



- 234 (a) Members of the council shall serve without
235 compensation and are not entitled to reimbursement for per diem
236 or travel expenses. The council shall consist of 15 members, as
237 follows:
- 238 1. The Secretary of Health Care Administration, or his or
239 her designee, who shall serve as the chair of the council.
- 240 2. The State Surgeon General or his or his designee.
- 241 3. The following members appointed by the Secretary of
242 Health Care Administration:
- 243 a. Two representatives of health insurers that offer
244 coverage for telehealth services.
- 245 b. Two representatives of organizations that represent
246 health care facilities.
- 247 c. Two representatives of entities that create or sell
248 telehealth products.
- 249 d. One representative of an organization that represents
250 telehealth stakeholders.
- 251 e. Two representatives of long-term care services, one of
252 whom shall be a representative of a nursing home and one of whom
253 shall be a representative from a home health agency or
254 community-based health services program.
- 255 4. The following members appointed by the State Surgeon
256 General:
- 257 a. Two health care practitioners, each of whom practices
258 in a different area of medicine.
- 259 b. Two representatives of organizations that represent



260 health care practitioners.

261 (b) The council shall review the surveys and research
262 findings required by this section and make recommendations to
263 increase the use and accessibility of services provided via
264 telehealth, including the identification of any barriers to
265 implementing or accessing services provided via telehealth, in a
266 report that shall be submitted to the Governor, the President of
267 the Senate, and the Speaker of the House of Representatives on
268 or before December 1, 2018.

269 (3) The Agency for Health Care Administration shall
270 compile the surveys and research findings required by this
271 section and submit a report of such findings to the Governor,
272 the President of the Senate, and the Speaker of the House of
273 Representatives on or before June 30, 2018.

274 (4) The Department of Health shall survey all health care
275 practitioners, as defined under s. 456.001, Florida Statutes,
276 upon and as a condition of licensure renewal to compile the
277 information required pursuant to this section. The Department of
278 Health and the Office of Insurance Regulation shall submit their
279 survey and research findings to the agency and shall assist the
280 agency in compiling the information to prepare the report.

281 (5) The Agency for Health Care Administration, the
282 Department of Health, and the Office of Insurance Regulation may
283 assess fines under ss. 408.813(2)(d), 456.072(2)(d), and
284 624.310(5), Florida Statutes, respectively, against a health
285 care facility, health maintenance organization, health care



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286 practitioner, and health insurer for failure to complete the
287 surveys required under this section.

288 (6) This section expires January 1, 2019.

289 Section 4. For the 2016-2017 fiscal year, the sums of
290 \$261,389 in recurring funds and \$15,528 in nonrecurring funds
291 from the Medical Quality Assurance Trust Fund are appropriated
292 to the Department of Health, and four full-time equivalent
293 positions with associated salary rate of 145,870 are authorized,
294 for the purpose of implementing this act.

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