

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Eskamani offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

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

195975

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Amendment No.

14 professional health-related education; public health services;
15 and health administration. The term does not include audio-only
16 telephone calls, e-mail messages, or facsimile transmissions.

17 (b) "Telehealth provider" means any individual who
18 provides health care and related services using telehealth and
19 who is licensed or certified under s. 393.17; part III of
20 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;
21 chapter 461; chapter 463; chapter 464; chapter 465; chapter 466;
22 chapter 467; part I, part III, part IV, part V, part X, part
23 XIII, or part XIV of chapter 468; chapter 478; chapter 480; part
24 II or part III of chapter 483; chapter 484; chapter 486; chapter
25 490; or chapter 491; or who is registered under and complies
26 with subsection (4).

27 (2) PRACTICE STANDARDS.—

28 (a) A telehealth provider has the duty to exercise care
29 consistent with the prevailing professional standard of care for
30 a health care professional who provides in-person health care
31 services to patients in this state.

32 (b) A telehealth provider may use telehealth to perform a
33 patient evaluation. If a telehealth provider conducts a patient
34 evaluation sufficient to diagnose and treat the patient, the
35 telehealth provider is not required to research a patient's
36 medical history or conduct a physical examination of the patient
37 before using telehealth to provide health care services to the
38 patient.

195975

Approved For Filing: 4/5/2019 3:58:03 PM

Amendment No.

39 (c) A telehealth provider may not use telehealth to
40 prescribe a controlled substance to treat chronic nonmalignant
41 pain, as defined under s. 456.44, unless the controlled
42 substance is ordered for inpatient treatment at a hospital
43 licensed under chapter 395, is prescribed for a patient
44 receiving hospice services as defined under s. 400.601, or is
45 prescribed for a resident of a nursing home facility as defined
46 under s. 400.021.

47 (d) A telehealth provider and a patient may be in separate
48 locations when telehealth is used to provide health care
49 services to a patient.

50 (e) A nonphysician telehealth provider using telehealth
51 and acting within the relevant scope of practice, as established
52 by Florida law or rule, is not in violation of s. 458.327(1)(a)
53 or s. 459.013(1)(a).

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

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

62 (a) A health care professional not licensed in this state
63 may provide health care services to a patient located in this

195975

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Amendment No.

64 state using telehealth if the health care professional registers
65 with the applicable board, or the department if there is no
66 board, and provides health care services within the applicable
67 scope of practice established by Florida law or rule.

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

71 1. Completes an application in the format prescribed by
72 the department.

73 2. Holds an active, unencumbered license for a health care
74 profession listed in paragraph (1)(b) which is issued by another
75 state, the District of Columbia, or a possession or territory of
76 the United States and who has not had disciplinary action taken
77 against him or her in the 5 years preceding the date of
78 submission of the application. The department shall use the
79 National Practitioner Data Bank to verify information submitted
80 by an applicant.

81 3. Designates a duly appointed registered agent for
82 service of process in this state on a form prescribed by the
83 department.

84 (c) The website of a telehealth provider registered under
85 paragraph (b) must prominently display a hyperlink to the
86 department's website containing information required under
87 paragraph (g).

195975

Approved For Filing: 4/5/2019 3:58:03 PM

Amendment No.

88 (d) A health care professional may not register under this
89 subsection if his or her license to provide health care services
90 is subject to a pending disciplinary investigation or action, or
91 has been revoked in any state or jurisdiction. A health care
92 professional registered under this section must notify the
93 appropriate board, or the department if there is no board, of
94 restrictions placed on his or her license to practice, or any
95 disciplinary action taken or pending against him or her, in any
96 state or jurisdiction. The notification must be provided within
97 5 business days after the restriction is placed or disciplinary
98 action is initiated or taken.

99 (e) A health care professional registered under this
100 subsection may not open an office in this state and may not
101 provide in-person health care services to patients located in
102 this state.

103 (f) A pharmacist registered under this subsection may only
104 use a pharmacy permitted under chapter 465, a nonresident
105 pharmacy registered under s. 465.0156, or a nonresident pharmacy
106 or outsourcing facility holding an active permit pursuant to s.
107 465.0158 to dispense medicinal drugs to patients located in this
108 state.

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

112 1. Name.

195975

Approved For Filing: 4/5/2019 3:58:03 PM

Amendment No.

113 2. Health care occupation.

114 3. Completed health care training and education, including
115 completion dates and any certificates or degrees obtained.

116 4. Out-of-state health care license with the license
117 number.

118 5. Florida telehealth provider registration number.

119 6. Specialty.

120 7. Board certification.

121 8. Five-year disciplinary history, including sanctions and
122 board actions.

123 9. Medical malpractice insurance provider and policy
124 limits, including whether the policy covers claims that arise in
125 this state.

126 10. The name and address of the registered agent
127 designated for service of process in this state.

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

131 1. Fails to notify the applicable board, or the department
132 if there is no board, of any adverse actions taken against his
133 or her license as required under paragraph (d).

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

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

195975

Approved For Filing: 4/5/2019 3:58:03 PM

Amendment No.

137 (5) VENUE.—For the purposes of this section, any act that
138 constitutes the delivery of health care services is deemed to
139 occur at the place where the patient is physically located at
140 the time the act is performed.

141 (6) EXEMPTIONS.—A health care professional who is not
142 licensed to provide health care services in this state but who
143 holds an active license to provide health care services in
144 another state or jurisdiction, and who provides health care
145 services using telehealth to a patient located in this state, is
146 not subject to the registration requirement under this section
147 if the services are provided:

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

150 (b) In consultation with a health care professional
151 licensed in this state who has ultimate authority over the
152 diagnosis and care of the patient.

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

155 Section 2. For fiscal year 2019-2020, the sums of \$261,389
156 in recurring funds and \$15,020 in nonrecurring funds from the
157 Medical Quality Assurance Trust Fund are appropriated to the
158 Department of Health, and four full-time equivalent positions
159 with associated salary rate of 145,870 are authorized for the
160 purpose of implementing s. 456.47, Florida Statutes, as created
161 by this act.

195975

Approved For Filing: 4/5/2019 3:58:03 PM

Amendment No.

Section 3. This act shall take effect July 1, 2019.

T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to telehealth; creating s. 456.47, F.S.; providing definitions; establishing a standard of care for telehealth providers; authorizing telehealth providers to use telehealth to perform patient evaluations; providing that telehealth providers, under certain circumstances, are not required to research a patient's history or conduct physical examinations before providing services through telehealth; authorizing certain telehealth providers to use telehealth to prescribe specified controlled substances under certain circumstances; providing that a nonphysician telehealth provider using telehealth and acting within his or her relevant scope of practice is not deemed to be practicing medicine without a license; providing recordkeeping requirements for telehealth providers; providing registration requirements for out-of-state telehealth providers; requiring the Department of Health to publish certain information on its website; authorizing a board or the department if there is no board to revoke a telehealth provider's registration under certain

195975

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Amendment No.

187 | circumstances; providing venue; providing exemptions to the
188 | registration requirement; providing rulemaking authority;
189 | providing an appropriation; authorizing positions;
190 | providing an effective date.

195975

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