



LEGISLATIVE ACTION

Senate	.	House
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Floor: 1/AE/2R	.	Floor: C
04/26/2019 02:09 PM	.	04/29/2019 05:30 PM
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Senator Harrell moved the following:

**Senate Amendment (with title amendment)**

Delete 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



12 limited to, assessment, diagnosis, consultation, treatment, and  
13 monitoring of a patient; transfer of medical data; patient and  
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 provides  
18 health care and related services using telehealth and who is  
19 licensed or certified under s. 393.17; part III of chapter 401;  
20 chapter 457; chapter 458; chapter 459; chapter 460; chapter 461;  
21 chapter 463; chapter 464; chapter 465; chapter 466; chapter 467;  
22 part I, part III, part IV, part V, part X, part XIII, or part  
23 XIV of chapter 468; chapter 478; chapter 480; part II or part  
24 III of chapter 483; chapter 484; chapter 486; chapter 490; or  
25 chapter 491; who is licensed under a multi-state health care  
26 licensure compact of which Florida is a member state; or who is  
27 registered under and complies with subsection (4).

28 (2) PRACTICE STANDARDS.—

29 (a) A telehealth provider has the duty to practice in a  
30 manner consistent with his or her scope of practice and the  
31 prevailing professional standard of practice for a health care  
32 professional who provides in-person health care services to  
33 patients in this state.

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



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41           (c) A telehealth provider may not use telehealth to  
42 prescribe a controlled substance unless the controlled substance  
43 is prescribed for the following:

- 44           1. The treatment of a psychiatric disorder;  
45           2. Inpatient treatment at a hospital licensed under chapter  
46 395;  
47           3. The treatment of a patient receiving hospice services as  
48 defined in s. 400.601; or  
49           4. The treatment of a resident of a nursing home facility  
50 as defined in s. 400.021.

51           (d) A telehealth provider and a patient may be in separate  
52 locations when telehealth is used to provide health care  
53 services to a patient.

54           (e) A nonphysician telehealth provider using telehealth and  
55 acting within his or her relevant scope of practice, as  
56 established by Florida law or rule, is not in violation of s.  
57 458.327(1)(a) or s. 459.013(1)(a).

58           (3) RECORDS.—A telehealth provider shall document in the  
59 patient's medical record the health care services rendered using  
60 telehealth according to the same standard as used for in-person  
61 services. Medical records, including video, audio, electronic,  
62 or other records generated as a result of providing such  
63 services, are confidential pursuant to ss. 395.3025(4) and  
64 456.057.

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

66           (a) A health care professional not licensed in this state  
67 may provide health care services to a patient located in this  
68 state using telehealth if the health care professional registers  
69 with the applicable board, or the department if there is no



70 board, and provides health care services within the applicable  
71 scope of practice established by Florida law or rule.

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

75 1. Completes an application in the format prescribed by the  
76 department;

77 2. Is licensed with an active, unencumbered license that is  
78 issued by another state, the District of Columbia, or a  
79 possession or territory of the United States and that is  
80 substantially similar to a license issued to a Florida-licensed  
81 provider specified in paragraph (1) (b);

82 3. Has not been the subject of disciplinary action relating  
83 to his or her license during the 5-year period immediately prior  
84 to the submission of the application;

85 4. Designates a duly appointed registered agent for service  
86 of process in this state on a form prescribed by the department;  
87 and

88 5. Demonstrates to the board, or the department if there is  
89 no board, that he or she is in compliance with paragraph (e).

90  
91 The department shall use the National Practitioner Data Bank to  
92 verify the information submitted under this paragraph, as  
93 applicable.

94 (c) The website of a telehealth provider registered under  
95 paragraph (b) must prominently display a hyperlink to the  
96 department's website containing information required under  
97 paragraph (h).

98 (d) A health care professional may not register under this



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99 subsection if his or her license to provide health care services  
100 is subject to a pending disciplinary investigation or action, or  
101 has been revoked in any state or jurisdiction. A health care  
102 professional registered under this subsection must notify the  
103 appropriate board, or the department if there is no board, of  
104 restrictions placed on his or her license to practice, or any  
105 disciplinary action taken or pending against him or her, in any  
106 state or jurisdiction. The notification must be provided within  
107 5 business days after the restriction is placed or disciplinary  
108 action is initiated or taken.

109 (e) A provider registered under this subsection shall  
110 maintain professional liability coverage or financial  
111 responsibility, that includes coverage or financial  
112 responsibility for telehealth services provided to patients not  
113 located in the provider's home state, in an amount equal to or  
114 greater than the requirements for a licensed practitioner under  
115 s. 456.048, s. 458.320, or s. 459.0085, as applicable.

116 (f) A health care professional registered under this  
117 subsection may not open an office in this state and may not  
118 provide in-person health care services to patients located in  
119 this state.

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

126 (h) The department shall publish on its website a list of  
127 all registrants and include, to the extent applicable, each



128 registrant's:  
129       1. Name.  
130       2. Health care occupation.  
131       3. Completed health care training and education, including  
132 completion dates and any certificates or degrees obtained.  
133       4. Out-of-state health care license with the license  
134 number.  
135       5. Florida telehealth provider registration number.  
136       6. Specialty.  
137       7. Board certification.  
138       8. Five-year disciplinary history, including sanctions and  
139 board actions.  
140       9. Medical malpractice insurance provider and policy  
141 limits, including whether the policy covers claims that arise in  
142 this state.  
143       10. The name and address of the registered agent designated  
144 for service of process in this state.  
145       (i) The board, or the department if there is no board, may  
146 take disciplinary action against an out-of-state telehealth  
147 provider registered under this subsection if the registrant:  
148       1. Fails to notify the applicable board, or the department  
149 if there is no board, of any adverse actions taken against his  
150 or her license as required under paragraph (d).  
151       2. Has restrictions placed on or disciplinary action taken  
152 against his or her license in any state or jurisdiction.  
153       3. Violates any of the requirements of this section.  
154       4. Commits any act that constitutes grounds for  
155 disciplinary action under s. 456.072(1) or the applicable  
156 practice act for Florida-licensed providers.



157  
158 Disciplinary action taken by a board, or the department if there  
159 is no board, under this paragraph may include suspension or  
160 revocation of the provider's registration or the issuance of a  
161 reprimand or letter of concern. A suspension may be accompanied  
162 by a corrective action plan as determined by the board, or the  
163 department if there is no board, the completion of which may  
164 lead to the suspended registration being reinstated according to  
165 rules adopted by the board, or the department if there is no  
166 board.

167 (5) VENUE.—For the purposes of this section, any act that  
168 constitutes the delivery of health care services is deemed to  
169 occur at the place where the patient is located at the time the  
170 act is performed or in the patient's county of residence. Venue  
171 for a civil or administrative action initiated by the  
172 department, the appropriate board, or a patient who receives  
173 telehealth services from an out-of-state telehealth provider may  
174 be located in the patient's county of residence or in Leon  
175 County.

176 (6) EXEMPTIONS.—A health care professional who is not  
177 licensed to provide health care services in this state but who  
178 holds an active license to provide health care services in  
179 another state or jurisdiction, and who provides health care  
180 services using telehealth to a patient located in this state, is  
181 not subject to the registration requirement under this section  
182 if the services are provided:

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

185 (b) In consultation with a health care professional



186 licensed in this state who has ultimate authority over the  
187 diagnosis and care of the patient.

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

190 Section 2. Effective January 1, 2020, section 627.42396,  
191 Florida Statutes, is created to read:

192 627.42396 Reimbursement for telehealth services.—A contract  
193 between a health insurer issuing major medical comprehensive  
194 coverage through an individual or group policy and a telehealth  
195 provider, as defined in s. 456.47, must be voluntary between the  
196 insurer and the provider and must establish mutually acceptable  
197 payment rates or payment methodologies for services provided  
198 through telehealth. Any contract provision that distinguishes  
199 between payment rates or payment methodologies for services  
200 provided through telehealth and the same services provided  
201 without the use of telehealth must be initialed by the  
202 telehealth provider.

203 Section 3. Effective January 1, 2020, subsection (45) is  
204 added to section 641.31, Florida Statutes, to read:

205 641.31 Health maintenance contracts.—

206 (45) A contract between a health maintenance organization  
207 issuing major medical individual or group coverage and a  
208 telehealth provider, as defined in s. 456.47, must be voluntary  
209 between the health maintenance organization and the provider  
210 must establish mutually acceptable payment rates or payment  
211 methodologies for services provided through telehealth. Any  
212 contract provision that distinguishes between payment rates or  
213 payment methodologies for services provided through telehealth  
214 and the same services provided without the use of telehealth





215 must be initialed by the telehealth provider.

216 Section 4. Effective July 1, 2020, the Department of Health  
217 shall annually review the amount of any fees collected under  
218 section 456.47, Florida Statutes, in the prior fiscal year and  
219 shall determine whether such fees are sufficient to enable the  
220 department and the boards, as defined in section 456.001,  
221 Florida Statutes, to fully implement section 456.47, Florida  
222 Statutes. If the department determines that the fees collected  
223 are insufficient, the department shall so indicate to the  
224 Legislature in its annual legislative budget request and shall  
225 recommend appropriate adjustments to the applicable fees.

226 Section 5. For fiscal year 2019-2020, the sums of \$261,389  
227 in recurring funds and \$15,020 in nonrecurring funds from the  
228 Medical Quality Assurance Trust Fund are appropriated to the  
229 Department of Health, and four full-time equivalent positions  
230 with associated salary rate of 145,870 are authorized for the  
231 purpose of implementing s. 456.47, Florida Statutes, as created  
232 by this act.

233 Section 6. Except as otherwise provided, this act shall  
234 take effect July 1, 2019.

235  
236 ===== T I T L E A M E N D M E N T =====

237 And the title is amended as follows:

238 Delete everything before the enacting clause  
239 and insert:

240 A bill to be entitled  
241 An act relating to telehealth; creating s. 456.47,  
242 F.S.; defining terms; establishing standards of  
243 practice for telehealth providers; authorizing



244 telehealth providers to use telehealth to perform  
245 patient evaluations; authorizing certain telehealth  
246 providers to use telehealth to prescribe certain  
247 controlled substances under specified circumstances;  
248 providing that a nonphysician telehealth provider  
249 using telehealth and acting within his or her relevant  
250 scope of practice is not deemed to be practicing  
251 medicine without a license; providing recordkeeping  
252 requirements for telehealth providers; providing  
253 registration requirements for out-of-state telehealth  
254 providers; requiring the Department of Health to  
255 publish certain information on its website;  
256 authorizing a board, or the department if there is no  
257 board, to take disciplinary action against a  
258 telehealth provider under certain circumstances;  
259 providing venue; providing exemptions from telehealth  
260 registration requirements; authorizing the applicable  
261 board, or the department if there is no board, to  
262 adopt rules; creating s. 627.42396, F.S.; providing  
263 requirements for a contract between a certain health  
264 insurer and a telehealth provider; amending s. 641.31,  
265 F.S.; providing requirements for a contract between a  
266 certain health maintenance organization and a  
267 telehealth provider; requiring the department to  
268 annually review the amount of certain collected fees  
269 and make a determination relating to the sufficiency  
270 of funding to implement specified telehealth  
271 provisions; upon making a certain determination,  
272 requiring the department to indicate insufficient



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273 funding and recommend fee adjustments in its annual  
274 legislative budget request; providing an  
275 appropriation; authorizing positions; providing  
276 effective dates.