

1 A bill to be entitled
2 An act relating to telehealth; creating s. 456.47,
3 F.S.; defining terms; establishing standards of
4 practice for telehealth providers; authorizing
5 telehealth providers to use telehealth to perform
6 patient evaluations; authorizing certain telehealth
7 providers to use telehealth to prescribe certain
8 controlled substances under specified circumstances;
9 providing that a nonphysician telehealth provider
10 using telehealth and acting within his or her relevant
11 scope of practice is not deemed to be practicing
12 medicine without a license; providing recordkeeping
13 requirements for telehealth providers; providing
14 registration requirements for out-of-state telehealth
15 providers; requiring the Department of Health to
16 publish certain information on its website;
17 authorizing a board, or the department if there is no
18 board, to take disciplinary action against a
19 telehealth provider under certain circumstances;
20 providing venue; providing exemptions from telehealth
21 registration requirements; authorizing the applicable
22 board, or the department if there is no board, to
23 adopt rules; creating s. 627.42396, F.S.; providing
24 requirements for a contract between a certain health
25 insurer and a telehealth provider; amending s. 641.31,

26 F.S.; providing requirements for a contract between a
 27 certain health maintenance organization and a
 28 telehealth provider; requiring the department to
 29 annually review the amount of certain collected fees
 30 and make a determination relating to the sufficiency
 31 of funding to implement specified telehealth
 32 provisions; upon making a certain determination,
 33 requiring the department to indicate insufficient
 34 funding and recommend fee adjustments in its annual
 35 legislative budget request; providing an
 36 appropriation; authorizing positions; providing
 37 effective dates.

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 39 Be It Enacted by the Legislature of the State of Florida:

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 41 Section 1. Section 456.47, Florida Statutes, is created to
 42 read:

43 456.47 Use of telehealth to provide services.-

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

45 (a) "Telehealth" means the use of synchronous or
 46 asynchronous telecommunications technology by a telehealth
 47 provider to provide health care services, including, but not
 48 limited to, assessment, diagnosis, consultation, treatment, and
 49 monitoring of a patient; transfer of medical data; patient and
 50 professional health-related education; public health services;

51 and health administration. The term does not include audio-only
52 telephone calls, e-mail messages, or facsimile transmissions.

53 (b) "Telehealth provider" means any individual who
54 provides health care and related services using telehealth and
55 who is licensed or certified under s. 393.17; part III of
56 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;
57 chapter 461; chapter 463; chapter 464; chapter 465; chapter 466;
58 chapter 467; part I, part III, part IV, part V, part X, part
59 XIII, or part XIV of chapter 468; chapter 478; chapter 480; part
60 II or part III of chapter 483; chapter 484; chapter 486; chapter
61 490; or chapter 491; who is licensed under a multi-state health
62 care licensure compact of which Florida is a member state; or
63 who is registered under and complies with subsection (4).

64 (2) PRACTICE STANDARDS.—

65 (a) A telehealth provider has the duty to practice in a
66 manner consistent with his or her scope of practice and the
67 prevailing professional standard of practice for a health care
68 professional who provides in-person health care services to
69 patients in this state.

70 (b) A telehealth provider may use telehealth to perform a
71 patient evaluation. If a telehealth provider conducts a patient
72 evaluation sufficient to diagnose and treat the patient, the
73 telehealth provider is not required to research a patient's
74 medical history or conduct a physical examination of the patient
75 before using telehealth to provide health care services to the

76 patient.

77 (c) A telehealth provider may not use telehealth to
78 prescribe a controlled substance unless the controlled substance
79 is prescribed for the following:

80 1. The treatment of a psychiatric disorder;

81 2. Inpatient treatment at a hospital licensed under
82 chapter 395;

83 3. The treatment of a patient receiving hospice services
84 as defined in s. 400.601; or

85 4. The treatment of a resident of a nursing home facility
86 as defined in s. 400.021.

87 (d) A telehealth provider and a patient may be in separate
88 locations when telehealth is used to provide health care
89 services to a patient.

90 (e) A nonphysician telehealth provider using telehealth
91 and acting within his or her relevant scope of practice, as
92 established by Florida law or rule, is not in violation of s.
93 458.327(1)(a) or s. 459.013(1)(a).

94 (3) RECORDS.—A telehealth provider shall document in the
95 patient's medical record the health care services rendered using
96 telehealth according to the same standard as used for in-person
97 services. Medical records, including video, audio, electronic,
98 or other records generated as a result of providing such
99 services, are confidential pursuant to ss. 395.3025(4) and
100 456.057.

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

102 (a) A health care professional not licensed in this state
103 may provide health care services to a patient located in this
104 state using telehealth if the health care professional registers
105 with the applicable board, or the department if there is no
106 board, and provides health care services within the applicable
107 scope of practice established by Florida law or rule.

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

111 1. Completes an application in the format prescribed by
112 the department;

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

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

121 4. Designates a duly appointed registered agent for
122 service of process in this state on a form prescribed by the
123 department; and

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

126
127 The department shall use the National Practitioner Data Bank to
128 verify the information submitted under this paragraph, as
129 applicable.

130 (c) The website of a telehealth provider registered under
131 paragraph (b) must prominently display a hyperlink to the
132 department's website containing information required under
133 paragraph (h).

134 (d) A health care professional may not register under this
135 subsection if his or her license to provide health care services
136 is subject to a pending disciplinary investigation or action, or
137 has been revoked in any state or jurisdiction. A health care
138 professional registered under this subsection must notify the
139 appropriate board, or the department if there is no board, of
140 restrictions placed on his or her license to practice, or any
141 disciplinary action taken or pending against him or her, in any
142 state or jurisdiction. The notification must be provided within
143 5 business days after the restriction is placed or disciplinary
144 action is initiated or taken.

145 (e) A provider registered under this subsection shall
146 maintain professional liability coverage or financial
147 responsibility, that includes coverage or financial
148 responsibility for telehealth services provided to patients not
149 located in the provider's home state, in an amount equal to or
150 greater than the requirements for a licensed practitioner under

151 s. 456.048, s. 458.320, or s. 459.0085, as applicable.

152 (f) A health care professional registered under this
153 subsection may not open an office in this state and may not
154 provide in-person health care services to patients located in
155 this state.

156 (g) A pharmacist registered under this subsection may only
157 use a pharmacy permitted under chapter 465, a nonresident
158 pharmacy registered under s. 465.0156, or a nonresident pharmacy
159 or outsourcing facility holding an active permit pursuant to s.
160 465.0158 to dispense medicinal drugs to patients located in this
161 state.

162 (h) The department shall publish on its website a list of
163 all registrants and include, to the extent applicable, each
164 registrant's:

165 1. Name.

166 2. Health care occupation.

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

169 4. Out-of-state health care license with the license
170 number.

171 5. Florida telehealth provider registration number.

172 6. Specialty.

173 7. Board certification.

174 8. Five-year disciplinary history, including sanctions and
175 board actions.

176 9. Medical malpractice insurance provider and policy
177 limits, including whether the policy covers claims that arise in
178 this state.

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

181 (i) The board, or the department if there is no board, may
182 take disciplinary action against an out-of-state telehealth
183 provider registered under this subsection if the registrant:

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

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

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

190 4. Commits any act that constitutes grounds for
191 disciplinary action under s. 456.072(1) or the applicable
192 practice act for Florida-licensed providers.

193
194 Disciplinary action taken by a board, or the department if there
195 is no board, under this paragraph may include suspension or
196 revocation of the provider's registration or the issuance of a
197 reprimand or letter of concern. A suspension may be accompanied
198 by a corrective action plan as determined by the board, or the
199 department if there is no board, the completion of which may
200 lead to the suspended registration being reinstated according to

201 rules adopted by the board, or the department if there is no
202 board.

203 (5) VENUE.—For the purposes of this section, any act that
204 constitutes the delivery of health care services is deemed to
205 occur at the place where the patient is located at the time the
206 act is performed or in the patient's county of residence. Venue
207 for a civil or administrative action initiated by the
208 department, the appropriate board, or a patient who receives
209 telehealth services from an out-of-state telehealth provider may
210 be located in the patient's county of residence or in Leon
211 County.

212 (6) EXEMPTIONS.—A health care professional who is not
213 licensed to provide health care services in this state but who
214 holds an active license to provide health care services in
215 another state or jurisdiction, and who provides health care
216 services using telehealth to a patient located in this state, is
217 not subject to the registration requirement under this section
218 if the services are provided:

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

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

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

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

228 627.42396 Reimbursement for telehealth services.—A
229 contract between a health insurer issuing major medical
230 comprehensive coverage through an individual or group policy and
231 a telehealth provider, as defined in s. 456.47, must be
232 voluntary between the insurer and the provider and must
233 establish mutually acceptable payment rates or payment
234 methodologies for services provided through telehealth. Any
235 contract provision that distinguishes between payment rates or
236 payment methodologies for services provided through telehealth
237 and the same services provided without the use of telehealth
238 must be initialed by the telehealth provider.

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

241 641.31 Health maintenance contracts.—

242 (45) A contract between a health maintenance organization
243 issuing major medical individual or group coverage and a
244 telehealth provider, as defined in s. 456.47, must be voluntary
245 between the health maintenance organization and the provider
246 must establish mutually acceptable payment rates or payment
247 methodologies for services provided through telehealth. Any
248 contract provision that distinguishes between payment rates or
249 payment methodologies for services provided through telehealth
250 and the same services provided without the use of telehealth

251 must be initialed by the telehealth provider.

252 Section 4. Effective July 1, 2020, the Department of
253 Health shall annually review the amount of any fees collected
254 under section 456.47, Florida Statutes, in the prior fiscal year
255 and shall determine whether such fees are sufficient to enable
256 the department and the boards, as defined in section 456.001,
257 Florida Statutes, to fully implement section 456.47, Florida
258 Statutes. If the department determines that the fees collected
259 are insufficient, the department shall so indicate to the
260 Legislature in its annual legislative budget request and shall
261 recommend appropriate adjustments to the applicable fees.

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

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