

1                   A bill to be entitled  
2           An act relating to telehealth; amending s. 409.908,  
3           F.S.; requiring the Agency for Health Care  
4           Administration to reimburse the use of telehealth  
5           services under certain circumstances and subject to  
6           certain limitations; requiring providers to include  
7           certain documentation in patient records and notes;  
8           authorizing certain out-of-state providers to receive  
9           reimbursement for telehealth services; providing an  
10          exception; amending s. 456.47, F.S.; revising the  
11          definition of the term "telehealth"; authorizing  
12          telehealth providers to prescribe specified controlled  
13          substances through telehealth under certain  
14          circumstances; amending ss. 458.347 and 459.022, F.S.;  
15          revising the definition of the term "supervision";  
16          amending s. 465.003, F.S.; revising the definition of  
17          the term "pharmacy"; revising construction of the term  
18          "not present and on duty"; amending s. 465.014, F.S.;  
19          authorizing registered pharmacy technicians to  
20          compound and dispense medicinal drugs under certain  
21          circumstances; providing an exception to certain  
22          supervision limitations; amending s. 465.015, F.S.;  
23          providing applicability; exempting certain registered  
24          pharmacy technicians from specified prohibitions;  
25          creating s. 465.0198, F.S.; defining the term

26 "supervising pharmacy"; providing for the permitting  
27 of remote-site pharmacies; requiring a licensed or  
28 consultant pharmacist to serve as the prescription  
29 department manager of a remote site; requiring remote-  
30 site pharmacies to notify the Department of Health of  
31 a change in the pharmacy's prescription department  
32 manager within a specified timeframe; providing  
33 requirements for remote-site pharmacies; providing  
34 that remote-site pharmacies are not considered  
35 pharmacy locations for purposes of network access in  
36 managed care programs; authorizing remote-site  
37 pharmacies to store, hold, and dispense medicinal  
38 drugs; prohibiting remote-site pharmacies from  
39 performing centralized prescription filling; requiring  
40 prescription department managers to visit remote  
41 sites, based on a certain schedule, to perform  
42 specified tasks; authorizing registered pharmacists to  
43 serve as prescription department managers for up to  
44 three remote-site pharmacies under certain  
45 circumstances; amending s. 465.022, F.S.; exempting  
46 registered pharmacists serving as prescription  
47 department managers for remote-site pharmacies from  
48 certain practice limitations; amending s. 465.0265,  
49 F.S.; providing applicability; amending s. 893.05,  
50 F.S.; prohibiting telehealth providers from

51           prescribing specified controlled substances through  
 52           telehealth; providing an effective date.

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

55

56           Section 1. Present subsections (22) through (26) of  
 57 section 409.908, Florida Statutes, are redesignated as  
 58 subsections (23) through (27), respectively, and a new  
 59 subsection (22) is added to that section, to read:

60           409.908 Reimbursement of Medicaid providers.—Subject to  
 61 specific appropriations, the agency shall reimburse Medicaid  
 62 providers, in accordance with state and federal law, according  
 63 to methodologies set forth in the rules of the agency and in  
 64 policy manuals and handbooks incorporated by reference therein.  
 65 These methodologies may include fee schedules, reimbursement  
 66 methods based on cost reporting, negotiated fees, competitive  
 67 bidding pursuant to s. 287.057, and other mechanisms the agency  
 68 considers efficient and effective for purchasing services or  
 69 goods on behalf of recipients. If a provider is reimbursed based  
 70 on cost reporting and submits a cost report late and that cost  
 71 report would have been used to set a lower reimbursement rate  
 72 for a rate semester, then the provider's rate for that semester  
 73 shall be retroactively calculated using the new cost report, and  
 74 full payment at the recalculated rate shall be effected  
 75 retroactively. Medicare-granted extensions for filing cost

76 reports, if applicable, shall also apply to Medicaid cost  
77 reports. Payment for Medicaid compensable services made on  
78 behalf of Medicaid eligible persons is subject to the  
79 availability of moneys and any limitations or directions  
80 provided for in the General Appropriations Act or chapter 216.  
81 Further, nothing in this section shall be construed to prevent  
82 or limit the agency from adjusting fees, reimbursement rates,  
83 lengths of stay, number of visits, or number of services, or  
84 making any other adjustments necessary to comply with the  
85 availability of moneys and any limitations or directions  
86 provided for in the General Appropriations Act, provided the  
87 adjustment is consistent with legislative intent.

88 (22) Subject to any limitations or directions provided in  
89 the General Appropriations Act, the agency shall reimburse the  
90 use of telehealth as defined by s. 456.47, to include services  
91 provided in real time, services provided using store-and-forward  
92 technologies, and remote patient monitoring services to the  
93 extent that these technologies are available.

94 (a) Providers using any modality described in this  
95 subsection must ensure that treatment services are medically  
96 necessary and performed within a provider's scope of practice  
97 and any applicable supervision requirements.

98 (b) Providers must include documentation regarding the use  
99 of telehealth in the medical record or progress notes for each  
100 encounter with a recipient.

101        (c) Out-of-state providers who are registered under s.  
102 456.47(4) and enrolled in the Florida Medicaid program as an  
103 out-of-state provider may be reimbursed for telehealth services  
104 provided to recipients in this state.

105        (d) Reimbursement under this subsection does not cover the  
106 purchase of any general telecommunications equipment that is not  
107 specific to or used solely for the provision of telehealth,  
108 including, but not limited to, computers, tablets, cell phones,  
109 smartphones, or any other similar equipment or devices.

110        Section 2. Paragraph (a) of subsection (1) and paragraph  
111 (c) of subsection (2) of section 456.47, Florida Statutes, are  
112 amended to read:

113        456.47 Use of telehealth to provide services.—

114        (1) DEFINITIONS.—As used in this section, the term:

115        (a) "Telehealth" means the use of synchronous or  
116 asynchronous telecommunications technology by a telehealth  
117 provider to provide or supervise the provision of health care  
118 services, including, but not limited to, assessment, diagnosis,  
119 consultation, treatment, and monitoring of a patient; transfer  
120 of medical data; patient and professional health-related  
121 education; public health services; and health administration.  
122 The term includes ~~does not include~~ audio-only telephone calls,  
123 personal e-mail messages, or facsimile transmissions, and any  
124 other nonpublic-facing telecommunications technology.

125        (2) PRACTICE STANDARDS.—

126 (c) A telehealth provider, acting within the scope of his  
 127 or her practice and in accordance with chapter 893, may ~~not~~ use  
 128 telehealth to prescribe a controlled substance listed in  
 129 Schedule III, Schedule IV, or Schedule V of s. 893.03 unless the  
 130 controlled substance is prescribed for the following:

- 131 1. The treatment of a psychiatric disorder;
- 132 2. Inpatient treatment at a hospital licensed under  
 133 chapter 395;
- 134 3. The treatment of a patient receiving hospice services  
 135 as defined in s. 400.601; or
- 136 4. The treatment of a resident of a nursing home facility  
 137 as defined in s. 400.021.

138 Section 3. Paragraph (f) of subsection (2) of section  
 139 458.347, Florida Statutes, is amended to read:

140 458.347 Physician assistants.—

141 (2) DEFINITIONS.—As used in this section:

142 (f) "Supervision" means responsible supervision and  
 143 control. Except in cases of emergency, supervision requires the  
 144 easy availability or physical presence of the licensed physician  
 145 for consultation and direction of the actions of the physician  
 146 assistant. For the purposes of this definition, the term "easy  
 147 availability" includes the ability to communicate by way of  
 148 telehealth as defined in s. 456.47(1) ~~telecommunication~~. The  
 149 boards shall establish rules as to what constitutes responsible  
 150 supervision of the physician assistant.

151 Section 4. Paragraph (f) of subsection (2) of section  
 152 459.022, Florida Statutes, is amended to read:

153 459.022 Physician assistants.—

154 (2) DEFINITIONS.—As used in this section:

155 (f) "Supervision" means responsible supervision and  
 156 control. Except in cases of emergency, supervision requires the  
 157 easy availability or physical presence of the licensed physician  
 158 for consultation and direction of the actions of the physician  
 159 assistant. For the purposes of this definition, the term "easy  
 160 availability" includes the ability to communicate by way of  
 161 telehealth as defined in s. 456.47(1) ~~telecommunication~~. The  
 162 boards shall establish rules as to what constitutes responsible  
 163 supervision of the physician assistant.

164 Section 5. Subsection (11) of section 465.003, Florida  
 165 Statutes, is amended to read:

166 465.003 Definitions.—As used in this chapter, the term:

167 (11) (a) "Pharmacy" includes a community pharmacy, an  
 168 institutional pharmacy, a nuclear pharmacy, a special pharmacy,  
 169 ~~and an Internet pharmacy, and a remote-site pharmacy.~~

170 1. The term "community pharmacy" includes every location  
 171 where medicinal drugs are compounded, dispensed, stored, or sold  
 172 or where prescriptions are filled or dispensed on an outpatient  
 173 basis.

174 2. The term "institutional pharmacy" includes every  
 175 location in a hospital, clinic, nursing home, dispensary,

176 | sanitarium, extended care facility, or other facility,  
177 | hereinafter referred to as "health care institutions," where  
178 | medicinal drugs are compounded, dispensed, stored, or sold.

179 |         3. The term "nuclear pharmacy" includes every location  
180 | where radioactive drugs and chemicals within the classification  
181 | of medicinal drugs are compounded, dispensed, stored, or sold.  
182 | The term "nuclear pharmacy" does not include hospitals licensed  
183 | under chapter 395 or the nuclear medicine facilities of such  
184 | hospitals.

185 |         4. The term "special pharmacy" includes every location  
186 | where medicinal drugs are compounded, dispensed, stored, or sold  
187 | if such locations are not otherwise defined in this subsection.

188 |         5. The term "Internet pharmacy" includes locations not  
189 | otherwise licensed or issued a permit under this chapter, within  
190 | or outside this state, which use the Internet to communicate  
191 | with or obtain information from consumers in this state and use  
192 | such communication or information to fill or refill  
193 | prescriptions or to dispense, distribute, or otherwise engage in  
194 | the practice of pharmacy in this state. Any act described in  
195 | this definition constitutes the practice of pharmacy as defined  
196 | in subsection (13).

197 |         6. The term "remote-site pharmacy" or "remote site"  
198 | includes every location where medicinal drugs are compounded or  
199 | dispensed by a registered pharmacy technician who is remotely  
200 | supervised by an off-site pharmacist acting in the capacity of a



201 prescription department manager.

202 (b) The pharmacy department of any permittee shall be  
203 considered closed whenever a Florida licensed pharmacist is not  
204 present and on duty. The term "not present and on duty" may  
205 ~~shall~~ not be construed to prevent any of the following:

206 1. A pharmacist from exiting the prescription department  
207 for the purposes of consulting or responding to inquiries or  
208 providing assistance to patients or customers.

209 2. A pharmacist from, attending to personal hygiene needs.

210 3. A pharmacist from, ~~or~~ performing any other function for  
211 which the pharmacist is responsible, provided that such  
212 activities are conducted in a manner consistent with the  
213 pharmacist's responsibility to provide pharmacy services.

214 4. An off-site pharmacist, acting in the capacity of a  
215 prescription department manager, from remotely supervising a  
216 registered pharmacy technician at a remote-site pharmacy.

217 Section 6. Subsection (1) of section 465.014, Florida  
218 Statutes, is amended to read:

219 465.014 Pharmacy technician.—

220 (1) A person other than a licensed pharmacist or pharmacy  
221 intern may not engage in the practice of the profession of  
222 pharmacy, except that a licensed pharmacist may delegate to  
223 pharmacy technicians who are registered pursuant to this section  
224 those duties, tasks, and functions that do not fall within the  
225 purview of s. 465.003(13), and a registered pharmacy technician

226 operating under remote supervision of an off-site pharmacist  
227 under s. 465.0198 may compound and dispense medicinal drugs  
228 under such supervision. All such delegated acts must be  
229 performed under the direct supervision of a licensed pharmacist  
230 who is responsible for all such acts performed by persons under  
231 his or her supervision. A registered pharmacy technician, under  
232 the supervision of a pharmacist, may initiate or receive  
233 communications with a practitioner or his or her agent, on  
234 behalf of a patient, regarding refill authorization requests. A  
235 licensed pharmacist may not supervise more than one registered  
236 pharmacy technician, except as provided in s. 465.0198 or unless  
237 otherwise permitted by the guidelines adopted by the board. The  
238 board shall establish guidelines to be followed by licensees or  
239 permittees in determining the circumstances under which a  
240 licensed pharmacist may supervise more than one pharmacy  
241 technician.

242 Section 7. Paragraph (b) of subsection (1) and paragraph  
243 (b) of subsection (2) of section 465.015, Florida Statutes, are  
244 amended to read:

245 465.015 Violations and penalties.—

246 (1) It is unlawful for any person to own, operate,  
247 maintain, open, establish, conduct, or have charge of, either  
248 alone or with another person or persons, a pharmacy:

249 (b) In which a person not licensed as a pharmacist in this  
250 state or not registered as an intern in this state or in which

251 an intern who is not acting under the direct and immediate  
252 personal supervision of a licensed pharmacist fills, compounds,  
253 or dispenses any prescription or dispenses medicinal drugs. This  
254 paragraph does not apply to any person who owns, operates,  
255 maintains, opens, establishes, conducts, or has charge of a  
256 remote site pursuant to s. 465.0198.

257 (2) It is unlawful for any person:

258 (b) To fill, compound, or dispense prescriptions or to  
259 dispense medicinal drugs if such person does not hold an active  
260 license as a pharmacist in this state, is not registered as an  
261 intern in this state, ~~or~~ is an intern not acting under the  
262 direct and immediate personal supervision of a licensed  
263 pharmacist, or is not a registered pharmacy technician at a  
264 remote-site pharmacy acting under remote supervision of a  
265 licensed pharmacist pursuant to s. 465.0198.

266 Section 8. Section 465.0198, Florida Statutes, is created  
267 to read:

268 465.0198 Remote-site pharmacy permits.-

269 (1) As used in this section, the term "supervising  
270 pharmacy" means a pharmacy licensed in this state which employs  
271 a licensed pharmacist who remotely supervises a registered  
272 pharmacy technician at a remote-site pharmacy.

273 (2) Any person desiring a permit to operate a remote-site  
274 pharmacy must apply to the department. If the board certifies  
275 that the application complies with the laws and rules of the

276 board, the department must issue the permit. A permit may not be  
277 issued unless a licensed pharmacist or consultant pharmacist is  
278 designated as the prescription department manager responsible  
279 for the oversight of the remote site. The permittee must notify  
280 the department within 10 days after any change of the  
281 prescription department manager.

282 (3) A remote-site pharmacy must comply with all of the  
283 following:

284 (a) Be jointly owned by or operated under a contract with  
285 a supervising pharmacy.

286 (b) Maintain a video surveillance system that records  
287 continuously 24 hours per day and retain video surveillance  
288 recordings for at least 45 days.

289 (c) Display a sign visible to the public indicating that  
290 the location is a remote-site pharmacy and that the facility is  
291 under 24-hour video surveillance.

292 (d) Maintain a policies and procedures manual, which must  
293 be made available to the board or its agent upon request, and  
294 must include, but need not be limited to, all of the following:

295 1. A description of how the pharmacy will comply with  
296 federal and state laws and rules.

297 2. The procedures for supervising the remote site and  
298 counseling its patients.

299 3. The procedures for reviewing the prescription drug  
300 inventory and drug records maintained by the remote site.

301        4. The policies and procedures for providing security  
302 adequate to protect the confidentiality and integrity of patient  
303 information.

304        5. The written plan for recovery from an event that  
305 interrupts or prevents the prescription department manager from  
306 supervising the remote site's operation.

307        6. The procedures for use of the state prescription drug  
308 monitoring program by the prescription department manager before  
309 he or she may authorize the dispensing of any controlled  
310 substance.

311        7. The procedures for maintaining a perpetual inventory of  
312 the controlled substances listed in s. 893.03(2).

313        8. The specific duties, tasks, and functions that  
314 registered pharmacy technicians are authorized to perform at the  
315 remote site.

316        (4) A remote-site pharmacy is not considered a pharmacy  
317 location for purposes of network access in managed care  
318 programs.

319        (5) A remote-site pharmacy may store, hold, or dispense  
320 any medicinal drug.

321        (6) A remote-site pharmacy may not perform centralized  
322 prescription filling as defined in s. 465.003(16).

323        (7) The prescription department manager must visit the  
324 remote site, based on a schedule determined by the board, to  
325 inspect the pharmacy, address personnel matters, and provide

326 clinical services for patients.

327 (8) A registered pharmacist may serve as the prescription  
 328 department manager for up to three remote-site pharmacies that  
 329 are under common control of the same supervising pharmacy.

330 Section 9. Paragraph (c) of subsection (11) of section  
 331 465.022, Florida Statutes, is amended to read:

332 465.022 Pharmacies; general requirements; fees.—

333 (11) A permittee must notify the department of the  
 334 identity of the prescription department manager within 10 days  
 335 after employment. The prescription department manager must  
 336 comply with the following requirements:

337 (c) A registered pharmacist may not serve as the  
 338 prescription department manager in more than one location,  
 339 except as authorized under s. 465.0198, unless approved by the  
 340 board.

341 Section 10. Subsection (1) of section 465.0265, Florida  
 342 Statutes, is amended to read:

343 465.0265 Centralized prescription filling.—

344 (1) A pharmacy licensed under this chapter may perform  
 345 centralized prescription filling for another pharmacy, provided  
 346 that the pharmacies have the same owner or have a written  
 347 contract specifying the services to be provided by each  
 348 pharmacy, the responsibilities of each pharmacy, and the manner  
 349 in which the pharmacies will comply with federal and state laws,  
 350 rules, and regulations. This subsection does not apply to a

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351 remote-site pharmacy.

352 Section 11. Paragraph (e) is added to subsection (1) of  
353 section 893.05, Florida Statutes, to read:

354 893.05 Practitioners and persons administering controlled  
355 substances in their absence.—

356 (1)

357 (e) A telehealth provider as defined in s. 456.47 may not  
358 prescribe through telehealth a controlled substance listed in  
359 Schedule I or Schedule II of s. 893.03.

360 Section 12. This act shall take effect July 1, 2021.