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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to telehealth; amending s. 409.908, F.S.; requiring the Agency for Health Care Administration to reimburse pharmacists for health care services provided through telehealth; requiring the agency to reimburse the use of telehealth services under certain circumstances and subject to certain limitations; requiring providers to include certain documentation in patient records and notes; authorizing certain out-of-state providers to receive reimbursement for telehealth services; providing an exception; amending s. 456.47, F.S.; revising the definition of the term "telehealth"; authorizing telehealth providers to prescribe specified controlled substances through telehealth under certain circumstances; revising an exemption from telehealth registration requirements; amending ss. 458.347 and 459.022, F.S.; revising the definition of the term "supervision"; amending s. 465.003, F.S.; revising the definition of the term "pharmacy"; creating s. 465.0198, F.S.; defining the term "supervising pharmacy"; providing for the permitting of remote-site pharmacies; requiring a licensed or consultant pharmacist to serve as the prescription department manager of a remote site; requiring remote-site pharmacies to notify the Department of Health of a change in the pharmacy's prescription department



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28 manager within a specified timeframe; providing
29 requirements for remote-site pharmacies; providing
30 that remote-site pharmacies are not considered
31 pharmacy locations for purposes of network access in
32 managed care programs; authorizing remote-site
33 pharmacies to store, hold, and dispense medicinal
34 drugs; prohibiting remote-site pharmacies from
35 performing centralized prescription filling; requiring
36 prescription department managers to visit remote
37 sites, based on a certain schedule, to perform
38 specified tasks; authorizing registered pharmacists to
39 serve as prescription department managers for up to
40 three remote-site pharmacies under certain
41 circumstances; amending s. 465.1893, F.S.; providing
42 additional long-acting medications pharmacists may
43 administer under certain circumstances; revising
44 requirements for a continuing education course such
45 pharmacists must complete; providing an effective
46 date.

47

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

49

50 Section 1. Present paragraph (e) of subsection (14) of
51 section 409.908, Florida Statutes, is redesignated as paragraph
52 (f), present subsections (22) through (26) of that section are
53 redesignated as subsections (23) through (27), respectively, a
54 new paragraph (e) is added to subsection (14) of that section,
55 and a new subsection (22) is added to that section, to read:

56 409.908 Reimbursement of Medicaid providers.—Subject to



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57 specific appropriations, the agency shall reimburse Medicaid
58 providers, in accordance with state and federal law, according
59 to methodologies set forth in the rules of the agency and in
60 policy manuals and handbooks incorporated by reference therein.
61 These methodologies may include fee schedules, reimbursement
62 methods based on cost reporting, negotiated fees, competitive
63 bidding pursuant to s. 287.057, and other mechanisms the agency
64 considers efficient and effective for purchasing services or
65 goods on behalf of recipients. If a provider is reimbursed based
66 on cost reporting and submits a cost report late and that cost
67 report would have been used to set a lower reimbursement rate
68 for a rate semester, then the provider's rate for that semester
69 shall be retroactively calculated using the new cost report, and
70 full payment at the recalculated rate shall be effected
71 retroactively. Medicare-granted extensions for filing cost
72 reports, if applicable, shall also apply to Medicaid cost
73 reports. Payment for Medicaid compensable services made on
74 behalf of Medicaid eligible persons is subject to the
75 availability of moneys and any limitations or directions
76 provided for in the General Appropriations Act or chapter 216.
77 Further, nothing in this section shall be construed to prevent
78 or limit the agency from adjusting fees, reimbursement rates,
79 lengths of stay, number of visits, or number of services, or
80 making any other adjustments necessary to comply with the
81 availability of moneys and any limitations or directions
82 provided for in the General Appropriations Act, provided the
83 adjustment is consistent with legislative intent.

84 (14) A provider of prescribed drugs shall be reimbursed the
85 least of the amount billed by the provider, the provider's usual



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86 and customary charge, or the Medicaid maximum allowable fee
87 established by the agency, plus a dispensing fee. The Medicaid
88 maximum allowable fee for ingredient cost must be based on the
89 lowest of: the average wholesale price (AWP) minus 16.4 percent,
90 the wholesaler acquisition cost (WAC) plus 1.5 percent, the
91 federal upper limit (FUL), the state maximum allowable cost
92 (SMAC), or the usual and customary (UAC) charge billed by the
93 provider.

94 (e) A pharmacist providing health care services through
95 telehealth as defined in s. 456.47 shall be reimbursed for such
96 services in accordance with this subsection.

97 (22) Subject to any limitations or directions provided in
98 the General Appropriations Act, the agency shall reimburse the
99 use of telehealth as defined by s. 456.47, including services
100 provided in real time, services provided using store-and-forward
101 technologies, and remote patient monitoring services to the
102 extent that these technologies are available.

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

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

110 (c) Out-of-state providers who are registered under s.
111 456.47(4) and enrolled in Florida Medicaid as an out-of-state
112 provider may be reimbursed for telehealth services provided to
113 recipients in this state.

114 (d) Reimbursement under this subsection does not cover the



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115 purchase of any general telecommunications equipment that is not
116 specific to or used solely for the provision of telehealth,
117 including, but not limited to, computers, tablets, cell phones,
118 smartphones, or any other similar equipment or device.

119 Section 2. Paragraph (a) of subsection (1), paragraph (c)
120 of subsection (2), and subsection (6) of section 456.47, Florida
121 Statutes, are amended to read:

122 456.47 Use of telehealth to provide services.—

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

124 (a) "Telehealth" means the use of synchronous or
125 asynchronous telecommunications technology by a telehealth
126 provider to provide or supervise the provision of health care
127 services, including, but not limited to, assessment, diagnosis,
128 consultation, treatment, and monitoring of a patient; transfer
129 of medical data; patient and professional health-related
130 education; public health services; and health administration.
131 The term includes ~~does not include~~ audio-only telephone calls,
132 personal e-mail messages, ~~or~~ facsimile transmissions, and any
133 other nonpublic-facing telecommunications technology.

134 (2) PRACTICE STANDARDS.—

135 (c) A telehealth provider, acting within the scope of his
136 or her practice and in accordance with chapter 893, may ~~not~~ use
137 telehealth to prescribe a controlled substance listed in
138 Schedule III, Schedule IV, or Schedule V of s. 893.03 and may
139 use telehealth to prescribe a controlled substance listed in
140 Schedule II of s. 893.03 if ~~unless~~ the controlled substance is
141 prescribed for the following:

- 142 1. The treatment of a psychiatric disorder;
143 2. Inpatient treatment at a hospital licensed under chapter



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144 395;

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

147 4. The treatment of a resident of a nursing home facility
148 as defined in s. 400.021.

149

150 A telehealth provider may not use telehealth to prescribe a
151 controlled substance listed in Schedule I of s. 893.03 or to
152 issue a physician certification for marijuana for medical use
153 under s. 381.986.

154 (6) EXEMPTIONS.—A health care professional who is not
155 licensed to provide health care services in this state but who
156 holds an active license to provide health care services in
157 another state or jurisdiction, and who provides health care
158 services using telehealth to a patient located in this state, is
159 not subject to the registration requirement under this section
160 if the services are provided:

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

163 (b) In consultation with a health care professional
164 licensed in this state who has ~~ultimate~~ authority over the
165 diagnosis and care of the patient.

166 Section 3. Paragraph (f) of subsection (2) of section
167 458.347, Florida Statutes, is amended to read:

168 458.347 Physician assistants.—

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

170 (f) "Supervision" means responsible supervision and
171 control. Except in cases of emergency, supervision requires the
172 easy availability or physical presence of the licensed physician



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173 for consultation and direction of the actions of the physician
174 assistant. For the purposes of this definition, the term "easy
175 availability" includes the ability to communicate by way of
176 telehealth as defined in s. 456.47 telecommunication. The boards
177 shall establish rules as to what constitutes responsible
178 supervision of the physician assistant.

179 Section 4. Paragraph (f) of subsection (2) of section
180 459.022, Florida Statutes, is amended to read:

181 459.022 Physician assistants.—

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

183 (f) "Supervision" means responsible supervision and
184 control. Except in cases of emergency, supervision requires the
185 easy availability or physical presence of the licensed physician
186 for consultation and direction of the actions of the physician
187 assistant. For the purposes of this definition, the term "easy
188 availability" includes the ability to communicate by way of
189 telehealth as defined in s. 456.47 telecommunication. The boards
190 shall establish rules as to what constitutes responsible
191 supervision of the physician assistant.

192 Section 5. Paragraph (a) of subsection (11) of section
193 465.003, Florida Statutes, is amended to read

194 465.003 Definitions.—As used in this chapter, the term:

195 (11) (a) "Pharmacy" includes a community pharmacy, an
196 institutional pharmacy, a nuclear pharmacy, a special pharmacy,
197 ~~and~~ an Internet pharmacy, and a remote-site pharmacy.

198 1. The term "community pharmacy" includes every location
199 where medicinal drugs are compounded, dispensed, stored, or sold
200 or where prescriptions are filled or dispensed on an outpatient
201 basis.



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202 2. The term "institutional pharmacy" includes every
203 location in a hospital, clinic, nursing home, dispensary,
204 sanitarium, extended care facility, or other facility,
205 hereinafter referred to as "health care institutions," where
206 medicinal drugs are compounded, dispensed, stored, or sold.

207 3. The term "nuclear pharmacy" includes every location
208 where radioactive drugs and chemicals within the classification
209 of medicinal drugs are compounded, dispensed, stored, or sold.
210 The term "nuclear pharmacy" does not include hospitals licensed
211 under chapter 395 or the nuclear medicine facilities of such
212 hospitals.

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

216 5. The term "Internet pharmacy" includes locations not
217 otherwise licensed or issued a permit under this chapter, within
218 or outside this state, which use the Internet to communicate
219 with or obtain information from consumers in this state and use
220 such communication or information to fill or refill
221 prescriptions or to dispense, distribute, or otherwise engage in
222 the practice of pharmacy in this state. Any act described in
223 this definition constitutes the practice of pharmacy as defined
224 in subsection (13).

225 6. The term "remote-site pharmacy" or "remote site"
226 includes every location within a community mental health center
227 or clinic as defined in s. 394.455 in which medicinal drugs are
228 compounded or dispensed by a registered pharmacy technician who
229 is remotely supervised by an off-site pharmacist acting in the
230 capacity of a prescription department manager.



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231 Section 6. Section 465.0198, Florida Statutes, is created
232 to read:

233 465.0198 Remote-site pharmacy permits.-

234 (1) As used in this section, the term "supervising
235 pharmacy" means a pharmacy licensed in this state which employs
236 a licensed pharmacist who remotely supervises a registered
237 pharmacy technician at a remote-site pharmacy.

238 (2) Any person desiring a permit to operate a remote-site
239 pharmacy must apply to the department. If the board certifies
240 that the application complies with the laws and rules of the
241 board, the department must issue the permit. A permit may not be
242 issued unless a licensed pharmacist or consultant pharmacist is
243 designated as the prescription department manager responsible
244 for the oversight of the remote site. The permittee must notify
245 the department within 10 days after any change of the
246 prescription department manager.

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

249 (a) Be jointly owned by or operated under a contract with a
250 supervising pharmacy.

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

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

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



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- 260 1. A description of how the pharmacy will comply with
261 federal and state laws and rules.
- 262 2. The procedures for supervising the remote site and
263 counseling its patients.
- 264 3. The procedures for reviewing the prescription drug
265 inventory and drug records maintained by the remote site.
- 266 4. The policies and procedures for providing security
267 adequate to protect the confidentiality and integrity of patient
268 information.
- 269 5. The written plan for recovery from an event that
270 interrupts or prevents the prescription department manager from
271 supervising the remote site's operation.
- 272 6. The procedures for use of the state prescription drug
273 monitoring program by the prescription department manager before
274 he or she may authorize the dispensing of any controlled
275 substance.
- 276 7. The procedures for maintaining a perpetual inventory of
277 the controlled substances listed in s. 893.03(2).
- 278 8. The specific duties, tasks, and functions that
279 registered pharmacy technicians are authorized to perform at the
280 remote site.
- 281 (4) A remote-site pharmacy is not considered a pharmacy
282 location for purposes of network access in managed care
283 programs.
- 284 (5) A remote-site pharmacy may store, hold, or dispense any
285 medicinal drug.
- 286 (6) A remote-site pharmacy may not perform centralized
287 prescription filling as defined in s. 465.003(16).
- 288 (7) The prescription department manager must visit the



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289 remote site, based on a schedule determined by the board, to
290 inspect the pharmacy, address personnel matters, and provide
291 clinical services for patients.

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

295 Section 7. Section 465.1893, Florida Statutes, is amended
296 to read

297 465.1893 Administration of long-acting antipsychotic
298 medication by injection.—

299 (1) (a) A pharmacist, at the direction of a physician
300 licensed under chapter 458 or chapter 459, may administer a
301 long-acting antipsychotic medication or an extended-release
302 medication indicated to treat opioid use disorder, alcohol use
303 disorder, or other substance use disorder or dependency,
304 including, but not limited to, buprenorphine, naltrexone, or
305 other medications that have been approved by the United States
306 Food and Drug Administration by injection to a patient if the
307 pharmacist:

308 1. Is authorized by and acting within the framework of an
309 established protocol with the prescribing physician.

310 2. Practices at a facility that accommodates privacy for
311 nondeltoid injections and conforms with state rules and
312 regulations regarding the appropriate and safe disposal of
313 medication and medical waste.

314 3. Has completed the course required under subsection (2).

315 (b) A separate prescription from a physician is required
316 for each injection administered by a pharmacist under this
317 subsection.



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318 (2) (a) A pharmacist seeking to administer a ~~long-acting~~
319 ~~antipsychotic~~ medication described in paragraph (1) (a) ~~by~~
320 ~~injection~~ must complete an 8-hour continuing education course
321 offered by:

322 1. A statewide professional association of physicians in
323 this state accredited to provide educational activities
324 designated for the American Medical Association Physician's
325 Recognition Award (AMA PRA) Category 1 Credit or the American
326 Osteopathic Association (AOA) Category 1-A continuing medical
327 education (CME) credit; and

328 2. A statewide association of pharmacists.

329 (b) The course may be offered in a distance learning format
330 and must be included in the 30 hours of continuing professional
331 pharmaceutical education required under s. 465.009(1). The
332 course shall have a curriculum of instruction that concerns the
333 safe and effective administration of behavioral health,
334 addiction, and antipsychotic medications by injection,
335 including, but not limited to, potential allergic reactions to
336 such medications.

337 Section 8. This act shall take effect July 1, 2021.