

By Senator Rodriguez

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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; authorizing nonphysician health care  
15      practitioners to satisfy a certain supervision  
16      requirement through telehealth; authorizing out-of-  
17      state physician telehealth providers to engage in  
18      formal supervisory relationships with certain  
19      nonphysician health care practitioners in this state;  
20      providing an exception; amending ss. 458.347 and  
21      459.022, F.S.; revising the definition of the term  
22      "supervision"; amending s. 465.003, F.S.; revising the  
23      definition of the term "pharmacy"; revising  
24      construction of the term "not present and on duty";  
25      amending s. 465.014, F.S.; authorizing registered  
26      pharmacy technicians to compound and dispense  
27      medicinal drugs under certain circumstances; providing  
28      an exception to certain supervision limitations;  
29      amending s. 465.015, F.S.; providing applicability;

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30 exempting certain registered pharmacy technicians from  
31 specified prohibitions; creating s. 465.0198, F.S.;  
32 defining the term "supervising pharmacy"; providing  
33 for the permitting of remote-site pharmacies;  
34 requiring a licensed or consultant pharmacist to serve  
35 as the prescription department manager of a remote  
36 site; requiring remote-site pharmacies to notify the  
37 Department of Health of a change in the pharmacy's  
38 prescription department manager within a specified  
39 timeframe; providing requirements for remote-site  
40 pharmacies; providing that remote-site pharmacies are  
41 not considered pharmacy locations for purposes of  
42 network access in managed care programs; authorizing  
43 remote-site pharmacies to store, hold, and dispense  
44 medicinal drugs; prohibiting remote-site pharmacies  
45 from performing centralized prescription filling;  
46 requiring prescription department managers to visit  
47 remote sites, based on a certain schedule, to perform  
48 specified tasks; authorizing registered pharmacists to  
49 serve as prescription department managers for up to  
50 three remote-site pharmacies under certain  
51 circumstances; amending s. 465.022, F.S.; exempting  
52 registered pharmacists serving as prescription  
53 department managers for remote-site pharmacies from  
54 certain practice limitations; amending s. 465.0265,  
55 F.S.; providing applicability; amending s. 893.05,  
56 F.S.; prohibiting telehealth providers from  
57 prescribing specified controlled substances through  
58 telehealth; providing an effective date.

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

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

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be effected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent

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88 or limit the agency from adjusting fees, reimbursement rates,  
89 lengths of stay, number of visits, or number of services, or  
90 making any other adjustments necessary to comply with the  
91 availability of moneys and any limitations or directions  
92 provided for in the General Appropriations Act, provided the  
93 adjustment is consistent with legislative intent.

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

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

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

107 (c) Out-of-state providers who are registered under s.  
108 456.47(4) and enrolled in Florida Medicaid as an out-of-state  
109 provider may be reimbursed for telehealth services provided to  
110 recipients in this state.

111 (d) Reimbursement under this subsection does not cover the  
112 purchase of any general telecommunications equipment that is not  
113 specific to or used solely for the provision of telehealth,  
114 including, but not limited to, computers, tablets, cell phones,  
115 smartphones, or any other similar equipment or device.

116 Section 2. Present paragraphs (h) and (i) of subsection (4)

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117 of section 456.47, Florida Statutes, are redesignated as  
118 paragraphs (i) and (j), respectively, a new paragraph (h) is  
119 added to that subsection, paragraph (f) is added to subsection  
120 (2) of that section, and paragraph (a) of subsection (1),  
121 paragraph (c) of subsection (2), and paragraph (c) of subsection  
122 (4) of that section are amended, to read:

123 456.47 Use of telehealth to provide services.—

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

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

135 (2) PRACTICE STANDARDS.—

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

141 ~~1. The treatment of a psychiatric disorder;~~

142 ~~2. Inpatient treatment at a hospital licensed under chapter~~  
143 ~~395;~~

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

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

148 (f) A nonphysician health care practitioner, including, but  
149 not limited to, an advanced practice registered nurse, a  
150 certified registered nurse anesthetist, or a physician  
151 assistant, who is required to maintain a formal supervisory  
152 relationship with a physician may satisfy such requirement  
153 through telehealth.

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

155 (c) The website of a telehealth provider registered under  
156 paragraph (b) must prominently display a hyperlink to the  
157 department's website containing information required under  
158 paragraph (i)~~(h)~~.

159 (h) A physician registered under this subsection may use  
160 telehealth to engage in a formal supervisory relationship with a  
161 nonphysician health care practitioner in this state, including  
162 but not limited to, an advanced practice registered nurse, a  
163 certified registered nurse anesthetist, or a physician  
164 assistant. However, such supervision may not be for the  
165 provision of any health care service that requires direct  
166 supervision under the applicable laws and rules in this state.

167 Section 3. Paragraph (f) of subsection (2) of section  
168 458.347, Florida Statutes, is amended to read:

169 458.347 Physician assistants.—

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

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

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175 assistant. For the purposes of this definition, the term "easy  
176 availability" includes the ability to communicate by way of  
177 telehealth as defined in s. 456.47(1) ~~telecommunication~~. The  
178 boards shall establish rules as to what constitutes responsible  
179 supervision of the physician assistant.

180 Section 4. Paragraph (f) of subsection (2) of section  
181 459.022, Florida Statutes, is amended to read:

182 459.022 Physician assistants.—

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

184 (f) "Supervision" means responsible supervision and  
185 control. Except in cases of emergency, supervision requires the  
186 easy availability or physical presence of the licensed physician  
187 for consultation and direction of the actions of the physician  
188 assistant. For the purposes of this definition, the term "easy  
189 availability" includes the ability to communicate by way of  
190 telehealth as defined in s. 456.47(1) ~~telecommunication~~. The  
191 boards shall establish rules as to what constitutes responsible  
192 supervision of the physician assistant.

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

195 465.003 Definitions.—As used in this chapter, the term:

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

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

203 2. The term "institutional pharmacy" includes every

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204 location in a hospital, clinic, nursing home, dispensary,  
205 sanitarium, extended care facility, or other facility,  
206 hereinafter referred to as "health care institutions," where  
207 medicinal drugs are compounded, dispensed, stored, or sold.

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

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

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

226 6. The term "remote-site pharmacy" or "remote site"  
227 includes every location where medicinal drugs are compounded or  
228 dispensed by a registered pharmacy technician who is remotely  
229 supervised by an off-site pharmacist acting in the capacity of a  
230 prescription department manager.

231 (b) The pharmacy department of any permittee shall be  
232 considered closed whenever a Florida licensed pharmacist is not



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233 present and on duty. The term "not present and on duty" may  
234 ~~shall~~ not be construed to prevent any of the following:

235 1. A pharmacist from exiting the prescription department  
236 for the purposes of consulting or responding to inquiries or  
237 providing assistance to patients or customers.

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

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

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

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

248 465.014 Pharmacy technician.—

249 (1) A person other than a licensed pharmacist or pharmacy  
250 intern may not engage in the practice of the profession of  
251 pharmacy, except that a licensed pharmacist may delegate to  
252 pharmacy technicians who are registered pursuant to this section  
253 those duties, tasks, and functions that do not fall within the  
254 purview of s. 465.003(13), and a registered pharmacy technician  
255 operating under remote supervision of an off-site pharmacist  
256 under s. 465.0198 may compound and dispense medicinal drugs  
257 under such supervision. All such delegated acts must be  
258 performed under the direct supervision of a licensed pharmacist  
259 who is responsible for all such acts performed by persons under  
260 his or her supervision. A registered pharmacy technician, under  
261 the supervision of a pharmacist, may initiate or receive

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262 communications with a practitioner or his or her agent, on  
263 behalf of a patient, regarding refill authorization requests. A  
264 licensed pharmacist may not supervise more than one registered  
265 pharmacy technician, except as provided in s. 465.0198 or unless  
266 otherwise permitted by the guidelines adopted by the board. The  
267 board shall establish guidelines to be followed by licensees or  
268 permittees in determining the circumstances under which a  
269 licensed pharmacist may supervise more than one pharmacy  
270 technician.

271 Section 7. Paragraph (b) of subsection (1) and paragraph  
272 (b) of subsection (2) of section 465.015, Florida Statutes, are  
273 amended to read:

274 465.015 Violations and penalties.—

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

278 (b) In which a person not licensed as a pharmacist in this  
279 state or not registered as an intern in this state or in which  
280 an intern who is not acting under the direct and immediate  
281 personal supervision of a licensed pharmacist fills, compounds,  
282 or dispenses any prescription or dispenses medicinal drugs. This  
283 paragraph does not apply to any person who owns, operates,  
284 maintains, opens, establishes, conducts, or has charge of a  
285 remote site pursuant to s. 465.0198.

286 (2) It is unlawful for any person:

287 (b) To fill, compound, or dispense prescriptions or to  
288 dispense medicinal drugs if such person does not hold an active  
289 license as a pharmacist in this state, is not registered as an  
290 intern in this state, ~~or~~ is an intern not acting under the

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291 direct and immediate personal supervision of a licensed  
292 pharmacist, or is not a registered pharmacy technician at a  
293 remote-site pharmacy acting under remote supervision of a  
294 licensed pharmacist pursuant to s. 465.0198.

295 Section 8. Section 465.0198, Florida Statutes, is created  
296 to read:

297 465.0198 Remote-site pharmacy permits.-

298 (1) As used in this section, the term "supervising  
299 pharmacy" means a pharmacy licensed in this state which employs  
300 a licensed pharmacist who remotely supervises a registered  
301 pharmacy technician at a remote-site pharmacy.

302 (2) Any person desiring a permit to operate a remote-site  
303 pharmacy must apply to the department. If the board certifies  
304 that the application complies with the laws and rules of the  
305 board, the department must issue the permit. A permit may not be  
306 issued unless a licensed pharmacist or consultant pharmacist is  
307 designated as the prescription department manager responsible  
308 for the oversight of the remote site. The permittee must notify  
309 the department within 10 days after any change of the  
310 prescription department manager.

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

313 (a) Be jointly owned by or operated under a contract with a  
314 supervising pharmacy.

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

318 (c) Display a sign visible to the public indicating that  
319 the location is a remote-site pharmacy and that the facility is

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320 under 24-hour video surveillance.

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

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

326 2. The procedures for supervising the remote site and  
327 counseling its patients.

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

330 4. The policies and procedures for providing security  
331 adequate to protect the confidentiality and integrity of patient  
332 information.

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

336 6. The procedures for use of the state prescription drug  
337 monitoring program by the prescription department manager before  
338 he or she may authorize the dispensing of any controlled  
339 substance.

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

342 8. The specific duties, tasks, and functions that  
343 registered pharmacy technicians are authorized to perform at the  
344 remote site.

345 (4) A remote-site pharmacy is not considered a pharmacy  
346 location for purposes of network access in managed care  
347 programs.

348 (5) A remote-site pharmacy may store, hold, or dispense any

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349 medicinal drug.

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

352 (7) The prescription department manager must visit the  
353 remote site, based on a schedule determined by the board, to  
354 inspect the pharmacy, address personnel matters, and provide  
355 clinical services for patients.

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

359 Section 9. Paragraph (c) of subsection (11) of section  
360 465.022, Florida Statutes, is amended to read:

361 465.022 Pharmacies; general requirements; fees.—

362 (11) A permittee must notify the department of the identity  
363 of the prescription department manager within 10 days after  
364 employment. The prescription department manager must comply with  
365 the following requirements:

366 (c) A registered pharmacist may not serve as the  
367 prescription department manager in more than one location,  
368 except as authorized under s. 465.0198, unless approved by the  
369 board.

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

372 465.0265 Centralized prescription filling.—

373 (1) A pharmacy licensed under this chapter may perform  
374 centralized prescription filling for another pharmacy, provided  
375 that the pharmacies have the same owner or have a written  
376 contract specifying the services to be provided by each  
377 pharmacy, the responsibilities of each pharmacy, and the manner

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378 in which the pharmacies will comply with federal and state laws,  
379 rules, and regulations. This subsection does not apply to a  
380 remote-site pharmacy.

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

383 893.05 Practitioners and persons administering controlled  
384 substances in their absence.-

385 (1)

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

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