

By Senator Bean

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1 A bill to be entitled
2 An act relating to telehealth; amending s. 110.123,
3 F.S.; encouraging the state group health insurance
4 program to offer health insurance plans that include
5 telehealth coverage for state employees; amending s.
6 409.906, F.S.; authorizing the Agency for Health Care
7 Administration to pay for certain telehealth services
8 as optional Medicaid services; creating s. 456.4501,
9 F.S.; defining terms; establishing the standard of
10 care for telehealth providers; authorizing telehealth
11 providers to use telehealth to perform patient
12 evaluations; providing that telehealth providers,
13 under certain circumstances, are not required to
14 research a patient's history or conduct physical
15 examinations before providing services through
16 telehealth; providing that a nonphysician telehealth
17 provider using telehealth acting within her or her
18 relevant scope of practice is not deemed to be
19 practicing medicine without a license; authorizing
20 certain telehealth providers to use telehealth to
21 prescribe specified controlled substances; providing
22 for construction; requiring the Department of Health
23 to develop and disseminate certain educational
24 materials to specified licensees by a specified date;
25 providing requirements for recordkeeping by telehealth
26 providers; providing requirements for patient consent
27 for telehealth treatment; amending s. 627.0915, F.S.;
28 encouraging insurers offering certain rating plans for
29 workers' compensation and employer's liability

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30 insurance, which are approved by the Office of
31 Insurance Regulation, to include in the plans services
32 provided through telehealth; providing an effective
33 date.

34
35 Be It Enacted by the Legislature of the State of Florida:

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37 Section 1. Paragraph (b) of subsection (3) of section
38 110.123, Florida Statutes, is amended to read:

39 110.123 State group insurance program.—

40 (3) STATE GROUP INSURANCE PROGRAM.—

41 (b) It is the intent of the Legislature to offer a
42 comprehensive package of health insurance and retirement
43 benefits and a personnel system for state employees which are
44 provided in a cost-efficient and prudent manner, and to allow
45 state employees the option to choose benefit plans that ~~which~~
46 best suit their individual needs. The state group insurance
47 program may include the state group health insurance plan or
48 plans, health maintenance organization plans, group life
49 insurance plans, TRICARE supplemental insurance plans, group
50 accidental death and dismemberment plans, group disability
51 insurance plans, other group insurance plans or coverage
52 choices, and other benefits authorized by law. While not
53 mandated to do so, the state group health insurance program is
54 encouraged to offer a selection of plans that include coverage
55 of services provided through telehealth.

56 Section 2. Subsection (28) is added to section 409.906,
57 Florida Statutes, to read:

58 409.906 Optional Medicaid services.—Subject to specific

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59 appropriations, the agency may make payments for services which
60 are optional to the state under Title XIX of the Social Security
61 Act and are furnished by Medicaid providers to recipients who
62 are determined to be eligible on the dates on which the services
63 were provided. Any optional service that is provided shall be
64 provided only when medically necessary and in accordance with
65 state and federal law. Optional services rendered by providers
66 in mobile units to Medicaid recipients may be restricted or
67 prohibited by the agency. Nothing in this section shall be
68 construed to prevent or limit the agency from adjusting fees,
69 reimbursement rates, lengths of stay, number of visits, or
70 number of services, or making any other adjustments necessary to
71 comply with the availability of moneys and any limitations or
72 directions provided for in the General Appropriations Act or
73 chapter 216. If necessary to safeguard the state's systems of
74 providing services to elderly and disabled persons and subject
75 to the notice and review provisions of s. 216.177, the Governor
76 may direct the Agency for Health Care Administration to amend
77 the Medicaid state plan to delete the optional Medicaid service
78 known as "Intermediate Care Facilities for the Developmentally
79 Disabled." Optional services may include:

80 (28) TELEHEALTH.—The agency may pay for live video
81 conferencing, store and forward, as defined in s. 456.4501(1),
82 and remote patient monitoring of a covered service delivered by
83 or under the direction of a licensed health care practitioner.

84 Section 3. Section 456.4501, Florida Statutes, is created
85 to read:

86 456.4501 Use of telehealth to provide services.—

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

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88 (a) "Information and telecommunications technologies" means
89 those secure electronic applications used by health care
90 practitioners and health care providers to provide health care
91 services, evaluate health care information or data, provide
92 remote patient monitoring, or promote healthy behavior through
93 interactions that include, but are not limited to, live video
94 interactions, text messages, or store and forward transmissions.

95 (b) "Store and forward" means the type of telehealth
96 encounter which uses still images of patient data for rendering
97 a medical opinion or patient diagnosis. The term includes the
98 asynchronous transmission of clinical data from one site to
99 another site.

100 (c) "Synchronous" means live or two-way interactions using
101 a telecommunications system between a provider and a person who
102 is a patient, caregiver, or provider.

103 (d) "Telecommunications system" means the transfer of
104 health care data through advanced information technology using
105 compressed digital interactive video, audio, or other data
106 transmission; clinical data transmission using computer image
107 capture; and other technology that facilitates access to health
108 care services or medical specialty expertise.

109 (e) "Telehealth" means the mode of providing health care
110 services and public health services by a Florida licensed
111 practitioner, within the scope of his or her practice, through
112 synchronous and asynchronous information and telecommunications
113 technologies where the practitioner is located at a site other
114 than the site where the recipient, whether a patient or another
115 licensed practitioner, is located.

116 (f) "Telehealth provider" means a person who provides

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117 health care services and related services through telehealth and
118 who is licensed under chapter 457; chapter 458; chapter 459;
119 chapter 460; chapter 461; chapter 462; chapter 463; chapter 464;
120 chapter 465; chapter 466; chapter 467; part I, part III, part
121 IV, part V, part X, part XIII, or part XIV of chapter 468;
122 chapter 478; chapter 480; parts III and IV of chapter 483;
123 chapter 484; chapter 486; chapter 490; or chapter 491; or who is
124 certified under s. 393.17 or part III of chapter 401.

125 (2) PRACTICE STANDARDS.—

126 (a) The standard of care for a telehealth provider
127 providing medical care to a patient is the same as the standard
128 of care generally accepted for a health care professional
129 providing in-person health care services to a patient. A
130 telehealth provider may use telehealth to perform a patient
131 evaluation. If a telehealth provider conducts a patient
132 evaluation sufficient to diagnose and treat the patient, the
133 telehealth provider is not required to research the patient's
134 medical history or conduct a physical examination of the patient
135 before using telehealth to provide services to the patient.

136 (b) A telehealth provider and a patient may be in separate
137 locations when telehealth is used to provide health care
138 services to the patient.

139 (c) A nonphysician telehealth provider using telehealth and
140 acting within his or her relevant scope of practice is not
141 deemed to be practicing medicine without a license under any
142 provision of law listed in paragraph (1) (f).

143 (d) A telehealth provider who is authorized to prescribe a
144 controlled substance named or described in Schedules I through V
145 of s. 893.03 may use telehealth to prescribe a controlled

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146 substance, except that telehealth may not be used to prescribe a
147 controlled substance to treat chronic nonmalignant pain as
148 defined in s. 458.3265(1)(a) or to issue a physician
149 certification for marijuana pursuant to s. 381.986. This
150 paragraph does not prohibit a physician from using telehealth to
151 order a controlled substance for an inpatient admitted to a
152 facility licensed under chapter 395 or a patient of a hospice
153 licensed under chapter 400.

154 (e) By January 1, 2019, the department, in coordination
155 with the applicable boards, shall develop and disseminate
156 educational materials for the licensees listed in paragraph
157 (1)(f) on the use of telehealth modalities to treat patients.

158 (3) RECORDS.—A telehealth provider shall document in the
159 patient's medical record the health care services rendered using
160 telehealth according to the same standard used for in-person
161 health care services pursuant to ss. 395.3025(4) and 456.057.

162 (4) CONSENT.—Patients are not required to provide specific
163 authorization for treatment through telehealth, but must
164 authorize treatment that meets the requirements of the
165 applicable practice acts and s. 766.103, and must be allowed to
166 withhold consent for any specific procedure or treatment through
167 telehealth.

168 Section 4. Section 627.0915, Florida Statutes, is amended
169 to read:

170 627.0915 Rate filings; workers' compensation, drug-free
171 workplace, and safe employers; consideration of telehealth.—

172 (1) The office shall approve rating plans for workers'
173 compensation and employer's liability insurance that give
174 specific identifiable consideration in the setting of rates to

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175 employers that either implement a drug-free workplace program
176 pursuant to s. 440.102 and rules adopted under such section or
177 implement a safety program pursuant to provisions of the rating
178 plan or implement both a drug-free workplace program and a
179 safety program. The plans must be actuarially sound and must
180 state the savings anticipated to result from such drug-testing
181 and safety programs.

182 (2) An insurer offering a rate plan approved under this
183 section shall notify the employer at the time of the initial
184 quote for the policy and at the time of each renewal of the
185 policy of the availability of the premium discount where a drug-
186 free workplace plan is used by the employer pursuant to s.
187 440.102 and rules adopted under such section. The Financial
188 Services Commission may adopt rules to implement the provisions
189 of this subsection.

190 (3) An insurer offering a rate plan approved under this
191 section is encouraged to include in the plan services provided
192 through telehealth.

193 Section 5. This act shall take effect July 1, 2018.