A bill to be entitled

An act relating to telehealth; amending s. 110.123, F.S.; encouraging the state group health insurance program to offer health insurance plans that include telehealth coverage for state employees; amending s. 409.906, F.S.; authorizing the Agency for Health Care Administration to pay for certain telehealth services as optional Medicaid services; creating s. 456.4501, F.S.; defining terms; establishing the standard of care for telehealth providers; authorizing telehealth providers to use telehealth to perform patient evaluations; providing that telehealth providers, under certain circumstances, are not required to research a patient’s history or conduct physical examinations before providing services through telehealth; providing that a nonphysician telehealth provider using telehealth acting within her or her relevant scope of practice is not deemed to be practicing medicine without a license; authorizing certain telehealth providers to use telehealth to prescribe specified controlled substances; providing for construction; requiring the Department of Health to develop and disseminate certain educational materials to specified licensees by a specified date; providing requirements for recordkeeping by telehealth providers; providing requirements for patient consent for telehealth treatment; amending s. 627.0915, F.S.; encouraging insurers offering certain rating plans for workers’ compensation and employer’s liability
insurance, which are approved by the Office of Insurance Regulation, to include in the plans services provided through telehealth; providing an effective date.

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

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

110.123 State group insurance program.—
(3) STATE GROUP INSURANCE PROGRAM.—
(b) It is the intent of the Legislature to offer a comprehensive package of health insurance and retirement benefits and a personnel system for state employees which are provided in a cost-efficient and prudent manner, and to allow state employees the option to choose benefit plans which best suit their individual needs. The state group insurance program may include the state group health insurance plan or plans, health maintenance organization plans, group life insurance plans, TRICARE supplemental insurance plans, group accidental death and dismemberment plans, group disability insurance plans, other group insurance plans or coverage choices, and other benefits authorized by law. While not mandated to do so, the state group health insurance program is encouraged to offer a selection of plans that include coverage of services provided through telehealth.

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

409.906 Optional Medicaid services.—Subject to specific
appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state’s systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as “Intermediate Care Facilities for the Developmentally Disabled.” Optional services may include:

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

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

456.4501 Use of telehealth to provide services.—
(1) DEFINITIONS.—As used in this section, the term:
(a) “Information and telecommunications technologies” means those secure electronic applications used by health care practitioners and health care providers to provide health care services, evaluate health care information or data, provide remote patient monitoring, or promote healthy behavior through interactions that include, but are not limited to, live video interactions, text messages, or store and forward transmissions.

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

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

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

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

(f) “Telehealth provider” means a person who provides
health care services and related services through telehealth and who is licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part III, part IV, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; parts III and IV of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491; or who is certified under s. 393.17 or part III of chapter 401.

(2) PRACTICE STANDARDS.—
(a) The standard of care for a telehealth provider providing medical care to a patient is the same as the standard of care generally accepted for a health care professional providing in-person health care services to a patient. A telehealth provider may use telehealth to perform a patient evaluation. If a telehealth provider conducts a patient evaluation sufficient to diagnose and treat the patient, the telehealth provider is not required to research the patient’s medical history or conduct a physical examination of the patient before using telehealth to provide services to the patient.
(b) A telehealth provider and a patient may be in separate locations when telehealth is used to provide health care services to the patient.
(c) A nonphysician telehealth provider using telehealth and acting within his or her relevant scope of practice is not deemed to be practicing medicine without a license under any provision of law listed in paragraph (1)(f).
(d) A telehealth provider who is authorized to prescribe a controlled substance named or described in Schedules I through V of s. 893.03 may use telehealth to prescribe a controlled
substance, except that telehealth may not be used to prescribe a
controlled substance to treat chronic nonmalignant pain as
defined in s. 458.3265(1)(a) or to issue a physician
certification for marijuana pursuant to s. 381.986. This
paragraph does not prohibit a physician from using telehealth to
order a controlled substance for an inpatient admitted to a
facility licensed under chapter 395 or a patient of a hospice
licensed under chapter 400.

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

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

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

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

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

(1) The office shall approve rating plans for workers’
compensation and employer’s liability insurance that give
specific identifiable consideration in the setting of rates to
employers that either implement a drug-free workplace program pursuant to s. 440.102 and rules adopted under such section or implement a safety program pursuant to provisions of the rating plan or implement both a drug-free workplace program and a safety program. The plans must be actuarially sound and must state the savings anticipated to result from such drug-testing and safety programs.

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

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

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