

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  
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.

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

36  
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  
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:

88 |       (a) "Information and telecommunications technologies"  
 89 | means 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  
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  
140 and 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  
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  
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.