A bill to be entitled
An act relating to telehealth; creating s. 456.47, F.S.; providing definitions; establishing certain
practice standards for telehealth providers; providing for the maintenance and confidentiality of medical
records; providing registration requirements for out-of-state telehealth providers; providing limitations and notification requirements for out-of-state telehealth providers; requiring the Department of Health to publish certain information on its website; providing for the department to revoke a telehealth provider's registration under certain circumstances; providing venue; providing exemptions to the registration requirement; providing rulemaking authority; requiring the Agency for Health Care Administration, the Department of Health, and the Office of Insurance Regulation to collect certain information; requiring the agency to report such information to the Governor and Legislature by a specified date; providing certain enforcement authority to each agency; providing for expiration of the reporting requirement; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:
Section 1. Section 456.47, Florida Statutes, is created to read:

456.47 Use of telehealth to provide services.—
(1) DEFINITIONS.—As used in this section, the term:
  (a) "Telehealth" means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, patient assessment, diagnosis, consultation, treatment, and monitoring; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.
  (b) "Telehealth provider" means any individual who provides health care and related services using telehealth and who is licensed under s. 393.17; part III of chapter 401; chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; 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; part III of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491; or who is registered under and complies with subsection (4).

(2) PRACTICE STANDARD.—
  (a) The standard of care for telehealth providers who provide health care services is the same as the standard of care for health care professionals who provide in-person health care.
services to patients in this state. If the telehealth provider conducts a patient evaluation sufficient to diagnose and treat the patient, the telehealth provider is not required to research a patient's medical history or conduct a physical examination of the patient before using telehealth to provide services to the patient. The evaluation may be performed using telehealth.

(b) A telehealth provider may not use telehealth to prescribe a controlled substance to treat chronic nonmalignant pain, as defined under s. 456.44, unless the controlled substance is ordered for inpatient treatment at a hospital licensed under chapter 395, is prescribed for a patient receiving hospice services, as defined under s. 400.601, or is prescribed for a resident of a nursing home facility as defined under s. 400.021(12).

(c) A telehealth provider and a patient may each be in any location when telehealth is used to provide health care services to a patient.

(d) A nonphysician telehealth provider using telehealth and acting within the relevant scope of practice, as established by Florida law and rule, is not a violation of s. 458.327(1)(a) or s. 459.013(1)(a).

(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 as used for in-person services. Medical records, including video, audio, electronic, or other records generated as a result of providing such

Page 3 of 9
services, are confidential pursuant to ss. 395.3025(4) and 396.057.

(4) REGISTRATION OF OUT-OF-STATE TELEHEALTH PROVIDERS.—
  (a) A health care professional not licensed in this state may provide health care services to a patient located in this state using telehealth if the telehealth provider annually registers with the applicable board, or the department if there is no board, and provides health care services within the relevant scope of practice established by Florida law or rule.
  
  (b) The board, or the department if there is no board, shall register a health care professional not licensed in this state as a telehealth provider if the health care professional:

  1. Completes an application in the format prescribed by the department;
  2. Pays a $150 registration fee; and
  3. Holds an active, unencumbered license for a profession listed in paragraph (1)(b) which is issued by another state, the District of Columbia, or a possession or territory of the United States and against whom no disciplinary action has been taken during the 5 years before submission of the application. The department shall use the National Practitioner Data Bank to verify information submitted by an applicant.

  (c) A health care professional may not register under this subsection if his or her license to provide health care services is subject to a pending disciplinary investigation or action, or has been revoked in any state or jurisdiction. A health care
professional registered under this section must immediately notify the appropriate board, or the department if there is no board, of restrictions placed on the health care professional's license to practice, or disciplinary action taken or pending against the health care professional, in any state or jurisdiction.

(d) A health care professional registered under this subsection may not open an office in this state and may not provide in-person health care services to patients located in this state.

(e) A pharmacist registered under this subsection may only use a pharmacy permitted under chapter 465, or a nonresident pharmacy registered under s. 465.0156, to dispense medicinal drugs to patients located in this state.

(f) The department shall publish on its website a list of all registrants and include, to the extent applicable, each registrant's:

1. Name.
2. Health care occupation.
3. Completed health care training and education, including completion dates and any certificates or degrees obtained.
4. Out-of-state health care license with license number.
5. Florida telehealth provider registration number.
7. Board certification.
8. Five-year disciplinary history, including sanctions and...
board actions.

9. Medical malpractice insurance provider and policy limits, including whether the policy covers claims which arise in this state.

(g) The department may revoke an out-of-state telehealth provider's registration if the registrant:

1. Fails to immediately notify the department of any adverse actions taken against his or her license as required under paragraph (c).

2. Has restrictions placed on or disciplinary action taken against his or her license in any state or jurisdiction.

3. Violates any of the requirements of this section.

(5) VENUE.—For the purposes of this section, any act that constitutes the delivery of health care services is deemed to occur at the place where the patient is located at the time the act is performed.

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

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

(b) In consultation with a health care professional
licensed in this state and that health care professional retains ultimate authority over the diagnosis and care of the patient.

(7) RULEMAKING.—The applicable board, or the department if there is no board, may adopt rules to administer this section.

Section 2. Telehealth utilization and insurance coverage report.—

(1) The Agency for Health Care Administration, the Department of Health, and the Office of Insurance Regulation shall, within existing resources, survey health care facilities, health maintenance organizations, health care practitioners, and health insurers, respectively, and perform any other research necessary to collect the following information:

(a) The types of health care services provided via telehealth.

(b) The extent to which telehealth is used by health care practitioners and health care facilities nationally and in the state.

(c) The estimated costs and cost savings to health care entities, health care practitioners, and the state associated with using telehealth to provide health care services.

(d) Which health care insurers, health maintenance organizations, and managed care organizations cover health care services provided to patients in Florida via telehealth, whether the coverage is restricted or limited, and how such coverage compares to that insurer's coverage for services provided in person. The comparison shall at a minimum include:
1. Covered medical or other health care services.

2. A description of whether payment rates for such services provided via telehealth are less than, equal to, or greater than payment rates for such services provided in person.

3. Any annual or lifetime dollar maximums on coverage for services provided via telehealth and in person.

4. Any copayments, coinsurance, or deductible amounts, or policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services provided via telehealth and in person.

5. Any conditions imposed for coverage for services provided via telehealth that are not imposed for coverage for the same services provided in person.

(e) The barriers to using, implementing the use of, or accessing services via telehealth.

(2) The Agency for Health Care Administration shall compile the surveys and research findings required by this section and submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2018.

(3) The Department of Health and the Office of Insurance Regulation shall submit their survey and research findings to the agency and shall assist the agency in compiling the information to prepare the report.

(4) The Agency for Health Care Administration, the Department of Health, and the Office of Insurance Regulation may
asses fines under s. 408.813(2)(d), s. 456.072(2)(d), and s. 624.310(5), respectively, against a health care facility, health maintenance organization, health care practitioner, and health insurer for failure to complete the surveys required under this section.

(5) This section expires July 1, 2018.

Section 3. This act shall take effect July 1, 2016.