

By the Committee on Banking and Insurance; and Senator Bean

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1 A bill to be entitled
2 An act relating to telehealth; creating s. 456.4501,
3 F.S.; defining terms; establishing the standard of
4 care for telehealth providers; authorizing telehealth
5 providers to use telehealth to perform patient
6 evaluations; providing that telehealth providers,
7 under certain circumstances, are not required to
8 research a patient's history or conduct physical
9 examinations before providing services through
10 telehealth; providing that a nonphysician telehealth
11 provider using telehealth and acting within her or her
12 relevant scope of practice is not deemed to be
13 practicing medicine without a license; authorizing
14 certain telehealth providers to use telehealth to
15 prescribe specified controlled substances; providing
16 for construction; requiring the Department of Health
17 to develop and disseminate certain educational
18 materials to specified licensees by a specified date;
19 providing recordkeeping requirements for telehealth
20 providers; providing requirements for patient consent
21 for telehealth treatment; providing an effective date.

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

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25 Section 1. Section 456.4501, Florida Statutes, is created
26 to read:

27 456.4501 Use of telehealth to provide services.-

28 (1) DEFINITIONS.-As used in this section, the term:

29 (a) "Information and telecommunications technologies" means

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30 those secure electronic applications used by health care
31 practitioners and health care providers to provide health care
32 services, evaluate health care information or data, provide
33 remote patient monitoring, or promote healthy behavior through
34 interactions that include, but are not limited to, live video
35 interactions, text messages, or store and forward transmissions.

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

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

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

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

57 (f) "Telehealth provider" means a person who provides
58 health care services and related services through telehealth and

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59 who is licensed under chapter 457; chapter 458; chapter 459;
60 chapter 460; chapter 461; chapter 462; chapter 463; chapter 464;
61 chapter 465; chapter 466; chapter 467; part I, part III, part
62 IV, part V, part X, part XIII, or part XIV of chapter 468;
63 chapter 478; chapter 480; parts III and IV of chapter 483;
64 chapter 484; chapter 486; chapter 490; or chapter 491; or who is
65 certified under s. 393.17 or part III of chapter 401.

66 (2) PRACTICE STANDARDS.—

67 (a) The standard of care for a telehealth provider
68 providing medical care to a patient is the same as the standard
69 of care generally accepted for a health care professional
70 providing in-person health care services to a patient. A
71 telehealth provider may use telehealth to perform a patient
72 evaluation. If a telehealth provider conducts a patient
73 evaluation sufficient to diagnose and treat the patient, the
74 telehealth provider is not required to research the patient's
75 medical history or conduct a physical examination of the patient
76 before using telehealth to provide services to the patient.

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

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

84 (d) A telehealth provider who is authorized to prescribe a
85 controlled substance named or described in Schedules I through V
86 of s. 893.03 may use telehealth to prescribe a controlled
87 substance, except that telehealth may not be used to prescribe a

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88 controlled substance to treat chronic nonmalignant pain as
89 defined in ss. 458.3265(1)(a) and 459.0137(1)(a) or to issue a
90 physician certification for marijuana pursuant to s. 381.986.
91 This paragraph does not prohibit a physician from using
92 telehealth to order a controlled substance for an inpatient
93 admitted to a facility licensed under chapter 395 or a patient
94 of a hospice licensed under chapter 400.

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

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

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

109 Section 2. This act shall take effect July 1, 2018.