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

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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 that 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

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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.