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LEGISLATIVE ACTION

Senate

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House

The Committee on Appropriations (Harrell) recommended the following:

1 **Senate Substitute for Amendment (763358) (with title**
2 **amendment)**

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4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Section 456.47, Florida Statutes, is created to
7 read:

8 456.47 Use of telehealth to provide services.-

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

10 (a) "Telehealth" means the use of synchronous or



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11 asynchronous telecommunications technology by a telehealth
12 provider to provide health care services, including, but not
13 limited to, assessment, diagnosis, consultation, treatment, and
14 monitoring of a patient; transfer of medical data; patient and
15 professional health-related education; public health services;
16 and health administration. The term does not include audio-only
17 telephone calls, e-mail messages, or facsimile transmissions.

18 (b) "Telehealth provider" means any individual who provides
19 health care and related services using telehealth and who is
20 licensed or certified under s. 393.17; part III of chapter 401;
21 chapter 457; chapter 458; chapter 459; chapter 460; chapter 461;
22 chapter 463; chapter 464; chapter 465; chapter 466; chapter 467;
23 part I, part III, part IV, part V, part X, part XIII, or part
24 XIV of chapter 468; chapter 478; chapter 480; part II or part
25 III of chapter 483; chapter 484; chapter 486; chapter 490; or
26 chapter 491; who is licensed under a multi-state health care
27 licensure compact of which Florida is a member state; or who is
28 registered under and complies with subsection (4).

29 (2) PRACTICE STANDARDS.—

30 (a) A telehealth provider has the duty to practice in a
31 manner consistent with his or her scope of practice and the
32 prevailing professional standard of practice for a health care
33 professional who provides in-person health care services to
34 patients in this state.

35 (b) A telehealth provider may use telehealth to perform a
36 patient evaluation. If a telehealth provider conducts a patient
37 evaluation sufficient to diagnose and treat the patient, the
38 telehealth provider is not required to research a patient's
39 medical history or conduct a physical examination of the patient



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40 before using telehealth to provide health care services to the
41 patient.

42 (c) A telehealth provider may not use telehealth to
43 prescribe a controlled substance unless the controlled substance
44 is prescribed for the following:

45 1. The treatment of a psychiatric disorder;

46 2. Inpatient treatment at a hospital licensed under chapter
47 395;

48 3. The treatment of a patient receiving hospice services as
49 defined in s. 400.601; or

50 4. The treatment of a resident of a nursing home facility
51 as defined in s. 400.021.

52 (d) A telehealth provider and a patient may be in separate
53 locations when telehealth is used to provide health care
54 services to a patient.

55 (e) A nonphysician telehealth provider using telehealth and
56 acting within his or her relevant scope of practice, as
57 established by Florida law or rule, is not in violation of s.
58 458.327(1)(a) or s. 459.013(1)(a).

59 (3) RECORDS.—A telehealth provider shall document in the
60 patient's medical record the health care services rendered using
61 telehealth according to the same standard as used for in-person
62 services. Medical records, including video, audio, electronic,
63 or other records generated as a result of providing such
64 services, are confidential pursuant to ss. 395.3025(4) and
65 456.057.

66 (4) REGISTRATION OF OUT-OF-STATE TELEHEALTH PROVIDERS.—

67 (a) A health care professional not licensed in this state
68 may provide health care services to a patient located in this



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69 state using telehealth if the health care professional registers
70 with the applicable board, or the department if there is no
71 board, and provides health care services within the applicable
72 scope of practice established by Florida law or rule.

73 (b) The board, or the department if there is no board,
74 shall register a health care professional not licensed in this
75 state as a telehealth provider if the health care professional:

76 1. Completes an application in the format prescribed by the
77 department;

78 2. Is licensed with an active, unencumbered license that is
79 issued by another state, the District of Columbia, or a
80 possession or territory of the United States and that is
81 substantially similar to a license issued to a Florida-licensed
82 provider specified in paragraph (1) (b);

83 3. Has not been the subject of disciplinary action relating
84 to his or her license during the 5-year period immediately prior
85 to the submission of the application;

86 4. Designates a duly appointed registered agent for service
87 of process in this state on a form prescribed by the department;
88 and

89 5. Demonstrates to the board, or the department if there is
90 no board, that he or she is in compliance with paragraph (e).

91
92 The department shall use the National Practitioner Data Bank to
93 verify the information submitted under this paragraph, as
94 applicable.

95 (c) The website of a telehealth provider registered under
96 paragraph (b) must prominently display a hyperlink to the
97 department's website containing information required under



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98 paragraph (h).

99 (d) A health care professional may not register under this
100 subsection if his or her license to provide health care services
101 is subject to a pending disciplinary investigation or action, or
102 has been revoked in any state or jurisdiction. A health care
103 professional registered under this subsection must notify the
104 appropriate board, or the department if there is no board, of
105 restrictions placed on his or her license to practice, or any
106 disciplinary action taken or pending against him or her, in any
107 state or jurisdiction. The notification must be provided within
108 5 business days after the restriction is placed or disciplinary
109 action is initiated or taken.

110 (e) A provider registered under this subsection shall
111 maintain professional liability coverage or financial
112 responsibility, that includes coverage or financial
113 responsibility for telehealth services provided to patients not
114 located in the provider's home state, in an amount equal to or
115 greater than the requirements for a licensed practitioner under
116 s. 456.048, s. 458.320, or s. 459.0085, as applicable.

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

121 (g) A pharmacist registered under this subsection may only
122 use a pharmacy permitted under chapter 465, a nonresident
123 pharmacy registered under s. 465.0156, or a nonresident pharmacy
124 or outsourcing facility holding an active permit pursuant to s.
125 465.0158 to dispense medicinal drugs to patients located in this
126 state.



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

130 1. Name.

131 2. Health care occupation.

132 3. Completed health care training and education, including
133 completion dates and any certificates or degrees obtained.

134 4. Out-of-state health care license with the license
135 number.

136 5. Florida telehealth provider registration number.

137 6. Specialty.

138 7. Board certification.

139 8. Five-year disciplinary history, including sanctions and
140 board actions.

141 9. Medical malpractice insurance provider and policy
142 limits, including whether the policy covers claims that arise in
143 this state.

144 10. The name and address of the registered agent designated
145 for service of process in this state.

146 (i) The board, or the department if there is no board, may
147 take disciplinary action against an out-of-state telehealth
148 provider registered under this subsection if the registrant:

149 1. Fails to notify the applicable board, or the department
150 if there is no board, of any adverse actions taken against his
151 or her license as required under paragraph (d).

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

154 3. Violates any of the requirements of this section.

155 4. Commits any act that constitutes grounds for



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156 disciplinary action under s. 456.072(1) or the applicable
157 practice act for Florida-licensed providers.

158
159 Disciplinary action taken by a board, or the department if there
160 is no board, under this paragraph may include suspension or
161 revocation of the provider's registration or the issuance of a
162 reprimand or letter of concern. A suspension may be accompanied
163 by a corrective action plan as determined by the board, or the
164 department if there is no board, the completion of which may
165 lead to the suspended registration being reinstated according to
166 rules adopted by the board, or the department if there is no
167 board.

168 (5) VENUE.—For the purposes of this section, any act that
169 constitutes the delivery of health care services is deemed to
170 occur at the place where the patient is located at the time the
171 act is performed or in the patient's county of residence. Venue
172 for a civil or administrative action initiated by the
173 department, the appropriate board, or a patient who receives
174 telehealth services from an out-of-state telehealth provider may
175 be located in the patient's county of residence or in Leon
176 County.

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

184 (a) In response to an emergency medical condition as



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185 defined in s. 395.002; or

186 (b) In consultation with a health care professional
187 licensed in this state who has ultimate authority over the
188 diagnosis and care of the patient.

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

191 Section 2. Effective January 1, 2020, section 627.42396,
192 Florida Statutes, is created to read:

193 627.42396 Reimbursement for telehealth services.—A contract
194 between a health insurer issuing major medical comprehensive
195 coverage through an individual or group policy and a telehealth
196 provider, as defined in s. 456.47, may not require the provider
197 be reimbursed for a covered service provided through telehealth
198 in an amount less than the reimbursement the insurer would pay
199 if the service were delivered through an in-person encounter.

200 Section 3. Effective January 1, 2020, subsection (45) is
201 added to section 641.31, Florida Statutes, to read:

202 641.31 Health maintenance contracts.—

203 (45) A contract between a health maintenance organization
204 issuing major medical individual or group coverage and a
205 telehealth provider, as defined in s. 456.47, may not require
206 the provider be reimbursed for a covered service provided
207 through telehealth in an amount less than the reimbursement the
208 health maintenance organization would pay if the service were
209 delivered through an in-person encounter.

210 Section 4. Effective July 1, 2020, the Department of Health
211 shall annually review the amount of any fees collected under
212 section 456.47, Florida Statutes, in the prior fiscal year and
213 shall determine whether such fees are sufficient to enable the



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214 department and the boards, as defined in section 456.001,
215 Florida Statutes, to fully implement section 456.47, Florida
216 Statutes. If the department determines that the fees collected
217 are insufficient, the department shall so indicate to the
218 Legislature in its annual Legislative Budget Request and shall
219 recommend appropriate adjustments to the applicable fees.

220 Section 5. For fiscal year 2019-2020, the sums of \$261,389
221 in recurring funds and \$15,020 in nonrecurring funds from the
222 Medical Quality Assurance Trust Fund are appropriated to the
223 Department of Health, and four full-time equivalent positions
224 with associated salary rate of 145,870 are authorized for the
225 purpose of implementing s. 456.47, Florida Statutes, as created
226 by this act.

227 Section 6. Except as otherwise provided, this act shall
228 take effect July 1, 2019.

229
230 ===== T I T L E A M E N D M E N T =====

231 And the title is amended as follows:

232 Delete everything before the enacting clause
233 and insert:

234 A bill to be entitled
235 An act relating to telehealth; creating s. 456.47,
236 F.S.; defining terms; establishing standards of
237 practice for telehealth providers; authorizing
238 telehealth providers to use telehealth to perform
239 patient evaluations; authorizing certain telehealth
240 providers to use telehealth to prescribe certain
241 controlled substances under specified circumstances;
242 providing that a nonphysician telehealth provider



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243 using telehealth and acting within his or her relevant
244 scope of practice is not deemed to be practicing
245 medicine without a license; providing recordkeeping
246 requirements for telehealth providers; providing
247 registration requirements for out-of-state telehealth
248 providers; requiring the Department of Health to
249 publish certain information on its website;
250 authorizing a board, or the department if there is no
251 board, to take disciplinary action against a
252 telehealth provider under certain circumstances;
253 providing venue; providing exemptions from telehealth
254 registration requirements; authorizing the applicable
255 board, or the department if there is no board, to
256 adopt rules; amending s. 627.42396, F.S.; prohibiting
257 a contract between a certain health insurer and a
258 telehealth provider from requiring the telehealth
259 provider to be reimbursed at lesser amount than if the
260 service were provided in person; amending s. 641.31,
261 F.S.; prohibiting a contract between a certain health
262 maintenance organization and a telehealth provider
263 from requiring the telehealth provider to be
264 reimbursed at lesser amount than if the service were
265 provided in-person; requiring the department to
266 annually review the amount of certain collected fees
267 and make a determination relating to the sufficiency
268 of funding to implement specified telehealth
269 provisions; upon making a certain determination,
270 requiring the department to indicate insufficient
271 funding and recommend fee adjustments in its annual



272 | Legislative Budget Request; providing an
273 | appropriation; authorizing positions; providing
274 | effective dates.