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LEGISLATIVE ACTION

Senate

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House

Appropriations Subcommittee on Health and Human Services
(Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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



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

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

28 (2) PRACTICE STANDARDS.—

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

34 (b) If the applicable standard of practice does not require
35 an in-person physical examination:

36 1. A telehealth provider may use telehealth to perform a
37 patient evaluation.

38 2. If a patient evaluation performed by telehealth under
39 subparagraph 1. is sufficient to diagnose and treat the patient,



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40 the telehealth provider is not required to research a patient's
41 medical history or to conduct a physical examination of the
42 patient before using telehealth to provide health care services
43 to the patient.

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

47 1. The treatment of a psychiatric disorder;

48 2. Inpatient treatment at a hospital licensed under chapter
49 395;

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

52 4. The treatment of a resident of a nursing home facility
53 as defined in s. 400.021.

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

57 (e) A nonphysician telehealth provider using telehealth and
58 acting within his or her relevant scope of practice, as
59 established by Florida law or rule, is not in violation of s.
60 458.327(1) (a) or s. 459.013(1) (a).

61 (3) RECORDS.—A telehealth provider shall document in the
62 patient's medical record the health care services rendered using
63 telehealth according to the same standard as used for in-person
64 services. Medical records, including video, audio, electronic,
65 or other records generated as a result of providing such
66 services, are confidential pursuant to ss. 395.3025(4) and
67 456.057.

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



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69 (a) A health care professional not licensed in this state
70 may provide health care services to a patient located in this
71 state using telehealth if the health care professional registers
72 with the applicable board, or the department if there is no
73 board, and provides health care services within the applicable
74 scope of practice established by Florida law or rule.

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

78 1. Completes an application in the format prescribed by the
79 department;

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

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

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

91 5. Demonstrates to the department that he or she is in
92 compliance with paragraph (e).

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

97 (c) The website of a telehealth provider registered under



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98 paragraph (b) must prominently display a hyperlink to the
99 department's website containing information required under
100 paragraph (g).

101 (d) A health care professional may not register under this
102 subsection if his or her license to provide health care services
103 is subject to a pending disciplinary investigation or action, or
104 has been revoked in any state or jurisdiction. A health care
105 professional registered under this subsection must notify the
106 appropriate board, or the department if there is no board, of
107 restrictions placed on his or her license to practice, or any
108 disciplinary action taken or pending against him or her, in any
109 state or jurisdiction. The notification must be provided within
110 5 business days after the restriction is placed or disciplinary
111 action is initiated or taken.

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

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

123 (g) A pharmacist registered under this subsection may only
124 use a pharmacy permitted under chapter 465, a nonresident
125 pharmacy registered under s. 465.0156, or a nonresident pharmacy
126 or outsourcing facility holding an active permit pursuant to s.



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127 465.0158 to dispense medicinal drugs to patients located in this
128 state.

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

132 1. Name.

133 2. Health care occupation.

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

136 4. Out-of-state health care license with the license
137 number.

138 5. Florida telehealth provider registration number.

139 6. Specialty.

140 7. Board certification.

141 8. Five-year disciplinary history, including sanctions and
142 board actions.

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

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

148 (i) The board, or the department if there is no board, may
149 revoke an out-of-state telehealth provider's registration if the
150 registrant:

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

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



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

157 (5) VENUE.—For the purposes of this section, any act that
158 constitutes the delivery of health care services is deemed to
159 occur at the place where the patient is located at the time the
160 act is performed. Venue for a civil or administrative action
161 initiated by the department, the appropriate board, or a patient
162 who receives telehealth services from an out-of-state telehealth
163 provider may be located in the patient's county of residence or
164 in Leon County.

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

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

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

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

179 Section 2. For fiscal year 2019-2020, the sums of \$261,389
180 in recurring funds and \$15,020 in nonrecurring funds from the
181 Medical Quality Assurance Trust Fund are appropriated to the
182 Department of Health, and four full-time equivalent positions
183 with associated salary rate of 145,870 are authorized for the
184 purpose of implementing s. 456.47, Florida Statutes, as created



185 by this act.

186 Section 3. This act shall take effect July 1, 2019.

187

188 ===== T I T L E A M E N D M E N T =====

189 And the title is amended as follows:

190 Delete everything before the enacting clause

191 and insert:

192 A bill to be entitled

193 An act relating to telehealth; creating s. 456.47,

194 F.S.; defining terms; establishing standards of

195 practice for telehealth providers; authorizing

196 telehealth providers to use telehealth to perform

197 patient evaluations; providing that telehealth

198 providers, under certain circumstances, are not

199 required to research a patient's history or to conduct

200 physical examinations before providing services

201 through telehealth; authorizing certain telehealth

202 providers to use telehealth to prescribe certain

203 controlled substances under specified circumstances;

204 providing that a nonphysician telehealth provider

205 using telehealth and acting within his or her relevant

206 scope of practice is not deemed to be practicing

207 medicine without a license; providing recordkeeping

208 requirements for telehealth providers; providing

209 registration requirements for out-of-state telehealth

210 providers; requiring the Department of Health to

211 publish certain information on its website;

212 authorizing a board, or the department if there is no

213 board, to revoke a telehealth provider's registration



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214 under certain circumstances; providing venue;
215 providing exemptions from telehealth registration
216 requirements; authorizing the applicable board, or the
217 department if there is no board, to adopt rules;
218 providing an appropriation; authorizing positions;
219 providing an effective date.