Senator Harrell moved 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 provider to provide health care services, including, but not
limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; 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 or certified 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 II or part III of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491; who is licensed under a multi-state health care licensure compact of which Florida is a member state; or who is registered under and complies with subsection (4).

(2) PRACTICE STANDARDS.—

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

(b) 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 a patient’s medical history or conduct a physical examination of the patient before using telehealth to provide health care services to the patient.
(c) A telehealth provider may not use telehealth to prescribe a controlled substance unless the controlled substance is prescribed for the following:

1. The treatment of a psychiatric disorder;
2. Inpatient treatment at a hospital licensed under chapter 395;
3. The treatment of a patient receiving hospice services as defined in s. 400.601; or
4. The treatment of a resident of a nursing home facility as defined in s. 400.021.

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

(e) A nonphysician telehealth provider using telehealth and acting within his or her relevant scope of practice, as established by Florida law or rule, is not in 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 services, are confidential pursuant to ss. 395.3025(4) and 456.057.

(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 health care professional registers with the applicable board, or the department if there is no
board, and provides health care services within the applicable 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. Is licensed with an active, unencumbered license that is issued by another state, the District of Columbia, or a possession or territory of the United States and that is substantially similar to a license issued to a Florida-licensed provider specified in paragraph (1)(b);

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

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

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

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

(c) The website of a telehealth provider registered under paragraph (b) must prominently display a hyperlink to the department’s website containing information required under paragraph (h).

(d) 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 subsection must notify the
appropriate board, or the department if there is no board, of
restrictions placed on his or her license to practice, or any
disciplinary action taken or pending against him or her, in any
state or jurisdiction. The notification must be provided within
5 business days after the restriction is placed or disciplinary
action is initiated or taken.

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

(f) 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.

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

(h) 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 the 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 that arise in this state.
10. The name and address of the registered agent designated for service of process in this state.

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

1. Fails to notify the applicable board, or the department if there is no board, of any adverse actions taken against his or her license as required under paragraph (d).
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.
4. Commits any act that constitutes grounds for disciplinary action under s. 456.072(1) or the applicable practice act for Florida-licensed providers.
Disciplinary action taken by a board, or the department if there is no board, under this paragraph may include suspension or revocation of the provider’s registration or the issuance of a reprimand or letter of concern. A suspension may be accompanied by a corrective action plan as determined by the board, or the department if there is no board, the completion of which may lead to the suspended registration being reinstated according to rules adopted by the board, or the department if there is no board.

(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 or in the patient’s county of residence. Venue for a civil or administrative action initiated by the department, the appropriate board, or a patient who receives telehealth services from an out-of-state telehealth provider may be located in the patient’s county of residence or in Leon County.

(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 who has 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. Effective January 1, 2020, section 627.42396, Florida Statutes, is created to read:

627.42396 Reimbursement for telehealth services.—A contract
between a health insurer issuing major medical comprehensive
coverage through an individual or group policy and a telehealth
provider, as defined in s. 456.47, must be voluntary between the
insurer and the provider and must establish mutually acceptable
payment rates or payment methodologies for services provided
through telehealth. Any contract provision that distinguishes
between payment rates or payment methodologies for services
provided through telehealth and the same services provided
without the use of telehealth must be initialed by the
telehealth provider.

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

641.31 Health maintenance contracts.—
(45) A contract between a health maintenance organization
issuing major medical individual or group coverage and a
telehealth provider, as defined in s. 456.47, must be voluntary
between the health maintenance organization and the provider
must establish mutually acceptable payment rates or payment
methodologies for services provided through telehealth. Any
contract provision that distinguishes between payment rates or
payment methodologies for services provided through telehealth
and the same services provided without the use of telehealth
must be initialed by the telehealth provider.

Section 4. Effective July 1, 2020, the Department of Health shall annually review the amount of any fees collected under section 456.47, Florida Statutes, in the prior fiscal year and shall determine whether such fees are sufficient to enable the department and the boards, as defined in section 456.001, Florida Statutes, to fully implement section 456.47, Florida Statutes. If the department determines that the fees collected are insufficient, the department shall so indicate to the Legislature in its annual legislative budget request and shall recommend appropriate adjustments to the applicable fees.

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

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

================= T I T L E    A M E N D M E N T ==============
And the title is amended as follows:
   Delete everything before the enacting clause
   and insert:

   A bill to be entitled
   An act relating to telehealth; creating s. 456.47, F.S.; defining terms; establishing standards of practice for telehealth providers; authorizing
telehealth providers to use telehealth to perform patient evaluations; authorizing certain telehealth providers to use telehealth to prescribe certain controlled substances under specified circumstances; providing that 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; providing recordkeeping requirements for telehealth providers; providing registration requirements for out-of-state telehealth providers; requiring the Department of Health to publish certain information on its website; authorizing a board, or the department if there is no board, to take disciplinary action against a telehealth provider under certain circumstances; providing venue; providing exemptions from telehealth registration requirements; authorizing the applicable board, or the department if there is no board, to adopt rules; creating s. 627.42396, F.S.; providing requirements for a contract between a certain health insurer and a telehealth provider; amending s. 641.31, F.S.; providing requirements for a contract between a certain health maintenance organization and a telehealth provider; requiring the department to annually review the amount of certain collected fees and make a determination relating to the sufficiency of funding to implement specified telehealth provisions; upon making a certain determination, requiring the department to indicate insufficient
funding and recommend fee adjustments in its annual legislative budget request; providing an appropriation; authorizing positions; providing effective dates.