

1 A bill to be entitled
2 An act relating to telehealth; amending s. 456.47,
3 F.S.; providing definitions; revising the definition
4 of the term "telehealth" to remove the exclusion of
5 audio-only telephone calls from telehealth services;
6 authorizing the use of telehealth for prescription
7 renewals under certain circumstances; providing that
8 telehealth may be substituted only for physical
9 examinations; providing applicability; authorizing
10 qualified physicians to issue physician certifications
11 to existing qualified patients to receive marijuana
12 and marijuana delivery devices under a specified
13 circumstance; amending s. 627.42396, F.S.; providing a
14 cross-reference; prohibiting certain health insurance
15 policies from denying coverage for covered services
16 provided through telehealth under certain
17 circumstances; prohibiting health insurers from
18 excluding covered services provided through telehealth
19 from coverage; providing reimbursement requirements
20 relating to telehealth services; providing that health
21 insurers are not required to reimburse providers for
22 originating fees or costs for telehealth services;
23 providing cost-sharing limitations for health insurers
24 relating to telehealth services; authorizing health
25 insurers to conduct utilization reviews under certain

26 | circumstances; authorizing health insurers to limit
27 | telehealth services to certain providers; amending s.
28 | 627.6699, F.S.; requiring certain small employer
29 | health benefit plans to comply with certain
30 | requirements for reimbursement of telehealth services;
31 | creating s. 641.31093, F.S.; prohibiting certain
32 | health maintenance contracts from denying coverage for
33 | covered services provided through telehealth under
34 | certain circumstances; prohibiting health maintenance
35 | organizations from excluding covered services provided
36 | through telehealth from coverage; providing
37 | reimbursement requirements relating to telehealth
38 | services; providing that health maintenance
39 | organizations are not required to reimburse providers
40 | for originating fees or costs for telehealth services;
41 | providing cost-sharing limitations for health
42 | maintenance organizations relating to telehealth
43 | services; authorizing health maintenance organizations
44 | to conduct utilization reviews under certain
45 | circumstances; authorizing health maintenance
46 | organizations to limit telehealth services to certain
47 | providers; providing an effective date.

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49 | Be It Enacted by the Legislature of the State of Florida:
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51 Section 1. Subsection (1), paragraph (c) of subsection
52 (2), and paragraph (b) of subsection (4) of section 456.47,
53 Florida Statutes, are amended, and paragraph (f) is added to
54 subsection (2) of that section, to read:

55 456.47 Use of telehealth to provide services.—

56 (1) DEFINITIONS.—As used in this section, the term:

57 (a) "Physician certification" has the same meaning as in
58 s. 381.986(1).

59 (b) "Qualified patient" has the same meaning as in s.
60 381.986(1).

61 (c) "Qualified physician" has the same meaning as in s.
62 381.986(1).

63 (d)~~(a)~~ "Telehealth" means the use of synchronous or
64 asynchronous telecommunications technology by a telehealth
65 provider to provide health care services, including, but not
66 limited to, assessment, diagnosis, consultation, treatment, and
67 monitoring of a patient; transfer of medical data; patient and
68 professional health-related education; public health services;
69 and health administration. The term does not include ~~audio-only~~
70 ~~telephone calls~~, e-mail messages, or facsimile transmissions.

71 (e)~~(b)~~ "Telehealth provider" means any individual who
72 provides health care and related services using telehealth and
73 who is licensed or certified under s. 393.17; part III of
74 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;
75 chapter 461; chapter 463; chapter 464; chapter 465; chapter 466;

76 chapter 467; part I, part III, part IV, part V, part X, part
 77 XIII, or part XIV of chapter 468; chapter 478; chapter 480; part
 78 I or part II of chapter 483; chapter 484; chapter 486; chapter
 79 490; or chapter 491; who is licensed under a multistate health
 80 care licensure compact of which Florida is a member state; or
 81 who is registered under and complies with subsection (4).

82 (2) PRACTICE STANDARDS.—

83 (c) A telehealth provider may not use telehealth to
 84 prescribe a controlled substance unless the controlled substance
 85 is prescribed for the following:

- 86 1. The treatment of a psychiatric disorder;
- 87 2. Inpatient treatment at a hospital licensed under
 88 chapter 395;
- 89 3. The treatment of a patient receiving hospice services
 90 as defined in s. 400.601; ~~or~~
- 91 4. The treatment of a resident of a nursing home facility
 92 as defined in s. 400.021; or—

93 5. A renewal of a prescription for the treatment of
 94 chronic nonmalignant pain of an existing patient. Under this
 95 subparagraph, telehealth may be substituted only for the
 96 physical examination of the patient. All other minimum practice
 97 requirements and standards of care still apply to prescriptions
 98 renewed under this subparagraph.

99 (f) Notwithstanding s. 381.986(4)(a)1., a qualified
 100 physician may use telehealth to issue a physician certification

101 for an existing qualified patient without the need to conduct a
102 physical examination while physically present in the same room
103 as the patient if the qualified physician has previously issued
104 a physician certification to the qualified patient after
105 conducting a physical examination while physically present in
106 the same room as the patient. Under this paragraph, telehealth
107 services may be substituted only for the physical examination of
108 the patient. All other minimum practice requirements and
109 standards of care still apply to physician certifications issued
110 under this paragraph.

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

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

115 1. Completes an application in the format prescribed by
116 the department;

117 2. Is licensed with an active, unencumbered license that
118 is issued by another state, the District of Columbia, or a
119 possession or territory of the United States and that is
120 substantially similar to a license issued to a Florida-licensed
121 provider specified in paragraph (1) (e) ~~(1) (b)~~;

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

125 4. Designates a duly appointed registered agent for

126 service of process in this state on a form prescribed by the
127 department; and

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

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

134 Section 2. Section 627.42396, Florida Statutes, is amended
135 to read:

136 627.42396 Requirements for reimbursement by health
137 insurers for telehealth services.-

138 (1) A contract between a health insurer issuing major
139 medical comprehensive coverage through an individual or group
140 policy and a telehealth provider, as defined in s. 456.47(1) ~~s.~~
141 ~~456.47~~, must be voluntary between the insurer and the provider
142 and must establish mutually acceptable payment rates or payment
143 methodologies for services provided through telehealth, as
144 defined in s. 456.47(1). Any contract provision that
145 distinguishes between payment rates or payment methodologies for
146 services provided through telehealth and the same services
147 provided without the use of telehealth must be initialed by the
148 telehealth provider.

149 (2) An individual, group, blanket, or franchise health
150 insurance policy delivered or issued or delivery to any insured

151 in this state on or after January 1, 2022, may not deny coverage
152 for a covered service on the basis of the service being provided
153 through telehealth if the same services would be covered if
154 provided through an in-person encounter.

155 (3) A health insurer may not exclude an otherwise covered
156 service from coverage solely because the service is provided
157 through telehealth rather than through an in-person encounter.

158 (4) A health insurer shall reimburse a telehealth provider
159 for the diagnosis, consultation, or treatment of any insured
160 provided through telehealth on the same basis that the health
161 insurer would reimburse the provider if the covered service were
162 delivered through an in-person encounter. However, a health
163 insurer is not required to reimburse a telehealth provider for
164 originating site fees or costs for the provision of telehealth
165 services.

166 (5) A covered service provided through telehealth may not
167 be subject to a greater deductible, copayment, or coinsurance
168 amount than would apply if the same service were provided
169 through an in-person encounter.

170 (6) A health insurer may not impose upon any insured
171 receiving benefits under this section any payment, coinsurance,
172 or deductible amount or any policy year, calendar year,
173 lifetime, or other durational benefit limitation or maximum for
174 benefits or services provided via telehealth which is not
175 equally imposed upon all terms and services covered under the

176 policy.

177 (7) This section does not preclude a health insurer from
 178 conducting a utilization review to determine the appropriateness
 179 of telehealth as a means of delivering a covered service if such
 180 determination is made in the same manner as would be made for
 181 the same service provided through an in-person encounter.

182 (8) A health insurer may limit the covered services that
 183 are provided via telehealth to providers who are in a network
 184 approved by the insurer.

185 Section 3. Paragraph (h) is added to subsection (5) of
 186 section 627.6699, Florida Statutes, to read:

187 627.6699 Employee Health Care Access Act.—

188 (5) AVAILABILITY OF COVERAGE.—

189 (h) A health benefit plan covering small employers which
 190 is delivered, issued, or renewed in this state on or after
 191 January 1, 2022, must comply with s. 627.42396(2)-(8).

192 Section 4. Section 641.31093, Florida Statutes, is created
 193 to read:

194 641.31093 Requirements for reimbursement by health
 195 maintenance organization for telehealth services.—

196 (1) Each health maintenance contract delivered or issued
 197 for delivery to any subscriber on or after January 1, 2022, may
 198 not deny coverage for a covered service on the basis of the
 199 covered service being provided through telehealth, as defined in
 200 s. 456.47(1), if the same covered service would be covered if

201 provided through an in-person encounter.

202 (2) A health maintenance organization may not exclude an
203 otherwise covered service from coverage solely because the
204 service is provided through telehealth rather than through an
205 in-person encounter.

206 (3) A health maintenance organization shall reimburse a
207 telehealth provider, as defined in s. 456.47(1), for the
208 diagnosis, consultation, or treatment of any subscriber provided
209 through telehealth on the same basis that the health maintenance
210 organization would reimburse the provider if the covered service
211 were delivered through an in-person encounter. However, a health
212 maintenance organization is not required to reimburse a
213 telehealth provider for originating site fees or costs for the
214 provision of telehealth services. However, a health maintenance
215 organization is not required to reimburse a telehealth provider
216 for originating site fees or costs for the provision of
217 telehealth services.

218 (4) A covered service provided through telehealth may not
219 be subject to a greater deductible, copayment, or coinsurance
220 amount than would apply if the same service were provided
221 through an in-person encounter.

222 (5) A health maintenance organization may not impose upon
223 any subscriber receiving benefits under this section any
224 payment, coinsurance, or deductible amount or any contract year,
225 calendar year, lifetime, or other durational benefit limitation

226 or maximum for benefits or services provided via telehealth
227 which is not equally imposed upon all services covered under the
228 contract.

229 (6) This section does not preclude a health maintenance
230 organization from conducting a utilization review to determine
231 the appropriateness of telehealth as a means of delivering a
232 covered service if such determination is made in the same manner
233 as would be made for the same service provided through an in-
234 person encounter.

235 (7) A health maintenance organization may limit the
236 covered services that are provided via telehealth to providers
237 who are in a network approved by the health maintenance
238 organization.

239 Section 5. This act shall take effect July 1, 2021.