

1                   A bill to be entitled  
2           An act relating to telehealth; creating s. 456.4501,  
3           F.S.; providing definitions; establishing a standard  
4           of care for telehealth providers; authorizing  
5           telehealth providers to use telehealth to perform  
6           patient evaluations; providing that telehealth  
7           providers, under certain circumstances, are not  
8           required to research a patient's history or conduct  
9           physical examinations before providing services  
10          through telehealth; providing that a nonphysician  
11          telehealth provider using telehealth and acting within  
12          his or her relevant scope of practice is not deemed to  
13          be practicing medicine without a license; authorizing  
14          certain telehealth providers to use telehealth to  
15          prescribe specified controlled substances; providing  
16          construction; requiring the Department of Health to  
17          develop and disseminate certain educational materials  
18          to specified licensees by a specified date; providing  
19          recordkeeping requirements for telehealth providers;  
20          providing requirements for patient consent for  
21          telehealth treatment; providing an effective date.

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23   Be It Enacted by the Legislature of the State of Florida:

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25          Section 1.   Section 456.4501, Florida Statutes, is created

26 | to read:

27 | 456.4501 Use of telehealth to provide services.-

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

29 | (a) "Caregiver" means a person who has been entrusted with  
 30 | or has assumed the responsibility for frequent and regular care  
 31 | of or services to a person on a temporary or permanent basis and  
 32 | who has a commitment, agreement, or understanding with that  
 33 | person or that person's guardian that a caregiver role exists.  
 34 | The term also means a resident of this state who has agreed to  
 35 | assist with a qualified patient's medical use of marijuana, has  
 36 | a caregiver identification card, and meets the requirements of  
 37 | s. 381.986.

38 | (b) "Information and telecommunications technologies"  
 39 | means those secure electronic applications used by health care  
 40 | practitioners and health care providers to provide health care  
 41 | services, evaluate health care information or data, provide  
 42 | remote patient monitoring, or promote healthy behavior through  
 43 | interactions that include, but are not limited to, live video  
 44 | interactions, text messages, or store and forward transmissions.

45 | (c) "Store and forward" means the type of telehealth  
 46 | encounter which uses still images of patient data for rendering  
 47 | a medical opinion or patient diagnosis. The term includes the  
 48 | asynchronous transmission of clinical data from one site to  
 49 | another site.

50 | (d) "Synchronous" means live or two-way interactions using

51 a telecommunications system between a provider and a person who  
52 is a patient, caregiver, or provider.

53 (e) "Telecommunications system" means the transfer of  
54 health care data through advanced information technology using  
55 compressed digital interactive video, audio, or other data  
56 transmission; clinical data transmission using computer image  
57 capture; and other technology that facilitates access to health  
58 care services or medical specialty expertise.

59 (f) "Telehealth" means the mode of providing health care  
60 services and public health services by a telehealth provider,  
61 within the scope of his or her practice, through synchronous and  
62 asynchronous information and telecommunications technologies  
63 where the practitioner is located at a site other than the site  
64 where the recipient, whether a patient or another licensed  
65 practitioner, is located.

66 (g) "Telehealth provider" means a person who provides  
67 health care services and related services through telehealth and  
68 who is licensed under chapter 457; chapter 458; chapter 459;  
69 chapter 460; chapter 461; chapter 462; chapter 463; chapter 464;  
70 chapter 465; chapter 466; chapter 467; part I, part III, part  
71 IV, part V, part X, part XIII, or part XIV of chapter 468;  
72 chapter 478; chapter 480; parts II and III of chapter 483;  
73 chapter 484; chapter 486; chapter 490; or chapter 491; or who is  
74 certified under s. 393.17 or part III of chapter 401.

75 (2) PRACTICE STANDARDS.—

76        (a) The standard of care for a telehealth provider  
77 providing medical care to a patient is the same as the standard  
78 of care generally accepted for a health care professional  
79 providing in-person health care services to a patient. A  
80 telehealth provider may use telehealth to perform a patient  
81 evaluation. If a telehealth provider conducts a patient  
82 evaluation sufficient to diagnose and treat the patient, the  
83 telehealth provider is not required to research the patient's  
84 medical history or conduct a physical examination of the patient  
85 before using telehealth to provide services to the patient.

86        (b) A telehealth provider and a patient may be in separate  
87 locations when telehealth is used to provide health care  
88 services to the patient.

89        (c) A nonphysician telehealth provider using telehealth  
90 and acting within his or her relevant scope of practice is not  
91 deemed to be practicing medicine without a license under any  
92 provision of law listed in paragraph (1) (f).

93        (d) A telehealth provider who is authorized to prescribe a  
94 controlled substance named or described in Schedules I through V  
95 of s. 893.03 may use telehealth to prescribe a controlled  
96 substance, except that telehealth may not be used to prescribe a  
97 controlled substance to treat chronic nonmalignant pain as  
98 defined in ss. 458.3265(1) (a) and 459.0137(1) (a) or to issue a  
99 physician certification for marijuana under s. 381.986. This  
100 paragraph does not prohibit a telehealth provider from using

101 telehealth to order a controlled substance for an inpatient  
102 admitted to a facility licensed under chapter 395 or a patient  
103 of a hospice licensed under chapter 400.

104 (e) By January 1, 2020, the department, in coordination  
105 with the applicable boards, shall develop and disseminate  
106 educational materials for the licensees listed in paragraph  
107 (1)(f) on the use of telehealth modalities to treat patients.

108 (3) RECORDS.—A telehealth provider shall document in the  
109 patient's medical record the health care services rendered using  
110 telehealth according to the same standard used for in-person  
111 health care services pursuant to ss. 395.3025(4) and 456.057.

112 (4) CONSENT.—Patients are not required to provide specific  
113 authorization for treatment through telehealth, but must  
114 authorize treatment that meets the requirements of the  
115 applicable practice acts and s. 766.103, and must be allowed to  
116 withhold consent for any specific procedure or treatment through  
117 telehealth.

118 Section 2. This act shall take effect July 1, 2019.