

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**HEALTH POLICY**  
**Senator Young, Chair**  
**Senator Passidomo, Vice Chair**

**MEETING DATE:** Tuesday, January 30, 2018

**TIME:** 10:00 a.m.—12:00 noon

**PLACE:** *Pat Thomas Committee Room, 412 Knott Building*

**MEMBERS:** Senator Young, Chair; Senator Passidomo, Vice Chair; Senators Benacquisto, Book, Hukill, Hutson, Montford, and Powell

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 280</b> Banking and Insurance / Bean (Similar H 793)	Telehealth; Establishing the standard of care for telehealth providers; providing that telehealth providers, under certain circumstances, are not required to research a patient's history or conduct physical examinations before providing services through telehealth; providing recordkeeping requirements for telehealth providers, etc.  BI      01/16/2018 Fav/CS HP      01/30/2018 Favorable AHS AP	Favorable Yeas 8 Nays 0
2	<b>SB 492</b> Garcia (Similar CS/H 289)	Provision of Pharmaceutical Services; Prohibiting certain health insurance policies and health maintenance contracts from requiring insureds and subscribers to obtain certain prescription drugs exclusively from mail order pharmacies for the treatment of specified chronic illnesses; requiring certain health maintenance organizations to include specified disclosures in their outlines of coverage regarding such prescription drugs, etc.  BI      01/16/2018 Favorable HP      01/30/2018 Favorable AP	Favorable Yeas 8 Nays 0
3	<b>CS/SB 562</b> Community Affairs / Mayfield (Similar H 627)	Regulation of Smoking; Authorizing municipalities and counties to further restrict smoking within the boundaries of certain public parks and designated facilities, etc.  CA      01/16/2018 Fav/CS HP      01/30/2018 Favorable RC	Favorable Yeas 8 Nays 0

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Health Policy

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1128</b> Stargel (Similar H 675)	Pharmacy; Revising the membership of the Board of Pharmacy; establishing Class III institutional pharmacies; authorizing such pharmacies to dispense, compound, and fill prescriptions, prepare prepackaged drug products, and conduct other pharmaceutical services between certain entities under common control; providing that a prescription drug repackager permit and a restricted prescription drug distributor permit are not required for the distribution of medicinal drugs or prepackaged drug products between entities under common control under certain circumstances, etc.  HP 01/30/2018 Fav/CS AP RC	Fav/CS Yeas 8 Nays 0
5	<b>SB 1184</b> Gibson (Identical H 1009)	Closing the Gap Grant Program; Requiring a Closing the Gap grant proposal to address racial and ethnic disparities in morbidity and mortality rates relating to Lupus, etc.  HP 01/30/2018 Favorable AHS AP	Favorable Yeas 8 Nays 0
6	<b>SB 1486</b> Grimsley (Similar CS/H 1047, Compare CS/H 29, H 557, H 1039, H 7059, CS/S 520, S 1706, S 1884)	Department of Health; Requiring the Department of Health to adopt rules to implement a federal program to further encourage qualified physicians to relocate to and practice in underserved areas; revising health care practitioner licensure eligibility requirements for certain members of the armed forces and their spouses; requiring certain pharmacies and outsourcing facilities located in this state to obtain a permit in order to create, ship, mail, deliver, or dispense compounded sterile products; revising qualifications for licensure as a massage therapist, etc.  HP 01/30/2018 Fav/CS AP RC	Fav/CS Yeas 8 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>SB 1594</b> Brandes (Similar H 1337)	Nursing; Requiring any nurse desiring to be licensed as an advanced practice registered nurse to apply to the Department of Health, submit proof that he or she holds a current license to practice professional nursing, and meet one or more specified requirements as determined by the Board of Nursing; authorizing the board to adopt rules to provide for provisional state licensure of graduate registered nurse anesthetists, clinical nurse specialists, certified nurse practitioners, and certified nurse midwives for a specified period of time, etc.  HP 01/30/2018 Fav/CS AP RC	Fav/CS Yeas 8 Nays 0
8	<b>SB 1850</b> Stewart (Identical H 1317)	Public Records/Photograph, Video, Audio Recording of an Autopsy Held by a Medical Examiner; Providing that a legal guardian shall have access, under certain circumstances, to a photograph or video or audio recording of an autopsy held by a medical examiner; providing that a legal guardian shall be given reasonable notice of, a copy of, and reasonable notice of an opportunity to be present and heard at any hearing on a petition to view or make a copy of such photograph or recording under certain circumstances; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  HP 01/30/2018 Fav/CS GO RC	Fav/CS Yeas 8 Nays 0
9	<b>SB 1862</b> Broxson (Similar H 425)	Physician Fee Sharing; Revising an exemption relating to grounds for disciplinary action by the Boards of Medicine and Osteopathic Medicine and the Department of Health to authorize specified forms of payment to a physician or osteopathic physician, respectively, etc.  HP 01/30/2018 Favorable JU RC	Favorable Yeas 8 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	<b>SB 1874</b> Passidomo (Compare H 327, H 479, H 655, H 933, S 284, S 372, S 896, S 1260)	Emergency Power for Nursing Home and Assisted Living Facilities; Requiring the Agency for Health Care Administration, in consultation with the Department of Health and the Department of Elderly Affairs, to adopt and enforce rules requiring each facility to have an emergency power source and a supply of fuel which meet certain criteria by a specified date, etc.  HP      01/30/2018 Fav/CS AHS AP RC	Fav/CS Yeas 8 Nays 0

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Other Related Meeting Documents

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: CS/SB 280

INTRODUCER: Banking and Insurance Committee and Senator Bean

SUBJECT: Telehealth

DATE: January 29, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	<b>Fav/CS</b>
2.	Lloyd	Stovall	HP	<b>Favorable</b>
3.			AHS	
4.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 280 establishes practice standards for telehealth health care services, addresses the prescribing of controlled substances and issuance of a physician certification for medical marijuana through telehealth, and prescribes recordkeeping and patient consent. Telehealth is the delivery of health care services using telecommunication technologies, which allows licensed practitioners in one location to diagnose and treat patients at a different location. The bill will remove regulatory ambiguity regarding the provision of health care services using this technology because it is not currently addressed in Florida Statutes.

Expanding the use of telehealth could help Florida address a significant health care provider shortage. This shortage is evidenced by the fact there are 647 federally designated Health Professional Shortage Areas (HPSA) within the state for primary care, dental care, and mental health. It is estimated that an additional 1,609 primary care, 1,169 dental care, and 158 mental health practitioners are needed to eliminate these shortage areas in Florida.

Telehealth technology is currently being utilized to provide health care services nationally and in Florida. Telehealth technology can enable real-time communication between patients and health care practitioners (or between multiple practitioners) using live video conferencing; can securely store-and-forward clinical data to offsite locations for evaluation by health care practitioners; and can support remote monitoring of patients' conditions.

The bill has an effective date of July 1, 2018.

## II. Present Situation:

### Health Care Professional Shortage

There is currently a health care provider shortage in the United States (U.S.). Approximately 20 percent of U.S. residents live in rural areas, but only 9 percent of physicians practice in these areas.<sup>1</sup> As of December 31, 2017,<sup>2</sup> the U.S. Department of Health and Human Services has designated 7,176 Primary Care Health Professional Shortage Areas (HPSA), 5,866 Dental HPSA and 5,042 Mental Health HPSA.<sup>3</sup> An estimated 31,449 practitioners are needed to eliminate the shortage nationwide. Florida is experiencing a health care provider shortage. This is evidenced by the fact that there are 647 federally designated Health Professional Shortage Areas (HPSA) within the state for primary care, dental care, and mental health,<sup>4</sup> and it would take an estimated 2,936 practitioners to eliminate these shortage areas in Florida.

### Telehealth

The term, “telehealth,” is sometimes used interchangeably with telemedicine. Telehealth, however, generally refers to a wider range of health care services that may or may not include clinical services.<sup>5</sup> Telehealth often collectively defines the telecommunications equipment and technology that are used to collect and transmit the data for a telemedicine consultation or evaluation. Telemedicine may refer to clinical services that are provided remotely via telecommunication technologies. Telemedicine is not a separate medical specialty and does not change what constitutes proper medical treatment and services. There is no consensus among federal programs and health care providers on the definition of either term.

The federal Centers for Medicare & Medicaid Services (CMS) defines telehealth as:

The use of telecommunications and information technology to provide access to health assessment, diagnosis, intervention, consultation,

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<sup>1</sup> Health Affairs, Health Policy Brief: *Telehealth Parity Laws*, (Aug. 15, 2016) (on file with the Banking and Insurance Committee).

<sup>2</sup> See U.S. Department of Health and Human Services, Bureau of Health Workforce, Designated Health Professional Shortage Areas Statistics, *First Quarter of Fiscal Year 2018 Designated HPSA Quarterly Summary* (as of Dec. 31, 2017), available at; [https://ersrs.hrsa.gov/ReportServer?/HGDW\\_Reports/BCD\\_HPSA/BCD\\_HPSA\\_SCR50\\_Qtr\\_Smry\\_HTML&rc:Toolbar=false](https://ersrs.hrsa.gov/ReportServer?/HGDW_Reports/BCD_HPSA/BCD_HPSA_SCR50_Qtr_Smry_HTML&rc:Toolbar=false), (last viewed Jan.25, 2018).

<sup>3</sup> HPSA designations are used to identify areas and population groups within the U.S. that are experiencing a shortage of health professionals. The primary factor used to determine a HPSA designation is the number of health professionals relative to the population with consideration of high need. Federal regulations stipulate that in order for an area to be considered as having a shortage of providers, an area must have a population-to-provider ratio of a certain threshold. For example, for primary medical care, the population to provider ratio must be at least 3,500 to 1 (3,000 to 1 if there are unusually high needs in the community). See <https://www.kff.org/other/state-indicator/primary-care-health-professional-shortage-areas-hpsas/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> (last viewed January 25, 2018).

<sup>4</sup> *Id.*

<sup>5</sup> Anita Majerowicz and Susan Tracy, “Telemedicine: Bridging Gaps in Healthcare Delivery,” *Journal of AHIMA* 81, no. 5, (May 2010): 52-53, 56. [http://library.ahima.org/xpedio/groups/public/documents/ahima/bok1\\_047324.hcsp?dDocName=bok1\\_047324](http://library.ahima.org/xpedio/groups/public/documents/ahima/bok1_047324.hcsp?dDocName=bok1_047324) (last viewed Jan. 25, 2018).

supervision and information across distance. Telehealth includes technologies such as telephones, facsimile machines, electronic mail systems, and remote patient monitoring devices, which are used to collect and transmit data for monitoring and interpretation.<sup>6</sup>

The federal Medicaid statute does not recognize telemedicine as a distinct service, but as an alternative method for the delivery of services. Medicaid defines telemedicine and telehealth separately using telemedicine to define the interactive communication between the provider and patient and telehealth to describe the technologies, such as telephones and information systems.<sup>7</sup>

According to the American Telemedicine Association,<sup>8</sup> telemedicine is a significant and rapidly growing component of health care in the U.S. There are currently about 200 telemedicine networks, with 3,500 service sites in the U.S. Nearly one million Americans are currently using remote cardiac monitors. In 2011, the Veterans Administration delivered over 300,000 remote consultations using telemedicine. Over half of all U.S. hospitals now use some form of telemedicine. Around the world, millions of patients use telemedicine to monitor their vital signs, remain healthy, and out of hospitals and emergency rooms. Consumers and physicians download health and wellness applications for use on their cell phones.

### **Florida Telehealth Advisory Council**

In 2016, legislation<sup>9</sup> was enacted that required the Agency for Health Care Administration (AHCA), with assistance from the Department of Health (DOH) and the Office of Insurance Regulation (OIR), to survey health care practitioners, facilities, and insurers on telehealth utilization and coverage, and submit a report on the survey findings to the Governor, Senate President, and Speaker of the House of Representatives by December 31, 2016. The law also created a 15-member Telehealth Advisory Council, and required it to submit a report with recommendations based on the survey findings to the Governor, Senate President, and Speaker of the House of Representatives by October 31, 2017.

### ***Summary of the Survey Findings of the Telehealth Advisory Council<sup>10</sup>***

**The types of health care services provided via telehealth in the state.** The most frequent uses of telehealth reported by licensed health care facilities in Florida include neurology (including stroke care), home health/patient monitoring, primary care, behavioral health, and radiology. About 44 percent of home health agencies responding to the AHCA's survey indicated using telehealth to assist with remote patient monitoring.

**The extent to which telehealth is used by health care practitioners and health care facilities nationally and in the state.** At the national level, an estimated 63 percent of practitioners use

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<sup>6</sup> Department of Health and Human Services, Centers for Medicare and Medicaid Services, *Telemedicine*, available at <https://www.medicare.gov/medicaid/benefits/telemed/index.html> (last viewed Jan. 5, 2018).

<sup>7</sup> *Id.*

<sup>8</sup> See <https://www.americantelemed.org/about/telehealth-faqs-> (last viewed Jan. 5, 2018).

<sup>9</sup> Ch. 2016-240, Laws of Fla. The law designated the Secretary of the Agency for Health Care Administration as the council Chair, and designated the State Surgeon General and Secretary of the Department of Health as a member. The AHCA's Secretary and the Surgeon General appointed 13 council members representing specific stakeholder groups.

<sup>10</sup> See Telehealth Advisory Council website available at <http://www.ahca.myflorida.com/SCHS/telehealth/> (last viewed Jan. 8, 2018).

some type of telehealth platform to provide services. In contrast, only 6 percent of surveyed practitioners in Florida indicated they use telehealth for the provision of health care services. About 52 percent of hospitals in the U.S. use telehealth, and 45 percent of surveyed Florida hospitals stated they offer care through some form of telehealth. Major factors driving the adoption of telehealth include advancing technologies, an aging population, health practitioner shortage, and greater acceptance of innovative treatment by patients.

**The estimated costs and cost savings to provide health care services.** Benefits reported from health care facilities and professionals offering telehealth services include improved convenience for both patients and providers, improved efficiencies, and improved patient care outcomes. Financial barriers are the most frequently reported obstacles among health care facilities and providers during both implementation and ongoing operations of telehealth programs. The American Hospital Association notes that direct return on investment for health care providers is limited; particularly when there is limited coverage and reimbursement by health plans for the services offered by telehealth. Twenty five Florida health facilities and practitioners identify costs, reimbursement, and inability to determine a Return on Investment (ROI) as challenges in providing telehealth services.

**The extent of insurance coverage for providing health care services via telehealth and how such coverage compares to coverage for in-person services.** Some public and private payers limit reimbursement for health services offered through telehealth technology by the type of telehealth service offered and/or by the locations where care is provided and received. Approximately 43 percent of Florida health insurers indicate that they cover some form of telehealth services. Companies that offer Medicare Advantage plans were shown as having the largest percentage of plans offering reimbursement to health care providers for service provided through telehealth technologies. Coverage typically is limited to certain delivery types and requires special coding. A majority of health insurers indicate very limited coverage.

As of December 2016, 28 states, and the District of Columbia, have parity laws, which require private payer coverage and payment for telehealth services to be equitable with coverage and reimbursements for face-to-face health services. The definition of telehealth in each of these states varies, and some state definitions may include limitations on the telehealth modalities encompassed in required coverage and payment models.

Notable differences in the state regulations include whether telehealth services must be reimbursed at the same rate as in-person services; or whether the state only requires that the same services be covered but allow for variable rates of reimbursement. Florida does not currently have any statutory requirements related to private payer parity for telehealth services. Some private payers in the state have voluntarily opted to provide coverage and reimbursement for telehealth services.

According to the survey, 48 states offer some type of live video reimbursement in Medicaid to varying levels of reimbursement and coverage levels.<sup>11</sup> At least 21 states have some

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<sup>11</sup> Center for Connect Health Policy, *State Telehealth Laws and Reimbursement Policies: A Comprehensive Scan of the 50 States and District of Columbia (Fall 2017)*, pg. 3, <http://www.cchpca.org/sites/default/files/resources/Telehealth%20Laws%20and%20Policies%20Report%20FINAL%20Fall%202017%20PASSWORD.pdf>, (last visited Jan. 25, 2018).

reimbursement for remote patient monitoring; 15 states reimburse for store and forward services under their Medicaid program; and 9 state programs reimburse for all three types.<sup>12</sup> Within each of these reimbursement models, there are variances in the types of services, specialties, providers, and locations that are covered. The Florida Medicaid fee-for-service rules were updated in June 2016 to expand telehealth payments to a broader array of practitioners. Similar to Medicare, Medicaid coverage in Florida is limited to live video conferencing, and pays the practitioner that provides the diagnosis only. With the vast majority of Florida Medicaid beneficiaries enrolled in managed care, Florida's Medicaid Managed Care plans are authorized to cover telehealth services with greater flexibility; however, there is no mandate for coverage. Based on survey responses by Florida health plans, coverage for telehealth is greatest for Medicaid Managed Care and Affordable Care Act Exchange Plans. Florida health care providers indicate very little reimbursement for telehealth services no matter the plan type.

**Barriers to using or accessing services through telehealth.** The primary issues related to telehealth often cited are financial, interoperability, and licensure. Florida providers and practitioners cited financial issues, such as inadequate reimbursement from payers, insufficient funding capital, and the inability to determine return on investment. An estimated 44 percent of the health plans surveyed noted government regulations and liability as barriers for covering telehealth services. The issue of interstate practice and reimbursement is among the legal issues health plans must consider. For example, health plans must ensure they are reimbursing health providers that are licensed appropriately in the jurisdiction where they are treating patients.<sup>47</sup> Florida facility and practitioner licensees who responded to the survey indicated the top three barriers to implementing telehealth involve finances: inadequate reimbursement from payers, insufficient funding capital, and the inability to determine return on investment.

### ***Summary of the Recommendations of the Telehealth Advisory Council<sup>13</sup>***

The report contained the following recommendations:

1. **Create definition of telehealth and replace existing telehealth and telemedicine definitions in Florida statutes and rules.** Telehealth is defined as the mode of providing health care and public health services through synchronous and asynchronous information and communication technology by a Florida licensed health care practitioner, within the scope of his or her practice, who is located at a site other than the site where a recipient (patient or licensed health care practitioner) is located.
2. **Coverage Parity.** A health insurance policy issued, amended, or renewed on or after July 1, 2018, shall provide coverage for services (excluding Medicare plans) provided via telehealth to the same extent the services are covered, if provided in-person. An insurer shall not impose any additional conditions for coverage of services provided via telehealth.<sup>14</sup>

<sup>12</sup> *Id.* In their Fall 2017 survey of states, the Center for Connected Health Policy also found that 31 states provide a transmission or facility fee. See Center for Connected Health Policy, *50 State Scan of Telehealth Reimbursement Laws and Medicaid Policies-Factsheet* (Fall 2017) (on file with Health Policy Committee).

<sup>13</sup> See Telehealth Advisory Council, *Expanding Florida's Use and Accessibility of Telehealth* (Oct. 31, 2017), available at [http://www.ahca.myflorida.com/SCHS/telehealth/docs/TAC\\_Report.pdf](http://www.ahca.myflorida.com/SCHS/telehealth/docs/TAC_Report.pdf) (last visited January 5, 2018).

<sup>14</sup> According to the report, the intent of this recommendation is to ensure appropriate insurance coverage for the use of telehealth in treating patients. Any legislative language developed should not require insurers to add additional service lines or specialties, mandate a fee-for-service arrangement, inhibit value-based payment programs, or limit health care insurers and practitioners from negotiating contractual coverage terms.

3. **Payment Parity.** For the purpose of health insurance payment (excluding Medicare plans), payment rates for services provided via telehealth shall be equivalent to the rates for comparable services provided via in-person consultation or contact contained in the participation agreement between the insurer and the health care practitioner.<sup>15</sup>
4. **Medicaid Reimbursement.** The council recommends the AHCA modify the Medicaid telehealth fee-for-service rule to include coverage of store-and-forward and remote patient monitoring modalities in addition to the currently reimbursed live video conferencing modality.
5. **Medicaid Network Adequacy.** The council recommends the AHCA develop a model that would allow Medicaid Managed Care plans to utilize telehealth for meeting network adequacy.
6. **Interstate Licensure.** In order to ensure the best care for Florida patients and maximize available resources and access to care, the council recommends the following:
  - Maintain the requirement of Florida licensure for health practitioners providing patient care in Florida via telehealth. This recommendation requires no change to current regulations and does not inhibit the use of telehealth to treat patients.
  - The Legislature adopt laws allowing participation in health care practitioner licensure compacts that have licensure requirements that are equivalent to or more stringent than Florida Law.
7. **Standards of Care.** To ensure clarity for Florida licensed health care practitioners and stakeholders regarding the ability to use telehealth as a modality of care, the council recommends the DOH, healthcare regulatory boards and councils continue to educate and raise awareness among licensees that they may use telehealth modalities to serve patients.
8. **Patient-Practitioner Relationships and Continuity of Care.** The council offers the following language for inclusion in Florida statutes: A health care practitioner-patient relationship may be established through telehealth.
9. **Patient Consent.** The council recommends maintaining current consent laws in Florida.
10. **Telehealth and Prescribing.** The council offers the following language:  
Health care practitioners, authorized by law, may prescribe medications via telehealth to treat a patient as is deemed appropriate to meet the standard of care established by his or her respective health care regulatory board or council. The prescribing of controlled substances through telehealth should be limited to the treatment of psychiatric disorders and emergency medical services. This should not prohibit an authorized health care practitioner from ordering a controlled substance for an inpatient at a facility licensed under ch. 395, F.S., or a patient of a hospice licensed under ch. 400, F.S.
11. **Technology and Health Care Facilities/Practitioners.** The council notes that technology-related barriers for practitioners will decrease as technological advances and market forces drive cost reductions. Barriers remain related to interoperability of health care information systems. The council recommends:

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<sup>15</sup> According to the report, the intent of this recommendation is to ensure appropriate insurance reimbursement for the use of telehealth in treating patients. Any legislative language developed should not require insurers to add additional service lines or specialties, mandate fee-for-service arrangements, inhibit value-based payment programs, limit health care insurers and practitioners from negotiating contractual coverage terms, or require insurers to pay for facsimiles or audio only communication.

- The AHCA identify existing resources for health information exchange to expand interoperability between telehealth technologies and integration into electronic health record (EHR) platforms.
- The AHCA continue promotion of existing programs and services available to increase access to technology, access to broadband networks, and improved interoperability.
- Medical schools, schools of allied health practitioners, and health care associations provide information and educational opportunities related to the utilization to telehealth for serving patients.

### **Florida Board of Medicine**

Florida's Board of Medicine (board) convened a Telemedicine Workgroup in 2013 to review its rules on telemedicine, which had not been amended since 2003. The 2003 rules focused on standards for the prescribing of medicine via the Internet. On March 12, 2014, the board's new Telemedicine Rule, 64B8-9.0141, became effective for Florida-licensed physicians. The new rule defined telemedicine,<sup>16</sup> established standards of care, prohibited the prescription of controlled substances, permitted the establishment of a doctor-patient relationship via telemedicine, and exempted emergency medical services.<sup>17</sup>

Two months after the initial rule's implementation, the board proposed the development of a rule amendment to address concerns that the prohibition on physicians ordering controlled substances may also preclude physicians from prescribing controlled substances via telemedicine for hospitalized patients. The board indicated such a prohibition was not intended.<sup>18</sup> The amended rule took effect July 22, 2014. Additional changes followed to clarify medical record requirements and the relationship between consulting or cross-coverage physicians. On December 18, 2015, the board published another proposed rule change to allow controlled substances to be prescribed through telemedicine for the limited treatment of psychiatric disorders.<sup>19</sup> The proposed rule amendment, Rule 64B8-9.0141-Standards for Telemedicine Practice, became effective March 7, 2016.<sup>20</sup>

On February 3, 2017, the Board of Medicine held a public hearing on a proposed amendment to Rule 64B8-9.0141 to prohibit the ordering of low-THC cannabis or medical cannabis through telemedicine. Additional public hearings were noticed for April and August on the amended rule; however, the rule was eventually withdrawn in August, 2017 without being amended.

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<sup>16</sup> The term, "telemedicine," is defined to mean the practice of medicine by a licensed Florida physician or physician assistant where patient care, treatment, or services are provided through the use of medical information exchanged from one site to another via electronic communications. Telemedicine shall not include the provision of health care services only through an audio only telephone, email messages, text messages, facsimile transmission, U.S. Mail or other parcel service, or any combination thereof.

<sup>17</sup> Rule 64B15-14.0081, F.A.C., also went into effect March 12, 2014, for osteopathic physicians.

<sup>18</sup> Florida Board of Medicine, *Latest News - Emergency Rule Related to Telemedicine*, <http://flboardofmedicine.gov/latest-news/emergency-rule-related-to-telemedicine/> (last visited Jan. 14, 2018).

<sup>19</sup> Vol. 41/244, Fla. Admin. Weekly, Dec. 18, 2015, available at [https://www.flrules.org/BigDoc/View\\_Section.asp?Issue=2011&Section=1](https://www.flrules.org/BigDoc/View_Section.asp?Issue=2011&Section=1) (last visited Jan. 14, 2018).

<sup>20</sup> Florida Board of Medicine, *Latest News*, Feb. 23, 2016, available at <http://flboardofmedicine.gov/latest-news/board-revises-floridas-telemedicine-practice-rule/> (last viewed Jan. 7, 2018).



### Florida's Medicaid Program<sup>21</sup>

The Florida Medicaid program is a partnership between the federal and state governments. In Florida, the Agency for Health Care Administration (AHCA) oversees the Medicaid program.<sup>22</sup> The Statewide Medicaid Managed Care (SMMC) program is comprised of the Managed Medical Assistance (MMA) program and the Long-term Care (LTC) managed care program. The AHCA contracts with managed care plans to provide services to eligible enrollees.<sup>23</sup> Under the Managed Medical Assistance (MMA) component of Statewide Medicaid Managed Care, managed care plans may use telemedicine for behavioral health, dental services, and physician services.<sup>24</sup> The AHCA may also approve other telemedicine services provided by the managed care plans if approval is sought by those plans under the MMA component.

Florida Medicaid has adopted a rule on telemedicine, which authorizes services to be delivered via telemedicine. The rule defines telemedicine as the practice of health care delivery by a practitioner who is located at a site other than the site where a recipient is located for the purposes of evaluation, diagnosis, or treatment.<sup>25</sup> Further, telemedicine services must be provided by licensed practitioners operating within their scope of practice and involve the use of interactive telecommunications equipment which includes, at a minimum, audio and video equipment permitting two-way, real time, communication between the enrollee and the practitioner.<sup>26</sup> Additionally, the rule provides that Medicaid reimburses a practitioner rendering services in the fee-for-service delivery system who is providing the evaluation, diagnosis, or treatment recommendation located at a site other than where the recipient is located.

Equipment is also required to meet specific federal technical safeguards, which require implementation of procedures for protection of health information.<sup>27</sup> The safeguards include unique user identifications, automatic log- offs, encryption, authentication of users, and transmission security. Telemedicine services must also comply with all other state and federal laws regarding patient privacy.

Florida Medicaid and the federal Medicaid statute consider telemedicine to be a delivery system rather than a distinct service; as such, Florida Medicaid does not have reimbursement rates specific to the telemedicine mode of service. In the fee-for-service system, Florida Medicaid reimburses services delivered via telemedicine at the same rate and in the same manner as if the service were delivered face-to-face.

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<sup>21</sup> See Agency for Health Care Administration, *Analysis of SB 280* (Oct. 9, 2017) (on file with the Senate Banking and Insurance Committee).

<sup>22</sup> Part III of ch. 409, F.S., governs the Medicaid program.

<sup>23</sup> A managed care plan that is eligible to provide services under the SMMC program must have a contract with the AHCA to provide services under the Medicaid program and must also be a health insurer; an exclusive provider organization or a HMO authorized under chs. 624, 627, or 641, F.S., respectively; a provider service network authorized under s. 409.912(2), F.S., or an accountable care organization authorized under federal law. Section 409.962, F.S.

<sup>24</sup> Agency for Health Care Administration, *2012-2015 Medicaid Health Plan Model Agreement Attachment II - Exhibit II-A*, p. 63-64 [http://ahca.myflorida.com/medicaid/statewide\\_mc/pdf/mma/Attachment\\_II\\_Exhibit\\_II-A\\_MMA\\_Model\\_2014-01-31.pdf](http://ahca.myflorida.com/medicaid/statewide_mc/pdf/mma/Attachment_II_Exhibit_II-A_MMA_Model_2014-01-31.pdf), (last visited Jan. 11, 2018).

<sup>25</sup> See Rule 59G-1.057, F.A.C.

<sup>26</sup> *Id.*

<sup>27</sup> 45 CFR s. 164.312.



Medicaid health plans can negotiate rates with providers, so they have the flexibility to pay different rates for services delivered via telemedicine. The managed care plans are required to submit their telemedicine policies and procedures to the AHCA for approval, but are not required to do so prior to use.<sup>28</sup> Telephone conversations, chart review, electronic mail messages, or facsimile transmissions are not reimbursable as telemedicine.

### **Regulation of Insurance in Florida**

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, health maintenance organizations (HMOs), and other risk-bearing entities.<sup>29</sup> The AHCA regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must receive a Health Care Provider Certificate from the AHCA.<sup>30</sup> As part of the certification process used by the AHCA, an HMO must provide information to demonstrate that the HMO has the ability to provide quality of care consistent with the prevailing standards of care.<sup>31</sup>

### **Federal Telemedicine Provisions**

Federal laws and regulations address telemedicine from several perspectives, including prescriptions for controlled substances, hospital emergency room guidelines, and reimbursement requirements and rates for the Medicare program.

#### ***Prescribing Via the Internet***

Federal law specifically prohibits the prescribing of controlled substances via the Internet without an in-person evaluation. Federal regulation 21 CFR s. 829 provides:

No controlled substance that is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act may be delivered, distributed or dispensed by means of the Internet without a valid prescription.

A valid prescription is further defined under the same regulation as one issued by a practitioner who has conducted an in-person evaluation. The in-person evaluation requires that the patient be in the physical presence of the provider without regard to the presence or conduct of other professionals.<sup>32</sup> However, the Ryan Haight Online Pharmacy Consumer Protection Act,<sup>33</sup> signed into law in October 2008, created an exception for the in-person medical evaluation for telemedicine practitioners. The practitioner is still subject to the requirement that all controlled substances be issued for a legitimate purpose by a practitioner acting in the usual course of professional practice.

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<sup>28</sup> Agency for Health Care Administration, *Statewide Medicaid Managed Care (SMMC) Policy Transmittal (March 11, 2016)*, [http://ahca.myflorida.com/medicaid/statewide\\_mc/pdf/plan\\_comm/PT\\_16-06\\_Telemedicine\\_03-11-2016.pdf](http://ahca.myflorida.com/medicaid/statewide_mc/pdf/plan_comm/PT_16-06_Telemedicine_03-11-2016.pdf), (last visited Jan.. 25, 2018).

<sup>29</sup> Section 20.121(3)(a), F.S.

<sup>30</sup> Section 641.21(1), F.S.

<sup>31</sup> Section 641.495, F.S.

<sup>32</sup> 21 CFR s. 829(e)(2).

<sup>33</sup> Ryan Haight Online Pharmacy Consumer Protection Act of 2008, Public Law 110-425 (H.R. 6353).

The Drug Enforcement Administration (DEA) of the federal Department of Justice issued its own definition of telemedicine in April 2009, as required under the Haight Act.<sup>34</sup> The federal regulatory definition of telemedicine under the DEA includes, but is not limited to, the following elements:

- The patient and practitioner are located in separate locations;
- Patient and practitioner communicate via a telecommunications system;
- The practitioner must meet other registration requirements for the dispensing of controlled substances via the Internet; and
- Certain practitioners (Department of Veterans Affairs' employees, for example) or practitioners in certain situations (public health emergencies) may be exempted from registration requirements.<sup>35</sup>

### *Medicare Coverage*

Specific services that are covered under Part B of Medicare<sup>36</sup> which are delivered at designated rural sites as a telehealth service are covered under Medicare. Federal CMS regulations require both a distant site (location of physician delivering the service via telecommunications) and an originating site (location of the patient).

To qualify for Medicare reimbursement, the Medicare beneficiary must be located at an originating site that meets one of three qualifications. These three qualifications are:

- A rural health professional shortage area (HPSA) that is either outside a metropolitan statistical area (MSA) or in a rural census tract<sup>37</sup>;
- A county outside of an MSA; or
- Participation in a federal telemedicine demonstration project approved by the Secretary of Health and Human Services as of December 31, 2000.<sup>38</sup>

Additionally, federal requirements provide that an originating site must be one of the following location types as further defined in federal law and regulation:

- The office of a physician or practitioner;
- A hospital;
- A critical access hospital (CAH);
- A rural health clinic;
- A federally qualified health center;
- A hospital-based or CAH-based renal dialysis center (including satellite offices);
- A skilled nursing facility; or

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<sup>34</sup> Id., at sec. 3(j).

<sup>35</sup> 21 CFR s. 802(54).

<sup>36</sup> Part B of Medicare is the medical insurance portion and covers services such as physician office visits and consultations, mental health services (inpatient and outpatient), and partial hospitalization.

<sup>37</sup> The United States Census Bureau does not define rural, but defines urban leaving all other areas not urban to be considered rural. "Urbanized areas" are those of 50,000 or more people. "Urban clusters" are those of at least 2,500 and less than 50,000 people. See Health Resources and Services Administration, *Defining Rural Population*, <https://www.hrsa.gov/rural-health/about-us/definition/index.html>, (last visited Jan. 25, 2018).

<sup>38</sup> Department of Health and Human Services, Centers for Medicare and Medicaid Services, *Telehealth Services- Rural Health Fact Sheet* (Dec. 2014), <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/TelehealthSrvcsfctsht.pdf> (last visited Jan. 7, 2018).

- A community mental health center.<sup>39</sup>

Under Medicare, distant site practitioners are limited, subject also to state law, to:

- Physicians;
- Nurse practitioners;
- Physician assistants;
- Nurse-midwives;
- Clinical nurse specialists;
- Certified registered nurse anesthetists;
- Clinical psychologists and clinical social workers; and
- Registered dietitians and nutrition professionals.

Medicare added new services under telehealth in 2015:

- Annual wellness visits;
- Psychoanalysis;
- Psychotherapy; and
- Prolonged evaluation and management services.<sup>40</sup>

For 2018, the CMS conducted additional rulemaking to add more telehealth services related to health risk assessments, psychotherapy, and care planning for chronic care management. The proposed rule also sought comment on ways CMS could further expand access to telehealth services within its existing statutory authority.<sup>41</sup> Federal legislation to expand the scope of telehealth to include telestroke services for Medicare beneficiaries has also been under discussion and passed through the House Committee on Energy and Commerce favorably.<sup>42</sup>

### ***Protection of Personal Health Information***

The federal Health Insurance Portability and Accountability Act of 1996 (HIPAA) protects personal health information (PHI). Initial privacy rules were initially issued in 2000 by the federal Department of Health and Human Services and later modified in 2002. These rules address the use and disclosure of an individual's health information and create standards for privacy rights. Additional privacy and security measures were adopted in 2009 with the Health Information Technology for Economic Clinical Health (HITECH) Act.

Only certain entities are subject to HIPAA's provisions. These "covered entities" include:

- Health plans;
- Health care providers;

<sup>39</sup> See 42 U.S.C. sec. 1395(m)(m)(4)(C)(ii).

<sup>40</sup> Department of Health and Human Services, Centers for Medicare and Medicaid Services, *MLN Matters* (Dec. 24, 2014), <http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/Downloads/MM9034.pdf> (last visited Jan. 7, 2018).

<sup>41</sup> Department of Health and Human Services, Centers for Medicare and Medicaid Services, *Fact Sheet: Final Policy, Payment, and Quality Provisions in the Medicare Physician Fee Schedule for Calendar Year 2018* (November 2, 2017), <https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2017-Fact-Sheet-items/2017-11-02.html> (last visited Jan. 25, 2018).

<sup>42</sup> See "Furthering Access to Stroke Telemedicine Act of 2017" or the "FAST Act of 2017," H.R. 1148, 115<sup>th</sup> Cong. (2017-2018).

- Health care clearinghouses; and
- Business associates of the entities listed above.

While not a covered entity as an individual, the patient still maintains his or her privacy and confidentiality rights regardless of the method in which a medical service is delivered. The HITECH Act specifically identified telemedicine as an area for review and consideration, and funding was provided to, in part, strengthen infrastructure and tools to promote telemedicine.<sup>43</sup>

Under the provisions of HIPAA and the HITECH Act, a health care provider or other covered entity participating in telemedicine is required to meet the same technical and physical HIPAA and HITECH requirements as would be required for a physical office visit. These requirements include ensuring that the equipment and technology are HIPAA compliant.

### *Department of Veterans Affairs Telehealth Initiative*

A draft federal rule proposed in October 2017 would permit a health care provider who met certain requirements set by the Department of Veterans Affairs to provide telehealth services within the scope of his or her practice, and the privileges as granted by the Department of Veterans Affairs, irrespective of state or location within the state where the health care provider or the beneficiary was physically located. The health care provider would be required to:

- Be a licensed, registered, and certified health care provider under 38 U.S.C. 7402(b);
- Be appointed to a specified occupation in the federal Veterans Health Administration;<sup>44</sup>
- Maintain the credentials (license, registration, and certification) required for his or her medical specialty; and
- Not be a Veterans Administration-contracted employee.<sup>45</sup>

Under the draft rule, the health care provider can only practice within the scope of his or her license and would be subject to the limitations of the federal Controlled Substances Act.<sup>46</sup> This federal regulation would also preempt any conflicting state laws relating to the practice of health care when the providers are practicing within the scope of their license.<sup>47</sup>

## **III. Effect of Proposed Changes:**

**Section 1** creates s. 456.4501, F.S., which addresses the provision of healthcare services through telehealth. The section provides definitions of the terms “information and telecommunications technologies,” “store and forward,” “synchronous,” and “telecommunications system,” which are terms used in defining the technological means by which telehealth services may be provided.

<sup>43</sup> Public Law 111-5, s. 3002(b)(2)(C)(iii) and s. 3011(a)(4).

<sup>44</sup> Health care providers listed under this section must meet the individual qualifications for each provider listed and the named providers include physicians, dentists, nurses, directors of a hospital, domiciliary, center, or outpatient clinic, podiatrist, optometrist, pharmacist, psychologist, social worker, marriage and family therapist, licensed mental health counselor, chiropractor, peer specialist, and other designated health care positions as the Secretary shall prescribe.

<sup>45</sup> Authority of Health Care Providers to Practice Telehealth, 82 Fed. Reg. 45756, 45762 (proposed Oct. 2, 2017) (to be codified at 38 CFR 17.417)

<sup>46</sup> See 21 U.S.C. 801, et seq.

<sup>47</sup> *Supra*, note 45 at 45762.

This section also defines the term, “telehealth,” as the mode of providing health care services and public health care services by a Florida licensed practitioner, within the scope of his or her practice, through synchronous and asynchronous information and telecommunication technologies where the practitioner is located at a site other than the site where the recipient, whether a patient or another licensed practitioner, is located.

The section defines “telehealth provider” as a person providing health care services and related services through telehealth, and who is licensed under ch. 457, F.S. (acupuncture); ch. 458, F.S. (medical practice); ch. 459, F.S. (osteopathic medicine); ch. 460, F.S. (chiropractic medicine); ch. 461, F.S. (podiatric medicine); ch. 462, F.S. (naturopathy); ch. 463, F.S. (optometry); ch. 464, F.S. (nursing); ch. 465, F.S. (pharmacy); ch. 466, F.S. (dentistry); ch. 467, F.S. (midwifery); part I (speech-language pathology and audiology), part III (occupational therapy), part IV (radiological personnel), part V (respiratory therapy), part X (dietetics and nutrition practice), part XIII (athletics trainers), or part XIV (orthotics, prosthetics, and pedorthics) of ch. 468, F.S.; ch. 478, F.S. (electrolysis); ch. 480, F.S. (massage practice); parts III (clinical lab personnel) and IV (medical physicists) of ch. 483, F.S.; ch. 484, F.S. (dispensing of optical devices and hearing aids); ch. 486, F.S. (physical therapy); ch. 490, F.S. (psychological services); or ch. 491, F.S. (clinical, counseling, and psychotherapy services); or who is certified under s. 393.17, F.S., (behavior analyst) or part III of ch 401, F.S. (medical transportation services).

The bill creates practice standards for the provision of telehealth services. The standard of care for a telehealth provider is the same as that for an in-person health care provider. However, a telehealth provider is not required to research patient’s medical history or conduct a physical examination if a patient evaluation conducted by telehealth is sufficient to diagnose and treat the patient. The bill specifies that the telehealth provider and the patient may be in separate locations and telehealth providers who are not physicians, and who are acting within their relevant scope of practice, are not practicing medicine without a license.

The bill specifically provides that telehealth providers who are licensed to prescribe controlled substances listed in Schedule I through V may prescribe those controlled substances through telehealth except to treat chronic nonmalignant pain as defined in s. 458.3265(1)(a), F.S., and s. 459.0137(1)(a), F.S. Telehealth may not be used to issue a physician certification for marijuana pursuant to s. 381.986, F.S. This subsection does not apply when prescribing a controlled substance for an inpatient at a facility licensed under ch. 395, F.S., or a patient of a hospice licensed under ch. 400, F.S.

The Department of Health, in coordination with the relevant boards, must develop and disseminate educational materials for telehealth licensees delineated in s. 456.4501(1)(f), F.S., on using telehealth modalities to treat patients by January 1, 2019.

The section provides that a patient’s medical records must be updated by a telehealth provider according to the same standards that apply to an in-person healthcare provider. Finally, the section provides that while a patient need not specifically consent to be treated via telehealth, the patient must still provide consent for treatment as provided under current law. The patient would retain the right to withhold consent for any particular procedure or treatment to be provided through telehealth.

**Section 2** provides that the effective date of the bill is July 1, 2018.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to the Telehealth Advisory Council's report,<sup>48</sup> health practitioners indicated the need for a definition of the term, "telehealth," that would clarify the use of technological modalities as an acceptable way to treat patients within their scope of practice. Further, health plans noted the need for clarity in the allowable modes of telehealth for coverage and reimbursement purposes.

These changes may encourage the use of telehealth options, which may result in reduced healthcare costs, increased patient access to providers, especially in medically underserved areas, improved quality and continuity of care, and faster and more convenient treatment resulting in reduction of lost work time and travel costs for patients. Preventing the unnecessary use of intensive services such as emergency department visits improves health outcomes and can reduce overall health care costs.

C. Government Sector Impact:

**Department of Health.** The Department of Health anticipates incurring non-recurring increase in workload and costs associated with the development and dissemination of educational materials for licensees on using telehealth modalities to treat patients. The impact is indeterminate at this time, yet it is anticipated that current resources and budget authority are adequate to absorb.<sup>49</sup>

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<sup>48</sup> See Telehealth Advisory Council, *Expanding Florida's Use and Accessibility of Telehealth* (Oct. 31, 2017), available at [http://www.ahca.myflorida.com/SCHS/telehealth/docs/TAC\\_Report.pdf](http://www.ahca.myflorida.com/SCHS/telehealth/docs/TAC_Report.pdf) (last visited January 5, 2018).

<sup>49</sup> Department of Health, *Analysis of SB 280* (Oct. 12, 2017) (on file with Senate Banking and Insurance Committee).

**Agency for Health Care Administration.** To maintain uniform naming conventions and practice standards throughout the state's policies, the AHCA will need to amend the Medicaid state plan, which will require federal approval.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 456.4501 of the Florida Statutes.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Banking and Insurance on January 16, 2018:**

The CS eliminates telehealth provisions relating to the State Group Insurance program, Medicaid, and the Insurance Code and provides a technical change.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Bean

597-02153-18

2018280c1

A bill to be entitled

An act relating to telehealth; creating s. 456.4501, F.S.; defining terms; establishing the standard of care for telehealth providers; authorizing telehealth providers to use telehealth to perform patient evaluations; providing that telehealth providers, under certain circumstances, are not required to research a patient's history or conduct physical examinations before providing services through telehealth; providing that a nonphysician telehealth provider using telehealth and acting within her or her relevant scope of practice is not deemed to be practicing medicine without a license; authorizing certain telehealth providers to use telehealth to prescribe specified controlled substances; providing for construction; requiring the Department of Health to develop and disseminate certain educational materials to specified licensees by a specified date; providing recordkeeping requirements for telehealth providers; providing requirements for patient consent for telehealth treatment; providing an effective date.

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

Section 1. Section 456.4501, Florida Statutes, is created to read:

456.4501 Use of telehealth to provide services.-

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

(a) "Information and telecommunications technologies" means



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those secure electronic applications used by health care practitioners and health care providers to provide health care services, evaluate health care information or data, provide remote patient monitoring, or promote healthy behavior through interactions that include, but are not limited to, live video interactions, text messages, or store and forward transmissions.

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

(c) "Synchronous" means live or two-way interactions using a telecommunications system between a provider and a person who is a patient, caregiver, or provider.

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

(e) "Telehealth" means the mode of providing health care services and public health services by a Florida licensed practitioner, within the scope of his or her practice, through synchronous and asynchronous information and telecommunications technologies where the practitioner is located at a site other than the site where the recipient, whether a patient or another licensed practitioner, is located.

(f) "Telehealth provider" means a person who provides health care services and related services through telehealth and

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59 who is licensed under chapter 457; chapter 458; chapter 459;  
60 chapter 460; chapter 461; chapter 462; chapter 463; chapter 464;  
61 chapter 465; chapter 466; chapter 467; part I, part III, part  
62 IV, part V, part X, part XIII, or part XIV of chapter 468;  
63 chapter 478; chapter 480; parts III and IV of chapter 483;  
64 chapter 484; chapter 486; chapter 490; or chapter 491; or who is  
65 certified under s. 393.17 or part III of chapter 401.

66 (2) PRACTICE STANDARDS.—

67 (a) The standard of care for a telehealth provider  
68 providing medical care to a patient is the same as the standard  
69 of care generally accepted for a health care professional  
70 providing in-person health care services to a patient. A  
71 telehealth provider may use telehealth to perform a patient  
72 evaluation. If a telehealth provider conducts a patient  
73 evaluation sufficient to diagnose and treat the patient, the  
74 telehealth provider is not required to research the patient's  
75 medical history or conduct a physical examination of the patient  
76 before using telehealth to provide services to the patient.

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

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

84 (d) A telehealth provider who is authorized to prescribe a  
85 controlled substance named or described in Schedules I through V  
86 of s. 893.03 may use telehealth to prescribe a controlled  
87 substance, except that telehealth may not be used to prescribe a

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88 controlled substance to treat chronic nonmalignant pain as  
89 defined in ss. 458.3265(1)(a) and 459.0137(1)(a) or to issue a  
90 physician certification for marijuana pursuant to s. 381.986.  
91 This paragraph does not prohibit a physician from using  
92 telehealth to order a controlled substance for an inpatient  
93 admitted to a facility licensed under chapter 395 or a patient  
94 of a hospice licensed under chapter 400.

95 (e) By January 1, 2019, the department, in coordination  
96 with the applicable boards, shall develop and disseminate  
97 educational materials for the licensees listed in paragraph  
98 (1)(f) on the use of telehealth modalities to treat patients.

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

103 (4) CONSENT.—Patients are not required to provide specific  
104 authorization for treatment through telehealth, but must  
105 authorize treatment that meets the requirements of the  
106 applicable practice acts and s. 766.103, and must be allowed to  
107 withhold consent for any specific procedure or treatment through  
108 telehealth.

109 Section 2. This act shall take effect July 1, 2018.



The Florida Senate

## Committee Agenda Request

**To:** Senator Dana D. Young, Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** January 17, 2018

---

I respectfully request that **Senate Bill #280**, relating to Telehealth, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in cursive script that reads "Aaron Bean".

---

Senator Aaron Bean  
Florida Senate, District 4

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2018  
Meeting Date

280  
Bill Number (if applicable)

Topic TELEHEALTH LINDA RENN Amendment Barcode (if applicable)

Name FLORIDA HEALTH INFORMATION MANAGEMENT ASSOCIATION - LINDA RENN

Job Title PAST PRESIDENT

Address 2407 WINDY AVENUE Phone (352) 787-9590  
Street

LEE'SBURG, FL 34748 Email linda.renn@fhima.org  
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FLORIDA HEALTH INFORMATION MANAGEMENT ASSOCIATION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18  
Meeting Date

SB 280  
Bill Number (if applicable)

Topic SB Tele Health

Amendment Barcode (if applicable)

Name Labrena Coleman

Job Title Teacher (Student at Barry University)

Address 718 Florida AVE  
Street

Phone (561) 449-1342

Clewiston FL 33440  
City State Zip

Email labrena2011@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing myself (Labrena Coleman)

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1/30/18  
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB-260  
Bill Number (if applicable)

Topic TELEHEALTH

Amendment Barcode (if applicable)

Name FABIO A. NARANJO

Job Title INSTRUCTOR/BARRY UNIVERSITY

Address ~~18712~~ 11300 NE SECOND AVE.  
Street

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MIAMI SPORES, FL 33161  
City State Zip

Email fabioanaranjo@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18  
Meeting Date

280  
Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name Natalie Royal

Job Title Master of Social Work Student

Address 6608 Laketree Lane Unit C  
Street

Phone 479 857 0621

Temple Terrace FL 33617  
City State Zip

Email nroyal@masl.usf.edu

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing University of South Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

SB280

Bill Number (if applicable)

Topic telehealth

Amendment Barcode (if applicable)

Name Lee Vitaliano

Job Title MSW Student (Barry University)

Address 10424 White Pinto Ct.

Phone 561-434-5186

Lake Worth FL 33449

City State Zip

Email lee.vitaliano@mymail.barry.edu

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-30-18  
Meeting Date

SB 280  
Bill Number (if applicable)

Topic Telehealth SB 280

Amendment Barcode (if applicable)

Name Lisa Still

Job Title Case Manager / Student Master Social Work

Address 1198 SW Empire St.

Phone 772-349-8876

Port St. Lucie FL  
City State Zip

Email Lisa.Still@mymail.Barry.edu

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

SB 280

Bill Number (if applicable)

Topic telehealth

Amendment Barcode (if applicable)

Name Alicia Marie Cutitta

Job Title Billing manager / msw student

Address 1830 Embassy Dr

Street

Phone 561-667-3040

WFB

City

FL

State

33401

Zip

Email acutitta143@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

01/30/18  
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 280  
Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name Dshena Hall

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FL  
State

33444  
Zip

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18  
Meeting Date

SB 250  
Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name LAYNE SMITH

Job Title DIRECTOR, STATE Gov. Relations

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Street

Phone 904-953-7334

Jacksonville FL 32224  
City State Zip

Email smith.layne@mayo.edu

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing MAYO CLINIC

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18  
Meeting Date

280  
Bill Number (if applicable)

Topic TELEHEALTH

Amendment Barcode (if applicable)

Name JACK McRAY

Job Title \_\_\_\_\_

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TLH FL 32301  
City State Zip

Email jmcraay@aar-p.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing AARP

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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1/30/18  
Meeting Date

SB 280  
Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name Dr. Oliver Oyama

Job Title Associate Director, (University of South Florida, Family Medicine Residency)

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Phone \_\_\_\_\_

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Clearwater, FL

City

State

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing University of Florida, Family Medicine Residency / Morton Plant Hospital

Appearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☐ Yes ☐ No

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**APPEARANCE RECORD**

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1/30/18  
Meeting Date

280  
Bill Number (if applicable)

Topic TELE HEALTH

Amendment Barcode (if applicable)

Name RIVERS A Buford, III

Job Title Gov Relations

Address 2851 Remington Cr.  
Street

Phone 850 566-9115

T FL 121  
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Email Rivers.Buford@purdT.ORG

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

1/30/18

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

280

Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name PAUL LAMBERT

Job Title \_\_\_\_\_

Address 263 Rosehill Drive North

Street

Tallahassee FL 32312

City

State

Zip

Phone 850 854-5555 596-2696  
Email plambert@paulambertlaw.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Chiropractic Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

280

Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name Chris Chaney

Job Title Lobbyist

Address 204 South Monroe Street

Phone 222-8900

Tallahassee, FL 32301

City

State

Zip

Email cc@cardenaspartners.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Jan 30

Meeting Date

SB 280

Bill Number (if applicable)

Topic Telehealth / SB 280

Amendment Barcode (if applicable)

Name Mia DIAZ

Job Title Executive Assistant & Office Manager

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City State Zip

Email MDIAZ@Floridatax  
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Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Tax Watch

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2018

Meeting Date

SB 280

Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name Tiffany Hodgson

Job Title Social Work Student

Address \_\_\_\_\_

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miami

City

FL

State

Zip

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Email tiffany.hodgson@barn.edu

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

1/30/18  
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

280  
Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name Dr. Natalia Shtompel

Job Title professor, Barry University

Address 11300 NE 2nd St, Miami Shores  
Street

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing NASW

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

SB 280

Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name Larry Gonzalez

Job Title General Counsel

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Phone 850-570-6307

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FL

32301

City

State

Zip

Email lgonzalez@earthlink.net

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Society of Health-System Pharmacists

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

1-30-18

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

280

Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name Brittney Hunt

Job Title Policy Director - FL Chamber

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Tallahassee

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State

32301

Zip

Email bhunt@flchamber.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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1/30/2018  
Meeting Date

SB 280  
Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name Shanese Brown

Job Title \_\_\_\_\_

Address 518 San College Park Rd.  
Street

Phone 772-224-4657

Port St. Lucie FL 34953  
City State Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Barry University Social Work

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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1-30-18  
Meeting Date

CS/SB 280  
Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name Marti Coley Eubanks

Job Title Director Gov't Relations

Address JAX  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Nemours Children's Health System

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/30/18

Meeting Date

280

Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name Ron Watson

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Renal Coalition

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18  
Meeting Date

SB 280  
Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

Name Joe Anne Hunt

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State

32211  
Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Dental Assn.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

SB 200 / HB 793

Bill Number (if applicable)

Topic Telehealth

Amendment Barcode (if applicable)

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State

FL

Zip

34972

Email yolondalewis1@gmail.com

City

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Barry University

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 492

INTRODUCER: Senator Garcia

SUBJECT: Provision of Pharmaceutical Services

DATE: January 25, 2018

REVISED: 1/30/18

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	<b>Favorable</b>
2.	Lloyd	Stovall	HP	<b>Favorable</b>
3.			AP	

---

**I. Summary:**

SB 492 prohibits an insurer or health maintenance organization (HMOs) issuing individual or group health policies or contracts from requiring an insured or subscriber to obtain a prescription drug for the treatment of a chronic illness exclusively from a mail-order pharmacy unless the drug is considered an excluded drug. The bill defines the term “chronic illness” to mean human immunodeficiency virus infection (HIV), epilepsy, hypertension, or diabetes. The bill defines the term “excluded drug” to mean a drug subject to restricted distribution by the U.S. Food and Drug Administration or a drug that requires special handling, provider coordination, or patient education and cannot be provided by a retail pharmacy. The bill allows an insured to obtain prescription drugs, other than an excluded drug, for the treatment of a chronic illness through any retail pharmacy that accepts the same terms and reimbursements as those given to a mail-order pharmacy by an insurer or health maintenance organization.

The bill requires insurers and HMOs that issue major medical policies or contracts and provide coverage through a mail order pharmacy to disclose in the outline of coverage that an insured or subscriber may obtain prescription drugs for treatment of a chronic illness from a retail pharmacy and that the exclusive use of a mail order pharmacy is not required, unless the drug is an excluded drug. Currently, state law does not prohibit an insurer or HMO from requiring an insured to obtain prescription drugs from a mail-order pharmacy or from charging a higher copayment for the use of a retail pharmacy.

It is anticipated that the bill will have a minimal impact on the State Group Insurance program.

The bill has an effective date of January 1, 2019.

## **II. Present Situation:**

### **Access to Prescription Drugs**

Private-sector entities that offer prescription drug insurance coverage, such as employers, labor unions, and managed care companies, often hire pharmacy benefit managers (PBMs) to manage these insurance benefits. The PBMs engage in many activities to manage their clients' prescription drug insurance coverage. The PBMs assemble networks of retail pharmacies so that a plan sponsor's members can fill prescriptions easily and in multiple locations by just paying a co-payment amount. The PBMs consult with plan sponsors to decide which drugs a plan sponsor will provide insurance coverage to treat each medical condition. The PBM manages this list of preferred drug products (formulary) for each of its plan sponsor clients. Consumers with insurance coverage are provided incentives, such as low copayments, to use formulary drugs.

### ***Mail-Order Pharmacies***

The PBMs may use mail-order pharmacies to manage prescription drug costs. Many plan sponsors encourage patients with chronic conditions who require repeated refills to seek the discounts that 90-day prescriptions and high-volume mail-order pharmacies can offer. Many PBMs own their own mail-order pharmacies. Insurers and PBMs use a variety of incentives to encourage the use of mail order pharmacies; especially for beneficiaries taking maintenance medications. Plans may offer lower copayments for mail order drugs, charge deductibles for retail purchases, or impose limitations on the number of prescriptions at a retail pharmacy. Some health plans have "mandatory mail order" programs that reimburse beneficiaries for maintenance medications only if the beneficiaries fill those prescriptions by mail. Some insurers are ambivalent about the savings offered by mail order or point to equivalent or better savings that can be achieved from filling 90-day supplies in network retail pharmacies. These payers contend that enrollees benefit from face-to-face contact with a pharmacist.<sup>1</sup>

While PBMs provide pharmacy claims processing and mail-order pharmacy services to their customers, many provide additional services, including rebate negotiations with drug manufacturers, development of pharmacy networks, formulary management, prospective and retrospective drug utilization reviews, generic drug substitutions, and disease management programs. The decision of plan sponsors to use PBMs to control pharmacy benefit costs, however, can shift business away from retail pharmacies.

### ***Concerns about Mail-Order Pharmacy***

According to advocates of this bill, there is much documented reporting of inconsistencies across the healthcare system in the execution of the mail-order pharmacy model, as summarized below.

- Unlike specialty or many local pharmacies, mail-order pharmacies are often not consistent in proactively reaching out to the patients to provide refill reminders. The healthcare community has observed better health outcomes for chronically ill patients when pharmacies maintain close contact with their patients.

---

<sup>1</sup> Maryland Health Care Commission and Maryland Insurance Administration, Maintenance Drug Prescriptions-Mail Order Purchases Study (Dec. 23, 2005) (on file with the Senate Committee on Banking and Insurance).

- Delivery methods are also inconsistent. Patients report privacy concerns (i.e., medication being delivered to family members, roommates, or neighbors who do not have knowledge of the patient's health status). Couriers sometimes leave medication requiring refrigeration outside, potentially rendering the medication ineffective. Leaving the medication package at the door also exposes it to possible theft.
- Although patients may save money through mail order, filling medication through mail order for a 90-day period can be cost prohibitive to the patient from a cash flow perspective. A copayment for a 30-day supply of medication is often more affordable for a patient than a copayment for a 90-day supply when required at the point of sale.<sup>2</sup>
- Mail orders can also lead to communication errors or safety problems. Daily medications may not always arrive on time which can be dangerous for individuals that rely on lifesaving drugs.<sup>3</sup>
- Auto-renewal of obsolete prescriptions. Mail order pharmacies might auto-renew prescriptions that a patient may no longer be taking or where the dosage has been modified. This leads to a waste of medications or a patient mistakenly taking old doses of medications.<sup>4</sup> Noting the complaints received by the federal Centers for Medicare and Medicaid Services (CMS), the CMS strongly encouraged beginning in 2014 that Part D plans<sup>5</sup> obtain patient consent prior to filling an automatic refill, to combat fraud and abuse.<sup>6</sup>

## Federal Patient Protection and Affordable Care Act

### *Health Insurance Reforms*

The federal Patient Protection and Affordable Care Act (PPACA) was signed into law on March 23, 2010.<sup>7</sup> The PPACA provides fundamental changes to the U.S. health care system by requiring health insurers to make coverage available to all individuals and employers, without exclusions for preexisting conditions and without basing premiums on any health-related factors. The PPACA imposes many insurance requirements including required essential health benefits and rating and underwriting standards.<sup>8</sup> PPACA requires health plans that are mandated to provide coverage of essential health benefits (EHB), to meet cost-sharing limits and actuarial value requirements. The law directs that EHBs cover at least 10 specified categories of coverage, including prescription drugs.<sup>9</sup>

<sup>2</sup> AIDS Healthcare Foundation email (Jan. 28, 2016) (on file with the Senate Committee on Banking and Insurance).

<sup>3</sup> Ginger Skinner, *Using a Mail Order Pharmacy Doesn't Always Save You Money*, Consumer Reports, (March 14, 2016) <https://www.consumerreports.org/pharmacies/mail-order-pharmacy-doesnt-always-save-money/>, (last visited Jan. 25, 2018).

<sup>4</sup> Id.

<sup>5</sup> Part D Medicare plans are prescription drug coverage plans.

<sup>6</sup> Centers for Medicare and Medicaid Services, *Note to Medicare Advantage Organizations, Prescription Drug Sponsors, and Other Interested Parties* (February 15, 2013), pg. 133, <https://www.cms.gov/Medicare/Health-Plans/MedicareAdvtgSpecRateStats/Downloads/Advance2014.pdf>

<sup>7</sup> The Patient Protection and Affordable Care Act (Pub. L. 111–148) was enacted on March 23, 2010. The Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152), which amended and revised several provisions of the Patient Protection and Affordable Care Act, was enacted on March 30, 2010. P.L. 111–148.

<sup>8</sup> Most of the insurance regulatory provisions in PPACA amend Title XXVII of the Public Health Service Act (PHSA), (42 U.S.C. 300gg *et seq.*).

<sup>9</sup> See <https://www.cms.gov/cciiio/resources/data-resources/ehb.html> (last viewed Jan. 10, 2018) for Florida's benchmark plan.

### ***Prescription Drug Coverage***

Currently, for purposes of a health plan complying with the essential health benefits, insurers and HMOs must include in their formulary drug list the greater of one drug for each U.S. Pharmacopeia (USP) category and class; or the same number of drugs in each USP category and class as the state's essential health benefit (EHB) benchmark plan. For plan years beginning on or after January 1, 2017, plans must also use a pharmacy and therapeutics (P&T) committee process that meets certain requirements. The P&T committee must design formularies using scientific evidence that will include consideration of safety and efficacy, cover a range of drugs in a broad distribution of therapeutic categories and classes, and provide access to drugs that are included in broadly accepted treatment guidelines.<sup>10</sup>

**Formulary Drug List.** The federal regulations require health plans to publish a current and complete list of all covered drugs on its formulary drug list, including any tiered structure and any restrictions on the manner in which a drug can be obtained, in a manner that is easily accessible to plan enrollees, prospective enrollees, the state and federal government, and the public. Additionally, insurers and HMOs must also make this information available in a standard-readable format to provide the opportunity for third parties to create resources that aggregate information on different plans.<sup>11</sup>

### ***Access at Retail Pharmacies***

For plans years beginning on or after January 1, 2017, an individual or small group health plan<sup>12</sup> providing essential health benefits must implement the following access procedures:

A health plan must allow enrollees to obtain prescription drug benefits at in-network retail pharmacies, unless:

- The drug is subject to restricted distribution by the U.S. Food and Drug Administration; or
- The drug requires special handling, provider coordination, or patient education that cannot be provided by a retail pharmacy.<sup>13</sup>

A health plan may charge enrollees a different cost-sharing amount for obtaining a covered drug at a retail pharmacy, but all cost sharing will count towards the plan's annual limitation on cost sharing.<sup>14</sup>

The health plans retain the flexibility to charge a lower cost-sharing amount when obtaining the drug at an in-network retail pharmacy. While this provision requires coverage of a drug at an in-network retail pharmacy, for plans that do not have a network, the enrollee may go to any pharmacy to access his prescription drug benefit and those plans will be in compliance with this standard.

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<sup>10</sup> 45 CFR s. 156.122.

<sup>11</sup> See 45 C.F.R. 156.122(d).

<sup>12</sup> These provisions of PPACA do not apply to large group plans, self-insured plans, transitional plans, or grandfathered plans.

<sup>13</sup> See 45 C.F.R. s. 156.122(e)(2).

<sup>14</sup> See 45 CFR s. 156.130.



The plans need only provide enrollees with the option to access drugs that are not exempted under 45 CFR s. 156.122(e) at an in-network retail pharmacy. According to the HHS final rules, certain drugs have a Risk Evaluation and Mitigation Strategy (REMS) that includes Elements to Assure Safe Use that may require that pharmacies, practitioners, or health care settings that dispense the drug be specially certified and that may limit access to the drugs to certain health care settings.<sup>15</sup> If the health plan finds it necessary to restrict access to a drug for either of the reasons listed above, it must indicate this restricted access on the formulary drug list that plans must make publicly available under 45 CFR s. 156.122(d).<sup>16</sup>

The federal Department of Health and Human Services (HHS) notes that there are instances in which obtaining a drug through a mail-order pharmacy may not be a viable option, such as when an individual does not have a stable living environment and does not have a permanent address, or when a retail pharmacy option better ensures that consumers can access their EHB prescription drug benefit on short notice.<sup>17</sup>

### **Regulation of Health Insurers and Health Maintenance Organizations in Florida**

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, HMOs, and other risk-bearing entities.<sup>18</sup> The Agency for Health Care Administration (agency) regulates the quality of care provided by HMOs under part III of ch. 641, F.S. Before receiving a certificate of authority from the OIR, an HMO must obtain a Health Care Provider Certificate from the agency.<sup>19</sup>

### **Florida's State Group Insurance Program**

Under the authority of s. 110.123, F.S., the Department of Management Services (DMS), through the Division of State Group Insurance, administers the state group health insurance program under a cafeteria plan.<sup>20</sup> To administer the state group health insurance program, the DMS contracts with third party administrators for self-insured health plans, insured health maintenance organizations (HMOs), and a pharmacy benefits manager (PBM), for the state employees' self-insured prescription drug program.<sup>21</sup>

The state employees' self-insured prescription drug program has four dispensing avenues: participating 30-day retail pharmacies, participating 90-day retail pharmacies, the PBM's mail order pharmacies, and the PBM's specialty pharmacies. Contractually, and as stated in the benefit documents, specialty drugs, as defined by the PBM, must be dispensed by the PBM's specialty pharmacies. Specialty drugs are often high-cost prescription medications or medications for complex conditions. These drugs generally require additional monitoring for compliance and adherence. The drugs are used to treat complex and/or chronic conditions such

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<sup>15</sup> FDA requires a Risk Evaluation and Mitigation Strategies (REMS) for specified drugs to ensure that the benefits of a drug or biological product outweigh its risks. The following is FDA's list of currently approved REMS: <http://www.accessdata.fda.gov/scripts/cder/remis/index.cfm> (last viewed Jan. 10, 2018).

<sup>16</sup> PPACA; HHS Notice of Benefit and Payment Parameters for 2016, 80 Fed. Reg. 10820, 10821.

<sup>17</sup> *Id.*

<sup>18</sup> Section 20.121(3)(a), F.S.

<sup>19</sup> Section 641.21(1), F.S.

<sup>20</sup> 26 U.S.C. s. 125.

<sup>21</sup> Section 110.12315, F.S.

as cancer, rheumatoid arthritis, human immunodeficiency virus, and multiple sclerosis. Specialty drugs often require special handling (e.g., refrigeration during shipping) and administration (e.g., injection or infusion).

The program typically makes benefits changes on a plan year basis, which is January 1 through December 31. Copayments (and coinsurance for high deductible plans) for each drug tier are the same for all members, as follows:

Drug Tier	Retail – Up to 30-Day Supply	Retail and Mail – Up to 90-Day Supply and Specialty Medications
Generic	\$7	\$14
Preferred Brand	\$30	\$60
Non-Preferred Brand	\$50	\$100

### Florida Medicaid

The Florida Medicaid program is a partnership between the federal and state governments. Each state operates its own Medicaid program under a state plan approved by the CMS. The state plan outlines Medicaid eligibility standards, benefits, policies, and reimbursement methodologies.

Florida Medicaid is administered by the Agency for Health Care Administration (AHCA) and financed with state and federal funds. The program provides comprehensive health care benefits to approximately 4 million Floridians. The estimated expenditures for the state's 2017-2018 fiscal year are over \$26 billion.<sup>22</sup>

Eligibility for Medicaid is based on a number of factors, including age, household size, or individual income, and assets. State eligibility payment guidelines are provided in s. 409.903, F.S., (Mandatory Payments for Eligible Persons) and s. 409.904, F.S., (Optional Payments for Eligible Persons). Minimum coverage thresholds are established in federal law for certain population groups such as children.

Current law permits the AHCA to limit the size of the Medicaid pharmacy networks based on need, competitive bidding, price negotiations, credentialing, or similar criteria.<sup>23</sup> The AHCA has also been directed in statute to expand the home delivery of pharmacy products to those recipients who elect to receive pharmacy products, with a focus on those recipients with chronic diseases for which pharmacy expenditures represent a significant portion of the Medicaid budget or population.<sup>24</sup>

The *Medicaid Prescribed Drug Services Coverage Policy* sets two requirements for coverage and does not mention chronic diseases, but is based on meeting two conditions.<sup>25</sup>

<sup>22</sup> Florida Office of Economic and Demographic Research, *Social Services Estimating Conference Medicaid Caseloads and Expenditures and Expenditures Executive Summary* (July 17, August 3, and August 9, 2017), <http://edr.state.fl.us/Content/conferences/medicaid/execsummary.pdf>, (Last visited Jan. 25, 2018).

<sup>23</sup> Section 409.912(5)(a)4, F.S.

<sup>24</sup> Section 409.912(4)(a)8, F.S.

<sup>25</sup> Agency for Health Care Administration, *Prescribed Drugs Services Coverage Policy* (December 2017),

- The provider agrees to replace any lost shipments at no cost to the Medicaid member or to the state.
- The mail order service charges no additional costs to the Medicaid recipient or to Florida Medicaid.

### **Statewide Medicaid Managed Care Program**

Part IV of ch. 409, F.S., was created in 2011 by ch. 2011-134, L.O.F., and governs the Statewide Medicaid Managed Care Program. (SMMC). The SMMC, authorized under federal Medicaid waivers, is designed for the AHCA to issue invitations to negotiate<sup>26</sup> and competitively procure contracts with managed care plans in 11 regions of the state to provide comprehensive Medicaid coverage for most of the state's enrollees in the Medicaid program. SMMS has two components: managed medical assistance (MMA) and long-term care managed care (LTCMC).

The LTCMC component began enrolling Medicaid recipients in August 2013 and completed its statewide rollout in March 2014. The MMA component began enrolling Medicaid recipients in May 2014 and finished its rollout in August 2014. As of January 1, 2018, over 3.8 million Medicaid eligibles were enrolled in an MMA plan and an additional 748,368 were receiving fee-for service benefits.<sup>27</sup>

Under MMA, prescription drugs are a covered benefit.<sup>28</sup> Plans must meet network adequacy requirements which includes both time and distance standards for urban and rural counties and a ratio standard of one pharmacy for each 2,500 enrollees.<sup>29</sup> The MMA plans are prohibited from exclusively using mail-order pharmacies to meet their pharmacy network access needs.<sup>30</sup> The AHCA reiterates this prohibition in its contracts with the MMA plans, noting that mail order may be an option for recipients.<sup>31</sup>

### **III. Effect of Proposed Changes:**

**Sections 1, 2 and 3** prohibit insurers and health maintenance organizations offering major medical individual or group health policies or contracts, respectively from requiring an insured or subscriber to obtain a prescription drug for the treatment of a chronic illness exclusively from a mail order pharmacy, unless the drug is an excluded drug. "Chronic illness" is defined as

<sup>26</sup> An "invitation to negotiate" is a written or electronically posted solicitation for vendors to submit competitive, sealed replies for the purpose of selecting one or more vendors with which to commence negotiations for the procurement of commodities or contractual services. *See* s. 287.012, F.S.

<sup>27</sup> Agency for Health Care Administration, *Statewide Medicaid Enrollment Report (January 2018)*,

<sup>28</sup> Section 409.973(x), F.S.

<sup>29</sup> Agency for Health Care Administration, *Presentation to Senate Health Policy Committee – Florida Medicaid: Statewide Medicaid Managed Care Pharmacy Networks (February 16, 2016)*, slide 8, [https://ahca.myflorida.com/medicaid/recent\\_presentations/SMMC\\_Pharmacy\\_Network\\_Senate\\_Health\\_Policy\\_2016-02-16.pdf](https://ahca.myflorida.com/medicaid/recent_presentations/SMMC_Pharmacy_Network_Senate_Health_Policy_2016-02-16.pdf), (last visited Jan. 25, 2018).

<sup>30</sup> Section 409.967(2)(c)1, F.S.

<sup>31</sup> Agency for Health Care Administration, *SMMC Plans - Model Contract, Attachment II (Core Contract Provisions), Exhibit II-A – Effective Date: June 1, 2017, Managed Medical Assistance (MMA) Program*, pg. 61, [http://www.ahca.myflorida.com/medicaid/statewide\\_mc/pdf/Contracts/2017-06-01/EXHIBIT\\_II-A\\_Managed\\_Medical\\_Assistance\\_\(MMA\)\\_Program\\_2017-06-01.pdf](http://www.ahca.myflorida.com/medicaid/statewide_mc/pdf/Contracts/2017-06-01/EXHIBIT_II-A_Managed_Medical_Assistance_(MMA)_Program_2017-06-01.pdf), (last visited Jan. 25, 2018).

human immunodeficiency virus infection (HIV), epilepsy, hypertension or diabetes. “Excluded drug” is defined to mean a drug subject to restricted distribution by the U.S. Food and Drug Administration or a drug that requires special handling, provider coordination, or patient education and cannot be provided by a retail pharmacy.

The bill allows an insured or subscriber to obtain prescription drugs for the treatment of a chronic illness, through a retail pharmacy that agrees to the same terms and conditions, including credentialing, applicable to a mail order pharmacy and accepts payment or reimbursement from the health insurer or HMO. This requirement applies unless the drug is an excluded drug. This reimbursement or payment may not exceed the amount paid to a network mail order pharmacy for the same prescription drugs for the treatment of a chronic illness.

Further, insurers and HMOs that issue major medical policies or contracts that provide coverage for prescription drugs through a mail order pharmacy are required to disclose in the outline of coverage that an insured may obtain prescription drugs for the treatment of a chronic illness from a retail pharmacy, and that the exclusive use of a mail order pharmacy is not required unless the drug is an excluded drug.

The requirements in sections 1 and 2 (relating to individual and group health insurance policies) do not apply to grandfathered plans as defined in s. 627.402, F.S., or to benefits set forth in s. 627.6561(5)(b), (c), (d), and (e), F.S.

The requirements in section 3 (relating to health maintenance organizations) do not apply to grandfathered health plans as defined in s. 641.313(1)(c), F.S., or to benefits set forth in s. 641.31071(b), (c), (d), and (e), F.S.

**Section 4** provides the bill will take effect January 1, 2019.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the ability of counties or municipalities to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill may provide greater choice for consumers in filling prescriptions at local retail pharmacies rather than through mail order. Further, advocates of the bill note that the healthcare community has observed better health outcomes for chronically ill patients when pharmacies maintain close contact with their patients.

Retail pharmacies may experience an indeterminate increase in pharmaceutical sales volume to the extent patients shift their prescription drug purchases from mail order pharmacies to retail pharmacies. Mail order pharmacies may experience a similar reduction in sales volume. The impact of the bill on health insurers or HMOs with defined networks is indeterminate.

The provisions of the bill will not apply to employers that offer self-insured plans.<sup>32</sup> In Florida, an estimated 63 percent of private sector enrollees are enrolled in self-insured plans.

**C. Government Sector Impact:****The Division of State Group Insurance**

Under the current PBM that administers the state employees' self-insured prescription drug program, CVS/caremark, all drugs to treat HIV infection are classified as specialty drugs due to the sensitive nature of the diagnosis, privacy concerns, and history of noncompliance of these drugs. The bill would not apply to drugs that are injectable or require special handling. As a result, those types of drugs used to treat HIV infection or any of the other specific chronic conditions would continue to be dispensed by the PBM's specialty pharmacy. CVS/caremark, expects the implementation of the bill would have a minimal negative fiscal impact on the state employees' self-insured prescription drug program.<sup>33</sup>

**Office of Insurance Regulation**

None.<sup>34</sup>

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<sup>32</sup> The federal Employee Retirement Income Security Act of 1975 (ERISA) allows employers to self-insure in order to offer uniform health benefits across states. A plan that is self-insured is subject to ERISA's requirements. Such employers are not required to cover health care services for state-mandated benefits.

<sup>33</sup> Department of Management Services, *2018 Legislative Analysis SB 492* (Jan. 5, 2018) (on file with Senate Committee on Banking and Insurance).

<sup>34</sup> Office of Insurance Regulation, *2018 Legislative Analysis of SB 492* (Oct. 20, 2017) (on file with Senate Committee on Banking and Insurance).

### **Agency for Health Care Administration**

The state Medicaid program manages its own pharmacy benefit program and network standards. The bill does not appear to exempt the Medicaid program from its provisions.

Currently, the Medicaid program allows its plans to use mail-order pharmacies so long as they are not the only option available to the recipient and if the pharmacies meet two conditions relating to absorbing the costs of lost shipments and incurring no additional costs to either the recipient or the Medicaid program. The provisions of the bill may be in conflict with how the current Medicaid mail-in program operates since Medicaid does not include any such exclusions.

If applied to the Medicaid program, the bill could impact how Medicaid is able to operate its mail order and home delivery services under the fee-for-service and MMA programs.

### **VI. Technical Deficiencies:**

Limiting the coverage or effects of this bill to insureds and subscribers who have one of the four “chronic conditions” delineated (immunodeficiency virus infection, epilepsy, hypertension or diabetes) may be considered discriminatory. Under the federal regulations, a group health plan is not required to provide coverage for any particular benefits to any group of similarly situated individuals. However, benefits provided under a plan must be uniformly available to all similarly situated individuals.<sup>35</sup>

The bill does not amend s. 627.6699, F.S., relating to small group policies. Therefore, the restrictions on the copayments that may be imposed when an insured elects to use a pharmacy that is not a mail order pharmacy may not apply to these policies.

### **VII. Related Issues:**

The bill has potential privacy concerns as pharmacies would have to be notified that a person has one of the four specified chronic conditions in order to receive the benefits under the bill. The insured may not understand that these protections apply only to medications treating the chronic illness and may not want to have this medical information disclosed or may want to receive other prescription drugs from the retail pharmacy.<sup>36</sup>

### **VIII. Statutes Affected:**

This bill substantially amends section 641.31 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 627.6442 and 627.6572.

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<sup>35</sup> 45 C.F.R. s. 146.121.

<sup>36</sup> Office of Insurance Regulation, *2018 Legislative Analysis of SB 492* (Oct. 20, 2017) (on file with the Senate Banking and Insurance Committee).

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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By Senator Garcia

36-00104-18

2018492\_\_

1 A bill to be entitled  
2 An act relating to the provision of pharmaceutical  
3 services; creating ss. 627.6442 and 627.6572, F.S.;  
4 defining terms; prohibiting certain health insurance  
5 policies from requiring insureds to obtain certain  
6 prescription drugs exclusively from mail order  
7 pharmacies for the treatment of specified chronic  
8 illnesses; providing that such insureds who elect to  
9 use retail pharmacies may not be required to pay  
10 copayments or satisfy other conditions under certain  
11 circumstances; requiring certain health insurers to  
12 include specified disclosures in their outlines of  
13 coverage regarding such prescription drugs; providing  
14 applicability; amending s. 641.31, F.S.; defining  
15 terms; prohibiting certain health maintenance  
16 contracts from requiring subscribers to obtain certain  
17 prescription drugs exclusively from mail order  
18 pharmacies for the treatment of specified chronic  
19 illnesses; providing that such subscribers who elect  
20 to use retail pharmacies may not be required to pay  
21 copayments or satisfy other conditions under certain  
22 circumstances; requiring certain health maintenance  
23 organizations to include specified disclosures in  
24 their outlines of coverage regarding such prescription  
25 drugs; providing applicability; providing an effective  
26 date.

28 Be It Enacted by the Legislature of the State of Florida:  
29



36-00104-18

2018492\_\_

Section 1. Section 627.6442, Florida Statutes, is created to read:

627.6442 Access to prescription drugs.-

(1) As used in this section, the term:

(a) "Chronic illness" means human immunodeficiency virus infection, epilepsy, hypertension, or diabetes.

(b) "Excluded drug" means a drug subject to restricted distribution by the United States Food and Drug Administration or a drug that requires special handling, provider coordination, or patient education and cannot be provided by a retail pharmacy.

(2) A health insurance policy issued, delivered, or renewed in this state which provides major medical coverage and prescription drug coverage may not require an insured to obtain a prescription drug for the treatment of a chronic illness exclusively from a mail order pharmacy unless the prescription drug is an excluded drug.

(3) An insured who elects not to use a mail order pharmacy to obtain a prescription drug, other than an excluded drug, prescribed for the treatment of a chronic illness may not be required to pay a copayment or satisfy other conditions that are not imposed on an insured who uses a mail order pharmacy if the retail pharmacy used by the insured:

(a) Agrees to the same terms and conditions, including credentialing, applicable to a mail order pharmacy; and

(b) Accepts payment or reimbursement from the insurer which is no more than the amount that would be paid to a mail order pharmacy for the same prescription drugs for the treatment of a chronic illness.

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2018492\_\_

59       (4) A health insurer that issues a major medical policy  
60 providing coverage for prescription drugs through a mail order  
61 pharmacy shall disclose in the outline of coverage that an  
62 insured may obtain prescription drugs for the treatment of a  
63 chronic illness from a retail pharmacy and that the exclusive  
64 use of a mail order pharmacy is not required unless the drug is  
65 an excluded drug.

66       (5) This section does not apply to grandfathered plans as  
67 defined in s. 627.402 or to benefits set forth in s.  
68 627.6562(3)(b), (c), (d), and (e).

69       Section 2. Section 627.6572, Florida Statutes, is created  
70 to read:

71       627.6572 Access to prescription drugs.—

72       (1) As used in this section, the term:

73       (a) "Chronic illness" means human immunodeficiency virus  
74 infection, epilepsy, hypertension, or diabetes.

75       (b) "Excluded drug" means a drug subject to restricted  
76 distribution by the United States Food and Drug Administration  
77 or a drug that requires special handling, provider coordination,  
78 or patient education and cannot be provided by a retail  
79 pharmacy.

80       (2) A health insurance policy issued, delivered, or renewed  
81 in this state which provides major medical coverage and  
82 prescription drug coverage may not require an insured to obtain  
83 a prescription drug for the treatment of a chronic illness  
84 exclusively from a mail order pharmacy unless the prescription  
85 drug is an excluded drug.

86       (3) An insured who elects not to use a mail order pharmacy  
87 to obtain a prescription drug, other than an excluded drug,

36-00104-18

2018492\_\_

prescribed for the treatment of a chronic illness may not be required to pay a copayment or satisfy other conditions that are not imposed on an insured who uses a mail order pharmacy if the retail pharmacy used by the insured:

(a) Agrees to the same terms and conditions, including credentialing, applicable to a mail order pharmacy; and

(b) Accepts payment or reimbursement from the insurer which is no more than the amount that would be paid to a mail order pharmacy for the same prescription drugs for the treatment of a chronic illness.

(4) A health insurer that issues a major medical policy providing coverage for prescription drugs through a mail order pharmacy shall disclose in the outline of coverage that an insured may obtain prescription drugs for the treatment of a chronic illness from a retail pharmacy and that the exclusive use of a mail order pharmacy is not required unless the drug is an excluded drug.

(5) This section does not apply to grandfathered plans as defined in s. 627.402 or to benefits set forth in s. 627.6562(3)(b), (c), (d), and (e).

Section 3. Subsection (44) is added to section 641.31, Florida Statutes, to read:

641.31 Health maintenance contracts.—

(44) (a) As used in this section, the term:

1. "Chronic illness" means human immunodeficiency virus infection, epilepsy, hypertension, or diabetes.

2. "Excluded drug" means a drug subject to restricted distribution by the United States Food and Drug Administration or a drug that requires special handling, provider coordination,

36-00104-18

2018492\_\_

or patient education and cannot be provided by a retail pharmacy.

(b) A health maintenance contract issued, delivered, or renewed in this state which provides major medical coverage and prescription drug coverage may not require a subscriber to obtain a prescription drug for the treatment of a chronic illness exclusively from a mail order pharmacy unless the prescription drug is an excluded drug.

(c) A subscriber who elects not to use a mail order pharmacy to obtain a prescription drug, other than an excluded drug, prescribed for the treatment of a chronic illness may not be required to pay a copayment or satisfy other conditions that are not imposed on a subscriber who uses a mail order pharmacy if the retail pharmacy used by the subscriber:

1. Agrees to the same terms and conditions, including credentialing, applicable to a mail order pharmacy; and

2. Accepts payment or reimbursement from the health maintenance organization which is no more than the amount that would be paid to a mail order pharmacy for the same prescription drugs for the treatment of a chronic illness.

(d) A health maintenance organization that issues a health maintenance contract providing coverage for prescription drugs through a mail order pharmacy shall disclose in the outline of coverage that a subscriber may obtain prescription drugs for the treatment of a chronic illness from a retail pharmacy and that the exclusive use of a mail order pharmacy is not required unless the drug is an excluded drug.

(e) This section does not apply to grandfathered health plans as defined in s. 641.313(1)(c) or to benefits set forth in

36-00104-18

2018492\_\_

146 s. 627.6562(3)(b), (c), (d), and (e).

147 Section 4. This act shall take effect January 1, 2019.



**The Florida Senate**  
State Senator René García  
36<sup>th</sup> District

Please reply to:

District Office:

1490 West 68 Street  
Suite # 201  
Hialeah, FL. 33014  
Phone# (305) 364-3100

January 17<sup>th</sup>, 2018

The Honorable Dana Young  
Chair, Health Policy Committee  
530 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Senator Young,

Please have this letter serve as my formal request to have **SB 492: Provision of Pharmaceutical Services** be heard during the next scheduled Health Policy Committee Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,

A handwritten signature in black ink, appearing to read "René García".

State Senator René García  
District 36

CC: Sandra Stovall  
Celia Georgiades

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2018

Meeting Date

5492

Bill Number (if applicable)

Topic PROVISION OF PHARMACEUTICAL SERVICES

Amendment Barcode (if applicable)

Name MICHAEL JACKSON

Job Title EXECUTIVE VICE PRESIDENT & CEO

Address 610 N. ADAMS STREET

Phone 850 222-2400

Street

TALLAHASSEE

FL

32301

Email MJACKSON@PHARMVIEW.COM

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FLORIDA PHARMACY ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1/30/18

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

492

Bill Number (if applicable)

Topic Mail Order Pharmacies

Amendment Barcode (if applicable)

Name Towson Fraser

Job Title President, Fraser Solutions

Address 115 E Park Ave, Ste 1  
Street

Phone 850 443-1444

Tallahassee FL 32301  
City State Zip

Email Towson@FL2obby.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing AIDS Healthcare Foundation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

1/30/18  
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

492  
~~1810~~  
Bill Number (if applicable)

Topic Prov. of Pharm. Services

Amendment Barcode (if applicable)

Name Cynthia Henderson

Job Title \_\_\_\_\_

Address 108 E Jefferson St  
Street

Phone 880 559 0855

Tallahassee FL 32301  
City State Zip

Email cyhenderson@me.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing EPIC Rx

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: CS/SB 562

INTRODUCER: Community Affairs Committee and Senator Mayfield

SUBJECT: Regulation of Smoking

DATE: January 29, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	<b>Fav/CS</b>
2.	Looke	Stovall	HP	<b>Favorable</b>
3.			RC	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 562 allows a municipality or county to restrict smoking within the boundaries of any public parks owned by the municipality or county and allows a county to restrict smoking within any designated facility<sup>1</sup> owned by the county.

**II. Present Situation:**

The Florida Clean Indoor Air Act (act) in part II of ch. 386, F.S., regulates tobacco smoking in Florida. The legislative purpose of the act is to protect the public from the health hazards of secondhand tobacco smoke and to implement the Florida health initiative in s. 20, Art. X of the State Constitution.<sup>2</sup>

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<sup>1</sup> The term “designated facilities” is defined in s. 154.08, F.S., and includes any county-owned or county-operated facility used in connection with the delivery of health care, the operation, governance, or maintenance of which has been designated by the governing body of such county for transfer to the public health trust of that county. The section specifies that sanatoriums, clinics, ambulatory care centers, primary care centers, hospitals, rehabilitation centers, health training facilities, nursing homes, nurses’ residence buildings, infirmaries, outpatient clinics, mental health facilities, residences for the aged, rest homes, health care administration buildings, and parking facilities and areas serving health care facilities are considered designated facilities.

<sup>2</sup> Section 386.202, F.S.

## Florida Constitution

On November 5, 2002, the voters of Florida approved Amendment 6 to the State Constitution, which prohibits tobacco smoking in enclosed indoor workplaces. Codified as s. 20, Art. X, Florida Constitution, the amendment defines an “enclosed indoor workplace,” in part, as “any place where one or more persons engages in work, and which place is predominantly or totally bounded on all sides and above by physical barriers ... without regard to whether work is occurring at any given time.” The amendment defines “work” as “any persons providing any employment or employment-type service for or at the request of another individual or individuals or any public or private entity, whether for compensation or not, whether full or part-time, whether legally or not.” The amendment provides limited exceptions for private residences “whenever they are not being used commercially to provide child care, adult care, or health care, or any combination thereof,” retail tobacco shops, designated smoking guest rooms at hotels and other public lodging establishments, and stand-alone bars.

The constitutional amendment directed the Legislature to implement the “amendment in a manner consistent with its broad purpose and stated terms.” The amendment required that implementing legislation have an effective date of no later than July 1, 2003, and required that implementing legislation provide civil penalties for violations; provided for administrative enforcement; and required and authorized agency rules for implementation and enforcement. The amendment further provided that the Legislature may enact legislation more restrictive of tobacco smoking than that provided in the Florida Constitution.

## Florida’s Clean Indoor Air Act

The Legislature implemented the smoking ban by enacting ch. 2003-398, L.O.F., which amended pt. II of ch. 386, F.S., and created s. 561.695, F.S., of the Beverage Law. The act, as amended, implements the constitutional amendment’s prohibition. Specifically, s. 386.204, F.S., prohibits smoking in an enclosed indoor workplace, unless the act provides an exception. The act adopts and implements the amendment’s definitions and adopts the amendment’s exceptions for private residences whenever not being used for certain commercial purposes;<sup>3</sup> stand-alone bars;<sup>4</sup> designated smoking rooms in hotels and other public lodging establishments;<sup>5</sup> and retail tobacco shops, including businesses that manufacture, import, or distribute tobacco products and tobacco loose leaf dealers.<sup>6</sup>

Section 386.207, F.S., provides for enforcement of the act by the Department of Health (DOH) and the Department of Business and Professional Regulation (DBPR) within each department’s specific areas of regulatory authority. Sections 386.207(1) and 386.2125, F.S., grant rulemaking authority to the DOH and the DBPR and require that the departments consult with the State Fire Marshal during the rulemaking process.

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<sup>3</sup> Section 386.2045(1), F.S. *See also* definition of the term “private residence” in s. 386.203(1), F.S.

<sup>4</sup> Section 386.2045(4), F.S. *See also* definition of the term “stand-alone bar” in s. 386.203(11), F.S.

<sup>5</sup> Section 386.2045(3), F.S. *See also* definition of the term “designated guest smoking room” in s. 386.203(4), F.S.

<sup>6</sup> Section 386.2045(2), F.S. *See also* definition of the term “retail tobacco shop” in s. 386.203(8), F.S.

Section 386.207(3), F.S., provides penalties for violations of the act by proprietors or persons in charge of an enclosed indoor workplace.<sup>7</sup> The penalty for a first violation is a fine of not less than \$250 and not more than \$750. The act provides fines for subsequent violations in the amount of not less than \$500 and not more than \$2,000. Penalties for individuals who violate the act are provided in s. 386.208, F.S., which provides for a fine in the amount of not more than \$100 for a first violation and not more than \$500 for a subsequent violation. The penalty range for an individual violation is identical to the penalties for violations of the act before the implementation of the constitutional smoking prohibition.

### **Smoking Prohibited Near School Property**

Section 386.212(1), F.S., prohibits smoking by any person under 18 years of age in, on, or within 1,000 feet of the real property comprising a public or private elementary, middle, or secondary school between the hours of 6 a.m. and midnight. The prohibition does not apply to any person occupying a moving vehicle or within a private residence.

### **Enforcement**

Section 386.212(2), F.S., authorizes law enforcement officers to issue citations in the form as prescribed by a county or municipality to any person violating the provisions of s. 386, F.S., and prescribes the information that must be included in the citation.

The issuance of a citation under s. 386.212(2), F.S., constitutes a civil infraction punishable by a maximum civil penalty not to exceed \$25, or 50 hours of community service or, where available, successful completion of a school-approved anti-tobacco “alternative to suspension” program.<sup>8</sup>

If a person fails to comply with the directions on the citation, the person would waive his or her right to contest the citation and an order to show cause may be issued by the court.<sup>9</sup>

### **Regulation of Smoking Preempted to State**

Section 386.209, F.S., provides that the act expressly preempts regulation of smoking to the state and supersedes any municipal or county ordinance on the subject.

As an exception to the state’s preemption of smoking regulation, s. 386.209, F.S., permits school districts to further restrict smoking by persons on school district property.

Regarding the issue of preemption, a Florida Attorney General Opinion concluded that the St. Johns Water Management District could not adopt a regulation prohibiting smoking by all persons on district property.<sup>9</sup> The Attorney General reasoned that s. 386.209, F.S., represents a clear expression of the legislative intent that the act preempts the field of smoking regulation for indoor and outdoor smoking. The Attorney General noted that the 2011 amendment of

---

<sup>7</sup> The applicable penalties for violations by designated stand-alone bars are set forth in s. 561.695(8), F.S.

<sup>8</sup> Section 386.212(3), F.S.

<sup>9</sup> Section 386.212(4), F.S.

<sup>9</sup> Op. Att’y Gen. Fla. 2011-15 (July 21, 2011). *See also*, Op. Att’y Gen. Fla. 2005-63 (November 21, 2005), which opined that a municipality is preempted from regulating smoking in a public park other than as prescribed by the Legislature.

s. 386.209, F.S.,<sup>10</sup> to authorize school districts to prohibit smoking on school district property and concluded that further legislative authorization would be required for the water management district to regulate smoking on its property.

### **III. Effect of Proposed Changes:**

CS/SB 562 allows a municipality or county to restrict smoking within the boundaries of any public parks owned by the municipality or county and allows a county to restrict smoking within any designated facility<sup>10</sup> owned by the county. Current law restricts smoking within a health care facility as it would qualify as a place of employment under the Florida Clean Indoor Air Act. The provision in the bill allowing a county to restrict smoking in “designated facilities” will also allow a county to further restrict smoking in the area around a county owned health care facility that is designated for transfer to the public health trust of the county.<sup>11</sup> Specifically, a county will be allowed to restrict smoking in the parking facilities and any other areas serving such health care facility.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

#### **B. Public Records/Open Meetings Issues:**

None.

#### **C. Trust Funds Restrictions:**

None.

### **V. Fiscal Impact Statement:**

#### **A. Tax/Fee Issues:**

None.

#### **B. Private Sector Impact:**

None.

#### **C. Government Sector Impact:**

Municipal and county governments that opt to restrict smoking in public parks or designated facilities may incur indeterminate expenses related to the enacting and enforcing the ordinance.

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<sup>10</sup> Chapter 2011-108, L.O.F.

<sup>10</sup> Supra note 1

<sup>11</sup> Currently, the only public health trust is the Public Health Trust of Miami-Dade County which is part of the Jackson Health System.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 386.209 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Community Affairs on January 16, 2018:**

Allows counties to restrict smoking within any designated facility they own as defined in s. 154.08, F.S., which includes, but is not limited to, clinics, primary care centers, nursing homes, parking facilities, and the like.

**B. Amendments:**

None.

By the Committee on Community Affairs; and Senator Mayfield

578-02148-18

2018562c1

1                           A bill to be entitled  
2       An act relating to regulation of smoking; amending s.  
3       386.209, F.S.; authorizing municipalities and counties  
4       to further restrict smoking within the boundaries of  
5       certain public parks and designated facilities;  
6       providing an effective date.

7  
8   Be It Enacted by the Legislature of the State of Florida:  
9

10       Section 1. Section 386.209, Florida Statutes, is amended to  
11   read:

12       386.209 Regulation of smoking preempted to state.—This part  
13   expressly preempts regulation of smoking to the state and  
14   supersedes any municipal or county ordinance on the subject;  
15   however, municipalities and counties may further restrict  
16   smoking within the boundaries of any public parks they own;  
17   counties may further restrict smoking within any designated  
18   facility that they own, as defined in s. 154.08; and school  
19   districts may further restrict smoking ~~by persons~~ on school  
20   district property.

21       Section 2. This act shall take effect July 1, 2018.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR DEBBIE MAYFIELD**  
17th District

January 17, 2018

The Honorable Dana Young  
Chair, Health Policy  
316 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Re: SB 562

Dear Chair Young,

I am respectfully requesting Senate Bill 562, a bill relating to Regulation of Smoking, be placed on the agenda for your committee on Health Policy.

I appreciate your consideration of this bill and I look forward to working with you and the Health Policy committee. If there are any questions or concerns, please do not hesitate to call my office at 850-487-5017.

Thank you,

A handwritten signature in cursive script that reads "Debbie Mayfield".

Senator Debbie Mayfield  
District 17

Cc: Sandra Stovall, Celia Georgiades, Brian McManus, Matthew Floyd

### COMMITTEES:

Education, Vice Chair  
Government Oversight & Accountability, Vice Chair  
Appropriations Subcommittee on the  
Environment and Natural Resources  
Appropriations subcommittee on General  
Government  
Agriculture  
Judiciary

### JOINT COMMITTEES:

Joint Legislative Auditing Committee,  
Alternating Chair

### REPLY TO:

- ☐ 900 E. Strawbridge Avenue, Melbourne, Florida 32901 (321) 409-2025
- ☐ 1801 27th Street, Vero Beach, Florida 32960 (772) 226-1970
- ☐ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18  
Meeting Date

CS/SB 562  
Bill Number (if applicable)

Topic Smoking in Public Parks

Amendment Barcode (if applicable)

Name MARK RYAN

Job Title CITY MANAGER

Address 2055 S. Patrick Dr.

Phone 321 773-3181

Indian Harbour Beach FL 32937  
City State Zip

Email mryan@indianharbour.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing City of Indian Harbour Beach

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

1/30/18  
Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

562  
Bill Number (if applicable)

Topic Smoking / Tobacco

Amendment Barcode (if applicable)

Name Rivers H. Buford III

Job Title Dir. of Gov't Relations

Address 2851 Remington Green Circle

Phone 850.566.9119

TLT 32308  
City State Zip

Email Rivers.Buford@heart.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing American Heart Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/30/18

Meeting Date

562

Bill Number (if applicable)

Topic Smoking in Parks

Amendment Barcode (if applicable)

Name Aneshai Smith

Job Title Student at University of Central FL

Address 4976 Castle St West

Phone 407 4558204

Street

Kissimmee

City

FL

State

34758

Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

562

Bill Number (if applicable)

Topic Smoking in parks

Amendment Barcode (if applicable)

Name Melissa Young

Job Title BSW, UCF

Address 1726 Malabar Lakes Dr NE

Phone 914-906-0091

Palm Bay FL 32905

City State Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

562

Bill Number (if applicable)

Topic Regulation of Smoking

Amendment Barcode (if applicable)

Name Joe McCann

Job Title \_\_\_\_\_

Address 1028 East Park Avenue

Street

Phone \_\_\_\_\_

Tallahassee, FL 32301

City

State

Zip

Email Joe@Pittman-law.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing City of Port Orange

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 562  
Bill Number (if applicable)

Amendment Barcode (if applicable)

Meeting Date

Topic Regulation of Smoking

Name Holly Parker Curry

Job Title FL Regional Manager

Address 1229 Mitchell Ave.

Street

Tallahassee, FL

City

State

Zip

32303

Phone 850-567-3393

Email hparker@surfrider.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Surfrider Foundation

Appearing at request of Chair: ☐ Yes ☒ No      Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

1/30/18 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB 562  
Meeting Date Bill Number (if applicable)

Topic Smoking in Parks / 562 Amendment Barcode (if applicable)

Name Brian Graham

Job Title Director of Development, QuitDoc Foundation

Address PO Box 9630 Phone 904.376.5288  
Street

Henry Island FL 32006 Email BGraham@quitdoc.com  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing QuitDoc Foundation

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

562

Bill Number (if applicable)

Topic Regulation of Smoking

Amendment Barcode (if applicable)

Name Laura Boehmer

Job Title Lobbyist

Address 201 E. Kennedy Avenue

Street

Phone 727 686-0924

Tampa FL 33602

City

State

Zip

Email boehmer@sosstrategies.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Sarasota County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)



THE FLORIDA SENATE

APPEARANCE RECORD

1-30-18

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

562

Bill Number (if applicable)

Topic Regulation of Smoking

Amendment Barcode (if applicable)

Name Matt Jordan

Job Title GRD

Address 1922 Dellwood Dr

Phone 850-514-2801

Street

Tallahassee

FL

32303

City

State

Zip

Email matt.jordan@cancer.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing American Cancer Society Cancer Action Network

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

---

BILL: CS/SB 1128

INTRODUCER: Health Policy Committee and Senator Stargel

SUBJECT: Pharmacy

DATE: January 31, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	<b>Fav/CS</b>
2.	_____	_____	AP	_____
3.	_____	_____	RC	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 1128 establishes a Class III institutional pharmacy permit. A Class III institutional pharmacy may dispense, distribute, compound, fill prescriptions, and prepare prepackaged drug products, for an affiliated hospital and entities under common control that are permitted under the Florida Pharmacy Act or the Florida Drug and Cosmetic Act. A Class III institutional pharmacy is exempt from permitting under the Florida Drug and Cosmetic Act.

The bill exempts from the definition of wholesale distribution under the Florida Drug and Cosmetic Act:

- A hospital arranging for a prescription drug wholesale distributor to distribute prescription drugs that were purchased by the hospital under s. 340B of the Public Health Services Act directly to a contract pharmacy, and
- The dispensing or distribution of a medicinal drug by a Class III institutional pharmacy.

The bill expands the pharmacists eligible for two seats on the Board of Pharmacy to include a pharmacist engaged in the practice of pharmacy in a Class III institutional pharmacy.

The effective date of the bill is July 1, 2018.

## **II. Present Situation:**

### **Pharmacy**

The practice of pharmacy, and the licensure of pharmacies, are regulated by ch. 465, F.S. The “practice of the profession of pharmacy” includes:

- Compounding, dispensing, and consulting the consumer concerning the contents, therapeutic values, and uses of any medicinal drug; and
- Other pharmaceutical services.<sup>1,2</sup>

### **The Board of Pharmacy**

The Board of Pharmacy (Board) is created within the Department of Health (DOH). The Board consists of nine members appointed for four year terms by the Governor, and confirmed by the Senate. Seven members of the Board must be licensed pharmacists who are residents of Florida and who have been engaged in the practice of pharmacy in this state for at least four years and, to the extent possible, represent the various pharmacy practice settings.<sup>3</sup>

The Board members must include the following, of which one member must be 60 years of age or older:

- Two pharmacists currently engaged in practice in a community pharmacy;
- Two pharmacists currently engaged in practice in a Class II institutional pharmacy or a Modified Class II institutional pharmacy;
- Three pharmacists must be licensed in this state irrespective of practice setting; and
- Two resident consumer members who are not pharmacists, not connected with the practice of the pharmacy, drug manufacturing or drug wholesaling.<sup>4</sup>

The Board is authorized to make rules to regulate the practice of professional pharmacy in pharmacies meeting minimum requirements for safe practice.<sup>5</sup> All pharmacies must obtain a permit before operating, unless exempt. This is true whether opening a new establishment, or simply changing locations or owners.<sup>6</sup>

The general application and permitting process for a business establishment to obtain a pharmacy permit requires the submission of the following information to the DOH:

---

<sup>1</sup> Section 465.003(13), F.S.

<sup>2</sup> “Other pharmaceutical services” means the monitoring of the patient’s drug therapy and assisting the patient in the management of his or her drug therapy, and includes review of the patient’s drug therapy and communication with the patient’s prescribing health care provider as licensed under chs. 458, 459, 461, or 466, F.S., or similar statutory provision in another jurisdiction, or such provider’s agent or such other persons as specifically authorized by the patient, regarding the drug therapy. . . . The “practice of the profession of pharmacy” also includes any other act, service, operation, research, or transaction incidental to, or forming a part of, any of the foregoing acts, requiring, involving, or employing the science or art of any branch of the pharmaceutical profession, study, or training, and shall expressly permit a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients. The practice of the profession of pharmacy also includes the administration of vaccines to adults. Section 465.003(13), F.S.

<sup>3</sup> Section 465.004, F.S.

<sup>4</sup> *Supra* note 1.

<sup>5</sup> Sections 465.002, and 465.0155, F.S.

<sup>6</sup> Rule 64B16-28.100(1), F.A.C.

- General drug safety measures;
- Minimum standards for the physical facilities of pharmacies;
- Safe storage of floor-stock drugs;
- Functions of the pharmacist, and consultant pharmacist<sup>7</sup> in an institutional pharmacy, consistent with the size and scope of the pharmacy;
- Procedures for the safe storage and handling of radioactive drugs;
- Procedures for the distribution and disposition of drug samples or complimentary medicinal drugs;<sup>8</sup>
- Procedures for the transfer of prescription files and medicinal drugs upon the change of ownership or closing of a pharmacy;
- Minimum equipment which a pharmacy must at all times possess to fill prescriptions properly; and
- Procedures for the dispensing of controlled substances to minimize dispensing based on fraudulent representations or invalid practitioner-patient relationships.<sup>9</sup>

### **The Practice of Pharmacy**

There are seven types of pharmacies eligible for various operating permits issued by the DOH:

- Community pharmacy;<sup>10</sup>
- Institutional pharmacy;<sup>11</sup>
- Nuclear pharmacy;<sup>12</sup>
- Special pharmacy;<sup>13</sup>
- Internet pharmacy;<sup>14</sup>
- Non-resident sterile compounding pharmacy;<sup>15</sup> and
- Special sterile compounding pharmacy.<sup>16</sup>

---

<sup>7</sup> Section 465.003(3), F.S.

<sup>8</sup> Section 499.028, F.S.

<sup>9</sup> Section 465.022, F.S., and Rule 64B16-28-100, F.A.C.

<sup>10</sup> The term “community pharmacy” includes every location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis. *See* ss. 465.003(11)(a)1. and 465.018, F.S.

<sup>11</sup> *See* ss. 465.003(11)(a)2. and 465.019, F.S.

<sup>12</sup> The term “nuclear pharmacy” includes every location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold. The term “nuclear pharmacy” does not include hospitals licensed under chapter 395 or the nuclear medicine facilities of such hospitals. *See* ss. 465.003(11)(a)3. and 465.0193, F.S.

<sup>13</sup> The term “special pharmacy” includes every location where medicinal drugs are compounded, dispensed, stored, or sold if such locations are not otherwise defined in this subsection. *See* ss. 465.003(11)(a)4. and 465.0196, F.S.

<sup>14</sup> The term “internet pharmacy” includes locations not otherwise licensed or issued a permit under this chapter, within or outside this state, which use the Internet to communicate with or obtain information from consumers in this state and use such communication or information to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in this state. *See* ss. 465.003(11)(a)5. and 465.0197, F.S.

<sup>15</sup> The term “nonresident sterile compounding pharmacy” includes a pharmacy that ships, mails, delivers, or dispenses, in any manner, a compounded sterile product into Florida, a nonresident pharmacy registered under s. 465.0156, F.S., or an outsourcing facility, must hold a nonresident sterile compounding permit *See* s. 465.0158, F.S.

<sup>16</sup> *See* Rules 64B16-2.100 and 64B16-28.802, F.A.C. An outsourcing facility is considered a pharmacy and needs to hold a special sterile compounding permit if it engages in sterile compounding.

## **Institutional Pharmacies**

An “institutional pharmacy” includes any pharmacy located in a health care institution, which includes a hospital, clinic, nursing home, dispensary, sanitarium, extended care facility, or other facility where medicinal drugs are compounded, dispensed, stored, or sold.<sup>17</sup> Institutional pharmacy permits are required for any pharmacy located in any health care institution.<sup>18</sup>

All institutional pharmacies must designate a consultant pharmacist;<sup>19</sup> and he or she is responsible for maintaining all drug records required by law, and for establishing drug handling procedures for the safe handling and storage of drugs. The consultant pharmacist may also be responsible for ordering and evaluating any laboratory or clinical tests when such tests are necessary for the proper performance of his or her responsibilities. Such laboratory or clinical tests may be ordered only with regard to patients residing in a nursing home; and then only when authorized by the medical director. The consultant pharmacist must have completed additional training, and demonstrate additional qualifications in the practice of institutional pharmacy, as is required by the board in addition to licensure as a registered pharmacist.<sup>20,21</sup>

Currently there are three types of institutional pharmacy permits issued by the Board to institutional pharmacies: Institutional Class I, Class II, and Modified Class II.<sup>22</sup>

### ***Institutional Class I Pharmacy***

A Class I institutional pharmacy is an institutional pharmacy in which all medicinal drugs are administered from individual prescription containers to an individual patients; and in which medicinal drugs are not dispensed on the premises, except a licensed nursing homes<sup>23</sup> may purchase medical oxygen for administration to residents.<sup>24</sup>

### ***Institutional Class II Pharmacy***

A Class II institutional pharmacy is a pharmacy that employs the services of a registered pharmacist or pharmacists who, in practicing institutional pharmacy, provide dispensing and consulting services on the premises to patients of the institution, for use on the premises of the institution. A Class II institutional pharmacy is required to be open sufficient hours to meet the

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<sup>17</sup> Section 465.003(11)(a)2., F.S.

<sup>18</sup> Rule 64B16-28.100(3), F.A.C.

<sup>19</sup> See ss. 465.003(11), and 465.0125, F.S.

<sup>20</sup> Section 465.0125, F.S.

<sup>21</sup> The consultant pharmacist must also conduct Drug Regimen Reviews required by Federal or State law, inspect the facility, and prepare a written report to be filed at the permitted facility at least monthly. In addition, the consultant pharmacist must monitor the facility system for providing medication administration records and physician order sheets to ensure that the most current record of medications are available for the monthly drug regimen review. The consultant pharmacist of record may utilize additional consultant pharmacists to assist in this review and in the monthly facility inspection. A licensed consultant pharmacist may remotely access a facility or pharmacy's electronic database from outside the facility or pharmacy to conduct any services additional or supplemental to regular drug regimen reviews, subject to the pharmacy or facility establishing policies and procedures to ensure the security and privacy of confidential patient records, including compliance with applicable Federal HIPAA regulations. The Board office must be notified in writing within ten days of any change in the consultant pharmacist of record. See Rule 64B16-28.100(3)(b), and 64B16-28.501, F.A.C.

<sup>22</sup> Section 465.019, F.S.

<sup>23</sup> See part II, ch. 400, F.S.

<sup>24</sup> Section 465.019(2)(a), F.S.

needs of the hospital facility. The consultant pharmacist of record is responsible for establishing a written policy and procedure manual for the implementation. An Institutional Class II Pharmacy may elect to participate in the Cancer Drug Donation Program.<sup>25</sup>

### **Modified Institutional Class II Pharmacy Permits**

Modified Institutional Class II pharmacies are those institutional pharmacies in short-term, primary care treatment centers that meet all the requirements for a Class II permit, except space and equipment requirements. Modified Class II Institutional pharmacies are designated as Type “A,” Type “B,” and Type “C” according to the specialized type of the medicinal drug delivery system utilized at the facility, either a patient-specific or bulk drug system, and, the quantity of the medicinal drug formulary at the facility;<sup>26</sup> and provide the following pharmacy services:

**Type “A” Modified Class II Institutional Pharmacies** provide pharmacy services in a facility which has a formulary of not more than 15 medicinal drugs, excluding those medicinal drugs contained in an emergency box, and in which the medicinal drugs are stored in bulk and in which the consultant pharmacist shall provide on-site consultations not less than once every month, unless otherwise directed by the Board after review of the policy and procedure manual.

**Type “B” Modified Class II Institutional Pharmacies** provide pharmacy services in a facility in which medicinal drugs are stored in the facility in patient specific form and in bulk form and which has an expanded drug formulary, and in which the consultant pharmacist shall provide on-site consultations not less than once per month, unless otherwise directed by the Board after review of the policy and procedure manual.

**Type “C” Modified Class II Institutional Pharmacies** provide pharmacy services in a facility in which medicinal drugs are stored in the facility in patient specific form and which has an expanded drug formulary, and in which the consultant pharmacist shall provide onsite consultations not less than once per month, unless otherwise directed by the Board after review of the policy and procedure manual.<sup>27</sup>

All Modified Class II Institutional Pharmacies must be under the control and supervision of a certified consultant pharmacist. The consultant pharmacist of record is responsible for developing and maintaining a current policy and procedure manual. The permittee must make available the policy and procedure manual to the appropriate state or federal agencies upon inspection.<sup>28</sup>

### **Pharmaceutical Distribution in Florida**

The Department of Business and Professional Regulation (DBPR) is charged with, among other things, regulating the distribution of prescription drugs into and within Florida against fraud,

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<sup>25</sup> The Department of Health, *Institutional Pharmacy Permit Application Information* <http://floridaspharmacy.gov/licensing/institutional-pharmacy-permit/> (last visited Jan. 5, 2018).

<sup>26</sup> Rule 64B16-28.702, F.A.C.

<sup>27</sup> *Id.*

<sup>28</sup> See *supra* note 25.

adulteration, misbranding, or false advertising in the preparation, manufacture, repackaging, or distribution of drugs under the Florida Drug and Cosmetic Act.<sup>29</sup>

In particular, the regulations require various entities in the distribution chain, such as prescription drug manufacturers,<sup>30</sup> prescription drug repackagers, and prescription drug wholesale distributors,<sup>31</sup> to obtain permits. In total, Florida has 18 distinct permits for prescription drug manufacturers and wholesale distributors.<sup>32</sup>

### ***Prescription Drug Repackaging Permit and Restricted Prescription Drug Distributor Permit***

Within the pharmaceutical supply chain, a repackager removes a drug from its container and places it in another, usually smaller, container for sale to a distributor or dispenser. At the end of the supply chain, a dispenser provides the drug to the patient. A dispenser may be a community pharmacy (i.e. a retail chain pharmacy), an institutional pharmacy, a health care facility, or a doctor's office.<sup>33</sup>

A prescription drug repackager permit is required for any person that repackages a prescription drug in this state. A person that operates an establishment permitted as a prescription drug repackager may engage in distribution of prescription drugs repackaged at that establishment and must comply with all of the provisions of this part and the rules adopted under this part that apply to a prescription drug manufacturer. A prescription drug repackager must comply with all appropriate state and federal good manufacturing practices.<sup>34</sup>

A health care entity,<sup>35</sup> permitted as a restricted prescription drug distributor,<sup>36</sup> is exempt from obtaining a prescription drug repackager permit for the repackaging of prescription drugs for that health care entity's own use or for distribution to other hospitals or health care entities in the state for its own use under the following conditions:<sup>37</sup>

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<sup>29</sup> See part I, ch. 499, F.S., and specifically s. 499.002, F.S.

<sup>30</sup> Sections 499.01(2)(a),(c), F.S.

<sup>31</sup> Sections 499.01(2)(e)(f)(g)(h), F.S.

<sup>32</sup> Section 499.01(1), F.S. Before operating, a permit is required for each person and establishment that intends to operate as a: prescription drug manufacturer; prescription drug repackager; nonresident prescription drug manufacturer; nonresident prescription drug repackager; prescription drug wholesale distributor; out-of-state prescription drug wholesale distributor; retail pharmacy drug wholesale distributor; restricted prescription drug distributor; complimentary drug distributor; freight forwarder; veterinary prescription drug retail establishment; veterinary prescription drug wholesale distributor; limited prescription drug veterinary wholesale distributor; over-the-counter drug manufacturer; device manufacturer; A cosmetic manufacturer; third party logistics provider; or health care clinic establishment.

<sup>33</sup> Section 499.01(2)(b), F.S.

<sup>34</sup> *Id.*

<sup>35</sup> A "health care entity" means a closed pharmacy or any person, organization, or business entity that provides diagnostic, medical, surgical, or dental treatment or care, or chronic or rehabilitative care, but does not include any wholesale distributor or [community pharmacy]. See s. 499.003(21), F.S. A "closed pharmacy" means a pharmacy that is licensed under ch. 465, F.S., and purchases prescription drug for use by a limited patient population and not for wholesale distribution or sale to the public. See s. 499.003(8), F.S.

<sup>36</sup> A restricted prescription drug distributor permit is required for the distribution of a prescription drug that is not considered wholesale distribution. See s. 499.01(2)(h)1.a., F.S. Several exemptions from the definition of wholesale distribution could be applicable to the discussion, including s. 499.003(48)(a)3, (b)6, and (i), F.S.

<sup>37</sup> Section 499.01(5), F.S.

- The hospital or health care entity is under common control;<sup>38</sup>
- The prescription drugs are repackaged in accordance with current state and federal good manufacturing practices;
- The prescription drugs are labeled in accordance with state and federal law; and
- The distributor notifies the DOH 30 days in advance of its intent to repackage.

### ***Health Care Clinic Establishment Permit***

A health care clinic establishment permit is required for the purchase of a prescription drug by a health care clinic that provides health care or veterinary services, which is owned and operated by a business entity that has been issued a federal employer tax identification number.<sup>39</sup>

### **Section 340B Discount Drug Program**

Section 340B of the Public Health Services Act is a federal program that requires drug manufacturers to provide outpatient drugs to eligible health care organizations and covered entities at significantly reduced prices directed at serving primarily low income and vulnerable populations.<sup>40</sup> Eligible health care organizations are required to register with the Health Resources and Services Administration within the federal Department of Health and Human Services and meet established eligibility requirements.<sup>41</sup> Eligible health care entities who receive distributions of such drugs must obtain a restricted drug distributor-governmental entities permit from DBPR allowing them to receive and distribute the discounted drugs.<sup>42</sup>

The following six categories of hospitals are eligible to participate in the program:

- Disproportionate Share Hospitals (DSH);
- Children's hospitals;
- Cancer hospitals exempt from the Medicare prospective payment system;
- Sole community hospitals;
- Rural Referral Centers; and
- Critical Access Hospitals (CAH).

Hospitals in each of the categories must be owned or operated by state or local government, a public or private non-profit corporation which is formally granted governmental powers by state or local government, or a private non-profit organization that has a contract with a state or local government to provide care to low-income individuals who do not qualify for Medicaid or Medicare.<sup>43</sup> In addition, with the exception of CAHs, hospitals must meet payer-mix criteria related to the Medicare DSH program. There are also eleven categories of non-hospital covered entities that are eligible based on receiving federal funding. They include federally qualified

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<sup>38</sup> Section 499.01(5)(b), F.S. defines "common control" as the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, contract, or otherwise

<sup>39</sup> See s. 499.01(2)(r), F.S.

<sup>40</sup> 42 U.S.C. s. 256(b); See also 340B Health, *Overview of the 340B Drug Pricing Program* <https://www.340bhealth.org/340b-resources/340b-program/overview/> (last visited Jan. 24, 2018).

<sup>41</sup> *Id.*

<sup>42</sup> Rule 61N-1.023, F.A.C.

<sup>43</sup> See *supra* note 40.



health centers (FQHCs)<sup>44</sup>; FQHC “look-alikes”<sup>45</sup>; state-operated AIDS drug assistance programs; the Ryan White Comprehensive AIDS Resources Emergency Act clinics and programs; tuberculosis, black lung, family planning, and sexually transmitted disease clinics; hemophilia treatment centers; Title X public housing primary care clinics; homeless clinics; Urban Indian clinics; and Native Hawaiian health centers.<sup>46</sup>

### III. Effect of Proposed Changes:

#### Amendments to the Florida Pharmacy Act

The bill creates a new type of institutional pharmacy – the “Class III institutional pharmacy”; and describes it as an institutional pharmacy, including central distribution facilities, which is affiliated with a hospital and provides the same services as those authorized for Class II institutional pharmacies.

Additionally, the bill authorizes a Class III institutional pharmacy to:

- Dispense, distribute, compound, and fill prescriptions for medicinal drugs;
- Prepare prepackaged drug products;
- Conduct other pharmaceutical services for affiliated hospitals and entities under common control, each of which must be permitted under ch. 465, F.S., to possess medicinal drugs; and
- Provide medicinal drugs, drug products, and pharmaceutical services to an entity under common control that holds an active health care clinic establishment permit.<sup>47</sup>

The bill requires a Class III institutional pharmacy to maintain policies and procedures that identify or address:

- The consultant pharmacist responsible for pharmaceutical services;
- Safe practices for the preparation, dispensing, prepackaging, distribution, and transportation of medicinal drugs and prepackaged drug products;
- Recordkeeping to monitor the movement, distribution, and transportation of medicinal drugs and prepackaged drug products;
- Recordkeeping of pharmacy staff responsible for each step in the preparation, dispensing, prepackaging, transportation, and distribution of medicinal drugs and prepackaged drug products; and
- Medicinal drugs and prepackaged drug products that may not be safely distributed among Class III institutional pharmacies.

<sup>44</sup> Federally Qualified Health Centers are community-based health care providers that receive funds from the HRSA Health Center Program to provide primary care services in underserved areas. *See* U.S. Health Resources & Services Administration, *Federally Qualified Health Centers* <https://www.hrsa.gov/opa/eligibility-and-registration/health-centers/fqhc/index.html> (last visited Jan. 24, 2018).

<sup>45</sup> Federally Qualified Health Center Look-Alikes are community-based health care providers that meet the requirements of the HRSA Health Center Program, but do not receive Health Center Program funding. *See* U.S. Health Resources & Services Administration, *Federally Qualified Health Centers Look Alike* <https://www.hrsa.gov/opa/eligibility-and-registration/health-centers/fqhc-look-alikes/index.html> (last visited Jan. 24, 2018).

<sup>46</sup> *See supra* note 45.

<sup>47</sup> *See* s. 499.01(2)(r), F.S.

The bill amends s. 465.003, F.S., to modify the definition of the “practice of the profession of pharmacy” to include the preparation of prepackaged drug products in facilities holding Class III institutional pharmacy permits. The bill also provides new definitions for:

- “Central distribution facility” means a facility under common control with a hospital holding a Class III institutional pharmacy permit that may dispense, distribute, compound, or fill prescriptions for medicinal drugs; prepare prepackaged drug products; and conduct other pharmaceutical services.
- “Common control” means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, contract, or otherwise.

The bill allows up to a 24 hour supply of medicinal drugs to be prescribed to outpatients in a hospital emergency department that does not have a Community Pharmacy Permit, if the hospital holds a Class III institutional pharmacy permit, similar to the authority granted to a Class II institutional pharmacy. The bill also treats Class III permits similar to Class II permits with respect to institutional formulary systems and substitutions of interchangeable biosimilar products.

Section 465.004, F.S., expands the qualifications of two persons eligible to serve on the Board to include a person engaged in the practice of professional pharmacy in a Class II institutional pharmacy, a Modified Class II institutional pharmacy, or a Class III institutional pharmacy.

### **Amendments to the Florida Drug and Cosmetic Act**

The bill amends s. 499.003, F.S., to modify the definition of a “prepackaged drug product” to include a drug that was originally finished in a package sealed by a manufacturer, that is placed in a properly labeled container by a pharmacy or practitioner authorized to dispense pursuant to ch. 465, F.S., for the purpose of dispensing or by a facility holding a Class III institutional pharmacy permit. The revised definition adds the phrase relating to the Class III institutional pharmacy permit and removes the phrase that this is done for the purpose of dispensing in the establishment in which the prepackaging occurred.

The definition of a “wholesale distribution” is amended to exclude:

- A hospital covered by s. 340B of the Public Health Service Act, 42 U.S.C. s. 256b, that arranges for a prescription drug wholesale distributor to distribute prescription drugs covered under that act directly to a contract pharmacy. The definition further provides that such hospital is exempt from obtaining a restricted prescription drug distributor permit under s. 499.01(2)(h), F.S.; and
- The dispensing or distribution of a medicinal drug by a Class III institutional pharmacy pursuant to s. 465.019, F.S.

Section 499.01, F.S., is amended to exempt entities holding a Class III institutional pharmacy permit or a health care clinic establishment permit from the requirement for Prescription Drug Repackager permits or Restricted Prescription Drug Distributor permits for the distribution of medicinal drugs or prepackaged drug products between the establishments if they are under common control.

The bill removes the exemption found in s. 499.01(5), F.S., for a health care entity with a Prescription Drug Repackager permit from obtaining a Restricted Prescription Drug Distributor permit when the repackaging or distribution is for its own use. It is no longer necessary since the exemption is moved in the bill into the provisions specifically addressing each of those permits as described above.

The bill has an effective date of July 1, 2018.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

The DBPR may see a reduction in licensure revenues as health care institutions that obtain a Class III Institutional Pharmacy permit will no longer require permits from the DBPR as a prescription drug repackager or restricted prescription drug distributor.<sup>48</sup>

B. Private Sector Impact:

The private sector could realize a reduction in expenditures on permitting fees based on the ability to obtain one Class III institutional pharmacy permit exempting them from other permitting requirements under ch. 499, F.S.

C. Government Sector Impact:

The creation of Class III institutional pharmacy permits may result in additional expenditures for the DOH and the Board with respect to licensure and enforcement.

#### **VI. Technical Deficiencies:**

None.

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<sup>48</sup> Department of Business and Professional Regulation, *House Bill 675 Analysis (similar to SB 1128)*, (January 5, 2018), (on file with the Senate Committee on Health Policy).

**VII. Related Issues:**

The provision within s. 499.01(5), F.S., that is being replaced with the Class III institutional pharmacy permit authorized repackaging and distribution activities of prescription [medicinal] drugs for “own use” which is a term of art for antitrust considerations. This term is not used for the authorized activities under the Class III institutional pharmacy permit.<sup>49</sup>

Similarly, the exemption from the definition of wholesale distribution for the dispensing or distribution of a medicinal drug by a Class III institutional pharmacy pursuant to s. 465.019, F.S., is very broad. Sub-subparagraph d. in s. 465.019(2)(d)1., F.S., of the bill is not drafted as limiting the provision of services in sub-subparagraphs a.-c. to an entity under common control which holds a health care clinic establishment permit.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 465.003, 465.004, 465.019, 465.0252, 499.003, and 499.01.

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Health Policy on January 30, 2018:**

The committee substitute:

- Reorganizes the contents of the bill;
- Further modifies the definition of “prepackaged drug product” in Section 5 of the CS; and
- Instead of exempting a hospital that arranges for a prescription drug wholesale distributor to distribute 340B drugs directly to a contract pharmacy from the requirement to obtain a restricted prescription drug distributor permit, the CS exempts the activity from the definition of wholesale distribution.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>49</sup> See *Abbott Laboratories v. Portland Retail Druggists*, 425 U.S. 1 (1976).



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
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The Committee on Health Policy (Stargel) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (7) and (13) of section 465.003,  
Florida Statutes, are amended, and subsections (21) and (22) are  
added to that section, to read:

465.003 Definitions.—As used in this chapter, the term:

(7) "Institutional formulary system" means a method whereby  
the medical staff evaluates, appraises, and selects those



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11 medicinal drugs or proprietary preparations which in the medical  
12 staff's clinical judgment are most useful in patient care, and  
13 which are available for dispensing by a practicing pharmacist in  
14 a Class II or Class III institutional pharmacy.

15 (13) "Practice of the profession of pharmacy" includes  
16 compounding, dispensing, and consulting concerning contents,  
17 therapeutic values, and uses of any medicinal drug; consulting  
18 concerning therapeutic values and interactions of patent or  
19 proprietary preparations, whether pursuant to prescriptions or  
20 in the absence and entirely independent of such prescriptions or  
21 orders; and conducting other pharmaceutical services. For  
22 purposes of this subsection, "other pharmaceutical services"  
23 means the monitoring of the patient's drug therapy and assisting  
24 the patient in the management of his or her drug therapy, and  
25 includes review of the patient's drug therapy and communication  
26 with the patient's prescribing health care provider as licensed  
27 under chapter 458, chapter 459, chapter 461, or chapter 466, or  
28 similar statutory provision in another jurisdiction, or such  
29 provider's agent or such other persons as specifically  
30 authorized by the patient, regarding the drug therapy. However,  
31 nothing in this subsection may be interpreted to permit an  
32 alteration of a prescriber's directions, the diagnosis or  
33 treatment of any disease, the initiation of any drug therapy,  
34 the practice of medicine, or the practice of osteopathic  
35 medicine, unless otherwise permitted by law. "Practice of the  
36 profession of pharmacy" also includes any other act, service,  
37 operation, research, or transaction incidental to, or forming a  
38 part of, any of the foregoing acts, requiring, involving, or  
39 employing the science or art of any branch of the pharmaceutical



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profession, study, or training, and shall expressly permit a pharmacist to transmit information from persons authorized to prescribe medicinal drugs to their patients. The practice of the profession of pharmacy also includes the administration of vaccines to adults pursuant to s. 465.189 and the preparation of prepackaged drug products in facilities holding Class III institutional pharmacy permits.

(21) "Central distribution facility" means a facility under common control with a hospital holding a Class III institutional pharmacy permit that may dispense, distribute, compound, or fill prescriptions for medicinal drugs; prepare prepackaged drug products; and conduct other pharmaceutical services.

(22) "Common control" means the power to direct or cause the direction of the management and policies of a person or an organization, whether by ownership of stock, voting rights, contract, or otherwise.

Section 2. Subsection (2) of section 465.004, Florida Statutes, is amended to read:

465.004 Board of Pharmacy.—

(2) Seven members of the board must be licensed pharmacists who are residents of this state and who have been engaged in the practice of the profession of pharmacy in this state for at least 4 years and, to the extent practicable, represent the various pharmacy practice settings. Of the pharmacist members, two must be currently engaged in the practice of pharmacy in a community pharmacy, two must be currently engaged in the practice of pharmacy in a Class II, ~~institutional pharmacy or a~~ Modified Class II, or Class III institutional pharmacy, and three must be pharmacists licensed in this state irrespective of



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practice setting. The remaining two members must be residents of the state who have never been licensed as pharmacists and who are in no way connected with the practice of the profession of pharmacy. No person may be appointed as a consumer member who is in any way connected with a drug manufacturer or wholesaler. At least one member of the board must be 60 years of age or older. The Governor shall appoint members to the board in accordance with this subsection as members' terms expire or as a vacancy occurs until the composition of the board complies with the requirements of this subsection.

Section 3. Subsections (4) and (6) of section 465.019, Florida Statutes, are amended, and paragraph (d) is added to subsection (2) of that section, to read:

465.019 Institutional pharmacies; permits.—

(2) The following classes of institutional pharmacies are established:

(d)1. "Class III institutional pharmacies" are those institutional pharmacies, including central distribution facilities, affiliated with a hospital that provide the same services that are authorized by a Class II institutional pharmacy permit. Class III institutional pharmacies may also:

a. Dispense, distribute, compound, and fill prescriptions for medicinal drugs.

b. Prepare prepackaged drug products.

c. Conduct other pharmaceutical services for the affiliated hospital and for entities under common control that are each permitted under this chapter to possess medicinal drugs.

d. Provide the services in sub-subparagraphs a.-c. to an entity under common control which holds an active health care





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98 clinic establishment permit as required under s. 499.01(2)(r).

99 2. A Class III institutional pharmacy shall maintain  
100 policies and procedures addressing:

101 a. The consultant pharmacist responsible for pharmaceutical  
102 services.

103 b. Safe practices for the preparation, dispensing,  
104 prepackaging, distribution, and transportation of medicinal  
105 drugs and prepackaged drug products.

106 c. Recordkeeping to monitor the movement, distribution, and  
107 transportation of medicinal drugs and prepackaged drug products.

108 d. Recordkeeping of pharmacy staff responsible for each  
109 step in the preparation, dispensing, prepackaging,  
110 transportation, and distribution of medicinal drugs and  
111 prepackaged drug products.

112 e. Medicinal drugs and prepackaged drug products that may  
113 not be safely distributed among Class III institutional  
114 pharmacies.

115 (4) Medicinal drugs shall be dispensed in an institutional  
116 pharmacy to outpatients only when that institution has secured a  
117 community pharmacy permit from the department. However, an  
118 individual licensed to prescribe medicinal drugs in this state  
119 may dispense up to a 24-hour supply of a medicinal drug to any  
120 patient of an emergency department of a hospital that operates a  
121 Class II or Class III institutional pharmacy, provided that the  
122 physician treating the patient in such hospital's emergency  
123 department determines that the medicinal drug is warranted and  
124 that community pharmacy services are not readily accessible,  
125 geographically or otherwise, to the patient. Such dispensing  
126 from the emergency department must be in accordance with the



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procedures of the hospital. For any such patient for whom a medicinal drug is warranted for a period to exceed 24 hours, an individual licensed to prescribe such drug must dispense a 24-hour supply of such drug to the patient and must provide the patient with a prescription for such drug for use after the initial 24-hour period. The board may adopt rules necessary to carry out the provisions of this subsection.

(6) In a Class II or Class III institutional pharmacy, an institutional formulary system may be adopted with approval of the medical staff for the purpose of identifying those medicinal drugs, proprietary preparations, biologics, biosimilars, and biosimilar interchangeables that may be dispensed by the pharmacists employed in such institution. A facility with a Class II or Class III institutional pharmacy permit which is operating under the formulary system shall establish policies and procedures for the development of the system in accordance with the joint standards of the American Hospital Association and American Society of Hospital Pharmacists for the utilization of a hospital formulary system, which formulary shall be approved by the medical staff.

Section 4. Subsection (3) of section 465.0252, Florida Statutes, is amended to read:

465.0252 Substitution of interchangeable biosimilar products.—

(3) A pharmacist who practices in a Class II, ~~or~~ Modified Class II, or Class III institutional pharmacy shall comply with the notification provisions of paragraph (2)(c) by entering the substitution in the institution's written medical record system or electronic medical record system.



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Section 5. Subsection (39) of section 499.003, Florida Statutes, is amended, and paragraphs (w) and (x) are added to subsection (48) of that section, to read:

499.003 Definitions of terms used in this part.—As used in this part, the term:

(39) "Prepackaged drug product" means a drug that originally was in finished packaged form sealed by a manufacturer and that is placed in a properly labeled container by a pharmacy or practitioner authorized to dispense pursuant to chapter 465 for the purpose of dispensing or by a facility holding a Class III institutional pharmacy permit ~~in the establishment in which the prepackaging occurred.~~

(48) "Wholesale distribution" means the distribution of a prescription drug to a person other than a consumer or patient, or the receipt of a prescription drug by a person other than the consumer or patient, but does not include:

(w) A hospital covered by s. 340B of the Public Health Service Act, 42 U.S.C. s. 256b, that arranges for a prescription drug wholesale distributor to distribute prescription drugs covered under that act directly to a contract pharmacy. Such hospital is exempt from obtaining a restricted prescription drug distributor permit under s. 499.01(2)(h).

(x) The dispensing or distribution of a medicinal drug by a Class III institutional pharmacy pursuant to s. 465.019.

Section 6. Paragraphs (b) and (h) of subsection (2) and subsection (5) of section 499.01, Florida Statutes, are amended to read:

499.01 Permits.—

(2) The following permits are established:



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(b) *Prescription drug repackager permit.*—A prescription drug repackager permit is required for any person that repackages a prescription drug in this state.

1. A person that operates an establishment permitted as a prescription drug repackager may engage in distribution of prescription drugs repackaged at that establishment and must comply with all of the provisions of this part and the rules adopted under this part that apply to a prescription drug manufacturer.

2. A prescription drug repackager must comply with all appropriate state and federal good manufacturing practices.

3. A prescription drug repackager permit is not required for distributing medicinal drugs or prepackaged drug products between entities under common control which each hold an active Class III institutional pharmacy permit under chapter 465 or an active health care clinic establishment permit under paragraph (r). For purposes of this subparagraph, the term "common control" has the same meaning as in s. 499.003(48) (a) 3.

(h) *Restricted prescription drug distributor permit.*—

1. A restricted prescription drug distributor permit is required for:

a. Any person located in this state who engages in the distribution of a prescription drug, which distribution is not considered "wholesale distribution" under s. 499.003(48) (a) .

b. Any person located in this state who engages in the receipt or distribution of a prescription drug in this state for the purpose of processing its return or its destruction if such person is not the person initiating the return, the prescription drug wholesale supplier of the person initiating the return, or



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the manufacturer of the drug.

c. A blood establishment located in this state which collects blood and blood components only from volunteer donors as defined in s. 381.06014 or pursuant to an authorized practitioner's order for medical treatment or therapy and engages in the wholesale distribution of a prescription drug not described in s. 499.003(48)(j) to a health care entity. A mobile blood unit operated by a blood establishment permitted under this sub-subparagraph is not required to be separately permitted. The health care entity receiving a prescription drug distributed under this sub-subparagraph must be licensed as a closed pharmacy or provide health care services at that establishment. The blood establishment must operate in accordance with s. 381.06014 and may distribute only:

(I) Prescription drugs indicated for a bleeding or clotting disorder or anemia;

(II) Blood-collection containers approved under s. 505 of the federal act;

(III) Drugs that are blood derivatives, or a recombinant or synthetic form of a blood derivative;

(IV) Prescription drugs that are identified in rules adopted by the department and that are essential to services performed or provided by blood establishments and authorized for distribution by blood establishments under federal law; or

(V) To the extent authorized by federal law, drugs necessary to collect blood or blood components from volunteer blood donors; for blood establishment personnel to perform therapeutic procedures under the direction and supervision of a licensed physician; and to diagnose, treat, manage, and prevent



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any reaction of a volunteer blood donor or a patient undergoing a therapeutic procedure performed under the direction and supervision of a licensed physician,

as long as all of the health care services provided by the blood establishment are related to its activities as a registered blood establishment or the health care services consist of collecting, processing, storing, or administering human hematopoietic stem cells or progenitor cells or performing diagnostic testing of specimens if such specimens are tested together with specimens undergoing routine donor testing. The blood establishment may purchase and possess the drugs described in this sub-subparagraph without a health care clinic establishment permit.

2. Storage, handling, and recordkeeping of these distributions by a person required to be permitted as a restricted prescription drug distributor must be in accordance with the requirements for wholesale distributors under s. 499.0121.

3. A person who applies for a permit as a restricted prescription drug distributor, or for the renewal of such a permit, must provide to the department the information required under s. 499.012.

4. The department may adopt rules regarding the distribution of prescription drugs by hospitals, health care entities, charitable organizations, other persons not involved in wholesale distribution, and blood establishments, which rules are necessary for the protection of the public health, safety, and welfare.



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5. A restricted prescription drug distributor permit is not required for distributions between pharmacies that each hold an active permit under chapter 465, have a common ownership, and are operating in a freestanding end-stage renal dialysis clinic, if such distributions are made to meet the immediate emergency medical needs of specifically identified patients and do not occur with such frequency as to amount to the regular and systematic supplying of that drug between the pharmacies. The department shall adopt rules establishing when the distribution of a prescription drug under this subparagraph amounts to the regular and systematic supplying of that drug.

6. A restricted prescription drug distributor permit is not required for distributing medicinal drugs or prepackaged drug products between entities under common control that each hold either an active Class III institutional pharmacy permit under chapter 465 or an active health care clinic establishment permit under paragraph (2)(r). For purposes of this subparagraph, the term "common control" has the same meaning as in s. 499.003(48)(a)3.

~~(5) A prescription drug repackager permit issued under this part is not required for a restricted prescription drug distributor permitholder that is a health care entity to repackaging prescription drugs in this state for its own use or for distribution to hospitals or other health care entities in the state for their own use, pursuant to s. 499.003(48)(a)3., if:~~

~~(a) The prescription drug distributor notifies the department, in writing, of its intention to engage in repackaging under this exemption, 30 days before engaging in the~~



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~~repackaging of prescription drugs at the permitted  
establishment;~~

~~(b) The prescription drug distributor is under common  
control with the hospitals or other health care entities to  
which the prescription drug distributor is distributing  
prescription drugs. As used in this paragraph, "common control"  
means the power to direct or cause the direction of the  
management and policies of a person or an organization, whether  
by ownership of stock, voting rights, contract, or otherwise;~~

~~(c) The prescription drug distributor repackages the  
prescription drugs in accordance with current state and federal  
good manufacturing practices; and~~

~~(d) The prescription drug distributor labels the  
prescription drug it repackages in accordance with state and  
federal laws and rules.~~

~~The prescription drug distributor is exempt from the product  
registration requirements of s. 499.015 with regard to the  
prescription drugs that it repackages and distributes under this  
subsection. A prescription drug distributor that repackages and  
distributes prescription drugs under this subsection to a not-  
for-profit rural hospital, as defined in s. 395.602, is not  
required to comply with paragraph (c) or paragraph (d), but must  
provide to each health care entity for which it repackages, for  
each prescription drug that is repackaged and distributed, the  
information required by department rule for labeling  
prescription drugs. The department shall adopt rules to ensure  
the safety and integrity of prescription drugs repackaged and  
distributed under this subsection, including rules regarding~~





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~~prescription drug manufacturing and labeling requirements.~~

Section 7. This act shall take effect July 1, 2018.

===== 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 pharmacies; amending s. 465.003,  
F.S.; revising and providing definitions; amending s.  
465.004, F.S.; revising the membership of the Board of  
Pharmacy; amending s. 465.019, F.S.; establishing  
Class III institutional pharmacies; providing  
requirements for such pharmacies; conforming  
provisions to changes made by the act; amending s.  
465.0252, F.S.; revising notice requirements to  
conform to changes made by the act; amending s.  
499.003, F.S.; providing and revising definitions;  
amending s. 499.01, F.S.; authorizing the distribution  
of medicinal drugs and prepackaged drug products  
without a specified permit under certain conditions;  
deleting a provision exempting certain drug  
repackagers from specified permit requirements;  
providing an effective date.

By Senator Stargel

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A bill to be entitled  
An act relating to pharmacy; amending s. 465.003,  
F.S.; defining and redefining terms; amending s.  
465.004, F.S.; revising the membership of the Board of  
Pharmacy; amending s. 465.019, F.S.; establishing  
Class III institutional pharmacies; authorizing such  
pharmacies to dispense, compound, and fill  
prescriptions, prepare prepackaged drug products, and  
conduct other pharmaceutical services between certain  
entities under common control; defining the term  
"common control"; providing that the lawful dispensing  
and distribution of medicinal drugs by Class III  
institutional pharmacies is not considered wholesale  
distribution; requiring such pharmacies to maintain  
certain policies and procedures; conforming provisions  
to changes made by the act; amending s. 465.0252,  
F.S.; conforming a provision to changes made by the  
act; amending s. 499.003, F.S.; revising the  
definition of the term "prepackaged drug product";  
amending s. 499.01, F.S.; providing that a  
prescription drug repackager permit and a restricted  
prescription drug distributor permit are not required  
for the distribution of medicinal drugs or prepackaged  
drug products between entities under common control  
under certain circumstances; providing that a certain  
hospital is not required to hold a restricted  
prescription drug distributor permit under certain  
circumstances; deleting a provision exempting certain  
drug repackagers from specified permit requirements;

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30 providing an effective date.

31  
32 Be It Enacted by the Legislature of the State of Florida:

33  
34 Section 1. Subsections (7) and (13) of section 465.003,  
35 Florida Statutes, are amended, and subsection (21) is added to  
36 that section, to read:

37 465.003 Definitions.—As used in this chapter, the term:

38 (7) "Institutional formulary system" means a method whereby  
39 the medical staff evaluates, appraises, and selects those  
40 medicinal drugs or proprietary preparations that ~~which~~ in the  
41 medical staff's clinical judgment are most useful in patient  
42 care, and that ~~which~~ are available for dispensing by a  
43 practicing pharmacist in a Class II or Class III institutional  
44 pharmacy.

45 (13) "Practice of the profession of pharmacy" includes  
46 compounding, dispensing, and consulting concerning contents,  
47 therapeutic values, and uses of any medicinal drug; consulting  
48 concerning therapeutic values and interactions of patent or  
49 proprietary preparations, whether pursuant to prescriptions or  
50 in the absence and entirely independent of such prescriptions or  
51 orders; and conducting other pharmaceutical services. For  
52 purposes of this subsection, "other pharmaceutical services"  
53 means the monitoring of the patient's drug therapy and assisting  
54 the patient in the management of his or her drug therapy, and  
55 includes review of the patient's drug therapy and communication  
56 with the patient's prescribing health care provider as licensed  
57 under chapter 458, chapter 459, chapter 461, or chapter 466, or  
58 similar statutory provision in another jurisdiction, or such

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59 provider's agent or such other persons as specifically  
60 authorized by the patient, regarding the drug therapy. However,  
61 nothing in this subsection may be interpreted to permit an  
62 alteration of a prescriber's directions, the diagnosis or  
63 treatment of any disease, the initiation of any drug therapy,  
64 the practice of medicine, or the practice of osteopathic  
65 medicine, unless otherwise permitted by law. "Practice of the  
66 profession of pharmacy" also includes any other act, service,  
67 operation, research, or transaction incidental to, or forming a  
68 part of, any of the foregoing acts, requiring, involving, or  
69 employing the science or art of any branch of the pharmaceutical  
70 profession, study, or training, and shall expressly permit a  
71 pharmacist to transmit information from persons authorized to  
72 prescribe medicinal drugs to their patients. The practice of the  
73 profession of pharmacy also includes the administration of  
74 vaccines to adults pursuant to s. 465.189 and the preparation of  
75 prepackaged drug products in facilities holding Class III  
76 institutional pharmacy permits.

77 (21) "Central distribution facility" means a facility under  
78 common control with a hospital holding a Class III institutional  
79 pharmacy permit which may dispense, distribute, compound, or  
80 fill prescriptions for medicinal drugs; prepare prepackaged drug  
81 products; and conduct other pharmaceutical services.

82 Section 2. Subsection (2) of section 465.004, Florida  
83 Statutes, is amended to read:

84 465.004 Board of Pharmacy.—

85 (2) Seven members of the board must be licensed pharmacists  
86 who are residents of this state and who have been engaged in the  
87 practice of the profession of pharmacy in this state for at

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least 4 years and, to the extent practicable, represent the various pharmacy practice settings. Of the pharmacist members, two must be currently engaged in the practice of pharmacy in a community pharmacy, two must be currently engaged in the practice of pharmacy in a Class II, ~~institutional pharmacy or a~~ modified Class II, or Class III institutional pharmacy, and three must be pharmacists licensed in this state irrespective of practice setting. The remaining two members must be residents of the state who have never been licensed as pharmacists and who are in no way connected with the practice of the profession of pharmacy. No person may be appointed as a consumer member who is in any way connected with a drug manufacturer or wholesaler. At least one member of the board must be 60 years of age or older. The Governor shall appoint members to the board in accordance with this subsection as members' terms expire or as a vacancy occurs until the composition of the board complies with the requirements of this subsection.

Section 3. Subsections (4) and (6) of section 465.019, Florida Statutes, are amended, and paragraph (d) is added to subsection (2) of that section, to read:

465.019 Institutional pharmacies; permits.—

(2) The following classes of institutional pharmacies are established:

(d)1. "Class III institutional pharmacies" are those institutional pharmacies, including central distribution facilities, which are affiliated with a hospital and provide the same services as those authorized for Class II institutional pharmacies in subsection (6). Class III institutional pharmacies may dispense, distribute, compound, and fill prescriptions for

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117 medicinal drugs; prepare prepackaged drug products; and conduct  
118 other pharmaceutical services for the affiliated hospital and  
119 entities under common control, each of which must be permitted  
120 under this chapter to possess medicinal drugs. A Class III  
121 institutional pharmacy may provide such medicinal drugs, drug  
122 products, and pharmaceutical services to an entity under common  
123 control that holds an active health care clinic establishment  
124 permit as described in s. 499.01(2)(r). For purposes of this  
125 chapter, the term "common control" means the power to direct or  
126 cause the direction of the management and policies of a person  
127 or an organization, whether by ownership of stock, voting  
128 rights, contract, or other means. The dispensing or distribution  
129 of a medicinal drug by a Class III institutional pharmacy  
130 pursuant to this section is not considered wholesale  
131 distribution as defined in s. 499.003.

132 2. A Class III institutional pharmacy shall maintain  
133 policies and procedures that identify or otherwise address:

134 a. The consultant pharmacist responsible for pharmaceutical  
135 services.

136 b. Safe practices for the preparation, dispensing,  
137 prepackaging, distribution, and transportation of medicinal  
138 drugs and prepackaged drug products.

139 c. Recordkeeping to monitor the movement, distribution, and  
140 transportation of medicinal drugs and prepackaged drug products.

141 d. Recordkeeping of pharmacy staff responsible for each  
142 step in the preparation, dispensing, prepackaging,  
143 transportation, and distribution of medicinal drugs and  
144 prepackaged drug products.

145 e. Medicinal drugs and prepackaged drug products that may

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146 not be safely distributed among Class III institutional  
147 pharmacies.

148 (4) Medicinal drugs shall be dispensed in an institutional  
149 pharmacy to outpatients only when that institution has secured a  
150 community pharmacy permit from the department. However, an  
151 individual licensed to prescribe medicinal drugs in this state  
152 may dispense up to a 24-hour supply of a medicinal drug to any  
153 patient of an emergency department of a hospital that operates a  
154 Class II or Class III institutional pharmacy, provided that the  
155 physician treating the patient in such hospital's emergency  
156 department determines that the medicinal drug is warranted and  
157 that community pharmacy services are not readily accessible,  
158 geographically or otherwise, to the patient. Such dispensing  
159 from the emergency department must be in accordance with the  
160 procedures of the hospital. For any such patient for whom a  
161 medicinal drug is warranted for a period to exceed 24 hours, an  
162 individual licensed to prescribe such drug must dispense a 24-  
163 hour supply of such drug to the patient and must provide the  
164 patient with a prescription for such drug for use after the  
165 initial 24-hour period. The board may adopt rules necessary to  
166 carry out the provisions of this subsection.

167 (6) In a Class II or Class III institutional pharmacy, an  
168 institutional formulary system may be adopted with approval of  
169 the medical staff for the purpose of identifying those medicinal  
170 drugs, proprietary preparations, biologics, biosimilars, and  
171 biosimilar interchangeables that may be dispensed by the  
172 pharmacists employed in such institution. A facility with a  
173 Class II or Class III institutional pharmacy permit which is  
174 operating under the formulary system shall establish policies

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and procedures for the development of the system in accordance with the joint standards of the American Hospital Association and American Society of Hospital Pharmacists for the utilization of a hospital formulary system, which formulary shall be approved by the medical staff.

Section 4. Subsection (3) of section 465.0252, Florida Statutes, is amended to read:

465.0252 Substitution of interchangeable biosimilar products.—

(3) A pharmacist who practices in a Class II, ~~or~~ or Class III institutional pharmacy shall comply with the notification provisions of paragraph (2)(c) by entering the substitution in the institution's written medical record system or electronic medical record system.

Section 5. Subsection (39) of section 499.003, Florida Statutes, is amended to read:

499.003 Definitions of terms used in this part.—As used in this part, the term:

(39) "Prepackaged drug product" means a drug that originally was in finished packaged form sealed by a manufacturer and that is placed in a properly labeled container by a pharmacy or practitioner authorized to dispense pursuant to chapter 465 ~~for the purpose of dispensing in the establishment in which the prepackaging occurred.~~

Section 6. Paragraphs (b) and (h) of subsection (2) and subsection (5) of section 499.01, Florida Statutes, are amended to read:

499.01 Permits.—

(2) The following permits are established:



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(b) *Prescription drug repackager permit.*—A prescription drug repackager permit is required for any person that repackages a prescription drug in this state.

1. A person that operates an establishment permitted as a prescription drug repackager may engage in distribution of prescription drugs repackaged at that establishment and must comply with all of the provisions of this part and the rules adopted under this part that apply to a prescription drug manufacturer.

2. A prescription drug repackager must comply with all appropriate state and federal good manufacturing practices.

3. A prescription drug repackager permit is not required for the distribution of medicinal drugs or prepackaged drug products between entities under common control if each entity holds an active Class III institutional pharmacy permit under chapter 465 or an active health care clinic establishment permit under paragraph (r). For purposes of this subparagraph, the term "common control" means the same as in s. 465.019(2).

(h) *Restricted prescription drug distributor permit.*—

1. A restricted prescription drug distributor permit is required for:

a. Any person located in this state who engages in the distribution of a prescription drug, which distribution is not considered "wholesale distribution" under s. 499.003(48)(a).

b. Any person located in this state who engages in the receipt or distribution of a prescription drug in this state for the purpose of processing its return or its destruction if such person is not the person initiating the return, the prescription drug wholesale supplier of the person initiating the return, or

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the manufacturer of the drug.

c. A blood establishment located in this state which collects blood and blood components only from volunteer donors as defined in s. 381.06014 or pursuant to an authorized practitioner's order for medical treatment or therapy and engages in the wholesale distribution of a prescription drug not described in s. 499.003(48)(j) to a health care entity. A mobile blood unit operated by a blood establishment permitted under this sub-subparagraph is not required to be separately permitted. The health care entity receiving a prescription drug distributed under this sub-subparagraph must be licensed as a closed pharmacy or provide health care services at that establishment. The blood establishment must operate in accordance with s. 381.06014 and may distribute only:

(I) Prescription drugs indicated for a bleeding or clotting disorder or anemia;

(II) Blood-collection containers approved under s. 505 of the federal act;

(III) Drugs that are blood derivatives, or a recombinant or synthetic form of a blood derivative;

(IV) Prescription drugs that are identified in rules adopted by the department and that are essential to services performed or provided by blood establishments and authorized for distribution by blood establishments under federal law; or

(V) To the extent authorized by federal law, drugs necessary to collect blood or blood components from volunteer blood donors; for blood establishment personnel to perform therapeutic procedures under the direction and supervision of a licensed physician; and to diagnose, treat, manage, and prevent

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any reaction of a volunteer blood donor or a patient undergoing  
a therapeutic procedure performed under the direction and  
supervision of a licensed physician,

as long as all of the health care services provided by the blood  
establishment are related to its activities as a registered  
blood establishment or the health care services consist of  
collecting, processing, storing, or administering human  
hematopoietic stem cells or progenitor cells or performing  
diagnostic testing of specimens if such specimens are tested  
together with specimens undergoing routine donor testing. The  
blood establishment may purchase and possess the drugs described  
in this sub-subparagraph without a health care clinic  
establishment permit.

2. Storage, handling, and recordkeeping of these  
distributions by a person required to be permitted as a  
restricted prescription drug distributor must be in accordance  
with the requirements for wholesale distributors under s.  
499.0121.

3. A person who applies for a permit as a restricted  
prescription drug distributor, or for the renewal of such a  
permit, must provide to the department the information required  
under s. 499.012.

4. The department may adopt rules regarding the  
distribution of prescription drugs by hospitals, health care  
entities, charitable organizations, other persons not involved  
in wholesale distribution, and blood establishments, which rules  
are necessary for the protection of the public health, safety,  
and welfare.

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291       5. A restricted prescription drug distributor permit is not  
292 required for distributions between pharmacies that each hold an  
293 active permit under chapter 465, have a common ownership, and  
294 are operating in a freestanding end-stage renal dialysis clinic,  
295 if such distributions are made to meet the immediate emergency  
296 medical needs of specifically identified patients and do not  
297 occur with such frequency as to amount to the regular and  
298 systematic supplying of that drug between the pharmacies. The  
299 department shall adopt rules establishing when the distribution  
300 of a prescription drug under this subparagraph amounts to the  
301 regular and systematic supplying of that drug.

302       6. A restricted prescription drug distributor permit is not  
303 required for the distribution of medicinal drugs or prepackaged  
304 drug products between entities under common control if each  
305 entity holds an active Class III institutional pharmacy permit  
306 under chapter 465 or an active health care clinic establishment  
307 permit under paragraph (r). For purposes of this subparagraph,  
308 the term "common control" means the same as in s. 465.019(2).

309       7. A restricted prescription drug distributor permit is not  
310 required for a hospital covered by s. 340B of the Public Health  
311 Service Act, 42 U.S.C. s. 256b, if such hospital arranges for a  
312 prescription drug wholesale distributor to distribute  
313 prescription drugs covered under that act directly to a contract  
314 pharmacy.

315       ~~(5) A prescription drug repackager permit issued under this~~  
316 ~~part is not required for a restricted prescription drug~~  
317 ~~distributor permitholder that is a health care entity to~~  
318 ~~repackage prescription drugs in this state for its own use or~~  
319 ~~for distribution to hospitals or other health care entities in~~

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the state for their own use, pursuant to s. 499.003(48)(a)3.,  
if:

(a) The prescription drug distributor notifies the  
department, in writing, of its intention to engage in  
repackaging under this exemption, 30 days before engaging in the  
repackaging of prescription drugs at the permitted  
establishment;

(b) The prescription drug distributor is under common  
control with the hospitals or other health care entities to  
which the prescription drug distributor is distributing  
prescription drugs. As used in this paragraph, "common control"  
means the power to direct or cause the direction of the  
management and policies of a person or an organization, whether  
by ownership of stock, voting rights, contract, or otherwise;

(c) The prescription drug distributor repackages the  
prescription drugs in accordance with current state and federal  
good manufacturing practices; and

(d) The prescription drug distributor labels the  
prescription drug it repackages in accordance with state and  
federal laws and rules.

The prescription drug distributor is exempt from the product  
registration requirements of s. 499.015 with regard to the  
prescription drugs that it repackages and distributes under this  
subsection. A prescription drug distributor that repackages and  
distributes prescription drugs under this subsection to a not-  
for-profit rural hospital, as defined in s. 395.602, is not  
required to comply with paragraph (c) or paragraph (d), but must  
provide to each health care entity for which it repackages, for

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~~each prescription drug that is repackaged and distributed, the  
information required by department rule for labeling  
prescription drugs. The department shall adopt rules to ensure  
the safety and integrity of prescription drugs repackaged and  
distributed under this subsection, including rules regarding  
prescription drug manufacturing and labeling requirements.~~

Section 7. This act shall take effect July 1, 2018.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations Subcommittee on Finance and Tax, *Chair*  
Appropriations Subcommittee on Health and Human Services, *Vice Chair*  
Appropriations  
Appropriations Subcommittee on Transportation, Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Communications, Energy, and Public Utilities  
Governmental Oversight and Accountability  
Military and Veterans Affairs, Space, and Domestic Security

### SENATOR KELLI STARGEL

*Deputy Majority Leader*  
22nd District

December 22, 2017

The Honorable Dana Young  
Senate Health Policy Committee, Chair  
530 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Dear Chair Young:

I respectfully request that SB 1128, related to *Pharmacy*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel". The signature is fluid and cursive, with a large loop at the end of the last name.

Kelli Stargel  
State Senator, District 22

Cc: Sandra Stovall/ Staff Director  
Celia Georgiades/ AA

### REPLY TO:

- ☐ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
- ☐ 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

JOE NEGRON  
President of the Senate

ANITERE FLORES  
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

1128

Bill Number (if applicable)

Topic Pharmacy

Amendment Barcode (if applicable)

Name HEATHER FULLER

Job Title DIVISION DIRECTOR

Address 402 E PALMER AVE

Street

Phone 386 405 1968

TALLAHASSEE FL 32301

City

State

Zip

Email HEATHER@DANCELEXICON.COM

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FLORIDA SOCIETY OF HEALTH SYSTEMS PHARMACISTS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 1184

INTRODUCER: Senator Gibson

SUBJECT: Closing the Gap Grant Program

DATE: January 29, 2018

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Lloyd	Stovall	HP	<b>Favorable</b>
2. _____	_____	AHS	_____
3. _____	_____	AP	_____

---

**I. Summary:**

SB 1184 expands the potential focus of the “Closing the Gap” grant projects to include lupus. The “Closing the Gap” program provides grants for activities designed to reduce racial and ethnic health disparities.

The bill has no fiscal impact.

**II. Present Situation:**

***The Closing the Gap Program***

In 2000, the Florida Legislature created the Reducing the Racial and Ethnic Health Disparities: “Closing the Gap” (CTG) grant program.<sup>1</sup> The program is administered through the Department of Health’s (department) Office of Minority Health (office). The office serves the health needs of Florida’s minority and underrepresented populations statewide through multiple health promotion programs, including CTG. The office is responsible for publicizing the availability of the program and grant funds, establishing the grant application process, providing technical assistance and a statewide meeting to showcase best practices, developing uniform data reporting requirements, creating a monitoring process to evaluate progress towards the grant’s objectives, and coordinating with other state and local programs.<sup>2</sup>

The purposes of the grant program are to positively impact racial and ethnic disparities in several key health indicators, to make meaningful improvements in the lives of those Floridians who suffer disproportionately from disease and disability, and to provide funding in the designated priority areas.

---

<sup>1</sup> Chapter 2000-256, ss. 31-32, Laws of Fla. (2000).

<sup>2</sup> Section 381.7353, F.S.

Applications for grants must address each of the following required items:

- The purpose and objectives of the proposal, including identification of the particular racial or ethnic disparity the project will address, which must include one or more of the following priority areas:
  - Decreasing racial and ethnic disparities in maternal and infant mortality rates;
  - Decreasing racial and ethnic disparities in morbidity and mortality rates relating to cancer;
  - Decreasing racial and ethnic disparities in morbidity and mortality rates relating to HIV/AIDS;
  - Decreasing racial and ethnic disparities in morbidity and mortality rates relating to cardiovascular disease;
  - Decreasing racial and ethnic disparities in morbidity and mortality rates relating to diabetes;
  - Increasing adult and child immunization rates in certain racial and ethnic populations;
  - Decreasing racial and ethnic disparities in oral health care; and
  - Decreasing racial and ethnic disparities in morbidity and mortality rates relating to sickle cell disease;
  - Improving neighborhood social determinants of health, such as transportation, safety, and food access.
- Identification and relevance of the target population;
- Methods for obtaining baseline health status data and assessment of community health needs;
- Mechanisms for mobilizing community resources and gaining local commitment;
- Development and implementation of health promotion and disease prevention interventions;
- Mechanisms and strategies for evaluating the project's objectives, procedures, and outcomes;
- A proposed work plan, including a timeline for implementing the project; and
- The likelihood that project activities will occur and continue in the absence of funding.<sup>3</sup>

Priority is given to those proposals that:

- Represent areas with the greatest documented ethnic and racial health status disparities;
- Exceed the statutory minimum local contribution amounts;
- Demonstrate broad-based local community support shown through letters of support, inter-agency agreements, or other forms of supports;
- Show high levels of participation by the health care community in clinical preventive services and health promotion activities;
- Represent counties with high levels of families living in poverty and with poor health status indicators;
- Demonstrate coordinated community approaches to addressing racial and ethnic health disparities within existing publicly financed programs;
- Incorporate intervention mechanisms which have a high probability of improving the targeted population's health status;
- Demonstrate a commitment to quality management in all aspects of project administration and implementation; and
- Incorporate policy approaches that will lead to long-term sustainability and improvement.<sup>4</sup>

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<sup>3</sup> See s. 381.7355(2), F.S.

<sup>4</sup> Section 381.7355(3), F.S.

The Legislature intended the program to operate as a partnership between the state and local governments, faith-based organizations, private sector organizations, and other non-traditional partners.<sup>5</sup>

### ***Grant Proposals***

Grant proposals are awarded for one year through a proposal process, and may be renewed annually subject to the availability of funds and the grantee's achievement of quality standards, objectives, and outcomes.<sup>6</sup> The department has released the *Request for Applications* with an application deadline date of February 16, 2018, for grants beginning July 1, 2018.<sup>7</sup>

The maximum award per applicant is estimated at \$200,000 and the grant application states approximately three million dollars would be available, subject to a state general revenue appropriation.<sup>8</sup> Grant funds may not be used to provide medical or clinical services.<sup>9</sup>

The *Request for Applications* has specific submission guidelines for potential grantees. In addition to the list of criteria for priority consideration, the proposal requires applications to provide:<sup>10</sup>

- A statement of need – A description of the need for the proposed project that includes demographic information about the focal population to be served and the justification for the requested funding for the project. The statement of need also includes information about the impact of the problem, the prevalence of the health disparities, and risk factors that exist in the county to be served.
- Program description – A narrative of the activities which will be conducted as a result of the funding that is received under this grant proposal, including how and when those activities will be implemented. The program description should also address any barriers to implementation and a list of intended outcomes and how the grantee intends to measure those outcomes.
- Evaluation plan – A report of how the applicant will measure and evaluate the effectiveness and results of the grant activities. The grant prohibits the use of grant funds to secure an outside evaluator.
- Project management plan – An outline of how the grantee will execute, monitor, and control the proposed plan. The project management plan also includes how the grantee will handle any issues that arise over the grant period.
- Collaboration – A description of how the grantee will coordinate and partner with other entities within the community for the benefit of the population being served and for the benefit of the project sustainability after the grant funding ends.

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<sup>5</sup> Section 381.7352, F.S.

<sup>6</sup> Section 381.7356(4), F.S.

<sup>7</sup> Department of Health, Office of Minority Health and Health Equity, *Reducing Racial and Ethnic Health Disparities Closing the Gap Grant Program (CTG) Request for Applications, RFA # 17-007, FY 2018-2019*, <http://www.floridahealth.gov/programs-and-services/minority-health/closing-the-gap.html>, (last visited Jan. 24, 2018).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 13.

<sup>10</sup> *Id.* at 18-19.

- Workplan – A listing of objectives for implementation activities with action items and timelines.
- Proposed budget for the grant period with budget justification.

For the state fiscal year 2016-2017, the department allocated \$3,004,666 amongst 18 contracts. The grantees covered priority areas in diabetes, cardiovascular disease, HIV/AIDS, sickle cell disease, maternal and infant mortality, cancer, colorectal cancer, and oral health.<sup>11</sup>

### ***Matching Funds for Grants***

Grants are awarded to a county or a group of adjoining counties if those counties submitted a multi-county application. The CTG program requires the grantee to provide \$1 in local matching funds for every \$3 in state grant funds being requested, cash or in-kind contributions, at varying contribution levels.<sup>12</sup> The amount of a grant award is based on the county's or the neighborhood's population demographics. Table 1. below illustrates how populations may meet the match requirement through different combinations of cash and in-kind contributions.

<b>Table 1.</b> <b>Closing the Gap Matching Funds Contribution Combinations<sup>13</sup></b>	
<b>Grantee Type</b>	<b>Matching Funds Requirements</b>
County Population greater than 50,000	One dollar for every 3 dollar grant payment - At least 50 percent must be in cash - Up to 50 percent may be in-kind (free services or human resources)
County Population of 50,000 or less	Up to 100 percent may be in-kind services (free services or human resources)
Grantee is a Front Porch Community <sup>14</sup>	No match requirement

### **Social Determinants of Health**

*Healthy People 2020* is an initiative of the United States Department of Health and Human Services that provides 10-year national objectives for improving the health of Americans. Its vision is a society in which all people live long, healthy lives.<sup>15</sup> One of the missions of *Healthy People 2020* is to increase public awareness of determinants of health, disease, and disability and the opportunities for progress. The project seeks to achieve health equity, eliminate disparities, and improve the health of all groups while also attaining high-quality, longer lives free of

<sup>11</sup> Department of Health, *Closing the Gap Contract Spreadsheet FY 2016-17*, (on file with the Senate Committee on Health Policy).

<sup>12</sup> Section 381.7356, F.S.

<sup>13</sup> *Id.*

<sup>14</sup> The Front Porch Florida initiative was created in 1999 by the Florida Legislature to help local residents revitalize and redevelop projects in urban areas. Under this initiative, distressed areas can request designation as a Front Porch community. A Front Porch community is eligible for financial and technical assistance from the state. Twenty percent of the CTG grant funding is dedicated towards this program. The program is managed within the Florida Department of Economic Opportunity, Office of Urban Opportunity's Division of Community Development. *See* Section 20.60(5)(b)2.g., F.S. and s. 381.7354(3), F.S.

<sup>15</sup> United States Department of Health and Human Services, *Healthy People 2020 – Framework*, <https://www.healthypeople.gov/sites/default/files/HP2020Framework.pdf>, (last visited Jan. 24, 2018).

preventable disease, disability, injury, and premature death.<sup>16</sup> In Florida, the ethnic and racial disparity in some health categories is significant as shown in Table 2. below.

<b>Table 2.</b> <b>Minority Health Profiles – Select Indicators for 2016<sup>17</sup></b>				
<b>Indicator</b> (per 100,000, unless noted)	<b>White</b>	<b>Black</b>	<b>Hispanic<sup>18</sup></b>	<b>Non-Hispanic<sup>19</sup></b>
Fetal Deaths (per 1,000 deliveries)	5.3	12.2	5.4	7.2
Infant Deaths (per 1,000 births)	4.4	11.3	5.1	6.4
Maternal Deaths	15.7	32.5	8.9	24.4
Diabetes death rate	38.5	17.4	18.5	20.0
HIV Infection Cases,	10.5	65.7	30.1	22.0
Coronary Heart Disease death rate	96.9	100	87.4	98.7
Stroke death rate	34.6	53.6	35.8	37.0

A statistical brief from the department in 2017 noted that the gap between the black rate and the white rate has decreased over time, however. In 1995, the age adjusted mortality rate per 100,000 population was 1,224.9 for Black race and 811.6 for White race and in 2015, these rates had come down to 851.9 for Black race and 735.0 for White race.<sup>20</sup>

## **Lupus**

Lupus is a chronic autoimmune disease that triggers inflammation in bodily tissues. The body's immune system attacks its own tissues and organs and it can impact many different body systems.<sup>21</sup> Individuals may experience a mild form of the disease which is characterized by episodes or flares when symptoms get worse for a while and then improve or disappear for periods of time.<sup>22</sup> Others experience symptoms more frequently. On average, only 46 percent of those with lupus report being employed.<sup>23</sup> There is no cure for lupus, only medications, medical interventions, and lifestyle changes that can help control it.

<sup>16</sup> *Id.*

<sup>17</sup> Department of Health, FLHealthCHARTS.com, *Minority Health Profile – Black – 2016*, <http://www.flhealthcharts.com/ChartsReports/rdPage.aspx?rdReport=ChartsProfiles.MinorityHealthProfile-Black>, (last visited Jan. 24, 2018).

<sup>18</sup> Department of Health, FLCharts, *Minority Health Profile – Hispanic – 2016*, <http://www.flhealthcharts.com/ChartsReports/rdPage.aspx?rdReport=ChartsProfiles.MinorityHealthProfile-Hispanic>, (last visited Jan. 24, 2018).

<sup>19</sup> *Id.*

<sup>20</sup> Department of Health, FLHealthCHARTS.com Statistical Brief, *Gap Between Black and White Death Rate Narrows*, <http://www.flhealthcharts.com/Charts/documents/StatisticalBriefs/GapNarrows.pdf>, (last visited Jan. 24, 2018).

<sup>21</sup> Mayo Clinic, *Lupus - Overview*, <https://www.mayoclinic.org/diseases-conditions/lupus/symptoms-causes/syc-20365789>, (last visited Jan. 24, 2018).

<sup>22</sup> *Id.*

<sup>23</sup> Centers for Disease Control and Prevention, *Lupus Basic Fact Sheet*, <https://www.cdc.gov/lupus/basics/index.html>, (last visited Jan. 24, 2018).

More than 16,000 new cases of lupus are reported each year and most people who develop lupus are between the ages of 15 and 55.<sup>24</sup> It is estimated that more than 1.5 million Americans have a form of lupus.<sup>25</sup> Lupus is generally not a fatal disease; however, causes of premature death from lupus are usually from organ failure or cardiovascular disease.<sup>26</sup>

There are four different forms of lupus. *Systematic lupus* affects a major organ or tissue of the body, such as the heart, lungs, kidney, or brain in 50 percent of all cases. Of all individuals with lupus, 70 percent fall in this category of lupus. *Cutaneous lupus* affects only the skin and impacts about 10 percent of all lupus cases. *Drug-induced lupus* is caused by high doses of certain medications and is responsible for about 10 percent of all cases. *Neonatal lupus* is a rare condition where the mother's antibodies affect the fetus impacting the baby's skin, liver, or blood cell counts. Such issues usually disappear completely within six months.<sup>27</sup>

Lupus can be difficult to diagnose because the symptoms often mimic other illness. Common symptoms include extreme fatigue, headaches, painful and swollen joints, fever, hair loss, anemia, and skin rashes and lesions.<sup>28</sup> The American College of Rheumatology developed a list of 11 common criteria or measures to help with the diagnosis of lupus. If an individual has at least four on the list, either at the present time or at some time in the past, there is a strong chance that the individual has lupus.<sup>29</sup>

The 11 common criteria or measures of lupus are:

- Malar rash – a rash over the cheeks and nose, often in the shape of a butterfly;
- Discoid rash – a rash that appears as red, raised, disk-shaped patches;
- Photosensitivity – a reaction to sun or light that causes a skin rash to appear or get worse;
- Oral ulcers – sores appearing in the mouth;
- Arthritis – joint pain and swelling of two or more joints in which the bones around the joints do not become destroyed;
- Serositis – inflammation of the lining around the lungs or inflammation of the lining around the heart that causes chest pain which is worse with deep breathing;
- Kidney disorder – persistent protein or cellular casts<sup>30</sup> in the urine;
- Neurological disorder – seizures or psychosis;
- Blood disorder – anemia (low red blood cell count), leukopenia, (low white blood cell count), lymphopenia (low level of specific white blood cells), or thrombocytopenia (low platelet count)
- Immunologic disorder – anti-DNA or anti-Sm or positive antiphospholipid antibodies; and
- Abnormal antinuclear antibody (ANA).<sup>31</sup>

<sup>24</sup> The National Resource Center on Lupus, *What is Lupus*, [https://resources.lupus.org/entry/what-is-lupus?utm\\_source=lupusorg&utm\\_medium=answersFAQ](https://resources.lupus.org/entry/what-is-lupus?utm_source=lupusorg&utm_medium=answersFAQ), (last visited Jan. 24, 2018).

<sup>25</sup> *Id.*

<sup>26</sup> Centers for Disease Control and Prevention, *Lupus Detailed Fact Sheet* (last updated January 8, 2018) <https://www.cdc.gov/lupus/facts/detailed.html>, (last visited Jan. 24, 2018).

<sup>27</sup> *Id.*

<sup>28</sup> The National Resource Center on Lupus, *Common symptoms of lupus*, <https://resources.lupus.org/entry/common-symptoms>, (last visited Jan. 24, 2018).

<sup>29</sup> The National Resource Center on Lupus, *What doctors look for to confirm a diagnosis*, <https://resources.lupus.org/entry/what-doctors-look-for>, (last visited Jan. 24, 2018).

<sup>30</sup> A cellular or urinary cast is a tiny tube-shaped particle made up of white blood cells, kidney cells, or a substance such as protein or fat. The content of a cast can tell whether an individual's kidney is abnormal or not. *See* <https://medlineplus.gov/ency/article/003586.htm>.

<sup>31</sup> *Supra* note 31.

In most cases, the cause for Lupus is unknown. Some people may have inherited a predisposition for lupus or there may be an environmental trigger. A few triggers for lupus are:

- Sunlight – exposure to the sun may bring on lupus skin lesions in certain individuals;
- Infections – an infection can initiate lupus or cause a relapse.
- Medications – certain types of blood pressure medication, anti-seizure medications, and antibiotics may trigger lupus. When the medication is stopped, the person usually gets better.<sup>32</sup>

Certain ethnic groups have a greater chance of developing lupus than other groups. Lupus is two to three more times more prevalent among women of color than among Caucasian women.<sup>33</sup> It affects one in 537 young African American women.<sup>34</sup> African American women were also more likely to have organ system involvement and to develop lupus at a younger age, have more serious complications, and have a higher mortality rate.<sup>35</sup>

Lupus also imposes a significant financial burden on individuals, not just because of the consumption of health care resources, but also because of the patient's loss of productivity due to work disability.<sup>36</sup> A person with lupus was found to incur direct costs of \$12,643 in 2004 U.S. dollars and lost annual productivity costs of \$8,659.<sup>37</sup>

### III. Effect of Proposed Changes:

**Section 1** adds projects relating to lupus which decrease racial and ethnic disparities in morbidity and mortality rates relating to lupus to the list of priority areas that a Closing the Gap project may address under the grant program.

**Section 2** provides an effective date for the act of July 1, 2018.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

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<sup>32</sup> *Id.*

<sup>33</sup> *Supra* note 25.

<sup>34</sup> Pantelis Panopalis, et al, *Heath Care costs and Costs Associated with Changes in Work Productivity Among Persons with Systematic Lupus Erythematosus*, Arthritis & Rheumatism (Arthritis Care and Research), Vol. 59, No. 12, (Dec. 15, 2008) <http://onlinelibrary.wiley.com/doi/10.1002/art.24063/pdf>, (last visited Jan. 24, 2018).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.* at 1793.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

SB 1184 expands the subject matter for the community-based projects that may receive state funding. By expanding the list of potential priority projects, additional community organizations that work on lupus issues will have an opportunity to compete for grants. The actual amounts that may be awarded from those proposals will vary based on the amount of local matching funds committed by the grantee.

**C. Government Sector Impact:**

The Department of Health reports no impact.<sup>38</sup>

The availability of state funds for the CTG grant program is subject to an annual appropriation. The addition of a new priority does not impact the overall cost of the program.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 381.7355 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>38</sup> Department of Health, *No Impact Statement – SB 1184* (Jan. 25, 2018), (on file with the Senate Committee on Health Policy).



By Senator Gibson

6-01248-18

20181184\_\_

1 A bill to be entitled  
2 An act relating to the Closing the Gap grant program;  
3 amending s. 381.7355, F.S.; requiring a Closing the  
4 Gap grant proposal to address racial and ethnic  
5 disparities in morbidity and mortality rates relating  
6 to Lupus; providing an effective date.  
7

8 Be It Enacted by the Legislature of the State of Florida:  
9

10 Section 1. Paragraph (a) of subsection (2) of section  
11 381.7355, Florida Statutes, is amended to read:

12 381.7355 Project requirements; review criteria.—

13 (2) A proposal must include each of the following elements:

14 (a) The purpose and objectives of the proposal, including  
15 identification of the particular racial or ethnic disparity the  
16 project will address. The proposal must address one or more of  
17 the following priority areas:

18 1. Decreasing racial and ethnic disparities in maternal and  
19 infant mortality rates.

20 2. Decreasing racial and ethnic disparities in morbidity  
21 and mortality rates relating to cancer.

22 3. Decreasing racial and ethnic disparities in morbidity  
23 and mortality rates relating to HIV/AIDS.

24 4. Decreasing racial and ethnic disparities in morbidity  
25 and mortality rates relating to cardiovascular disease.

26 5. Decreasing racial and ethnic disparities in morbidity  
27 and mortality rates relating to diabetes.

28 6. Increasing adult and child immunization rates in certain  
29 racial and ethnic populations.

6-01248-18

20181184\_\_

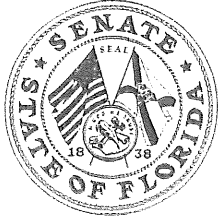
30           7. Decreasing racial and ethnic disparities in oral health  
31 care.

32           8. Decreasing racial and ethnic disparities in morbidity  
33 and mortality rates relating to sickle cell disease.

34           9. Decreasing racial and ethnic disparities in morbidity  
35 and mortality rates relating to Lupus.

36           ~~10.9.~~ Improve neighborhood social determinants of health,  
37 such as transportation, safety, and food access, as outlined by  
38 the Centers for Disease Control and Prevention's "Tools for  
39 Putting Social Determinants of Health into Action."

40           Section 2. This act shall take effect July 1, 2018.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR AUDREY GIBSON**  
6th District

**COMMITTEES:**  
Military and Veterans Affairs, Space, and  
Domestic Security, *Chair*  
Appropriations  
Appropriations Subcommittee on  
Transportation, Tourism, and Economic  
Development  
Commerce and Tourism  
Judiciary  
Regulated Industries

**JOINT COMMITTEE:**  
Joint Legislative Auditing Committee

January 3, 2018

Senator Dana Young, Chair  
Committee on Health Policy  
530 Knott Building  
404 South Monroe Street  
Tallahassee, Florida 32399-1100

Chair Young

I respectfully request that SB 1184, addressing racial and ethnic disparities in morbidity and mortality rates relating to Lupus, be placed on the next committee agenda.

SB 1184, adds Lupus a chronic disease, to Closing the Gap grant proposals. Closing the Gap grant program provides funding to decrease racial or ethnic disparities for a variety of diseases and illnesses, such as Cancer and HIV/AIDS.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Audrey Gibson".

Audrey Gibson  
State Senator  
District 6

101 E. Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553  
405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**JOE NEGRON**  
President of the Senate

**ANITERE FLORES**  
President Pro Tempore

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

1184

Bill Number (if applicable)

Topic Closing The Gap

Amendment Barcode (if applicable)

Name Gloria A. Einstein

Job Title \_\_\_\_\_

Address Braemar Drive

Phone 904 386 3636

Street

Jacksonville

City

State

Zip

Email gloriaeinstein@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No      Lobbyist registered with Legislature: ☐ Yes ☒ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: CS/SB 1486

INTRODUCER: Health Policy Committee and Senator Grimsley

SUBJECT: Department of Health

DATE: February 1, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	<b>Fav/CS</b>
2.			AP	
3.			RC	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 1486 updates numerous provisions relating to healthcare practitioners and facilities regulated by the Department of Health (DOH), Division of Medical Quality Assurance. More specifically, the bill:

- Authorizes rulemaking for the selection of physicians under the Conrad 30 Waiver Program;
- Requires the date-of-birth for health care professional licensure applications;
- Allows active duty spouses expedited licensure for dentistry;
- Repeals the requirement that the Board of Medicine (BOM) conduct a review of organizations that board certify physicians in dermatology;
- Defines a contact classroom hour for chiropractic continuing education (CE) and authorizes 10 hours of online general credit CE;
- Deregulates registered chiropractic assistants;
- Grants rulemaking authority to the Board of Nursing (BON) to establish standards of care, including discipline and standards of care for certified nursing assistants (CNA);
- Recognizes CNA certification in a territory or the District of Columbia for certification in Florida and eliminates the element of intent for violations of practice laws for CNAs;
- Requires an institutional, nuclear, special, or internet pharmacy to pass a DOH on-site inspection before licensure;
- Establishes in statute licensure of in-state sterile compounding pharmacies;
- Removes the requirement for Florida dentists and dental hygienists to grade dental and dental hygienist licensure examinations;
- Requires dentists to report adverse incidents;

- Expands the definition of dental laboratory to include a person who provides onsite consultation during dental procedures;
- Requires dental labs to be inspected at least biennially;
- Restricts an athletic trainer to working within his or her scope of practice;
- Requires athletic trainers to maintain certification in good standing without lapse;
- Requires supervision of athletic training students to be in accordance with board rules rather than an external entity's standards;
- Authorizes a joint (or dual) registration for orthotics and prosthetics residency and provides a licensure pathway for a joint educational program;
- Eliminates the massage therapy apprenticeship program, except for the study of colonic irrigation; clarifies that the massage therapist licensure examination is a national examination approved by the board; and expands circumstances for revocation, or denial of initial licensure, of a massage establishment license;
- Eliminates outdated language, clarifies education accreditation requirements, and streamlines licensure by endorsement requirements for psychology licensure; and
- Clarifies, streamlines, and corrects inconsistencies in provisions regulating the licensure of marriage and family therapy, mental health counseling, and clinical social work; and
- Requires applicants for licensure as a mental health counselor to have a master's degree that is accredited by the CACREP, beginning July 1, 2024.

## **II. Present Situation:**

### **The Conrad 30 Program**

The Conrad 30 Program, authorized by the United States Department of State (USDOS), and the United States Immigration and Customs Enforcement (USCIS), addresses the shortage of qualified doctors in medically underserved areas. The program allows medical doctors holding a J-1 Visa to apply for a waiver of the two-year residence requirement upon completion of the J-1 Visa exchange visitor program under s. 214(l), Immigration Nationality Act (INA).

State public health agencies are authorized to sponsor up to 30 physicians annually to serve in a designated U.S. Department of Health and Human Services (HHS) Health Professional Shortage Area (HPSA), Medically Underserved Area (MUA), or Medically Underserved Population (MUP). The program requires all medical doctors holding J-1 Visas who wish to participate in a Conrad 30 Program to:

- Agree to be employed full-time in H-1B nonimmigrant status at a health care facility located in an area designated by the HHS, as a HPSA, MUA, or MUP;
- Obtain a contract from the health care facility located in an area designated by HHS, as an HPSA, MUA, or MUP;
- Obtain a "no objection" letter from his or her home country if the home government funded his or her exchange program; and
- Agree to begin employment at the health care facility within 90 days of receipt of the waiver, not the date his or her J-1 visa expires.

The DOH has administered the Conrad 30 Waiver Program since 1994. In recent years, the number of applicants has exceeded the maximum number of 30 slots allowed by the program.

The DOH does not have rule-making authority to establish additional criteria for selecting Conrad 30 applicants for sponsorship, thereby limiting the DOH's ability to place qualified physicians in areas of highest need.<sup>1</sup>

### **The DOH General Licensing Authority**

The DOH's general licensing provisions, set out in s. 456.013, F.S., require every applicant for licensure to apply to the DOH before sitting for a licensure examination. This requirement was initially imposed when the DOH developed and administered its own examinations. A strict statutory interpretation of this section requires an applicant, even those who have already passed the licensure examination before applying for a license, to take the examination after applying to the DOH for licensure.

Section 456.017, F.S., was amended in 2005, to provide that neither the board nor the DOH could administer a state-developed written examination if a national examination has been certified by the DOH. All Florida developed examinations have ceased. National examinations have been certified, and thus, the requirement for applying to the DOH to take the examination has become obsolete.<sup>2</sup>

Section 456.031, F.S., also requires all applications for licensure to be submitted to DOH on a form that may be submitted electronically. The provision requires the applicant's social security number (SSN). There is no current statutory requirement that an applicant provide a date of birth, although a birth date is a requirement to fulfill other statutory licensure requirements under ss. 456.039 and 456.0135, F.S. for fingerprinting, and fingerprint retention by the Agency for Health Care Administration (AHCA) and Provider Background Screening Clearinghouse.

According to the DOH, the Joint Administrative Procedures Committee (JAPC) has objected to applications for licensure that contained a data field for the applicant's date of birth, alleging that the DOH has no statutory authority to ask for a date of birth. To ensure accurate matches through the Florida Department of Law Enforcement (FDLE), the Federal Bureau of Investigation (FBI) and the Sex Offender Registry (SOR), the DOH must have available three identifiers: the name, social security number, and date of birth.<sup>3</sup>

### **United States Members of the Armed Forces, Spouses, and Florida Licensure**

Section 456.024, F.S., relate to members of the United State (U.S.) Armed Forces, their spouses, and licensure in the DOH regulated professions. Among other things, s. 456.024, F.S., grants licensure to the spouse of a person serving on active duty in the U.S. Armed Forces who is a health care practitioner in another state, District of Columbia, U.S. territory, or possession, excluding dentistry, for which licensure in the other state or jurisdiction is not required, if he or she submits to the DOH evidence of training or experience substantially equivalent to the requirements for licensure in Florida, and evidence that he or she has obtained a passing score on the appropriate examination of a national or regional standards organization, if required for

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<sup>1</sup> Florida Department of Health, *House Bill 1047 Analysis* (December 19, 2017) (on file with the Senate Committee on Health Policy).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

licensure in Florida. Since this section was amended, the DOH has issued 254 expedited licenses to military spouses.<sup>4</sup>

Section 456.024, F.S., also grants the DOH authority to issue a temporary professional license to the spouse of an active duty U.S. Armed Forces member who submits a completed application with proof of the following:

- The applicant is married to an active duty U.S. Armed Forces member, on active duty Florida;
- The applicant is not the subject of disciplinary action;
- A valid license issued by another state, the District of Columbia, a U.S. possession or territory;
- The applicant would otherwise be entitled to full licensure under the appropriate practice act;
- The applicant is eligible to take the appropriate license examination; and
- Fingerprints for a criminal background check.<sup>5</sup>

A temporary license expires 12 months after the date of issuance and is not renewable. The DOH has issued 99 temporary licenses since 2011.<sup>6</sup>

In the case of dentists only, the application for a temporary license requires a dentist to meet all requirements for full licensure,<sup>7</sup> and the individual must practice under the indirect supervision of a Florida licensed dentist.

According to the DOH, the Board of Dentistry office has determined that to-date, only three temporary dentist licenses have been issued under this section; and many dentists opt to apply for full licensure rather than apply for a temporary license, and meet all of the requirements for full licensure.<sup>8</sup>

### **Medical Specialists**

A physician licensed under ch. 458, F.S., may not hold himself or herself out as a board-certified specialist unless the physician has received formal recognition as a specialist from a specialty board of the American Board of Medical Specialties or other recognizing agency that has been approved by the board. A physician may not hold himself or herself out as a board-certified specialist in dermatology unless the recognizing agency, whether authorized in statute or by rule, is triennially reviewed and reauthorized by the Board of Medicine.

### **Chiropractic Continuing Education**

“Practice of chiropractic medicine” is a non-combative principle and practice consisting of the science, philosophy, and art of the adjustment, manipulation, and treatment of the human body in which vertebral subluxations and other mal-positioned articulations and structures that are interfering with the normal generation, transmission, and expression of nerve impulse between

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<sup>4</sup> *Id.*

<sup>5</sup> Section 456.024(3)(a), F.S.

<sup>6</sup> *See supra* note 1.

<sup>7</sup> *See* ch. 466, F.S.

<sup>8</sup> *See supra* note 1.



the brain, organs, and tissue cells of the body. . .are adjusted, manipulated, or treated, thus restoring the normal flow of nerve impulse which produces normal function and health using specific chiropractic adjustment or manipulation techniques taught in chiropractic colleges accredited by the Council on Chiropractic Education.<sup>9</sup>

Florida Chiropractic licenses are renewable every two years. The Board of Chiropractic Medicine requires 40 in person CE hours every biennial license renewal, and those hours must include:

- 27 General hours;
- 6 hours -Documentation & Coding;
- 2 hours - Medical Errors;
- 2 hours Ethics;
- 2 hours Florida Laws & Rules; and
- 1 hour Risk Management.

### **Registered Chiropractic Assistants**

Registered Chiropractic Assistants (RCAs) perform duties not directly related to chiropractic patient care under the direct supervision of a chiropractic physician or chiropractic physician's assistant. There are no regulatory provisions associated with the work of an RCA. The registration is voluntary and not required for an individual to assist with patient care management activities, execute administrative and clinical procedures, or perform managerial and supervisory functions in the office.<sup>10</sup> According to the DOH, in fiscal year 2016-2017, there were 3,800 active in-state RCAs.<sup>11</sup>

### **Board of Nursing Rulemaking Authority to Establish Standards of Care**

The Legislature has granted the BON rulemaking authority in a number of areas:

- To establish guidelines for remedial courses for those who fail the nursing examination three times;<sup>12</sup>
- To administer certification of clinical nurse specialists;<sup>13</sup>
- To administer the certification of advanced registered nurse practitioners, including the appropriate requirements for advanced registered nurse practitioners in the categories of certified registered nurse anesthetists, certified nurse midwives, and nurse practitioners;<sup>14</sup>
- To establish a procedure for the biennial renewal of licenses and to prescribe continuing education requirements for renewal of licenses;<sup>15</sup>
- To provide application procedures for inactive status, for the biennial renewal of inactive licenses, and for the reactivation of licenses, including applicable fees;<sup>16</sup> and

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<sup>9</sup> Section 460. 403(9), F.S.

<sup>10</sup> Section 460.4166, F.S.

<sup>11</sup> *Supra* note 1.

<sup>12</sup> Section 464.008, F.S.

<sup>13</sup> Section 464.0115, F.S.

<sup>14</sup> Section 464.012, F.S.

<sup>15</sup> Section 464.013, F.S.

<sup>16</sup> Section 464.014, F.S.

- To establish disciplinary guidelines.<sup>17</sup>

The Legislature did not expressly grant rulemaking authority to the board to promulgate nursing standards of care.<sup>18</sup> The authority to define the scope of practice for nurses is noticeably absent from s. 464.018, F.S.; and s. 456.003(6), F.S., which expressly limits the ability of the DOH boards to modify or contravene the lawful scope of practice of a regulated profession.

From 2003 through 2012, the BON proposed various rules on nursing standards of practice for conscious sedation and unprofessional conduct, which were ultimately withdrawn after the Joint Administrative Procedures Committee (JAPC) asserted objections. In 2012, the BON proposed yet another rule establishing professional guidelines for the administration of conscious sedation and to update the instances of unprofessional conduct. This 2012 version was met with challenges from various associations and JAPC; and was ultimately challenged at DOAH in case number 121545RP. That decision found that the BON lacked the statutory authority to define nursing “scope of practice” in the Nurse Practice Act. That decision was affirmed by the District Court of Appeal, First District, State of Florida in case numbers 1D12-5656, 1D12-5671, and 1D12-5739 (all related to DOAH 12-1545RP).

The Legislature has granted statutory authority to set standards of practice for professions that are authorized to practice independently, including:

- Allopathic and osteopathic physicians;<sup>19</sup>
- Podiatric physicians;<sup>20</sup>
- Pharmacists;<sup>21</sup>
- Psychotherapists;<sup>22</sup>
- Clinical social workers;<sup>23</sup>
- Dentists;<sup>24</sup>
- Optometrists;<sup>25</sup> and
- Opticians.<sup>26</sup>

### **Certified Nursing Assistants**

Section 464.201(5), F.S., defines the practice of a certified nursing assistant as providing care and assisting persons with tasks relating to the activities of daily living. Activities of daily living include tasks associated with: personal care; maintaining mobility; nutrition and hydration;

<sup>17</sup> Section 464.018(5), F.S.

<sup>18</sup> See *Florida Medical Association, Inc.; Florida Osteopathic Medical Association; And Florida Podiatric Medical Association vs. Department Of Health, Board Of Nursing*, DOAH Case No. 12-001545 RP, *Summary Final Order*, Nov. 2, 2012; *affirmed per curium, Department of Health, Board of Nursing, Florida Association of Nurse Anesthetists And Florida Nurses Association, v. Florida Medical Association, Inc., Florida Osteopathic Medical Association, Inc., And Florida Podiatric Medical Association*, Case Nos. 1D12-5656, 1D12-5671, 1D12-5739 (Fla. 1<sup>st</sup> DCA, Feb. 12, 2014).

<sup>19</sup> Sections 458.331(1)(v) and 459.015(1)(z), F.S.

<sup>20</sup> Section 461.003, F.S.

<sup>21</sup> Sections 465.003(13), and 465.0155, F.S.

<sup>22</sup> Section 490.003(4), F.S.

<sup>23</sup> Section 491.003, F.S.

<sup>24</sup> Section 466.003(3), F.S.

<sup>25</sup> Section 463.005(1)(a), F.S.

<sup>26</sup> Section 463.002(7), F.S.

toileting and elimination; assistive devices; safety and cleanliness; data gathering; reporting abnormal signs and symptoms; postmortem care; patient socialization and reality orientation; end-of-life care; cardiopulmonary resuscitation and emergency care; patients' rights; documentation of nursing-assistant services; and other tasks that a CNA may perform after training.<sup>27</sup>

The BON issues certificates to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write, successfully passes the required background screening, and demonstrates:

- Successfully completed an approved training program and achieved a minimum score;
- Has achieved a minimum score, on the nursing assistant competency examination, and:
  - Has a high school diploma, or its equivalent; or
  - Is at least 18 years of age.
- Is currently certified in another state and has not been found to have committed abuse, neglect, or exploitation in that state; and
- Has completed the curriculum developed under the Enterprise Florida Jobs and Education Partnership Grant and achieved a minimum score.<sup>28</sup>

Section 464.204, F.S., related to denial, suspension or revocation of a CNA certification, sets forth the grounds for the BON to discipline a CNA. Two acts constitute grounds for which the board may impose disciplinary sanctions: (a) Obtaining or attempting to obtain certification or an exemption, or possessing or attempting to possess certification or a letter of exemption, by bribery, misrepresentation, deceit, or through an error of the board; and (b) intentionally violating any provision of ch. 464, F.S., ch. 456, F.S., or the rules adopted by the board. When pursuing discipline against a CNA, the DOH must be prepared to prove that the CNA “intentionally” violated the law or rule, which is a difficult bar to meet, especially in cases of proving intent or negligence.

The BON can only approve applications for licensure by endorsement from currently licensed CNAs in other states. If a CNA from a U.S. territory or the District of Columbia wishes to be licensed in Florida, he or she must apply for licensure by examination instead of endorsement.<sup>29</sup>

### Pharmacy Permits

There are currently seven types of pharmacies eligible for various operating permits issued by the DOH:

- Community pharmacy;<sup>30</sup>
- Institutional pharmacy;<sup>31</sup>

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<sup>27</sup> Section 464.201, F.S.

<sup>28</sup> Section 464.203, F.S.

<sup>29</sup> *Id.*

<sup>30</sup> The term “community pharmacy” includes every location where medicinal drugs are compounded, dispensed, stored, or sold or where prescriptions are filled or dispensed on an outpatient basis. *See* ss. 465.003(11)(a)1. and 465.018, F.S.

<sup>31</sup> *See* ss. 465.003(11)(a)2. and 465.019, F.S.

- Nuclear pharmacy;<sup>32</sup>
- Special pharmacy;<sup>33</sup>
- Internet pharmacy;<sup>34</sup>
- Non-resident sterile compounding pharmacy;<sup>35</sup> and
- Special sterile compounding pharmacy.<sup>36</sup>

There is currently no statutory language relating to in-state sterile compounding policies and procedures. Regulation exists in the Board of Pharmacy (BOP) rules governing in-state and nonresident pharmacies and outsourcing facilities which prepare sterile compounded drug products.<sup>37</sup>

The DOH has authority to inspect any community pharmacy,<sup>38</sup> hospital, clinic, wholesale establishment, manufacturer, physician's office, or any other place in the state in which drugs and medical supplies are compounded, manufactured, packed, packaged, made, stored, sold, offered for sale, exposed for sale, or kept for sale for the purpose of:

- Determining if any provision of ch. 465, F.S., or any rule is being violated;
- Securing samples or specimens of any drug or medical supply after paying or offering to pay for such sample or specimen; or
- Securing such other evidence as may be needed for prosecution under ch. 465, F.S.<sup>39</sup>

Currently, s. 465.018, F.S., requires a pharmacy permit applicant to pass an on-site inspection as a prerequisite for the issuance of any initial permit or change of location for a community pharmacy. Physical inspections are conducted and required for all pharmacies licensed by the BOP to ensure that these facilities are operating pursuant to statutory rules and guidelines and meet minimum requirements for safe practice. Other pharmacy facilities which require inspections are: institutional; nuclear; special; and internet. The BOP also has adopted a rule which provides that the passing of an on-site inspection is a prerequisite to the issuance of a new pharmacy permit for community, institutional, nuclear, special, or internet pharmacies, whether based on an initial application, change of ownership, or change of address.<sup>40</sup>

<sup>32</sup> The term "nuclear pharmacy" includes every location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold. The term "nuclear pharmacy" does not include hospitals licensed under chapter 395 or the nuclear medicine facilities of such hospitals. *See* ss. 465.003(11)(a)3. and 465.0193, F.S.

<sup>33</sup> The term "special pharmacy" includes every location where medicinal drugs are compounded, dispensed, stored, or sold if such locations are not otherwise defined in this subsection. *See* ss. 465.003(11)(a)4. and 465.0196, F.S.

<sup>34</sup> The term "internet pharmacy" includes locations not otherwise licensed or issued a permit under this chapter, within or outside this state, which use the Internet to communicate with or obtain information from consumers in this state and use such communication or information to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in this state. *See* ss. 465.003(11)(a)5. and 465.0197, F.S.

<sup>35</sup> The term "nonresident sterile compounding pharmacy" includes a pharmacy that ships, mails, delivers, or dispenses, in any manner, a compounded sterile product into Florida, a nonresident pharmacy registered under s. 465.0156, or an outsourcing facility, must hold a nonresident sterile compounding permit *See* s. 465.0158, F.S.

<sup>36</sup> *See* Rules 64B16-2.100 and 64B16-28.802, F.A.C. An outsourcing facility is considered a pharmacy and needs to hold a special sterile compounding permit if it engages in sterile compounding.

<sup>37</sup> *See* Rules 64B16-27.700, 64B16-27.797, 64B16-28.100(7), and 64B16-28.802, F.A.C., govern in-state sterile compounding pharmacies and outsourcing facilities; and Rules 64B16-32.007, 64B16-32.009, 64B16-32.011, 64B16-32.013, and 64B16-32.015, F.A.C., governing nonresident sterile compounding pharmacies and outsourcing facilities.

<sup>38</sup> *See supra* note 64.

<sup>39</sup> Section 465.017, F.S.

<sup>40</sup> *See* Rule 64B16-28.100(1)(d), F.A.C.

## **Dentistry, Dental Hygiene and Dental Laboratories**

### ***Licensure Examinations for Dentists and Dental Hygienists***

Section 466.004, F.S., establishes the Board of Dentistry (BOD) within the DOH to regulate the practice of dentistry and dental hygiene. The requirements for licensure by examination are found in s. 466.006, F.S. The Legislature authorized the BOD to use the American Dental Licensing Examination (ADLEX), developed by the American Board of Dental Examiners, Inc., in lieu of an independent state-developed practical or clinical examination. Section 466.007, F.S., also requires a dental hygiene applicant to pass the American Dental Hygiene Licensing Examination (ADHEX) developed by the American Board of Dental Examiners, Inc.

Sections 466.006(4)(b), and 466.007(4)(b), F.S., require that the ADEX examination for dentists, and the ADHEX examination for hygienists, be graded by Florida licensed dentists, and dentists and hygienists, respectively, and employed by the DOH for this purpose. This language refers to requirements that were necessary when the ADEX and ADHEX examinations was purchased and administered by the DOH. Since the BOD has now certified national examinations for both dentists and hygienists, this requirement is now obsolete.

According to the DOH, by limiting the grading to Florida-only licensed dentists and hygienists, it created a shortage of dentists and hygienists available to grade the examinations; thus, jeopardizing the administration of the ADEX and the ADHEX.<sup>41</sup>

### ***Adverse Incident Reporting in the Practice of Dentistry***

Currently there is no statutory requirement for dentists or dental hygienists to report adverse incidents or occurrences in office practice settings. The BOM and BOOM have specific statutory authority to require licensees to report adverse incidents in office practice settings.<sup>42</sup>

The BOD, by rule, defines an “adverse occurrence”; and specifies the requirements for reporting them. The rule specifies that an adverse occurrence in a dental office must be reported to the BOD within 48 hours, followed by a more specific written report within 30 days. These reports are forwarded to the Chair of the Probable Cause Panel to determine if further investigation is necessary. If further investigation is warranted, the report and recommendation are forwarded to the MQA Consumer Services Unit (CSU) for further investigation. All reported mortalities occurring in a dental office are forwarded to the CSU for investigation. The rule does not provide a penalty for failure to report an adverse occurrence.<sup>43</sup> According to the DOH, this lack of penalty for failure to report an adverse occurrence may result in the under reporting of the incidents in the dental office practice setting.<sup>44</sup>

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<sup>41</sup> *Supra* note 1.

<sup>42</sup> Sections 458.351 and 459.026, F.S.

<sup>43</sup> Rule 64B5-14.006, F.A.C.,

<sup>44</sup> *See supra* note 78.

### ***Dental Laboratories***

Section 466.031, F.S., defines a *dental laboratory* to include any person, firm, or corporation who, for a fee or gratuitously, manufactures artificial substitutes for natural teeth, or who furnishes, supplies, constructs, reproduces or repairs any prosthetic denture, bridge, or appliance to be worn in the human mouth, or who holds itself out as a dental laboratory. The definition specifically excludes a dental laboratory technician who constructs or repairs dental prosthetic appliances in the office of a licensed dentist, for that dentist only, and under her or his supervision and work order.

Section 466.032, F.S., also sets forth the registration and biennial registration renewal for a dental laboratory; and directs the DOH to issue a certificate upon payment of a fee which entitles the holder to operate a dental laboratory for a period of two years. Section 466.032, F.S., also sets forth the requirements for a periodic inspection of dental laboratories for required equipment and supplies, mandates 18 hours of continuing education, biennially, for the dental lab owner or at least one employee which must be programs of learning that contribute directly to the education of the dental technician; and establishes disciplinary guidelines for violations.

According to the DOH, there are 954 dental labs as of June 30, 2017.<sup>45</sup> Since 2012, there have been six administrative complaints filed in Florida against dental laboratories; of which four resulted in disciplinary cases. In one case the lab refused an inspection; and the other three were either unsanitary conditions, failure to take continuing education for renewal, or record keeping violations. In that same time period, just four citations were issued for minor violations.<sup>46</sup>

### ***Athletic Trainers***

An athletic trainer is defined in part XIII of ch. 468, F.S., as a person licensed under this part. An individual who is licensed as an athletic trainer may not provide, offer to provide, or represent that he or she is qualified to provide any care or services that he or she lacks the education, training, or experience to provide, or that he or she is otherwise prohibited by law from providing.

Section 468.073, F.S., establishes the Board of Athletic Trainers within the DOH to regulate the practice of athletic trainers in Florida. Applicants for licensure as an athletic trainer are required to:

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<sup>45</sup> *Supra* note 1.<sup>46</sup> *Id.*<sup>47</sup> The Board of Certification, Inc. (BOC) was incorporated in 1989 as a not-for-profit credentialing agency to provide a certification program for the entry level athletic training profession. The BOC establishes both the standards for the practice of athletic training and the continuing education requirements for BOC Certified Athletic Trainers (ATs). The BOC also works with state regulatory agencies to provide credential information, professional conduct guidelines and regulatory standards on certification issues. The BOC also has the only accredited certification program for ATs in the United States and has mutual recognition agreements with Canada and Ireland. *See* Board of Certification for the Athletic Trainer, *Who is the BOC?* available at <http://www.bocatc.org/about-us#what-is-the-boc> (last visited Jan. 25, 2018).

<sup>46</sup> *Id.*<sup>47</sup> The Board of Certification, Inc. (BOC) was incorporated in 1989 as a not-for-profit credentialing agency to provide a certification program for the entry level athletic training profession. The BOC establishes both the standards for the practice of athletic training and the continuing education requirements for BOC Certified Athletic Trainers (ATs). The BOC also works with state regulatory agencies to provide credential information, professional conduct guidelines and regulatory standards on certification issues. The BOC also has the only accredited certification program for ATs in the United States and has mutual recognition agreements with Canada and Ireland. *See* Board of Certification for the Athletic Trainer, *Who is the BOC?* available at <http://www.bocatc.org/about-us#what-is-the-boc> (last visited Jan. 25, 2018).

- Submit to a background screening;
- Have a baccalaureate or higher degree from a college or university in professional athletic training, accredited by the Commission on Accreditation of Athletic Training Education and to have passed the national examination to be certified by the Board of Certification (BOC)<sup>47</sup> for Athletic Trainers;
- Have a current certification from the BOC, if they graduated before 2004.<sup>48</sup>
- Have current certifications in cardiopulmonary resuscitation (CPR) and the use of an automated external defibrillator (AED).

An athletic trainer must practice under the direction of a physician licensed under chs. 458, 459, or 460, F.S., or otherwise authorized by Florida law to practice medicine. The physician must communicate his or her direction through oral or written prescriptions or protocols for the provision of services and care by the athletic trainer; and the athletic trainer must provide service or care as dictated by the physician.<sup>49</sup>

The Board of Athletic trainers is authorized to adopt rules to implement the provisions of part XIII, ch. 468, F.S. Such rules must include, but are not limited to:

- The allowable scope of practice regarding the use of:
  - Equipment;
  - Procedures; and
  - Medication;
- Mandatory requirements and guidelines for communication between the athletic trainer and a physician, including the reporting to the physician of new or recurring injuries or conditions;
- Licensure requirements;
- Licensure examination;
- Continuing education requirements;
- Fees;
- Records and reports to be filed by licensees;
- Protocols; and
- Any other requirements necessary to regulate the practice of athletic training.<sup>50</sup>

At renewal licensed athletic trainers must demonstrate a current BOC certification; however, there is no requirement for that certification to be held without lapse and in good standing.<sup>51</sup>

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<sup>47</sup> The Board of Certification, Inc. (BOC) was incorporated in 1989 as a not-for-profit credentialing agency to provide a certification program for the entry level athletic training profession. The BOC establishes both the standards for the practice of athletic training and the continuing education requirements for BOC Certified Athletic Trainers (ATs). The BOC also works with state regulatory agencies to provide credential information, professional conduct guidelines and regulatory standards on certification issues. The BOC also has the only accredited certification program for ATs in the United States and has mutual recognition agreements with Canada and Ireland. *See* Board of Certification for the Athletic Trainer, *Who is the BOC?* available at <http://www.bocatc.org/about-us/what-is-the-boc> (last visited Jan. 25, 2018).

<sup>48</sup> Prior to 2004, and the inception of athletic training programs, athletic trainers obtained training through a Board of Certification (BOC) internship program to obtain licensure in Florida. Current law does not allow athletic trainers who obtained training through the BOC internship program to become licensed in Florida.

<sup>49</sup> Section 468.713, F.S.

<sup>50</sup> Section 468.705, F.S.

<sup>51</sup> Section 468.711, F.S.

## Orthotics, Prosthetics, and Pedorthics

Section 468.801, F.S., establishes the Board of Orthotists and Prosthetists within the DOH to regulate and license the practice of Prosthetist-Orthotist, Prosthetist, Orthotist, Pedorthist, Orthotic Fitter and Orthotic Fitter Assistant in Florida. *Orthotics* means the practice of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of an orthosis or pedorthic device.<sup>52</sup> *Prosthetics* means the practice of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of a prosthesis.<sup>53</sup> *Pedorthics* means the practice of evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of a pedorthic device.<sup>54</sup>

Applicants for licensure under part XIV, ch. 468, F.S., must:

- Submit an application and fee, not to exceed \$500,
- Submit fingerprints for background screening;
- Submit the cost of the state and national criminal background checks;
- Be of good moral character;
- Be 18 years of age or older; and
- Have completed the appropriate educational preparation requirements.<sup>55</sup>

Licenses must be granted independently in orthotics, prosthetics, or pedorthics, but a person may be licensed in more than one discipline. A prosthetist-orthotist license may be granted to persons meeting the requirements for both a prosthetist and an orthotist license. Persons seeking to obtain the required orthotics or prosthetics experience in the state must be approved by the board and registered as a resident by the DOH. A registration may be held in both practice fields, but the board may not approve a second registration until at least one year after the issuance of the first registration.<sup>56</sup> Currently a dual registration is not authorized.

## Massage Therapy

Section 480.035, F.S., establishes the Board of Massage Therapy within the DOH to license and regulate the practice of massage therapy in Florida. Individuals seeking an initial massage therapy license in Florida have two options for meeting the educational requirements:

- They may attend an approved program at a massage therapy school, completing 500 hours of classroom training; or
- They can apprentice under a licensed massage therapist for a period of one year. During that year, the sponsor of the massage apprentice is required to file quarterly reports and the apprentice must complete the following course of study:
  - 300 hours of Physiology;

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<sup>52</sup> Section 468.80(9), F.S.

<sup>53</sup> Section 468.80(15), F.S.

<sup>54</sup> Section 468.80(12), F.S.

<sup>55</sup> Section 468.803, F.S.

<sup>56</sup> *Id.*



- 300 hours of Anatomy;
- 20 hours of Theory and History of Massage;
- 50 hours of Theory and Practice of Hydro-Therapy;
- 5 hours of Hygiene;
- 25 hours of Statutes and Rules of Massage Practice;
- 50 hours of Introduction to Allied Modalities;
- 700 hours of Practical Massage; and
- 3 hours of Board-approved HIV/AIDS instruction.<sup>57</sup>

Any person may obtain a license to practice as a massage therapist if he or she:

- Submits an application and fee;
- Is at least 18 years of age;
- Has received a high school diploma or high school equivalency diploma;
- Submits to background screening;
- Has completed a course of study at a board-approved massage school or has completed an apprenticeship program that meets standards adopted by the board;
- Has received a passing grade on an examination administered by the DOH.<sup>58</sup>

Rule 64B7-25.001(2), F.A.C., lists five national exams which are approved by the board. The exam currently taken by applicants is the National Examination for State Licensure option administered by the National Certification Board for Therapeutic Massage and Bodywork. The DOH does not offer or administer a specific state licensure exam.<sup>59</sup> According to the DOH, there are 172 licensed massage schools in Florida, which train 2,076 new licensees by examination licensed in the 2016-2017 fiscal year. Of those, only 15 came through the Florida apprenticeship program.

In addition to massage therapists, the Board of Massage Therapy also licenses apprentices in colonic hydrotherapy.<sup>60</sup> These individuals are either attending a massage therapy school that does not offer colonics; or are licensed massage therapists who are seeking to add colonic hydrotherapy to their practice. Since there are few schools in the state that offer a colonic hydrotherapy program, apprenticeships are the primary method of training for this service.<sup>61</sup> According to the DOH, there are 87 currently licensed massage apprentices apprenticing for a colonic hydrotherapy upgrade to their license.<sup>62</sup>

The Board of Massage Therapy also licenses massage establishments and under s. 480.046(3), F.S. The board is authorized to revoke or suspend the license of an establishment upon proof that the license was obtained through fraud or misrepresentation, or upon proof of fraud, deceit, gross negligence, incompetency, or misconduct in the operation of the establishment. The board may deny the subsequent licensure of such an establishment if they reapply using the same business name. However, the board is not authorized to deny the same owner a license under a new name,

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<sup>57</sup> Rule 64B7-29.003, F.A.C.

<sup>58</sup> Section 480.041, F.S.

<sup>59</sup> *Id.*

<sup>60</sup> *Colonic hydrotherapy* is a method of colon irrigation used to cleanse the colon with the aid of a mechanical device and water. See s. 480.033(6), F.S.

<sup>61</sup> Rule 64B7-29.007, F.A.C.

<sup>62</sup> *Supra* note 1.

or as a different business entity type, even if it is being opened at the same location with the same employees. Additionally, the board has no specific authority to act against a massage establishment's license even if the owner and employees, while onsite, have been convicted of prostitution and related acts.

### **The Practice of Psychology**

Section 490.004, F.S., creates the Board of Psychology within the DOH to license and regulate the practice of psychologists in Florida. The practice of psychology is defined as the observations, description, evaluation, interpretation, and modification of human behavior, by the use of scientific and applied psychological principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal behavioral health and mental or psychological health.<sup>63</sup>

Licensure as a psychologist under ch. 490, F.S., requires a doctoral degree in psychology from an educational institution, which at the time the applicant was enrolled and graduated, held institutional accreditation from an approved agency and programmatic accreditation from the American Psychological Association (APA).

Section 490.003(3)(a), F.S., refers to educational requirements in effect prior to July 1, 1999, and are no longer applicable. The outdated language could create confusion among applicants as to the current educational requirements, which are correctly defined in s. 490.003(3)(b), F.S. Section 490.003(3)(b), F.S., generically refers to programs approved and recognized by the U.S. Department of Education. The only accrediting agency recognized by the United States Department of Education to provide programmatic accreditation for doctoral psychology programs is the American Psychological Association (APA).

Section 490.005, F.S., also refers to requirements in effect prior to July 1, 1999, which are no longer applicable to augment a deficient education or show comparability to the current educational requirements. This section also includes an outdated reference to the American Psychological Association accrediting programs in Canada. Currently, a Canadian graduate cannot show comparability to an APA accredited program.

Section 490.005(2)(b)1., F.S., refers to school psychology applicants graduating from a college or university accredited and approved by the Commission on Recognition of Postsecondary Accreditation; however, the correct reference is to the Council for Higher Education Accreditation.

Section 490.006, F.S., related to licensure in Florida as a psychologist by endorsement, requires specific education, and a license in another jurisdiction, provided that when the applicant secured such license or certificate, the requirements were substantially equivalent to or more stringent than those set forth in ch. 490, F.S., at that time; and, if no Florida law existed at that time, then the requirements in the other state must have been substantially equivalent to or more stringent than those set forth in ch. 490, F.S., at the present time. Further, the applicant must have 20 years of experience as a licensed psychologist in any jurisdiction or territory of the United States

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<sup>63</sup> Section 490.003(4), F.S.

within the 25 years preceding the date of application. Obtaining licensure under the current endorsement standards may be difficult as it requires a law-to-law comparison and applicants who otherwise might qualify for licensure may be denied; or have licensure delayed until they select a different application method.

### **Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling**

Section 491.004, F.S., creates the Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling within the DOH to ensure that every clinical social worker, marriage and family therapist, and mental health counselor practicing in this state meets minimum requirements for safe practice. The Florida Board of Clinical Social Work, Marriage & Family Therapy and Mental Health Counseling is responsible for licensing, monitoring, disciplining and educating clinical social workers, marriage and family therapists, and mental health counselors to assure competency and safety to practice in Florida.

Section 491.005, F.S., sets out the educational and examination requirements for a clinical social worker, marriage and family therapist, and mental health counselor to obtain a license by examination in Florida. An individual applying for licensure by examination who has satisfied the clinical experience requirements s. 491.005, F.S. or an individual applying for licensure by endorsement pursuant to s. 491.006, F.S., intending to provide clinical social work, marriage and family therapy, or mental health counseling services in Florida, while satisfying coursework or examination requirements for licensure must obtain a provisional license in the profession for which he or she is seeking licensure prior to beginning practice.<sup>64</sup>

An individual who has not satisfied the postgraduate or post-master's level experience requirements of s. 491.005, F.S., must register as an intern in the profession for which he or she is seeking licensure before commencing the post-master's experience requirement. An individual who intends to satisfy part of the required graduate-level practicum, internship, or field experience, outside the academic arena for any profession, must register as an intern in the profession for which he or she is seeking licensure before commencing the practicum, internship, or field experience.<sup>65</sup>

Section 491.0045(6), F.S., specifies the length of time an intern registration for clinical social work, marriage and family therapy and mental health counseling is valid. A footnote to this section, points out that through multiple amendatory acts to s. 491.0045(6), F.S., during the same legislative session, two irreconcilable versions of the section were created, and the editors were thus required to publish both versions of the amended provision.

Section 491.0045(6), F.S., states: "An intern registration issued on or before March 31, 2017, expires March 31, 2022, and may not be renewed or reissued. A registration issued after March 31, 2017, expires 60 months after the date of issuance. No subsequent intern registration may be issued unless the candidate has passed the theory and practice examination described in s. 491.005(1)(d), (3)(d), and (4)(d)." The footnote refers to an April 1 date.

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<sup>64</sup> Section 491.046, F.S.

<sup>65</sup> Section 491.0045, F.S.

Section 491.005(3)(b), F.S., related licensure by examination for marriage and family therapists, requires:

- A master's degree with major emphasis in marriage and family therapy, or a closely related field;
- Specific coursework in 12 content areas; and
- A practicum, internship or field experience of 180 hours providing direct client contact hours of marriage and family services under the supervision of a licensed marriage and family therapist with at least five years of experience.

According to the DOH, the specific course work requirement must be an exact match and may delay an applicant's licensure.<sup>66</sup>

Section 491.005(3)(c), F.S., contains an inconsistency as it requires both two years, and three years of clinical experience, for a marriage and family therapy licensure applicant. According to the DOH the three years of clinical experience was a technical error and is inconsistent with other statutory requirements. Only two years of clinical experience for a marriage and family therapy applicant is required.<sup>67</sup>

Section 491.005(4), F.S., related licensure by examination for mental health counselors, names the Professional Examination Service for the National Academy of Certified Clinical Mental Health Counselors as the required examination for a mental health counselor. The correct name of the examination required for licensure as a mental health counselor is the National Clinical Mental Health Counseling Examination. The examination was developed, and is administered by, the National Board for Certified Counselors.

Section 491.005(4), F.S., also contains a 300-hour difference between the hours of practicum, internship or field experience required for graduates from a Council for Accreditation of Counseling & Related Educational Programs (CACREP) and non-CACREP graduates. A mental health counselor applicant who graduated from a program not accredited by CACREP is currently required to complete 1,000 hours of practicum, internship, or field experience. An MHC applicant who graduated from a CACREP accredited program is required to meet the CACREP standards to complete 700 hours of practicum/internship.

Section 491.006, F.S., licensure or certification by endorsement, requires an applicant for licensure by endorsement in the practice of clinical social work, marriage and family therapy, or mental health counseling to demonstrate to the board that he or she:

- Has knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling;
- Holds an active valid license to practice, and has actively practiced the profession for which licensure is applied in another state for three of the last five years immediately preceding licensure;
- Meets the education requirements of the ch. 491, F.S., for the profession for which licensure is applied;

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<sup>66</sup> *Supra* note 1.

<sup>67</sup> *Id.*

- Has passed a substantially equivalent licensing examination in another state, or has passed the licensure examination in this state in the profession for which the applicant seeks licensure;
- Holds a license in good standing;
- Is not under investigation for an act that would constitute a violation of ch. 491, F.S.; and
- Has not been found to have committed any act that would constitute a violation of ch. 491, F.S.

For an applicant for licensure by endorsement under ch. 491, F.S., to satisfy the education requirements of s. 491.005, F.S., specific particular course work, rather than a degree from an accredited school or college, or proof of licensure in another state is required. The endorsement applicant must show proof they completed certain statutorily specified courses, which may not have been available at the time he or she graduated. The current law places barriers to licensure on endorsement applicants by requiring many of them to complete additional courses, often difficult to obtain when the application is a not full-time graduate student, to qualify for licensure in Florida.

Section 491.007(3), F.S., provides for the renewal of a license, registration, or certificate for clinical social workers, marriage and family therapists, and mental health counselors; and gives the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling rulemaking authority to prescribe the requirements for renewal of an intern registration. Section 491.0045(6), F.S., now addresses renewal of an intern registration, rulemaking authority is no longer necessary.

Section 491.009, F.S., sets out what acts by a clinical social work, marriage and family therapist, or mental health counselor constitute grounds for discipline, or denial of licensure. However, s. 491.009(2), F.S., incorrectly references psychologists, who are not licensed under ch. 491, F.S.; and does not include the DOH regulated certified master social worker profession.

### **III. Effect of Proposed Changes:**

#### **Section 1: The Conrad 30 Program**

The bill amends s. 381.4018, F.S., to require the DOH to adopt rules, following the federal requirements, to implement the Conrad 30 Program to further encourage qualified physicians to relocate to Florida and practice in underserved areas. This rulemaking authority allows the DOH to establish criteria beyond the federal minimum requirements and prioritize applications, thereby placing physicians in areas of highest need. Criteria could include practicing in federally designated underserved areas with the greatest need; practicing primary care; practicing in specific areas of the state, such as rural locations; and serving a higher percent of Medicaid and sliding fee scale patients.

#### **Section 2: The DOH General Licensing Provisions**

The bill amends s. 456.013, F.S., to eliminate obsolete language regarding applying to the DOH to take an examination. It also adds the date of birth as a required element on the application, allowing the DOH better confirmation of a criminal background check.

**Section 3: United States Members of the Armed Forces, Spouses and Florida Licensure**

The bill amends s. 456.024, F.S., to allow a dentist to be eligible for expedited licensure as a health care practitioner in this state if he or she is a health care practitioner in another state, the District of Columbia, a possession or territory of the United States; is the spouse of a person serving on active duty with the United States Armed Forces, meets the standards required in s. 456.024, F.S., and files an application. This is similar to other healthcare professions previously authorized by the Legislature. The bill also eliminates the requirement for a dentist holding a temporary license to practice under the indirect supervision of a dentist licensed under ch. 466, F.S.

**Section 4: Medical Specialists**

Section 458.3312, F.S., relating to holding oneself out as a medical specialists, repeals the requirement that the Board of Medicine conduct a review of organizations that board certify physicians in dermatology every three years for a physician to hold himself or herself out as board-certified in dermatology.

**Section 5: Chiropractic Continuing Education**

Section 460.408, F.S., is amended to define a “contact classroom hour” as a presentation in which the persons presenting, and the persons attending, the course are present on site. The bill also authorizes chiropractic physicians to take up to 10 general hours of CE online, if the on line courses are competency based, and use the Sharable Content Objective Reference Model standard, or more stringent standards, as determined by the board.

**Section 6: Registered Chiropractic Assistants**

The bill repeals s. 460.4166, F.S., and deregulates the Registered Chiropractic Assistants profession as the duties performed are not directly related to patient safety and the registration is voluntary.

**Sections 7, 8, 9, and 10: BON Rulemaking Authority and Certified Nursing Assistants**

The bill amends ss. 464.006 and 464.202, F.S., related to rulemaking, duties, and powers of the BON, to authorize the BON to create rules detailing standards of care for its licensees, which include: ARNPs; clinical nurse specialists; RNs; LPNs; and CNAs.

The bill authorizes the BON to grant licenses by endorsement for CNA applicants with certifications in U.S. territories or Washington, D.C. This will expedite licensure for CNAs because the applicant would no longer have to apply for licensure by examination.

The bill amends s. 464.204, F.S., to eliminate the element of intent to violate the laws or rules relating to CNAs which will align CNA prosecution with the law for disciplining registered nurses and licensed practical nurses.

**Section 11, 12, 13, 14, and 15: Pharmacy Permits**

The bill amends ss. 465.019, 465.0193, 465.0196, and 465.0197, F.S., to require institutional, nuclear, special, and internet pharmacies to pass an on-site inspection as a pre-requisite for an initial permit or change of location. This language conforms statutes pertaining to institutional, nuclear, special, and internet pharmacies to make them consistent with the current law pertaining to community pharmacies.

The bill creates s. 465.0195, F.S., to provide statutory requirements for the issuance of sterile compounding permits for in-state patient specific or outsourcing facilities. Currently permitting in-state sterile compounding pharmacies and outsourcing facilities is governed by rule. The new section creates a statutory framework for issuing in-state sterile compounding permits to pharmacies or outsourcing facilities which are similar to existing statutory language for nonresident pharmacies and outsourcing facilities located in s. 465.0158, F.S.

**Section 16, 17, 18, 19 and 20: Dentistry, Dental Hygiene and Dental Laboratories**

The bill amends ss. 466.006 and 466.007, F.S., to eliminate obsolete requirements that the ADEX be graded by dentists, and the ADHEX examination for dental hygienists, be graded by dentists and dental hygienists licensed in Florida and employed by the DOH for such purpose.

The bill creates s. 466.017, F.S., to require dentists to report adverse incidents to the DOH, which is now only required by board rule. The mandatory reporting of adverse incidents is critical in the board's oversight of the safe use of sedation in the practice of dentistry. This new section requires the reporting of deaths, or any incident that results in the temporary or permanent physical or mental injury that requires hospitalization or emergency room treatment of a dental patient that occurred during or as a result of the use of anesthesia or sedation, and creates grounds for discipline for the failure to report an adverse incident.

The definition of "dental laboratory" in s. 466.031, F.S., is amended to include a person who provides onsite consultation during dental procedures.

Section 466.036, F.S., is amended to require a dental laboratory to be inspected at least biennially.

**Sections 21, 22, 23 and 24: Athletic Trainers**

The bill amends s. 468.701, F.S., to include within the definition of athletic trainer that he or she must work within the scope of practice as established within rules established by the board. This change limits the potential that an athletic trainer will attend opportunities that are not board approved for safe practice and will incorporate those practices into his or her practice.

This bill amends the licensure requirements for an athletic trainer to create a new licensure pathway for applicants who hold a bachelor's degree and have completed the BOC internship program and hold a current certification from the BOC to become licensed in Florida.

This bill amends in s. 468.711, F.S., relating to license renewal requirements, to require an athletic trainer to maintain his or her BOC certification in good standing without lapse. Licensees will have to demonstrate continuous good standing BOC certification at the time of renewal. This bill gives the Board of Athletic Training rule making authority to further define the supervision between an athletic training student and a licensed athletic trainer, rather than relying on compliance with standards set by an external entity.

### **Section 25: Orthotics, Prosthetics, and Pedorthics**

The bill amends s. 468.803, F.S., to authorize the DOH to issue a joint registration in orthotics and prosthetics as a dual registration rather than requiring separate registrations; and to recognize the dual residency program and educational requirements for dual registration.

### **Section 26, 27, 28, and 29: Massage Therapy**

This bill amends the definition of “apprentice” in s. 480.033(5), F.S., to eliminate the statutory authority for massage therapy apprenticeships, except for apprentices studying colonic hydrotherapy. The bill allows apprentices licensed before the effective date of the bill, July 1, 2018, to maintain their apprentice license until its expiration date, but no later than July 1, 2021, and to qualify for licensure based on that apprenticeship.

In addition, this bill amends s. 480.041, F.S., to specify that the licensure examination is a national examination designated by the Board of Massage Therapy, not an examination administered by the board. The bill repeals s. 480.042, F.S., relating to a massage therapy examination by the board which is obsolete.

The bill amends s. 480.046(3), F.S., to strengthen the grounds for disciplinary action by the board against a licensed massage establishment to include actions by an owner or a repeat offender. The bill adds:

- That an establishment license may also be suspended or revoked, or a subsequent license application denied, if the owner or therapists at the massage establishment have cumulatively committed three or more crimes in any jurisdiction related to prostitution, as defined in s. 796.07, F.S.;
- That an establishment disciplined under s. 480.046(3), F.S., cannot apply for re-licensure unless there is a change of ownership; and
- That the board may deny the license of an establishment if its owner has previously had a license revoked under s. 480.046(3), F.S.

### **Section 30, 31, 32 and 39: The Practice of Psychology**

The bill amends s. 490.003, F.S., to eliminate outdated language in s. 490.003(3)(a), F.S., which specifies educational requirements for licensure as a psychologist in effect prior to July 1, 1999.

The bill amends, and renumbers, s. 490.003(3)(b), F.S., to delete the generic reference to programs accredited by an agency recognized and approved by the U.S. Department of Education, and inserts a specific reference to the American Psychological Association (APA), the only accrediting agency recognized by the U.S. Department of Education to provide



programmatic accreditation for doctoral psychology programs. A specific reference to the APA clarifies current education requirements. It does not impose any new requirements.

The bill amends s. 490.005, F.S., relating to licensure by examination for psychologists. The bill eliminates the specific reference to Canada, which will allow applicants who obtained their education outside the U.S. to demonstrate they have an education comparable to an APA program.

The bill removes outdated language referencing an augmented or comparable doctoral education pathway. The ability of applicants who obtained their degree in the U.S., to augment an insufficient degree or show comparability to an APA accredited program, is no longer available.

The bill eliminates an outdated reference to the school psychology educational accrediting agency, Commission on Recognition of Postsecondary Accreditation; and updates the reference with the successor agency, Council for Higher Education Accreditation.

The bill amends s. 490.006, F.S., related to a psychologist licensure by endorsement, to eliminate the requirement that the licensing provisions of the other state must have been substantially equivalent to, or more stringent than, those of either the law in Florida at the time they obtained their out-of-state license, or the current Florida law. The bill reduces from 20 years of licensed psychology experience, to 10 years of experience, within the 25 years preceding the date of application. By amending these provisions, licensure of qualified applicants will be expedited, making more professionals available to patients sooner.

### **Sections 33, 34, 35, 36, 37 and 38: Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling**

The bill amends s. 491.0045, F.S., to clarify conflicting language passed in the same legislative session, and to allow the board to make a one-time exception for an intern registration after March 31, 2022, for emergency or hardship cases, as defined by board rule, if the candidate has passed the theory and practice examination described in s. 491.055(1)(d), (3)(d) and (4)(d), F.S.

The bill amends s 491.005, F.S., related to licensure by examination for marriage and family therapists, to require:

- A master's degree with major emphasis in marriage and family therapy from a program accredited by the Commission of Accreditation for Marriage and Family Therapy Education (CAMFTE), or
- A master's degree with major emphasis in marriage and family therapy from a Florida university program accredited by the CACREP, or
- The equivalent, as determined by board rule.

The bill eliminates the requirement for marriage and family therapists to complete 12 specific content areas, and 180 practicum hours. This change would simplify the education review process, eliminate the course requirement review, and expedite licensure.

The bill also amends s. 491.005(3)(c), F.S., to correct a technical discrepancy in the number of years of clinical experience required for a marriage and family therapist applicant, from three years to two years.

The bill amends s. 491.005(4), F.S., for mental health counseling applicants, to update the name of the examination to be taken by a mental health counselor applicant. The bill further amends s. 491.005(4)(b)1.c., F.S., to reduce the number of practicum, internship, or field experience hours for those applicants who graduated from a non-CACREP accredited program from 1,000 hours to 700 hours, bringing them in line with graduates from CACREP accredited programs. This promotes regulatory efficiency and makes licensure requirements more balanced between the two programs.

The bill amends s. 491.006, F.S., related to licensure or certification by endorsement for applicants for licensure in clinical social work, marriage and family therapy, or mental health counseling, to remove the requirement for endorsement applicants to meet the same educational requirements required of new applicants, provided the applicant for endorsement meets the requirement to have an active, valid license and have actively practiced the profession in another state for three of the last five years. This change will increase licensure portability for applicants applying by endorsement for licensure as marriage and family therapists in Florida.

The bill amends s. 491.007, F.S., related to renewal of a license, registration, or certificate, to delete obsolete rulemaking authority regarding intern registration renewal.

The bill amends s. 491.009(2), F.S., related to discipline, to delete an inaccurate reference to psychologists, who are licensed under ch. 490, F.S.; and to add the profession of certified master social worker, who are licensed under ch. 491, F.S. The bill also corrects reference to whether it is the board or the DOH with authority to take disciplinary action for certain violations. By adding certified master social worker to this provision, it gives the DOH authority to enter an order denying licensure to a certified master social worker, or imposing discipline against any certified master social worker who is found guilty of violating any provision in ch. 491, F.S.

The bill also makes technical amends to ss. 491.0046, and 945.42, F.S., to conform cross-references.

The bill takes effect July 1, 2018.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The elimination of the requirement for a dentist holding a temporary license to practice under the indirect supervision of a Florida licensed dentist might increase the available dental services in underserved areas.

The changes made to streamline the licensing process will allow healthcare professionals to begin practicing quicker which will also benefit the healthcare market generally.

C. Government Sector Impact:

The elimination of temporary dental licenses and deregulation of chiropractic assistants will free up DOH funds for other regulatory activities.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

**VIII. None. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 381.4018, 456.013, 456.024, 458.3312, 458.309, 459.005, 463.006, 464.006, 464.202, 464.203, 464.204, 465.019, 465.0193, 465.0196, 465.0197, 466.006, 466.007, 466.036, 468.701, 468.707, 468.711, 468.723, 468.803, 480.033, 480.041, 480.046, 483.824, 490.003, 490.005, 490.006, 491.0045, 491.005, 491.006, 491.007, 491.009, , 491.0046, 945.42.

This bill creates the following sections of the Florida Statutes: 465.0195, 466.017.

This bill repeals the following sections of the Florida Statutes: 460.4166, 480.042.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Health Policy January 30, 2018:**

The committee substitute:

- Repeals the requirement that the BOM conduct a review organizations that board certify physicians in dermatology;
- Defines “contact classroom hour” for ch, 460, F.S.; authorized chiropractic physicians to take up to 10 hours of general CE online; and deregulates registered chiropractic assistants;
- Removes provisions that sought to create regulatory and rulemaking authority to the BOM and the BOOM to oversee all office surgery centers (OSCs);
- Removes provisions that sought to deregulate laboratory personnel; and
- Removes provisions relating to the timing for submission of an application for examination for licensure as an optometrist; and provisions creating a pathway for licensure by endorsement.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
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The Committee on Health Policy (Grimsley) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (f) of subsection (3) of section  
381.4018, Florida Statutes, is amended to read:

381.4018 Physician workforce assessment and development.—

(3) GENERAL FUNCTIONS.—The department shall maximize the  
use of existing programs under the jurisdiction of the  
department and other state agencies and coordinate governmental



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and nongovernmental stakeholders and resources in order to develop a state strategic plan and assess the implementation of such strategic plan. In developing the state strategic plan, the department shall:

(f) Develop strategies to maximize federal and state programs that provide for the use of incentives to attract physicians to this state or retain physicians within the state. Such strategies should explore and maximize federal-state partnerships that provide incentives for physicians to practice in federally designated shortage areas. Strategies shall also consider the use of state programs, such as the Medical Education Reimbursement and Loan Repayment Program pursuant to s. 1009.65, which provide for education loan repayment or loan forgiveness and provide monetary incentives for physicians to relocate to underserved areas of the state. To further encourage qualified physicians to relocate to and practice in underserved areas, the department, following federal requirements, shall adopt any rules necessary for the implementation of the Conrad 30 Waiver Program established under s. 214(1) of the Immigration and Nationality Act.

Section 2. Paragraph (a) of subsection (1) of section 456.013, Florida Statutes, is amended to read:

456.013 Department; general licensing provisions.—

(1)(a) Any person desiring to be licensed in a profession within the jurisdiction of the department shall apply to the department in writing ~~to take the licensure examination~~. The application shall be made on a form prepared and furnished by the department. The application form must be available on the World Wide Web and the department may accept electronically



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submitted applications beginning July 1, 2001. The application shall require the social security number and date of birth of the applicant, except as provided in paragraphs (b) and (c). The form shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the application which takes place between the initial filing of the application and the final grant or denial of the license and which might affect the decision of the department. If an application is submitted electronically, the department may require supplemental materials, including an original signature of the applicant and verification of credentials, to be submitted in a nonelectronic format. An incomplete application shall expire 1 year after initial filing. In order to further the economic development goals of the state, and notwithstanding any law to the contrary, the department may enter into an agreement with the county tax collector for the purpose of appointing the county tax collector as the department's agent to accept applications for licenses and applications for renewals of licenses. The agreement must specify the time within which the tax collector must forward any applications and accompanying application fees to the department.

Section 3. Paragraphs (a) and (b) of subsection (3) and paragraph (j) of subsection (4) of section 456.024, Florida Statutes, are amended to read:

456.024 Members of Armed Forces in good standing with administrative boards or the department; spouses; licensure.—

(3) (a) A person is eligible for licensure as a health care practitioner in this state if he or she:

1. Serves or has served as a health care practitioner in



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the United States Armed Forces, the United States Reserve Forces, or the National Guard;

2. Serves or has served on active duty with the United States Armed Forces as a health care practitioner in the United States Public Health Service; or

3. Is a health care practitioner, ~~other than a dentist,~~ in another state, the District of Columbia, or a possession or territory of the United States and is the spouse of a person serving on active duty with the United States Armed Forces.

The department shall develop an application form, and each board, or the department if there is no board, shall waive the application fee, licensure fee, and unlicensed activity fee for such applicants. For purposes of this subsection, "health care practitioner" means a health care practitioner as defined in s. 456.001 and a person licensed under part III of chapter 401 or part IV of chapter 468.

(b) The board, or the department if there is no board, shall issue a license to practice in this state to a person who:

1. Submits a complete application.

2. If he or she is a member of the United States Armed Forces, the United States Reserve Forces, or the National Guard, submits proof that he or she has received an honorable discharge within 6 months before, or will receive an honorable discharge within 6 months after, the date of submission of the application.

3.a. Holds an active, unencumbered license issued by another state, the District of Columbia, or a possession or territory of the United States and who has not had disciplinary





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98 action taken against him or her in the 5 years preceding the  
99 date of submission of the application;

100 b. Is a military health care practitioner in a profession  
101 for which licensure in a state or jurisdiction is not required  
102 to practice in the United States Armed Forces, if he or she  
103 submits to the department evidence of military training or  
104 experience substantially equivalent to the requirements for  
105 licensure in this state in that profession and evidence that he  
106 or she has obtained a passing score on the appropriate  
107 examination of a national or regional standards organization if  
108 required for licensure in this state; or

109 c. Is the spouse of a person serving on active duty in the  
110 United States Armed Forces and is a health care practitioner in  
111 a profession, ~~excluding dentistry,~~ for which licensure in  
112 another state or jurisdiction is not required, if he or she  
113 submits to the department evidence of training or experience  
114 substantially equivalent to the requirements for licensure in  
115 this state in that profession and evidence that he or she has  
116 obtained a passing score on the appropriate examination of a  
117 national or regional standards organization if required for  
118 licensure in this state.

119 4. Attests that he or she is not, at the time of submission  
120 of the application, the subject of a disciplinary proceeding in  
121 a jurisdiction in which he or she holds a license or by the  
122 United States Department of Defense for reasons related to the  
123 practice of the profession for which he or she is applying.

124 5. Actively practiced the profession for which he or she is  
125 applying for the 3 years preceding the date of submission of the  
126 application.



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6. Submits a set of fingerprints for a background screening pursuant to s. 456.0135, if required for the profession for which he or she is applying.

The department shall verify information submitted by the applicant under this subsection using the National Practitioner Data Bank.

(4)

~~(j) An applicant who is issued a temporary professional license to practice as a dentist pursuant to this section must practice under the indirect supervision, as defined in s. 466.003, of a dentist licensed pursuant to chapter 466.~~

Section 4. Subsection (3) of section 458.309, Florida Statutes, is amended to read:

458.309 Rulemaking authority.—

~~(3) A physician who performs liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed, level 2 procedures lasting more than 5 minutes, and all level 3 surgical procedures in an office setting must register the office with the department unless that office is licensed as a facility under chapter 395. The department shall inspect the physician's office annually unless the office is accredited by a nationally recognized accrediting agency or an accrediting organization subsequently approved by the Board of Medicine. The actual costs for registration and inspection or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed.~~

Section 5. Section 458.3312, Florida Statutes, is amended to read:



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458.3312 Specialties.—A physician licensed under this chapter may not hold himself or herself out as a board-certified specialist unless the physician has received formal recognition as a specialist from a specialty board of the American Board of Medical Specialties or other recognizing agency that has been approved by the board. However, a physician may indicate the services offered and may state that his or her practice is limited to one or more types of services when this accurately reflects the scope of practice of the physician. ~~A physician may not hold himself or herself out as a board-certified specialist in dermatology unless the recognizing agency, whether authorized in statute or by rule, is triennially reviewed and reauthorized by the Board of Medicine.~~

Section 6. Paragraph (d) of subsection (7) of section 458.347, Florida Statutes, is amended to read:

458.347 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(d)1. Upon employment as a physician assistant, a licensed physician assistant must notify the department in writing within 30 days after such employment and provide ~~or after any subsequent changes in the supervising physician. The notification must include~~ the full name, Florida medical license number, specialty, and address of a designated ~~the~~ supervising physician. Any subsequent changes to this information must be reported to the department within 30 days after the change. Assignment of a designated supervising physician does not preclude a physician assistant from practicing under the supervision of physicians other than the designated supervising physician.



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185        2. The designated supervising physician must be a physician  
186 designated by the facility or the practice as the primary  
187 contact and supervising physician for physician assistants in a  
188 practice where physician assistants are supervised by multiple  
189 supervising physicians. The designated supervising physician  
190 shall maintain a list of all approved supervising physicians at  
191 the practice or facility which includes the name of each  
192 supervising physician and his or her area of practice. The list  
193 must be kept current and must be provided to the department in a  
194 timely manner upon written request.

195        Section 7. Paragraph (d) of subsection (7) of section  
196 459.022, Florida Statutes, is amended to read:

197        459.022 Physician assistants.—

198        (7) PHYSICIAN ASSISTANT LICENSURE.—

199        (d) 1. Upon employment as a physician assistant, a licensed  
200 physician assistant must notify the department in writing within  
201 30 days after such employment and provide ~~or after any~~  
202 ~~subsequent changes in the supervising physician. The~~  
203 ~~notification must include~~ the full name, Florida medical license  
204 number, specialty, and address of a designated ~~the~~ supervising  
205 physician. Any subsequent changes to this information must be  
206 reported to the department within 30 days after the change.  
207 Assignment of a designated supervising physician does not  
208 preclude a physician assistant from practicing under the  
209 supervision of physicians other than the designated supervising  
210 physician.

211        2. The designated supervising physician must be a physician  
212 designated by the facility or the practice as the primary  
213 contact and supervising physician for physician assistants in a



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practice where physician assistants are supervised by multiple  
supervising physicians. The designated supervising physician  
shall maintain a list of all approved supervising physicians at  
the practice or facility which includes the name of each  
supervising physician and his or her area of practice. The list  
must be kept current and must be provided to the department in a  
timely manner upon written request.

Section 8. Subsection (1) of section 460.408, Florida  
Statutes, is amended to read:

460.408 Continuing chiropractic education.—

(1) The board shall require licensees to periodically  
demonstrate their professional competence as a condition of  
renewal of a license by completing up to 40 contact classroom  
hours of continuing education. For purposes of this subsection,  
term "contact classroom hour" means a presentation in which the  
persons presenting and the persons attending the course are  
present on site. Up to 10 general credit continuing education  
hours may be completed online in place of contact classroom  
hours, as determined by board rule. Online continuing education  
courses must be competency based and must use the Sharable  
Content Objective Reference Model standard or more stringent  
standards, as determined by the board.

(a) Continuing education courses sponsored by chiropractic  
colleges whose graduates are eligible for examination under any  
provision of this chapter may be approved upon review by the  
board if all other requirements of board rules setting forth  
criteria for course approval are met.

(b) The board shall approve those courses that build upon  
the basic courses required for the practice of chiropractic



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medicine, and the board may also approve courses in adjunctive modalities. Courses that consist of instruction in the use, application, prescription, recommendation, or administration of a specific company's brand of products or services are not eligible for approval.

Section 9. Section 460.4166, Florida Statutes, is repealed.

Section 10. Section 463.006, Florida Statutes, is amended to read:

463.006 Licensure and certification ~~by examination.~~

(1) Any person desiring to be a licensed practitioner pursuant to this chapter shall apply to the department ~~to take the licensure and certification examinations.~~ The department shall license ~~examine~~ each applicant who the board determines has:

(a) Completed the application forms as required by the board, remitted an application fee for certification not to exceed \$250, ~~remitted an examination fee for certification not to exceed \$250,~~ and remitted a ~~an examination~~ fee for licensure not to exceed \$325, all as set by the board.

(b) Submitted proof satisfactory to the department that she or he:

1. Is at least 18 years of age.

2. Has graduated from an accredited school or college of optometry approved by rule of the board.

~~3. Is of good moral character.~~

3.4. Has successfully completed at least 110 hours of transcript-quality coursework and clinical training in general and ocular pharmacology as determined by the board, at an institution that:



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a. Has facilities for both didactic and clinical instructions in pharmacology; and

b. Is accredited by a regional or professional accrediting organization that is recognized and approved by the Commission on Recognition of Postsecondary Accreditation or the United States Department of Education.

~~4.5.~~ Has completed at least 1 year of supervised experience in differential diagnosis of eye disease or disorders as part of the optometric training or in a clinical setting as part of the optometric experience.

5. Has obtained a passing score, as established by rule of the board, on the licensure examination of the National Board of Examiners in Optometry or a similar nationally recognized examination approved by the board.

~~(2) The examination shall consist of the appropriate subjects, including applicable state laws and rules and general and ocular pharmacology with emphasis on the use and side effects of ocular pharmaceutical agents. The board may by rule substitute a national examination as part or all of the examination and may by rule offer a practical examination in addition to the written examination.~~

(2)~~(3)~~ Each applicant who successfully passes the examination and otherwise meets the requirements of this chapter is entitled to be licensed as a practitioner and to be certified to administer and prescribe ocular pharmaceutical agents in the diagnosis and treatment of ocular conditions.

Section 11. Section 463.0061, Florida Statutes, is created to read:

463.0061 Licensure by endorsement; requirements; fees.—



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(1) Any person desiring to be a licensed practitioner pursuant to this chapter shall apply to the department. The department shall issue a license by endorsement to any applicant who, upon applying to the department on forms furnished by the department and remitting a nonrefundable application fee set by the board not to exceed \$250 and a licensure fee not to exceed \$325, the board certifies:

(a) Has graduated from an accredited school or college of optometry accredited by a regional or professional accrediting organization that is recognized and approved by the Commission on Recognition of Postsecondary Accreditation or the United States Department of Education.

(b) Has obtained an overall passing score, as established by rule of the board, on the licensure examination of the National Board of Examiners in Optometry or a similar nationally recognized examination approved by the board.

(c) Has submitted evidence of an active, licensed practice of optometry in another jurisdiction, for at least 5 of the immediately preceding 7 years, or evidence of successful completion of a board-approved clinical competency examination within the year preceding the filing of an application for licensure. For purposes of this paragraph, "active licensed practice of optometry" means the practice of optometry by optometrists, including those employed by any federal or state governmental entity in community or public health.

(d) Has successfully completed the clinical skills portion of the examination developed by the National Board of Examiners in Optometry. In addition to an overall passing score on the clinical skills portion, an applicant must obtain a score of 75





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percent or better on each of the biomicroscopy, binocular indirect ophthalmoscopy, and dilated biomicroscopy and noncontact fundus lens evaluation skills individually.

(e) Has successfully completed a written examination on applicable general laws and rules governing the practice of optometry.

(f) Has obtained a passing score on either the Treatment and Management of Ocular Disease examination in the Patient Assessment and Management portion of the examination developed by the National Board of Examiners in Optometry or the stand-alone Treatment and Management of Ocular Disease examination developed by the National Board of Examiners in Optometry.

(2) The applicant shall submit evidence of completing a total of at least 30 hours of board-approved continuing education for the 2 calendar years immediately preceding application.

(3) The department may not issue a license by endorsement to any applicant who is under investigation in any jurisdiction for an act or offense which would constitute a violation of this chapter until such time as the investigation is complete, at which time the provisions of s. 463.016 shall apply.

Furthermore, the department may not issue an unrestricted license to any individual who has committed any act or offense in any jurisdiction constituting the basis for disciplining an optometrist pursuant to s. 463.016. If the board finds that an individual has committed an act or offense constituting the basis for disciplining an optometrist pursuant to s. 463.016, the board may enter an order imposing one or more of the terms set forth in subsection (4).



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(4) If the board determines that an applicant for licensure by endorsement has failed to satisfy the appropriate requirements in this section, it may enter an order that requires one or more of the following actions:

(a) A refusal to certify to the department an application for licensure or certification;

(b) A certification to the department of an application for licensure or certification with restrictions on the scope of practice of the licensee; or

(c) A certification to the department of an application for licensure or certification with a probationary period subject to conditions specified by the board, including, but not limited to, requiring the optometrist to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another licensed optometrist.

Section 12. Section 464.006, Florida Statutes, is amended to read:

464.006 Rulemaking authority.—The board may ~~has authority to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part conferring duties upon it and establish standards of care.

Section 13. Section 464.202, Florida Statutes, is amended to read:

464.202 Duties and powers of the board.—The board shall maintain, or contract with or approve another entity to maintain, a state registry of certified nursing assistants. The registry must consist of the name of each certified nursing assistant in this state; other identifying information defined by board rule; certification status; the effective date of



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certification; other information required by state or federal law; information regarding any crime or any abuse, neglect, or exploitation as provided under chapter 435; and any disciplinary action taken against the certified nursing assistant. The registry shall be accessible to the public, the certificateholder, employers, and other state agencies. The board shall adopt by rule testing procedures for use in certifying nursing assistants and shall adopt rules regulating the practice of certified nursing assistants, including discipline and establishing standards of care, and specifying the scope of practice authorized and the level of supervision required for the practice of certified nursing assistants. The board may contract with or approve another entity or organization to provide the examination services, including the development and administration of examinations. The board shall require that the contract provider offer certified nursing assistant applications via the Internet, and may require the contract provider to accept certified nursing assistant applications for processing via the Internet. The board shall require the contract provider to provide the preliminary results of the certified nursing examination on the date the test is administered. The provider shall pay all reasonable costs and expenses incurred by the board in evaluating the provider's application and performance during the delivery of services, including examination services and procedures for maintaining the certified nursing assistant registry.

Section 14. Paragraph (c) of subsection (1) of section 464.203, Florida Statutes, is amended to read:

464.203 Certified nursing assistants; certification



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requirement.—

(1) The board shall issue a certificate to practice as a certified nursing assistant to any person who demonstrates a minimum competency to read and write and successfully passes the required background screening pursuant to s. 400.215. If the person has successfully passed the required background screening pursuant to s. 400.215 or s. 408.809 within 90 days before applying for a certificate to practice and the person's background screening results are not retained in the clearinghouse created under s. 435.12, the board shall waive the requirement that the applicant successfully pass an additional background screening pursuant to s. 400.215. The person must also meet one of the following requirements:

(c) Is currently certified in another state or territory or the District of Columbia; is listed on that state's certified nursing assistant registry; and has not been found to have committed abuse, neglect, or exploitation in that state.

Section 15. Subsection (1) of section 464.204, Florida Statutes, is amended to read:

464.204 Denial, suspension, or revocation of certification; disciplinary actions.—

(1) The following acts constitute grounds for which the board may impose disciplinary sanctions as specified in subsection (2):

(a) Obtaining or attempting to obtain certification or an exemption, or possessing or attempting to possess certification or a letter of exemption, by bribery, misrepresentation, deceit, or through an error of the board.

(b) ~~Intentionally~~ Violating any provision of this chapter,



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chapter 456, or the rules adopted by the board.

Section 16. Subsection (7) is added to section 465.019, Florida Statutes, to read:

465.019 Institutional pharmacies; permits.—

(7) An institutional pharmacy must pass an onsite inspection by the department as a prerequisite to the issuance of an initial permit or a permit for a change of location. The inspection must be completed within 90 days before the issuance of the permit.

Section 17. Section 465.0193, Florida Statutes, is amended to read:

465.0193 Nuclear pharmacy permits.—Any person desiring a permit to operate a nuclear pharmacy shall apply to the department. If the board certifies that the application complies with applicable law, the department shall issue the permit. No permit shall be issued unless a duly licensed and qualified nuclear pharmacist is designated as being responsible for activities described in s. 465.0126. A nuclear pharmacy must pass an onsite inspection by the department as a prerequisite to the issuance of an initial permit or a permit for a change of location. The inspection must be completed within 90 days before the issuance of the permit. The permittee shall notify the department within 10 days of any change of the licensed pharmacist responsible for the compounding and dispensing of nuclear pharmaceuticals.

Section 18. Section 465.0195, Florida Statutes, is created to read:

465.0195 Pharmacy or outsourcing facility; sterile compounding permit.—Before a pharmacy or outsourcing facility



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located in this state dispenses, creates, delivers, ships, or mails, in any manner, a compounded sterile product, the pharmacy or outsourcing facility must hold a sterile compounding permit.

(1) An application for a sterile compounding permit shall be submitted on a form furnished by the board. The board may require such information as it deems reasonably necessary to carry out the purposes of this section.

(2) If the board certifies that the application complies with applicable laws and rules of the board governing pharmacies, the department shall issue the permit.

(3) A pharmacy or outsourcing facility must pass an onsite inspection by the department as a prerequisite to the issuance of an initial permit or a permit for a change of location. The inspection must be completed within 90 days before the issuance of the permit. The board may adopt by rule standards for conducting an onsite inspection for issuance of a sterile compounding permit.

(4) A permit may not be issued unless a licensed pharmacist is designated to undertake the professional supervision of the compounding and dispensing of all drugs dispensed by the permittee.

(5) A permittee must notify the department within 10 days after any change of the licensed pharmacist under subsection (4). Each permittee that employs or otherwise uses registered pharmacy technicians shall have a written policy and procedures manual specifying those duties, tasks, and functions that a registered pharmacy technician is authorized to perform.

(6) The board may adopt by rule standards of practice for sterile compounding. In adopting such rules, the board shall



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give due consideration to the standards and requirements provided in chapter 797 of the United States Pharmacopeia, or other professionally accepted standards deemed authoritative by the board. In adopting such rules for an outsourcing facility, the board shall consider the standards and requirements of current good manufacturing practices as set forth by federal law and any other professionally accepted standards deemed authoritative by the board.

(7) All provisions relating to pharmacy permits found in ss. 465.022 and 465.023 apply to permits issued pursuant to this section.

Section 19. Section 465.0196, Florida Statutes, is amended to read:

465.0196 Special pharmacy permits.—Any person desiring a permit to operate a special pharmacy shall apply to the department for a special pharmacy permit. If the board certifies that the application complies with the applicable laws and rules of the board governing the practice of the profession of pharmacy, the department shall issue the permit. A special pharmacy must pass an onsite inspection by the department as a prerequisite to the issuance of an initial permit or a permit for a change of location. The inspection must be completed within 90 days before the issuance of the permit. A permit may not be issued unless a licensed pharmacist is designated to undertake the professional supervision of the compounding and dispensing of all drugs dispensed by the pharmacy. The licensed pharmacist shall be responsible for maintaining all drug records and for providing for the security of the area in the facility in which the compounding, storing, and dispensing of medicinal



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drugs occurs. The permittee shall notify the department within 10 days after any change of the licensed pharmacist responsible for such duties. Each permittee that employs or otherwise uses registered pharmacy technicians shall have a written policy and procedures manual specifying those duties, tasks, and functions that a registered pharmacy technician is allowed to perform.

Section 20. Subsection (2) of section 465.0197, Florida Statutes, is amended to read:

465.0197 Internet pharmacy permits.—

(2) An Internet pharmacy must obtain a permit under this section to sell medicinal drugs to persons in this state. An Internet pharmacy must pass an onsite inspection by the department as a prerequisite to the issuance of an initial permit or a permit for a change of location. The inspection must be completed within 90 days before the issuance of the permit.

Section 21. Subsection (4) of section 466.006, Florida Statutes, is amended to read:

466.006 Examination of dentists.—

(4) Notwithstanding any other provision of law in chapter 456 pertaining to the clinical dental licensure examination or national examinations, to be licensed as a dentist in this state, an applicant must successfully complete the following:

(a) A written examination on the laws and rules of the state regulating the practice of dentistry;

(b)1. A practical or clinical examination, which shall be the American Dental Licensing Examination produced by the American Board of Dental Examiners, Inc., or its successor entity, if any, that is administered in this state ~~and graded by dentists licensed in this state and employed by the department~~





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~~for just such purpose~~, provided that the board has attained, and continues to maintain thereafter, representation on the board of directors of the American Board of Dental Examiners, the examination development committee of the American Board of Dental Examiners, and such other committees of the American Board of Dental Examiners as the board deems appropriate by rule to assure that the standards established herein are maintained organizationally. A passing score on the American Dental Licensing Examination administered in this state ~~and graded by dentists who are licensed in this state~~ is valid for 365 days after the date the official examination results are published.

2.a. As an alternative to the requirements of subparagraph 1., an applicant may submit scores from an American Dental Licensing Examination previously administered in a jurisdiction other than this state after October 1, 2011, and such examination results shall be recognized as valid for the purpose of licensure in this state. A passing score on the American Dental Licensing Examination administered out-of-state shall be the same as the passing score for the American Dental Licensing Examination administered in this state ~~and graded by dentists who are licensed in this state~~. The examination results are valid for 365 days after the date the official examination results are published. The applicant must have completed the examination after October 1, 2011.

b. This subparagraph may not be given retroactive application.

3. If the date of an applicant's passing American Dental Licensing Examination scores from an examination previously administered in a jurisdiction other than this state under



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subparagraph 2. is older than 365 days, then such scores shall nevertheless be recognized as valid for the purpose of licensure in this state, but only if the applicant demonstrates that all of the following additional standards have been met:

a.(I) The applicant completed the American Dental Licensing Examination after October 1, 2011.

(II) This sub-subparagraph may not be given retroactive application;

b. The applicant graduated from a dental school accredited by the American Dental Association Commission on Dental Accreditation or its successor entity, if any, or any other dental accrediting organization recognized by the United States Department of Education. Provided, however, if the applicant did not graduate from such a dental school, the applicant may submit proof of having successfully completed a full-time supplemental general dentistry program accredited by the American Dental Association Commission on Dental Accreditation of at least 2 consecutive academic years at such accredited sponsoring institution. Such program must provide didactic and clinical education at the level of a D.D.S. or D.M.D. program accredited by the American Dental Association Commission on Dental Accreditation;

c. The applicant currently possesses a valid and active dental license in good standing, with no restriction, which has never been revoked, suspended, restricted, or otherwise disciplined, from another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;

d. The applicant submits proof that he or she has never



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been reported to the National Practitioner Data Bank, the Healthcare Integrity and Protection Data Bank, or the American Association of Dental Boards Clearinghouse. This subparagraph does not apply if the applicant successfully appealed to have his or her name removed from the data banks of these agencies;

e.(I) In the 5 years immediately preceding the date of application for licensure in this state, the applicant must submit proof of having been consecutively engaged in the full-time practice of dentistry in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, or, if the applicant has been licensed in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico for less than 5 years, the applicant must submit proof of having been engaged in the full-time practice of dentistry since the date of his or her initial licensure.

(II) As used in this section, "full-time practice" is defined as a minimum of 1,200 hours per year for each and every year in the consecutive 5-year period or, where applicable, the period since initial licensure, and must include any combination of the following:

(A) Active clinical practice of dentistry providing direct patient care.

(B) Full-time practice as a faculty member employed by a dental or dental hygiene school approved by the board or accredited by the American Dental Association Commission on Dental Accreditation.

(C) Full-time practice as a student at a postgraduate



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dental education program approved by the board or accredited by the American Dental Association Commission on Dental Accreditation.

(III) The board shall develop rules to determine what type of proof of full-time practice is required and to recoup the cost to the board of verifying full-time practice under this section. Such proof must, at a minimum, be:

(A) Admissible as evidence in an administrative proceeding;

(B) Submitted in writing;

(C) Submitted by the applicant under oath with penalties of perjury attached;

(D) Further documented by an affidavit of someone unrelated to the applicant who is familiar with the applicant's practice and testifies with particularity that the applicant has been engaged in full-time practice; and

(E) Specifically found by the board to be both credible and admissible.

(IV) An affidavit of only the applicant is not acceptable proof of full-time practice unless it is further attested to by someone unrelated to the applicant who has personal knowledge of the applicant's practice. If the board deems it necessary to assess credibility or accuracy, the board may require the applicant or the applicant's witnesses to appear before the board and give oral testimony under oath;

f. The applicant must submit documentation that he or she has completed, or will complete, prior to licensure in this state, continuing education equivalent to this state's requirements for the last full reporting biennium;

g. The applicant must prove that he or she has never been



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convicted of, or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession in any jurisdiction;

h. The applicant must successfully pass a written examination on the laws and rules of this state regulating the practice of dentistry and must successfully pass the computer-based diagnostic skills examination; and

i. The applicant must submit documentation that he or she has successfully completed the National Board of Dental Examiners dental examination.

Section 22. Paragraph (b) of subsection (4) and paragraph (a) of subsection (6) of section 466.007, Florida Statutes, are amended to read:

466.007 Examination of dental hygienists.—

(4) Effective July 1, 2012, to be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

(b) A practical or clinical examination approved by the board. The examination shall be the Dental Hygiene Examination produced by the American Board of Dental Examiners, Inc. (ADEX) or its successor entity, if any, if the board finds that the successor entity's clinical examination meets or exceeds the provisions of this section. The board shall approve the ADEX Dental Hygiene Examination if the board has attained and continues to maintain representation on the ADEX House of Representatives, the ADEX Dental Hygiene Examination Development Committee, and such other ADEX Dental Hygiene committees as the board deems appropriate through rulemaking to ensure that the standards established in this section are maintained



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organizationally. The ADEX Dental Hygiene Examination or the examination produced by its successor entity is a comprehensive examination in which an applicant must demonstrate skills within the dental hygiene scope of practice on a live patient and any other components that the board deems necessary for the applicant to successfully demonstrate competency for the purpose of licensure. ~~The ADEX Dental Hygiene Examination or the examination by the successor entity administered in this state shall be graded by dentists and dental hygienists licensed in this state who are employed by the department for this purpose.~~

(6) (a) A passing score on the ADEX Dental Hygiene Examination administered out of state shall be considered the same as a passing score for the ADEX Dental Hygiene Examination administered in this state ~~and graded by licensed dentists and dental hygienists.~~

Section 23. Subsections (9) through (15) are added to section 466.017, Florida Statutes, to read:

466.017 Prescription of drugs; anesthesia.—

(9) Any adverse incident that occurs in an office maintained by a dentist must be reported to the department. The required notification to the department must be submitted in writing by certified mail and postmarked within 48 hours after the incident occurs.

(10) A dentist practicing in this state must notify the board in writing by certified mail within 48 hours of any mortality or other adverse incident that occurs in the dentist's outpatient facility. A complete written report must be filed with the board within 30 days after the mortality or other adverse incident.



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(11) For purposes of notification to the department pursuant to this section, the term "adverse incident" means any mortality that occurs during or as the result of a dental procedure, or an incident that results in a temporary or permanent physical or mental injury that requires hospitalization or emergency room treatment of a dental patient which occurred during or as a direct result of the use of anesthesia, deep sedation, moderate sedation, pediatric moderate sedation, oral sedation, minimal sedation(anxiolysis), nitrous oxide, or local anesthesia.

(12) Any certified registered dental hygienist administering local anesthesia must notify the board, in writing by registered mail within 48 hours of any adverse incident that was related to or the result of the administration of local anesthesia. A complete written report must be filed with the board within 30 days after the mortality or other adverse incident.

(13) A failure by the dentist or dental hygienist to timely and completely comply with all the reporting requirements in this section is the basis for disciplinary action by the board pursuant to s. 466.028(1).

(14) The department shall review each incident and determine whether it involved conduct by a health care professional subject to disciplinary action, in which case s. 456.073 applies. Disciplinary action, if any, shall be taken by the board under which the health care professional is licensed.

(15) The board may adopt rules to administer this section.

Section 24. Subsection (1) of section 466.031, Florida Statutes, is amended to read:



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466.031 "Dental laboratory" defined.—The term "dental laboratory" as used in this chapter:

(1) Includes any person, firm, or corporation who performs for a fee of any kind, gratuitously, or otherwise, directly or through an agent or employee, by any means or method, or who in any way supplies or manufactures artificial substitutes for the natural teeth, or who furnishes, supplies, constructs, or reproduces or repairs any prosthetic denture, bridge, or appliance to be worn in the human mouth, or who provides onsite consultation during dental procedures, or who in any way holds itself out as a dental laboratory.

Section 25. Section 466.036, Florida Statutes, is amended to read:

466.036 Information; periodic inspections; equipment and supplies.—The department may require from the applicant for a registration certificate to operate a dental laboratory any information necessary to carry out the purpose of this chapter, including proof that the applicant has the equipment and supplies necessary to operate as determined by rule of the department, and shall require periodic inspection of all dental laboratories operating in this state at least once each biennial registration period. Such inspections shall include, but not be limited to, inspection of sanitary conditions, equipment, supplies, and facilities on the premises. The department shall specify dental equipment and supplies that are not permitted in a registered dental laboratory.

Section 26. Subsection (1) of section 468.701, Florida Statutes, is amended to read:

468.701 Definitions.—As used in this part, the term:





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(1) "Athletic trainer" means a person licensed under this part who has met the requirements under this part, including education requirements as set forth by the Commission on Accreditation of Athletic Training Education or its successor and necessary credentials from the Board of Certification. An athletic trainer must work within his or her scope of practice as established in the rules adopted by the board under s.

468.705. An individual who is licensed as an athletic trainer may not otherwise provide, offer to provide, or represent that he or she is qualified to provide any care or services beyond his or her scope of practice, or that he or she lacks the education, training, or experience to provide, or that he or she is otherwise prohibited by law from providing.

Section 27. Section 468.707, Florida Statutes, is amended to read:

468.707 Licensure requirements.—Any person desiring to be licensed as an athletic trainer shall apply to the department on a form approved by the department. An applicant shall also provide records or other evidence, as determined by the board, to prove he or she has met the requirements of this section. The department shall license each applicant who:

(1) Has completed the application form and remitted the required fees.

(2) ~~For a person who applies on or after July 1, 2016,~~ Has submitted to background screening pursuant to s. 456.0135. The board may require a background screening for an applicant whose license has expired or who is undergoing disciplinary action.

(3) (a) Has obtained a baccalaureate or higher degree from a college or university professional athletic training degree



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program accredited by the Commission on Accreditation of Athletic Training Education or its successor recognized and approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, approved by the board, or recognized by the Board of Certification, and has passed the national examination to be certified by the Board of Certification; or-

(b)(4) Has obtained, at a minimum, a bachelor's degree and has completed the Board of Certification internship requirements and if graduated before 2004, has a current certification from the Board of Certification.

(4)(5) Has current certification in both cardiopulmonary resuscitation and the use of an automated external defibrillator set forth in the continuing education requirements as determined by the board pursuant to s. 468.711.

(5)(6) Has completed any other requirements as determined by the department and approved by the board.

Section 28. Subsection (3) of section 468.711, Florida Statutes, is amended to read:

468.711 Renewal of license; continuing education.—

(3) If initially licensed after January 1, 1998, the licensee must be currently certified by the Board of Certification or its successor agency and maintain that certification in good standing without lapse.

Section 29. Subsection (2) of section 468.723, Florida Statutes, is amended to read:

468.723 Exemptions.—This part does not prevent or restrict:

(2) An athletic training student acting under the direct supervision of a licensed athletic trainer. For purposes of this



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subsection, "direct supervision" means the physical presence of an athletic trainer so that the athletic trainer is immediately available to the athletic training student and able to intervene on behalf of the athletic training student. The supervision must be in accordance with rules adopted by the board ~~the standards set forth by the Commission on Accreditation of Athletic Training Education or its successor.~~

Section 30. Subsections (1), (3), and (4) of section 468.803, Florida Statutes, are amended to read:

468.803 License, registration, and examination requirements.—

(1) The department shall issue a license to practice orthotics, prosthetics, or pedorthics, or a registration for a resident to practice orthotics or prosthetics, to qualified applicants. Licenses shall be granted independently in orthotics, prosthetics, or pedorthics, but a person may be licensed in more than one such discipline, and a prosthetist-orthotist license may be granted to persons meeting the requirements for both a prosthetist and an orthotist license. Registrations shall be granted independently in orthotics or prosthetics, and a person may be registered in both fields at the same time or jointly in orthotics and prosthetics as a dual registration.

(3) A person seeking to attain the required orthotics or prosthetics experience in this state must be approved by the board and registered as a resident by the department. Although a registration may be held in both practice fields, for independent registrations, the board shall not approve a second registration until at least 1 year after the issuance of the



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first registration. Notwithstanding subsection (2), an applicant for independent registrations who has been approved by the board and registered by the department in one practice field may apply for registration in the second practice field without an additional state or national criminal history check during the period in which the first registration is valid. Each independent registration or dual registration is valid for 2 years from the date of issuance unless otherwise revoked by the department upon recommendation of the board. The board shall set a registration fee not to exceed \$500 to be paid by the applicant. A registration may be renewed once by the department upon recommendation of the board for a period no longer than 1 year, as such renewal is defined by the board by rule. The registration renewal fee shall not exceed one-half the current registration fee. To be considered by the board for approval of registration as a resident, the applicant must have:

(a) A Bachelor of Science or higher-level postgraduate degree in Orthotics and Prosthetics from a regionally accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs or, at a minimum, a bachelor's degree from a regionally accredited college or university and a certificate in orthotics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board; ~~or~~

(b) A Bachelor of Science or higher-level postgraduate degree in Orthotics and Prosthetics from a regionally accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs or, at a



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minimum, a bachelor's degree from a regionally accredited college or university and a certificate in prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board; or

(c) A Bachelor of Science or higher-level postgraduate degree in Orthotics and Prosthetics from a regionally accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs or, at a minimum, a bachelor's degree from a regionally accredited college or university and a dual certificate in both orthotics and prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board.

(4) The department may develop and administer a state examination for an orthotist or a prosthetist license, or the board may approve the existing examination of a national standards organization. The examination must be predicated on a minimum of a baccalaureate-level education and formalized specialized training in the appropriate field. Each examination must demonstrate a minimum level of competence in basic scientific knowledge, written problem solving, and practical clinical patient management. The board shall require an examination fee not to exceed the actual cost to the board in developing, administering, and approving the examination, which fee must be paid by the applicant. To be considered by the board for examination, the applicant must have:

(a) For an examination in orthotics:

1. A Bachelor of Science or higher-level postgraduate



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degree in Orthotics and Prosthetics from a regionally accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs or, at a minimum, a bachelor's degree from a regionally accredited college or university and a certificate in orthotics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board; and

2. An approved orthotics internship of 1 year of qualified experience, as determined by the board, or an orthotic residency program or a dual residency program recognized by the board.

(b) For an examination in prosthetics:

1. A Bachelor of Science or higher-level postgraduate degree in Orthotics and Prosthetics from a regionally accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs or, at a minimum, a bachelor's degree from a regionally accredited college or university and a certificate in prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board; and

2. An approved prosthetics internship of 1 year of qualified experience, as determined by the board, or a prosthetic residency program or dual residency program recognized by the board.

Section 31. Subsection (5) of section 480.033, Florida Statutes, is amended to read:

480.033 Definitions.—As used in this act:

(5) "Apprentice" means a person approved by the board to



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study colonic irrigation ~~massage~~ under the instruction of a  
licensed massage therapist practicing colonic irrigation.

Section 32. Subsections (1) and (2) of section 480.041,  
Florida Statutes, are amended, and subsection (8) is added to  
that section, to read:

480.041 Massage therapists; qualifications; licensure;  
endorsement.—

(1) Any person is qualified for licensure as a massage  
therapist under this act who:

(a) Is at least 18 years of age or has received a high  
school diploma or high school equivalency diploma;

(b) Has completed a course of study at a board-approved  
massage school ~~or has completed an apprenticeship program~~ that  
meets standards adopted by the board; and

(c) Has received a passing grade on a national ~~an~~  
examination designated ~~administered~~ by the board ~~department~~.

(2) Every person desiring to be examined for licensure as a  
massage therapist shall apply to the department in writing upon  
forms prepared and furnished by the department. Such applicants  
shall be subject to the provisions of s. 480.046(1). ~~Applicants  
may take an examination administered by the department only upon  
meeting the requirements of this section as determined by the  
board.~~

(8) A person issued a license as a massage apprentice  
before July 1, 2018, may continue that apprenticeship and  
perform massage therapy as authorized under that license until  
its expiration. Upon completion of the apprenticeship, before  
July 1, 2021, a massage apprentice may apply to the board for  
full licensure and be granted a license if all other applicable



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licensure requirements are met.

Section 33. Section 480.042, Florida Statutes, is repealed.

Section 34. Subsection (3) of section 480.046, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

480.046 Grounds for disciplinary action by the board.—

(3) The board may ~~shall have the power to~~ revoke or suspend the license of a massage establishment licensed under this act, or ~~to~~ deny subsequent licensure of such an establishment, if the establishment is owned by an individual or entity who has had a prior establishment license revoked, in any ~~either~~ of the following cases:

(a) Upon proof that a license has been obtained by fraud or misrepresentation.

(b) Upon proof that the holder of a license is guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the operation of the establishment so licensed.

(c) Upon proof that the owner of the massage establishment or any individual or individuals providing massage therapy services within the establishment, in the aggregate or individually, have had three convictions of, or pleas of guilty or nolo contendere to, or dismissals of a criminal action after a successful completion of a pretrial intervention, diversion, or substance abuse program for any misdemeanor or felony, regardless of adjudication, a crime in any jurisdiction related to prostitution and related acts as defined in s. 796.07, which occurred at or within the establishment.

(5) An establishment may not apply for relicensure if disciplined under this section unless there is a change in





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ownership.

Section 35. Subsection (3) of section 490.003, Florida Statutes, is amended to read:

490.003 Definitions.—As used in this chapter:

~~(3) (a) Prior to July 1, 1999, "doctoral-level psychological education" and "doctoral degree in psychology" mean a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from:~~

~~1. An educational institution which, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and~~

~~2. A psychology program within that educational institution which, at the time the applicant was enrolled and graduated, had programmatic accreditation from an accrediting agency recognized and approved by the United States Department of Education or was comparable to such programs.~~

~~(b) Effective July 1, 1999, "doctoral-level psychological education" and "doctoral degree in psychology" mean a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from:~~

~~(a) 1. An educational institution that ~~which~~, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and~~

~~(b) 2. A psychology program within that educational institution which, at the time the applicant was enrolled and~~



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graduated, had programmatic accreditation from the American Psychological Association ~~an agency recognized and approved by the United States Department of Education.~~

Section 36. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 490.005, Florida Statutes, are amended to read:

490.005 Licensure by examination.—

(1) Any person desiring to be licensed as a psychologist shall apply to the department to take the licensure examination. The department shall license each applicant who the board certifies has:

(b) Submitted proof satisfactory to the board that the applicant has:

1. Received doctoral-level psychological education, as defined in s. 490.003(3); or

2. Received the equivalent of a doctoral-level psychological education, as defined in s. 490.003(3), from a program at a school or university located outside the United States of America ~~and Canada~~, which was officially recognized by the government of the country in which it is located as an institution or program to train students to practice professional psychology. The burden of establishing that the requirements of this provision have been met shall be upon the applicant;

~~3. Received and submitted to the board, prior to July 1, 1999, certification of an augmented doctoral-level psychological education from the program director of a doctoral-level psychology program accredited by a programmatic agency recognized and approved by the United States Department of~~



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~~Education; or~~

~~4. Received and submitted to the board, prior to August 31, 2001, certification of a doctoral-level program that at the time the applicant was enrolled and graduated maintained a standard of education and training comparable to the standard of training of programs accredited by a programmatic agency recognized and approved by the United States Department of Education. Such certification of comparability shall be provided by the program director of a doctoral-level psychology program accredited by a programmatic agency recognized and approved by the United States Department of Education.~~

(2) Any person desiring to be licensed as a school psychologist shall apply to the department to take the licensure examination. The department shall license each applicant who the department certifies has:

(b) Submitted satisfactory proof to the department that the applicant:

1. Has received a doctorate, specialist, or equivalent degree from a program primarily psychological in nature and has completed 60 semester hours or 90 quarter hours of graduate study, in areas related to school psychology as defined by rule of the department, from a college or university which at the time the applicant was enrolled and graduated was accredited by an accrediting agency recognized and approved by the Council for Higher Education Accreditation, its successor, Commission on Recognition of Postsecondary Accreditation or an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada.

2. Has had a minimum of 3 years of experience in school



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psychology, 2 years of which must be supervised by an individual who is a licensed school psychologist or who has otherwise qualified as a school psychologist supervisor, by education and experience, as set forth by rule of the department. A doctoral internship may be applied toward the supervision requirement.

3. Has passed an examination provided by the department.

Section 37. Subsection (1) of section 490.006, Florida Statutes, is amended to read:

490.006 Licensure by endorsement.—

(1) The department shall license a person as a psychologist or school psychologist who, upon applying to the department and remitting the appropriate fee, demonstrates to the department or, in the case of psychologists, to the board that the applicant:

~~(a) Holds a valid license or certificate in another state to practice psychology or school psychology, as applicable, provided that, when the applicant secured such license or certificate, the requirements were substantially equivalent to or more stringent than those set forth in this chapter at that time; and, if no Florida law existed at that time, then the requirements in the other state must have been substantially equivalent to or more stringent than those set forth in this chapter at the present time;~~

(a)~~(b)~~ Is a diplomate in good standing with the American Board of Professional Psychology, Inc.; or

(b)~~(c)~~ Possesses a doctoral degree in psychology as described in s. 490.003 and has at least 10 ~~20~~ years of experience as a licensed psychologist in any jurisdiction or territory of the United States within 25 years preceding the



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date of application.

Section 38. Subsection (6) of section 491.0045, Florida Statutes, as amended by chapter 2016-80 and chapter 2016-241, Laws of Florida, is amended to read:

491.0045 Intern registration; requirements.—

(6) A registration issued on or before March 31, 2017, expires March 31, 2022, and may not be renewed or reissued. Any registration issued after March 31, 2017, expires 60 months after the date it is issued. The board may make a one-time exception from the requirements of this section in emergency or hardship cases, as defined by board rule, if ~~A subsequent intern registration may not be issued unless~~ the candidate has passed the theory and practice examination described in s. 491.005(1)(d), (3)(d), and (4)(d).

Section 39. Subsections (3) and (4) of section 491.005, Florida Statutes, are amended to read:

491.005 Licensure by examination.—

(3) MARRIAGE AND FAMILY THERAPY.—Upon verification of documentation and payment of a fee not to exceed \$200, as set by board rule, plus the actual cost ~~to the department~~ for the purchase of the examination from the Association of Marital and Family Therapy Regulatory Board, or similar national organization, the department shall issue a license as a marriage and family therapist to an applicant who the board certifies:

(a) Has submitted an application and paid the appropriate fee.

(b)1. Has a minimum of a master's degree with major emphasis in marriage and family therapy from a program accredited by the Commission on Accreditation for Marriage and



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Family Therapy Education or from a Florida university program accredited by the Council for Accreditation of Counseling and Related Educational Programs, or a closely related field, and has completed graduate courses approved by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling. ~~has completed all of the following requirements:~~

~~a. Thirty-six semester hours or 48 quarter hours of graduate coursework, which must include a minimum of 3 semester hours or 4 quarter hours of graduate-level course credits in each of the following nine areas: dynamics of marriage and family systems; marriage therapy and counseling theory and techniques; family therapy and counseling theory and techniques; individual human development theories throughout the life cycle; personality theory or general counseling theory and techniques; psychopathology; human sexuality theory and counseling techniques; psychosocial theory; and substance abuse theory and counseling techniques. Courses in research, evaluation, appraisal, assessment, or testing theories and procedures; thesis or dissertation work; or practicums, internships, or fieldwork may not be applied toward this requirement.~~

~~b. A minimum of one graduate-level course of 3 semester hours or 4 quarter hours in legal, ethical, and professional standards issues in the practice of marriage and family therapy or a course determined by the board to be equivalent.~~

~~e. A minimum of one graduate-level course of 3 semester hours or 4 quarter hours in diagnosis, appraisal, assessment, and testing for individual or interpersonal disorder or dysfunction; and a minimum of one 3-semester-hour or 4-quarter-hour graduate-level course in behavioral research which focuses~~



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~~on the interpretation and application of research data as it applies to clinical practice. Credit for thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.~~

~~d. A minimum of one supervised clinical practicum, internship, or field experience in a marriage and family counseling setting, during which the student provided 180 direct client contact hours of marriage and family therapy services under the supervision of an individual who met the requirements for supervision under paragraph (c). This requirement may be met by a supervised practice experience which took place outside the academic arena, but which is certified as equivalent to a graduate-level practicum or internship program which required a minimum of 180 direct client contact hours of marriage and family therapy services currently offered within an academic program of a college or university accredited by an accrediting agency approved by the United States Department of Education, or an institution which is publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada or a training institution accredited by the Commission on Accreditation for Marriage and Family Therapy Education recognized by the United States Department of Education. Certification shall be required from an official of such college, university, or training institution.~~

2. If the course title which appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant shall be required to provide additional documentation, including, but not limited to, a syllabus or catalog description published for the course.



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1229  
1230 The required master's degree must have been received in an  
1231 institution of higher education which at the time the applicant  
1232 graduated was: fully accredited by a regional accrediting body  
1233 recognized by the Commission on Recognition of Postsecondary  
1234 Accreditation; publicly recognized as a member in good standing  
1235 with the Association of Universities and Colleges of Canada; or  
1236 an institution of higher education located outside the United  
1237 States and Canada, which at the time the applicant was enrolled  
1238 and at the time the applicant graduated maintained a standard of  
1239 training substantially equivalent to the standards of training  
1240 of those institutions in the United States which are accredited  
1241 by a regional accrediting body recognized by the Commission on  
1242 Recognition of Postsecondary Accreditation. Such foreign  
1243 education and training must have been received in an institution  
1244 or program of higher education officially recognized by the  
1245 government of the country in which it is located as an  
1246 institution or program to train students to practice as  
1247 professional marriage and family therapists or psychotherapists.  
1248 The burden of establishing that the requirements of this  
1249 provision have been met shall be upon the applicant, and the  
1250 board shall require documentation, such as, but not limited to,  
1251 an evaluation by a foreign equivalency determination service, as  
1252 evidence that the applicant's graduate degree program and  
1253 education were equivalent to an accredited program in this  
1254 country. An applicant with a master's degree from a program  
1255 which did not emphasize marriage and family therapy may complete  
1256 the coursework requirement in a training institution fully  
1257 accredited by the Commission on Accreditation for Marriage and





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Family Therapy Education recognized by the United States  
Department of Education.

(c) Has had at least 2 years of clinical experience during  
which 50 percent of the applicant's clients were receiving  
marriage and family therapy services, which must be at the post-  
master's level under the supervision of a licensed marriage and  
family therapist with at least 5 years of experience, or the  
equivalent, who is a qualified supervisor as determined by the  
board. An individual who intends to practice in Florida to  
satisfy the clinical experience requirements must register  
pursuant to s. 491.0045 before commencing practice. If a  
graduate has a master's degree with a major emphasis in marriage  
and family therapy or a closely related field that did not  
include all the coursework required under subparagraph (b)1.  
~~sub-subparagraphs (b)1.a.-e.~~, credit for the post-master's level  
clinical experience shall not commence until the applicant has  
completed a minimum of 10 of the courses required under  
subparagraph (b)1. ~~sub-subparagraphs (b)1.a.-e.~~, as determined  
by the board, and at least 6 semester hours or 9 quarter hours  
of the course credits must have been completed in the area of  
marriage and family systems, theories, or techniques. Within the  
2 3 years of required experience, the applicant shall provide  
direct individual, group, or family therapy and counseling, to  
include the following categories of cases: unmarried dyads,  
married couples, separating and divorcing couples, and family  
groups including children. A doctoral internship may be applied  
toward the clinical experience requirement. A licensed mental  
health professional must be on the premises when clinical  
services are provided by a registered intern in a private



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practice setting.

(d) Has passed a theory and practice examination provided by the department for this purpose.

(e) Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

(f) For the purposes of dual licensure, the department shall license as a marriage and family therapist any person who meets the requirements of s. 491.0057. Fees for dual licensure shall not exceed those stated in this subsection.

(4) MENTAL HEALTH COUNSELING.—Upon verification of documentation and payment of a fee not to exceed \$200, as set by board rule, plus the actual per applicant cost to the department for purchase of the examination from the National Board for Certified Counselors or its successor ~~Professional Examination Service for the National Academy of Certified Clinical Mental Health Counselors or a similar national organization~~, the department shall issue a license as a mental health counselor to an applicant who the board certifies:

(a) Has submitted an application and paid the appropriate fee.

(b)1. Has a minimum of an earned master's degree from a mental health counseling program accredited by the Council for the Accreditation of Counseling and Related Educational Programs that consists of at least 60 semester hours or 80 quarter hours of clinical and didactic instruction, including a course in human sexuality and a course in substance abuse. If the master's degree is earned from a program related to the practice of



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mental health counseling that is not accredited by the Council for the Accreditation of Counseling and Related Educational Programs, then the coursework and practicum, internship, or fieldwork must consist of at least 60 semester hours or 80 quarter hours and meet the following requirements:

a. Thirty-three semester hours or 44 quarter hours of graduate coursework, which must include a minimum of 3 semester hours or 4 quarter hours of graduate-level coursework in each of the following 11 content areas: counseling theories and practice; human growth and development; diagnosis and treatment of psychopathology; human sexuality; group theories and practice; individual evaluation and assessment; career and lifestyle assessment; research and program evaluation; social and cultural foundations; ~~counseling in community settings; and~~ substance abuse; and legal, ethical, and professional standards issues in the practice of mental health counseling. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

b. A minimum of 3 semester hours or 4 quarter hours of graduate-level coursework addressing diagnostic processes, including differential diagnosis and the use of the current diagnostic tools, such as the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders. The graduate program must have emphasized the common core curricular experience ~~in legal, ethical, and professional standards issues in the practice of mental health counseling, which includes goals, objectives, and practices of professional counseling organizations, codes of ethics, legal considerations, standards of preparation, certifications and~~



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~~licensing, and the role identity and professional obligations of  
mental health counselors. Courses in research, thesis or  
dissertation work, practicums, internships, or fieldwork may not  
be applied toward this requirement.~~

c. The equivalent, as determined by the board, of at least  
700 ~~1,000~~ hours of university-sponsored supervised clinical  
practicum, internship, or field experience that includes at  
least 280 hours of direct client services, as required in the  
accrediting standards of the Council for Accreditation of  
Counseling and Related Educational Programs for mental health  
counseling programs. This experience may not be used to satisfy  
the post-master's clinical experience requirement.

2. If the course title which appears on the applicant's  
transcript does not clearly identify the content of the  
coursework, the applicant shall be required to provide  
additional documentation, including, but not limited to, a  
syllabus or catalog description published for the course.

Education and training in mental health counseling must have  
been received in an institution of higher education which at the  
time the applicant graduated was: fully accredited by a regional  
accrediting body recognized by the Council for Higher Education  
or its successor ~~Commission on Recognition of Postsecondary~~  
~~Accreditation~~; publicly recognized as a member in good standing  
with the Association of Universities and Colleges of Canada; or  
an institution of higher education located outside the United  
States and Canada, which at the time the applicant was enrolled  
and at the time the applicant graduated maintained a standard of  
training substantially equivalent to the standards of training



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of those institutions in the United States which are accredited by a regional accrediting body recognized by the Council for Higher Education or its successor ~~Commission on Recognition of Postsecondary Accreditation~~. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as mental health counselors. The burden of establishing that the requirements of this provision have been met shall be upon the applicant, and the board shall require documentation, such as, but not limited to, an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country. Beginning July 1, 2024, an applicant must have a master's degree that is accredited by the Council for Accreditation of Counseling and Related Educational Programs which consists of at least 60 semester hours or 80 quarter hours to apply for licensure under this paragraph.

(c) Has had at least 2 years of clinical experience in mental health counseling, which must be at the post-master's level under the supervision of a licensed mental health counselor or the equivalent who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045 before commencing practice. If a graduate has a master's degree with a major related to the practice of mental health counseling that did not include all the coursework required under sub-subparagraphs (b)1.a.-b.,



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credit for the post-master's level clinical experience shall not commence until the applicant has completed a minimum of seven of the courses required under sub-subparagraphs (b)1.a.-b., as determined by the board, one of which must be a course in psychopathology or abnormal psychology. A doctoral internship may be applied toward the clinical experience requirement. A licensed mental health professional must be on the premises when clinical services are provided by a registered intern in a private practice setting.

(d) Has passed a theory and practice examination provided by the department for this purpose.

(e) Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

Section 40. Paragraph (b) of subsection (1) of section 491.006, Florida Statutes, is amended to read:

491.006 Licensure or certification by endorsement.—

(1) The department shall license or grant a certificate to a person in a profession regulated by this chapter who, upon applying to the department and remitting the appropriate fee, demonstrates to the board that he or she:

(b)1. Holds an active valid license to practice and has actively practiced the profession for which licensure is applied in another state for 3 of the last 5 years immediately preceding licensure.

~~2. Meets the education requirements of this chapter for the profession for which licensure is applied.~~

~~2.3.~~ Has passed a substantially equivalent licensing



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examination in another state or has passed the licensure examination in this state in the profession for which the applicant seeks licensure.

3.4. Holds a license in good standing, is not under investigation for an act that would constitute a violation of this chapter, and has not been found to have committed any act that would constitute a violation of this chapter. The fees paid by any applicant for certification as a master social worker under this section are nonrefundable.

Section 41. Subsection (3) of section 491.007, Florida Statutes, is amended to read:

491.007 Renewal of license, registration, or certificate.—

~~(3) The board or department shall prescribe by rule a method for the biennial renewal of an intern registration at a fee set by rule, not to exceed \$100.~~

Section 42. Subsection (2) of section 491.009, Florida Statutes, is amended to read:

491.009 Discipline.—

(2) The board ~~department~~, or, in the case of certified master social workers ~~psychologists~~, the department ~~board~~, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Section 43. Subsection (3) of section 463.0057, Florida Statutes, is amended to read:

463.0057 Optometric faculty certificate.—

(3) The holder of a faculty certificate may engage in the



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practice of optometry as permitted by this section but may not administer or prescribe topical ocular pharmaceutical agents unless the certificateholder has satisfied the requirements of s. 463.006(1)(b)3. and 4. ~~s. 463.006(1)(b)4. and 5.~~ If a certificateholder wishes to administer or prescribe oral ocular pharmaceutical agents, the certificateholder must also satisfy the requirements of s. 463.0055(1)(b).

Section 44. Paragraph (c) of subsection (2) of section 491.0046, Florida Statutes, is amended to read:

491.0046 Provisional license; requirements.—

(2) The department shall issue a provisional clinical social worker license, provisional marriage and family therapist license, or provisional mental health counselor license to each applicant who the board certifies has:

(c) Has met the following minimum coursework requirements:

1. For clinical social work, a minimum of 15 semester hours or 22 quarter hours of the coursework required by s.

491.005(1)(b)2.b.

2. For marriage and family therapy, 10 of the courses required by s. 491.005(3)(b)1. ~~s. 491.005(3)(b)1.a.-c.~~, as determined by the board, and at least 6 semester hours or 9 quarter hours of the course credits must have been completed in the area of marriage and family systems, theories, or techniques.

3. For mental health counseling, a minimum of seven of the courses required under s. 491.005(4)(b)1.a.-c.

Section 45. Subsection (11) of section 945.42, Florida Statutes, is amended to read:

945.42 Definitions; ss. 945.40-945.49.—As used in ss.





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945.40-945.49, the following terms shall have the meanings ascribed to them, unless the context shall clearly indicate otherwise:

(11) "Psychological professional" means a behavioral practitioner who has an approved doctoral degree in psychology as defined in s. 490.003(3) ~~s. 490.003(3)(b)~~ and is employed by the department or who is licensed as a psychologist pursuant to chapter 490.

Section 46. This act shall take effect July 1, 2018.

===== 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 the Department of Health; amending s. 381.4018, F.S.; requiring the department to adopt any rules necessary to implement a specified federal program to further encourage qualified physicians to relocate to and practice in underserved areas; amending s. 456.013, F.S.; revising health care practitioner licensure application requirements; amending s. 456.024, F.S.; revising health care practitioner licensure eligibility for certain members of the armed forces and their spouses to include licensed dentists; removing a provision requiring a certain applicant issued a temporary professional license to practice as a dentist to practice under supervision; amending s. 458.309, F.S.; deleting a



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1519 provision requiring certain physicians to register an  
1520 office with the department; removing departmental  
1521 responsibilities; amending s. 458.3312, F.S.; removing  
1522 a provision prohibiting a physician from holding  
1523 himself or herself out as a board-certified specialist  
1524 in dermatology unless the recognizing agency is  
1525 reviewed and reauthorized on a specified basis by the  
1526 Board of Medicine; amending ss. 458.347 and 459.022,  
1527 F.S.; revising provisions requiring employed physician  
1528 assistants to provide and report certain information  
1529 to the department; revising requirements relating to  
1530 designated supervising physicians; amending s.  
1531 460.408, F.S.; defining the term "contact classroom  
1532 hour"; revising provisions relating to continuing  
1533 chiropractic education requirements; repealing s.  
1534 460.4166, F.S., relating to registered chiropractic  
1535 assistants; amending s. 463.006, F.S.; revising  
1536 examination requirements for the licensure and  
1537 certification of optometrists; creating s. 463.0061,  
1538 F.S.; authorizing licensure of optometrists by  
1539 endorsement and providing requirements therefor;  
1540 defining the term "active licensed practice of  
1541 optometry"; amending s. 464.006, F.S.; authorizing the  
1542 Board of Nursing to establish certain standards of  
1543 care; amending s. 464.202, F.S.; requiring the board  
1544 to adopt by rule discipline and standards of care for  
1545 certified nursing assistants; amending s. 464.203,  
1546 F.S.; revising certification requirements for nursing  
1547 assistants; amending s. 464.204, F.S.; revising



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1548 grounds for board-imposed disciplinary sanctions;  
1549 amending s. 465.019, F.S.; requiring an institutional  
1550 pharmacy to pass an onsite inspection by the  
1551 department within a specified time before the issuance  
1552 of an initial permit or a permit for change of  
1553 location; amending s. 465.0193, F.S.; requiring a  
1554 nuclear pharmacy to pass an onsite inspection by the  
1555 department within a specified time before issuance of  
1556 an initial permit or a permit for change of location;  
1557 creating s. 465.0195, F.S.; requiring certain  
1558 pharmacies and outsourcing facilities located in this  
1559 state to obtain a permit in order to create, ship,  
1560 mail, deliver, or dispense compounded sterile  
1561 products; providing application requirements;  
1562 providing inspection requirements; providing permit  
1563 requirements; authorizing the Board of Pharmacy to  
1564 adopt certain rules; providing applicability; amending  
1565 s. 465.0196, F.S.; requiring a special pharmacy to  
1566 pass an onsite inspection by the department within a  
1567 specified time before the issuance of an initial  
1568 permit or a permit for change of location; amending s.  
1569 465.0197, F.S.; requiring an Internet pharmacy to pass  
1570 an onsite inspection by the department within a  
1571 specified time before the issuance of an initial  
1572 permit or a permit for change of location; amending s.  
1573 466.006, F.S.; revising certain requirements for  
1574 examinations to be completed by applicants seeking  
1575 dental licensure; amending s. 466.007, F.S.; revising  
1576 requirements for examinations of dental hygienists;



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1577 amending s. 466.017, F.S.; providing adverse incident  
1578 reporting requirements; defining the term "adverse  
1579 incident"; providing for disciplinary action by the  
1580 Board of Dentistry; authorizing the board to adopt  
1581 rules; amending s. 466.031, F.S.; expanding the  
1582 definition of the term "dental laboratory" to include  
1583 any person who performs an onsite consultation during  
1584 dental procedures; amending s. 466.036, F.S.;  
1585 requiring the periodic inspection of dental  
1586 laboratories at least once during a specified period;  
1587 amending s. 468.701, F.S.; revising a definition;  
1588 amending s. 468.707, F.S.; revising athletic trainer  
1589 licensure requirements; amending s. 468.711, F.S.;  
1590 revising requirements for the renewal of a license  
1591 relating to continuing education; amending s. 468.723,  
1592 F.S.; revising a definition; amending s. 468.803,  
1593 F.S.; revising orthotic, prosthetic, and pedorthic  
1594 licensure, registration, and examination requirements;  
1595 amending s. 480.033, F.S.; revising a definition;  
1596 amending s. 480.041, F.S.; revising qualifications for  
1597 licensure as a massage therapist; specifying that a  
1598 massage apprentice who was licensed before a specified  
1599 date may continue to perform massage therapy as  
1600 authorized under his or her license; authorizing a  
1601 massage apprentice to apply for full licensure upon  
1602 completion of the apprenticeship under certain  
1603 conditions; repealing s. 480.042, F.S., relating to  
1604 examinations; amending s. 480.046, F.S.; revising  
1605 instances under which disciplinary action may be taken



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1606 against massage establishments; prohibiting a certain  
1607 disciplined massage establishment from applying for  
1608 relicensure; providing an exception; amending s.  
1609 490.003, F.S.; revising definitions; amending s.  
1610 490.005, F.S.; revising examination requirements for  
1611 licensure of a psychologist; amending s. 490.006,  
1612 F.S.; revising requirements for licensure by  
1613 endorsement of certain psychologists; amending s.  
1614 491.0045, F.S.; providing an exemption for intern  
1615 registration requirements under certain circumstances;  
1616 amending s. 491.005, F.S.; revising education  
1617 requirements for the licensure of marriage and family  
1618 therapists; revising examination requirements for the  
1619 licensure of mental health counselors; amending s.  
1620 491.006, F.S.; revising requirements for licensure or  
1621 certification by endorsement for certain professions;  
1622 amending s. 491.007, F.S.; removing a biennial intern  
1623 registration fee; amending s. 491.009, F.S.;  
1624 authorizing the Board of Clinical Social Work,  
1625 Marriage and Family Therapy, and Mental Health  
1626 Counseling, or the department under certain  
1627 circumstances, to enter an order denying licensure or  
1628 imposing penalties against an applicant for licensure  
1629 under certain circumstances; providing penalties;  
1630 amending ss. 463.0057, 491.0046, and 945.42, F.S.;  
1631 conforming provisions to changes made by the act;  
1632 providing an effective date.



686290

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
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The Committee on Health Policy (Grimsley) recommended the following:

**Senate Amendment to Amendment (276508) (with title amendment)**

Delete lines 139 - 153.

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

And the title is amended as follows:

Delete lines 1518 - 1521

and insert:

supervision; amending s. 458.3312, F.S.; removing



116652

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
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The Committee on Health Policy (Grimsley) recommended the following:

**Senate Amendment to Amendment (276508) (with title amendment)**

Delete lines 169 - 220.

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

And the title is amended as follows:

Delete lines 1526 - 1530

and insert:

Board of Medicine; amending s.



470560

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
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The Committee on Health Policy (Grimsley) recommended the following:

**Senate Amendment to Amendment (276508) (with title amendment)**

Delete lines 249 - 373.

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

And the title is amended as follows:

Delete lines 1535 - 1541

and insert:

assistants; amending s. 464.006, F.S.; authorizing the





971228

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
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The Committee on Health Policy (Grimsley) recommended the following:

**Senate Amendment to Amendment (276508) (with title amendment)**

Delete lines 1457 - 1467.

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

And the title is amended as follows:

Delete line 1630

and insert:

amending ss. 491.0046 and 945.42, F.S.;

By Senator Grimsley

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A bill to be entitled

An act relating to the Department of Health; amending s. 381.4018, F.S.; requiring the Department of Health to adopt rules to implement a federal program to further encourage qualified physicians to relocate to and practice in underserved areas; amending s. 456.013, F.S.; revising health care practitioner licensure application requirements; amending s. 456.024, F.S.; revising health care practitioner licensure eligibility requirements for certain members of the armed forces and their spouses; amending s. 458.309, F.S.; deleting a provision requiring certain physicians to register an office with the department; removing departmental responsibilities; creating s. 458.3266, F.S.; defining terms; requiring office surgery centers to register with the department under certain circumstances; providing registration requirements; providing responsibilities for office surgery center physicians; requiring the department to inspect office surgery centers; providing an exception; requiring the Board of Medicine to adopt rules; providing penalties; amending s. 459.005, F.S.; deleting a provision requiring certain physicians to register an office with the department; removing departmental responsibilities; creating s. 459.0138, F.S.; defining terms; requiring office surgery centers to register with the department under certain circumstances; providing registration requirements; providing responsibilities for office surgery center

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physicians; requiring the department to inspect office surgery centers; providing an exception; requiring the Board of Osteopathic Medicine to adopt rules; providing penalties; repealing s. 460.4166, F.S., relating to registered chiropractic assistants; amending s. 463.006, F.S.; revising examination requirements for the licensure and certification of optometrists; creating s. 463.0061, F.S.; authorizing licensure of optometrists by endorsement and providing requirements therefor; defining the term "active licensed practice of optometry"; amending s. 464.006, F.S.; authorizing the Board of Nursing to establish certain standards of care; amending s. 464.202, F.S.; requiring the board to adopt by rule discipline and standards of care for certified nursing assistants; amending s. 464.203, F.S.; revising certification requirements for nursing assistants; amending s. 464.204, F.S.; revising grounds for board-imposed disciplinary sanctions; amending s. 465.019, F.S.; requiring an institutional pharmacy to pass an onsite inspection by the department within a specified time before the issuance of an initial permit or a permit for change of location; amending s. 465.0193, F.S.; requiring a nuclear pharmacy to pass an onsite inspection by the department within a specified time before issuance of an initial permit or a permit for change of location; creating s. 465.0195, F.S.; requiring certain pharmacies and outsourcing facilities located in this state to obtain a permit in

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order to create, ship, mail, deliver, or dispense compounded sterile products; providing application requirements; providing inspection requirements; providing permit requirements; authorizing the Board of Pharmacy to adopt certain rules; providing applicability; amending s. 465.0196, F.S.; requiring a special pharmacy to pass an onsite inspection by the department within a specified time before the issuance of an initial permit or a permit for change of location; amending s. 465.0197, F.S.; requiring an Internet pharmacy to pass an onsite inspection by the department within a specified time before the issuance of an initial permit or a permit for change of location; amending s. 466.006, F.S.; revising certain requirements for examinations to be completed by applicants seeking dental licensure; amending s. 466.007, F.S.; revising requirements for examinations of dental hygienists; amending s. 466.017, F.S.; providing adverse incident reporting requirements; defining the term "adverse incident"; providing for disciplinary action by the Board of Dentistry; authorizing the board to adopt rules; repealing s. 466.032, F.S., relating to registration; repealing s. 466.033, F.S., relating to registration certificates; repealing s. 466.034, F.S., relating to change of ownership or address; repealing s. 466.035, F.S., relating to advertising; repealing s. 466.036, F.S., relating to information, periodic inspections, and equipment and supplies; repealing s. 466.037, F.S.,

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relating to suspension and revocation and  
administrative fines; repealing s. 466.038, F.S.,  
relating to rules; repealing s. 466.039, F.S.,  
relating to violations; amending s. 468.701, F.S.;  
revising a definition; amending s. 468.707, F.S.;  
revising athletic trainer licensure requirements;  
amending s. 468.711, F.S.; revising requirements for  
the renewal of a license relating to continuing  
education; amending s. 468.723, F.S.; revising a  
definition; amending s. 468.803, F.S.; revising  
orthotic, prosthetic, and pedorthic licensure,  
registration, and examination requirements; amending  
s. 480.033, F.S.; revising a definition; amending s.  
480.041, F.S.; revising qualifications for licensure  
as a massage therapist; repealing s. 480.042, F.S.,  
relating to examinations; amending s. 480.046, F.S.;  
revising instances under which disciplinary action may  
be taken against massage establishments; prohibiting a  
certain disciplined massage establishment from  
applying for relicensure; providing an exception;  
amending s. 483.824, F.S.; revising qualification  
requirements for a clinical laboratory director;  
amending s. 490.003, F.S.; revising definitions;  
amending s. 490.005, F.S.; revising examination  
requirements for licensure of a psychologist; amending  
s. 490.006, F.S.; revising requirements for licensure  
by endorsement of certain psychologists; amending s.  
491.0045, F.S.; providing an exemption for intern  
registration requirements under certain circumstances;

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amending s. 491.005, F.S.; revising education requirements for the licensure of marriage and family therapists; revising examination requirements for the licensure of mental health counselors; amending s. 491.006, F.S.; revising requirements for licensure or certification by endorsement for certain professions; amending s. 491.007, F.S.; removing a biennial intern registration fee; amending s. 491.009, F.S.; authorizing the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, or the department under certain circumstances, to enter an order denying licensure or imposing penalties against an applicant for licensure under certain circumstances; providing penalties; amending ss. 463.0057, 491.0046, and 945.42, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraph (f) of subsection (3) of section 381.4018, Florida Statutes, is amended to read:

381.4018 Physician workforce assessment and development.—

(3) GENERAL FUNCTIONS.—The department shall maximize the use of existing programs under the jurisdiction of the department and other state agencies and coordinate governmental and nongovernmental stakeholders and resources in order to develop a state strategic plan and assess the implementation of such strategic plan. In developing the state strategic plan, the

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department shall:

(f) Develop strategies to maximize federal and state programs that provide for the use of incentives to attract physicians to this state or retain physicians within the state. Such strategies should explore and maximize federal-state partnerships that provide incentives for physicians to practice in federally designated shortage areas. Strategies shall also consider the use of state programs, such as the Medical Education Reimbursement and Loan Repayment Program pursuant to s. 1009.65, which provide for education loan repayment or loan forgiveness and provide monetary incentives for physicians to relocate to underserved areas of the state. To further encourage qualified physicians to relocate to and practice in underserved areas, the department, following federal requirements, shall adopt any rules necessary for the implementation of the Conrad 30 Waiver Program established under s. 214(1) of the Immigration and Nationality Act.

Section 2. Paragraph (a) of subsection (1) of section 456.013, Florida Statutes, is amended to read:

456.013 Department; general licensing provisions.—

(1)(a) Any person desiring to be licensed in a profession within the jurisdiction of the department shall apply to the department in writing ~~to take the licensure examination~~. The application shall be made on a form prepared and furnished by the department. The application form must be available on the World Wide Web and the department may accept electronically submitted applications beginning July 1, 2001. The application shall require the social security number and date of birth of the applicant, except as provided in paragraphs (b) and (c). The

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175 form shall be supplemented as needed to reflect any material  
176 change in any circumstance or condition stated in the  
177 application which takes place between the initial filing of the  
178 application and the final grant or denial of the license and  
179 which might affect the decision of the department. If an  
180 application is submitted electronically, the department may  
181 require supplemental materials, including an original signature  
182 of the applicant and verification of credentials, to be  
183 submitted in a nonelectronic format. An incomplete application  
184 shall expire 1 year after initial filing. In order to further  
185 the economic development goals of the state, and notwithstanding  
186 any law to the contrary, the department may enter into an  
187 agreement with the county tax collector for the purpose of  
188 appointing the county tax collector as the department's agent to  
189 accept applications for licenses and applications for renewals  
190 of licenses. The agreement must specify the time within which  
191 the tax collector must forward any applications and accompanying  
192 application fees to the department.

193 Section 3. Paragraphs (a) and (b) of subsection (3) and  
194 paragraph (j) of subsection (4) of section 456.024, Florida  
195 Statutes, are amended to read:

196 456.024 Members of Armed Forces in good standing with  
197 administrative boards or the department; spouses; licensure.—

198 (3)(a) A person is eligible for licensure as a health care  
199 practitioner in this state if he or she:

200 1. Serves or has served as a health care practitioner in  
201 the United States Armed Forces, the United States Reserve  
202 Forces, or the National Guard;

203 2. Serves or has served on active duty with the United



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States Armed Forces as a health care practitioner in the United States Public Health Service; or

3. Is a health care practitioner, ~~other than a dentist,~~ in another state, the District of Columbia, or a possession or territory of the United States and is the spouse of a person serving on active duty with the United States Armed Forces.

The department shall develop an application form, and each board, or the department if there is no board, shall waive the application fee, licensure fee, and unlicensed activity fee for such applicants. For purposes of this subsection, "health care practitioner" means a health care practitioner as defined in s. 456.001 and a person licensed under part III of chapter 401 or part IV of chapter 468.

(b) The board, or the department if there is no board, shall issue a license to practice in this state to a person who:

1. Submits a complete application.

2. If he or she is a member of the United States Armed Forces, the United States Reserve Forces, or the National Guard, submits proof that he or she has received an honorable discharge within 6 months before, or will receive an honorable discharge within 6 months after, the date of submission of the application.

3.a. Holds an active, unencumbered license issued by another state, the District of Columbia, or a possession or territory of the United States and who has not had disciplinary action taken against him or her in the 5 years preceding the date of submission of the application;

b. Is a military health care practitioner in a profession

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for which licensure in a state or jurisdiction is not required to practice in the United States Armed Forces, if he or she submits to the department evidence of military training or experience substantially equivalent to the requirements for licensure in this state in that profession and evidence that he or she has obtained a passing score on the appropriate examination of a national or regional standards organization if required for licensure in this state; or

c. Is the spouse of a person serving on active duty in the United States Armed Forces and is a health care practitioner in a profession, ~~excluding dentistry~~, for which licensure in another state or jurisdiction is not required, if he or she submits to the department evidence of training or experience substantially equivalent to the requirements for licensure in this state in that profession and evidence that he or she has obtained a passing score on the appropriate examination of a national or regional standards organization if required for licensure in this state.

4. Attests that he or she is not, at the time of submission of the application, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the United States Department of Defense for reasons related to the practice of the profession for which he or she is applying.

5. Actively practiced the profession for which he or she is applying for the 3 years preceding the date of submission of the application.

6. Submits a set of fingerprints for a background screening pursuant to s. 456.0135, if required for the profession for which he or she is applying.

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The department shall verify information submitted by the applicant under this subsection using the National Practitioner Data Bank.

(4)

~~(j) An applicant who is issued a temporary professional license to practice as a dentist pursuant to this section must practice under the indirect supervision, as defined in s. 466.003, of a dentist licensed pursuant to chapter 466.~~

Section 4. Subsection (3) of section 458.309, Florida Statutes, is amended to read:

458.309 Rulemaking authority.—

~~(3) A physician who performs liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat is removed, level 2 procedures lasting more than 5 minutes, and all level 3 surgical procedures in an office setting must register the office with the department unless that office is licensed as a facility under chapter 395. The department shall inspect the physician's office annually unless the office is accredited by a nationally recognized accrediting agency or an accrediting organization subsequently approved by the Board of Medicine. The actual costs for registration and inspection or accreditation shall be paid by the person seeking to register and operate the office setting in which office surgery is performed.~~

Section 5. Section 458.3266, Florida Statutes, is created to read:

458.3266 Office surgery centers.—

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

(a) "Designated physician" means a physician licensed under

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291 this chapter or chapter 459 who practices at the office surgery  
292 center location for which the physician has assumed  
293 responsibility for complying with all requirements in this  
294 section and related rules of the board.

295 (b) "Office surgery center" means any facility where a  
296 physician performs liposuction procedures in which more than  
297 1,000 cubic centimeters of supernatant fat are removed, level 2  
298 procedures lasting more than 5 minutes, and all level 3 surgical  
299 procedures in an office setting, or any facility in which  
300 surgery is performed outside of any facility licensed under  
301 chapter 390 or chapter 395.

302 (2) REGISTRATION.—

303 (a) An office surgery center must register with the  
304 department unless the center is:

- 305 1. Licensed as a facility pursuant to chapter 395; or  
306 2. Affiliated with an accredited medical school at which  
307 training is provided for medical students, residents, or  
308 fellows.

309 (b) Office surgery center locations shall be registered  
310 separately regardless of whether the center is operated under  
311 the same business name or management as another center. The  
312 actual costs for registration shall be paid by the person  
313 seeking to register and operate the office surgery center in  
314 which office surgery is performed.

315 (c) As a part of registration, an office surgery center  
316 must have a designated physician. Within 10 days after  
317 termination of a designated physician, the center must notify  
318 the department of the identity of another designated physician  
319 for that center. Failing to have a designated physician

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practicing at the location of the registered center may result in the suspension of the center's certificate of registration, as described in s. 456.073(8), or agency action under s. 120.60(6).

(d) The department shall deny registration to an office surgery center that is:

1. Not fully owned by a physician licensed under this chapter or chapter 459 or a group of physicians licensed under this chapter or chapter 459;

2. Not a health care center licensed under part X of chapter 400; or

3. Owned by or in any contractual or employment relationship with a physician licensed under this chapter or chapter 459 who:

a. Had hospital privileges revoked in the last 5 years;

b. Does not have a clear and active license with the department; or

c. Had a license disciplined by the department or another jurisdiction in the last 5 years for an offense related to standard of care.

(e) If the department finds that an office surgery center does not meet the requirements of paragraph (c) or is owned, directly or indirectly, by a person meeting criteria listed in paragraph (d), the department shall revoke the certificate of registration previously issued by the department.

(f) The department may revoke an office surgery center's certificate of registration and prohibit all physicians associated with the center from practicing at that location based upon an annual inspection and evaluation of the factors

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described in subsection (4).

(g) If the certificate of registration is revoked or suspended, the designated physician of the center, the owner or lessor of the center property, the manager, and the proprietor shall:

1. Cease to operate the facility as an office surgery center as of the effective date of the suspension or revocation.

2. Remove any signs and symbols identifying the premises as an office surgery center.

(h) Upon the effective date of the suspension or revocation, the designated physician of the office surgery center shall advise the department of the disposition of the medicinal drugs located on the premises. Such disposition is subject to the supervision and approval of the department. Medicinal drugs that are purchased or held by a center that is not registered may be deemed adulterated pursuant to s. 499.006.

(i) If the office surgery center's registration is revoked, any person named in the registration documents of the center, including persons owning or operating the center, may not, as an individual or as a part of a group, apply to operate an office surgery center for 5 years after the date the registration is revoked.

(j) The period of suspension for the registration of an office surgery center shall be prescribed by the department, but may not exceed 2 years.

(k) A change of ownership of a registered office surgery center requires submission of a new registration application. An office surgery registration may not be transferred.

(3) PHYSICIAN RESPONSIBILITIES.—These responsibilities

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378 apply to any physician who provides professional services in an  
379 office surgery center that is required to register with the  
380 department in subsection (2).

381 (a)1. A physician may not practice medicine in an office  
382 surgery center, as described in subsection (5), if the office  
383 surgery center is not registered with the department as required  
384 by this section. A physician who violates this paragraph is  
385 subject to disciplinary action by his or her appropriate medical  
386 regulatory board.

387 2. Surgical procedures performed in an office surgery  
388 center may not include any procedure that may result in blood  
389 loss of more than 10 percent of estimated blood volume in a  
390 patient with a normal hemoglobin level; require major or  
391 prolonged intracranial, intrathoracic, abdominal, or major joint  
392 replacement procedures, except for laparoscopic procedures;  
393 involve major blood vessels when such procedure is performed  
394 with direct visualization by open exposure of the major vessel,  
395 except for percutaneous endovascular intervention; or are  
396 generally emergent or life-threatening in nature.

397 (b) The designated physician of an office surgery center  
398 shall notify the applicable board in writing of the date of  
399 termination of employment within 10 days after terminating his  
400 or her employment with a center registered under subsection (2).  
401 Each physician practicing in an office surgery center shall  
402 notify the board, in writing, within 10 calendar days after  
403 beginning or ending his or her practice at an office surgery  
404 center.

405 (c) Each physician practicing in an office surgery center  
406 is responsible for ensuring compliance with the following:

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407 1. Facility and physical operations requirements,  
408 including:

409 a. An office surgery center that is located and operated at  
410 a publicly accessible, fixed location.

411 b. The public display of a visible printed sign that  
412 clearly identifies the name, hours of operations, and street  
413 address of the center.

414 c. Maintaining a publicly listed telephone number and other  
415 methods of communication available to the public.

416 d. Emergency lighting and communications.

417 e. A reception and waiting area.

418 f. A restroom.

419 g. An administrative area, including room for storage of  
420 medical records, supplies, and equipment.

421 h. Private patient examination rooms.

422 i. Treatment rooms, if treatment is being provided to the  
423 patients.

424 j. The public display of a visible printed sign located in  
425 a conspicuous place in the waiting room with the name and  
426 contact information of the center's designated physician and the  
427 names of all physicians practicing in the center.

428 k. Compliance with ss. 499.0121 and 893.07, if the center  
429 stores and dispenses prescription drugs.

430 2. Infection control requirements, including:

431 a. The maintenance of equipment and supplies to support  
432 infection prevention and control.

433 b. The identification of infection risks that shall be  
434 based on the following:

435 (I) Geographic location, community, and population served.



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436 (II) The provided care, treatment, and services.

437 (III) An analysis of its infection surveillance and control  
438 data.

439 c. Center maintenance of written infection prevention  
440 policies and procedures that address prioritized risks and limit  
441 the following:

442 (I) Unprotected exposure to pathogens.

443 (II) Transmission of infections associated with procedures  
444 performed in the center.

445 (III) Transmission of infections associated with the  
446 center's use of medical equipment, devices, and supplies.

447 3. Health and safety requirements, including:

448 a. Being structurally sound, in good repair, clean, and  
449 free from health and safety hazards, including grounds,  
450 buildings, furniture, appliances, and equipment.

451 b. Having evacuation procedures in case of the event of an  
452 emergency, which shall include provisions for the evacuation of  
453 disabled patients and employees.

454 c. Having a written facility-specific disaster plan setting  
455 forth actions to be taken in the event of center closure due to  
456 unforeseen disasters and which shall include provisions for the  
457 protection of medical records and any controlled substances.

458 d. Having at least one employee on the premises during  
459 patient care hours who is certified in basic life support and is  
460 trained in reacting to accidents and medical emergencies until  
461 emergency medical personnel arrive.

462 (d) The designated physician of an office surgery center is  
463 responsible for ensuring the center complies with the following  
464 quality assurance requirements:

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465       1. The center shall maintain an ongoing quality assurance  
466 program that objectively and systematically monitors and  
467 evaluates the quality and appropriateness of patient care,  
468 evaluates methods to improve patient care, identifies and  
469 corrects deficiencies within the facility, alerts the designated  
470 physician to identify and resolve recurring problems, and  
471 provides for opportunities to improve the facility's performance  
472 and to enhance and improve the quality of care provided to the  
473 public.

474       2. The designated physician shall establish a quality  
475 assurance program that includes the following components:

476           a. Identification, investigation, and analysis of the  
477 frequency and causes of adverse incidents.

478           b. Identification of trends or patterns of adverse  
479 incidents.

480           c. Development of measures to correct, reduce, minimize, or  
481 eliminate the risk of adverse incidents to patients.

482           d. Documentation of the functions provided in this  
483 subparagraph and periodic review no less than quarterly of such  
484 information by the designated physician.

485           (e) The designated physician for each office surgery center  
486 shall report all adverse incidents to the department as set  
487 forth in s. 458.351.

488  
489 This section does not excuse a physician from providing any  
490 treatment or performing any medical duty without the proper  
491 equipment and materials as required by the standard of care or  
492 rules adopted by the board. This section does not supersede the  
493 level of care, skill, and treatment recognized in general law

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related to health care licensure.

(4) INSPECTION.—

(a) The department shall inspect each office surgery center annually, including a review of the patient records, to ensure that it complies with this section and the rules of the board adopted pursuant to subsection (5) unless the center is accredited by a nationally recognized accrediting agency or an accrediting organization approved by the board.

(b) The actual costs for inspection or accreditation shall be paid by the person seeking to register and operate the office center in which office surgery is performed.

(c) During an onsite inspection, the department shall make a reasonable attempt to discuss each violation with the owner or designated physician of the office surgery center before issuing a formal written notification.

(d) Any action taken to correct a violation shall be documented in writing by the owner or designated physician of the office surgery center and verified by follow-up inspections by department personnel.

(5) RULEMAKING.—The board shall adopt rules:

(a) Necessary to administer the registration and inspection of office surgery centers which establish the specific requirements, procedures, forms, and fees.

(b) Setting forth training requirements for all facility health care practitioners who are not regulated by another board.

(6) PENALTIES; ENFORCEMENT.—

(a) The department may impose an administrative fine on an office surgery center of up to \$5,000 per violation for

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violating the requirements of this section; chapter 499, the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Comprehensive Drug Abuse Prevention and Control Act; chapter 893, the Florida Comprehensive Drug Abuse Prevention and Control Act; or the rules of the department.

(b) In determining whether a penalty is to be imposed upon a center, and in determining the amount of the fine, the department shall consider the following factors:

1. The gravity of the violation, including the probability that death or serious physical or emotional harm to a patient has resulted, or could have resulted, from the center's actions or the actions of the physician; the severity of the action or potential harm; and the extent to which the applicable laws or rules were violated.

2. What actions, if any, the owner or designated physician took to correct the violation.

3. Whether there were any previous violations at the center.

4. The financial benefits that the center derived from committing or continuing to commit the violation.

(c) Each day a violation continues after the date fixed for termination of the violation as ordered by the department constitutes an additional, separate, and distinct violation.

(d) The department may impose a fine and, in the case of an owner-operated office surgery center, revoke or deny a center's registration if the center's designated physician knowingly and intentionally misrepresents actions taken to correct a violation.

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552       (e) An owner or designated physician of an office surgery  
553 center who concurrently operates an unregistered center is  
554 subject to an administrative fine of \$5,000 per day.

555       (f) If the new owner of an office surgery center that  
556 requires registration fails to apply to register the center upon  
557 a change of ownership and operates the center under the new  
558 ownership, the new owner is subject to a fine of \$10,000.

559       Section 6. Subsection (2) of section 459.005, Florida  
560 Statutes, is amended to read:

561       459.005 Rulemaking authority.—

562       ~~(2) A physician who performs liposuction procedures in~~  
563 ~~which more than 1,000 cubic centimeters of supernatant fat is~~  
564 ~~removed, level 2 procedures lasting more than 5 minutes, and all~~  
565 ~~level 3 surgical procedures in an office setting must register~~  
566 ~~the office with the department unless that office is licensed as~~  
567 ~~a facility under chapter 395. The department shall inspect the~~  
568 ~~physician's office annually unless the office is accredited by a~~  
569 ~~nationally recognized accrediting agency or an accrediting~~  
570 ~~organization subsequently approved by the Board of Osteopathic~~  
571 ~~Medicine. The actual costs for registration and inspection or~~  
572 ~~accreditation shall be paid by the person seeking to register~~  
573 ~~and operate the office setting in which office surgery is~~  
574 ~~performed.~~

575       Section 7. Section 459.0138, Florida Statutes, is created  
576 to read:

577       459.0138 Office surgery centers.—

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

579       (a) "Designated physician" means a physician licensed under  
580 this chapter or chapter 458 who practices at the office surgery

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center location for which the physician has assumed responsibility for complying with all requirements in this section and related rules of the board.

(b) "Office surgery center" means any facility where a physician performs liposuction procedures in which more than 1,000 cubic centimeters of supernatant fat are removed, level 2 procedures lasting more than 5 minutes, and all level 3 surgical procedures in an office setting, or any facility in which surgery is performed outside of any facility licensed under chapter 390 or chapter 395.

(2) REGISTRATION.—

(a) An office surgery center must register with the department unless the center is:

1. Licensed as a facility pursuant to chapter 395; or
2. Affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows.

(b) Office surgery center locations shall be registered separately regardless of whether the center is operated under the same business name or management as another center. The actual costs for registration shall be paid by the person seeking to register and operate the office surgery center in which office surgery is performed.

(c) As a part of registration, an office surgery center must have a designated physician. Within 10 days after termination of a designated physician, the center must notify the department of the identity of another designated physician for that center. Failing to have a designated physician practicing at the location of the registered center may result

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in the suspension of the center's certificate of registration,  
as described in s. 456.073(8) or agency action under s.  
120.60(6).

(d) The department shall deny registration to an office  
surgery center that is:

1. Not fully owned by a physician licensed under this  
chapter or chapter 458 or a group of physicians licensed under  
this chapter or chapter 458;

2. Not a health care center licensed under part X of  
chapter 400; or

3. Owned by or in any contractual or employment  
relationship with a physician licensed under this chapter or  
chapter 458 who:

a. Had hospital privileges revoked in the last 5 years.

b. Does not have a clear and active license with the  
department; or

c. Had a license disciplined by the department or another  
jurisdiction in the last 5 years for an offense related to  
standard of care.

(e) If the department finds that an office surgery center  
does not meet the requirements of paragraph (c) or is owned,  
directly or indirectly, by a person meeting criteria listed in  
paragraph (d), the department shall revoke the certificate of  
registration previously issued by the department.

(f) The department may revoke an office surgery center's  
certificate of registration and prohibit all physicians  
associated with the center from practicing at that location  
based upon an annual inspection and evaluation of the factors  
described in subsection (4).

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639       (g) If the certificate of registration is revoked or  
640       suspended, the designated physician of the center, the owner or  
641       lessor of the center property, the manager, and the proprietor  
642       shall:

643             1. Cease to operate the facility as an office surgery  
644       center as of the effective date of the suspension or revocation.

645             2. Remove any signs and symbols identifying the premises as  
646       an office surgery center.

647       (h) Upon the effective date of the suspension or  
648       revocation, the designated physician of the office surgery  
649       center shall advise the department of the disposition of the  
650       medicinal drugs located on the premises. Such disposition is  
651       subject to the supervision and approval of the department.  
652       Medicinal drugs that are purchased or held by a center that is  
653       not registered may be deemed adulterated pursuant to s. 499.006.

654       (i) If the office surgery center's registration is revoked,  
655       any person named in the registration documents of the center,  
656       including persons owning or operating the center, may not, as an  
657       individual or as a part of a group, apply to operate an office  
658       surgery center for 5 years after the date the registration is  
659       revoked.

660       (j) The period of suspension for the registration of an  
661       office surgery center shall be prescribed by the department, but  
662       may not exceed 2 years.

663       (k) A change of ownership of a registered office surgery  
664       center requires submission of a new registration application. An  
665       office surgery registration may not be transferred.

666       (3) PHYSICIAN RESPONSIBILITIES.—These responsibilities  
667       apply to any physician who provides professional services in an



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office surgery center that is required to register with the department in subsection (2).

(a)1. A physician may not practice medicine in an office surgery center, as described in subsection (5), if the office surgery center is not registered with the department as required by this section. A physician who violates this paragraph is subject to disciplinary action by his or her appropriate medical regulatory board.

2. Surgical procedures performed in an office surgery center may not include any procedure that may result in blood loss of more than 10 percent of estimated blood volume in a patient with a normal hemoglobin level; require major or prolonged intracranial, intrathoracic, abdominal, or major joint replacement procedures, except for laparoscopic procedures; involve major blood vessels when such procedure is performed with direct visualization by open exposure of the major vessel, except for percutaneous endovascular intervention; or are generally emergent or life-threatening in nature.

(b) The designated physician of an office surgery center shall notify the applicable board in writing of the date of termination of employment within 10 days after terminating his or her employment with a center registered under subsection (2). Each physician practicing in an office surgery center shall notify the board, in writing, within 10 calendar days after beginning or ending his or her practice at an office surgery center.

(c) Each physician practicing in an office surgery center is responsible for ensuring compliance with the following:

1. Facility and physical operations requirements,

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including:

a. An office surgery center that is located and operated at a publicly accessible, fixed location.

b. The public display of a visible printed sign that clearly identifies the name, hours of operations, and street address of the center.

c. Maintaining a publicly listed telephone number and other methods of communication available to the public.

d. Emergency lighting and communications.

e. A reception and waiting area.

f. A restroom.

g. An administrative area, including room for storage of medical records, supplies, and equipment.

h. Private patient examination rooms.

i. Treatment rooms, if treatment is being provided to the patients.

j. The public display of a visible printed sign located in a conspicuous place in the waiting room with the name and contact information of the center's designated physician and the names of all physicians practicing in the center.

k. Compliance with ss. 499.0121 and 893.07, if the center stores and dispenses prescription drugs.

2. Infection control requirements, including:

a. The maintenance of equipment and supplies to support infection prevention and control.

b. The identification of infection risks that shall be based on the following:

(I) Geographic location, community, and population served.

(II) The provided care, treatment, and services.

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726 (III) An analysis of its infection surveillance and control  
727 data.

728 c. Center maintenance of written infection prevention  
729 policies and procedures that address prioritized risks and limit  
730 the following:

731 (I) Unprotected exposure to pathogens.

732 (II) Transmission of infections associated with procedures  
733 performed in the center.

734 (III) Transmission of infections associated with the  
735 center's use of medical equipment, devices, and supplies.

736 3. Health and safety requirements, including:

737 a. Being structurally sound, in good repair, clean, and  
738 free from health and safety hazards, including grounds,  
739 buildings, furniture, appliances, and equipment.

740 b. Having evacuation procedures in case of the event of an  
741 emergency, which shall include provisions for the evacuation of  
742 disabled patients and employees.

743 c. Having a written facility-specific disaster plan setting  
744 forth actions to be taken in the event of center closure due to  
745 unforeseen disasters and which shall include provisions for the  
746 protection of medical records and any controlled substances.

747 d. Having at least one employee on the premises during  
748 patient care hours who is certified in basic life support and is  
749 trained in reacting to accidents and medical emergencies until  
750 emergency medical personnel arrive.

751 (d) The designated physician of an office surgery center is  
752 responsible for ensuring the center complies with the following  
753 quality assurance requirements:

754 1. The center shall maintain an ongoing quality assurance

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program that objectively and systematically monitors and evaluates the quality and appropriateness of patient care, evaluates methods to improve patient care, identifies and corrects deficiencies within the facility, alerts the designated physician to identify and resolve recurring problems, and provides for opportunities to improve the facility's performance and to enhance and improve the quality of care provided to the public.

2. The designated physician shall establish a quality assurance program that includes the following components:

a. Identification, investigation, and analysis of the frequency and causes of adverse incidents.

b. Identification of trends or patterns of adverse incidents.

c. Development of measures to correct, reduce, minimize, or eliminate the risk of adverse incidents to patients.

d. Documentation of the functions provided in this subparagraph and periodic review no less than quarterly of such information by the designated physician.

(e) The designated physician for each office surgery center shall report all adverse incidents to the department as set forth in s. 458.351.

This section does not excuse a physician from providing any treatment or performing any medical duty without the proper equipment and materials as required by the standard of care or rules adopted by the board. This section does not supersede the level of care, skill, and treatment recognized in general law related to health care licensure.

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(4) INSPECTION.—

(a) The department shall inspect each office surgery center annually, including a review of the patient records, to ensure that it complies with this section and the rules of the board adopted pursuant to subsection (5) unless the center is accredited by a nationally recognized accrediting agency or an accrediting organization approved by the board.

(b) The actual costs for inspection or accreditation shall be paid by the person seeking to register and operate the office center in which office surgery is performed.

(c) During an onsite inspection, the department shall make a reasonable attempt to discuss each violation with the owner or designated physician of the office surgery center before issuing a formal written notification.

(d) Any action taken to correct a violation shall be documented in writing by the owner or designated physician of the office surgery center and verified by follow-up inspections by department personnel.

(5) RULEMAKING.—The board shall adopt rules:

(a) Necessary to administer the registration and inspection of office surgery centers which establish the specific requirements, procedures, forms, and fees.

(b) Setting forth training requirements for all facility health care practitioners who are not regulated by another board.

(6) PENALTIES; ENFORCEMENT.—

(a) The department may impose an administrative fine on an office surgery center of up to \$5,000 per violation for violating the requirements of this section; chapter 499, the

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813 Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the  
814 Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,  
815 the Comprehensive Drug Abuse Prevention and Control Act; chapter  
816 893, the Florida Comprehensive Drug Abuse Prevention and Control  
817 Act; or the rules of the department.

818 (b) In determining whether a penalty is to be imposed upon  
819 a center, and in determining the amount of the fine, the  
820 department shall consider the following factors:

821 1. The gravity of the violation, including the probability  
822 that death or serious physical or emotional harm to a patient  
823 has resulted, or could have resulted, from the center's actions  
824 or the actions of the physician; the severity of the action or  
825 potential harm; and the extent to which the applicable laws or  
826 rules were violated.

827 2. What actions, if any, the owner or designated physician  
828 took to correct the violation.

829 3. Whether there were any previous violations at the  
830 center.

831 4. The financial benefits that the center derived from  
832 committing or continuing to commit the violation.

833 (c) Each day a violation continues after the date fixed for  
834 termination of the violation as ordered by the department  
835 constitutes an additional, separate, and distinct violation.

836 (d) The department may impose a fine and, in the case of an  
837 owner-operated office surgery center, revoke or deny a center's  
838 registration if the center's designated physician knowingly and  
839 intentionally misrepresents actions taken to correct a  
840 violation.

841 (e) An owner or designated physician of an office surgery

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center who concurrently operates an unregistered center is  
subject to an administrative fine of \$5,000 per day.

(f) If the new owner of an office surgery center that  
requires registration fails to apply to register the center upon  
a change of ownership and operates the center under the new  
ownership, the new owner is subject to a fine of \$10,000.

Section 8. Section 460.4166, Florida Statutes, is repealed.

Section 9. Section 463.006, Florida Statutes, is amended to  
read:

463.006 Licensure and certification ~~by examination.~~

(1) Any person desiring to be a licensed practitioner  
pursuant to this chapter shall apply to the department ~~to take~~  
~~the licensure and certification examinations.~~ The department  
shall license ~~examine~~ each applicant who the board determines  
has:

(a) Completed the application forms as required by the  
board, remitted an application fee for certification not to  
exceed \$250, ~~remitted an examination fee for certification not~~  
~~to exceed \$250,~~ and remitted a ~~an examination~~ fee for licensure  
not to exceed \$325, all as set by the board.

(b) Submitted proof satisfactory to the department that she  
or he:

1. Is at least 18 years of age.

2. Has graduated from an accredited school or college of  
optometry approved by rule of the board.

~~3. Is of good moral character.~~

3.4. Has successfully completed at least 110 hours of  
transcript-quality coursework and clinical training in general  
and ocular pharmacology as determined by the board, at an

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institution that:

a. Has facilities for both didactic and clinical instructions in pharmacology; and

b. Is accredited by a regional or professional accrediting organization that is recognized and approved by the Commission on Recognition of Postsecondary Accreditation or the United States Department of Education.

~~4.5-~~ Has completed at least 1 year of supervised experience in differential diagnosis of eye disease or disorders as part of the optometric training or in a clinical setting as part of the optometric experience.

5. Has obtained a passing score, as established by rule of the board, on the licensure examination of the National Board of Examiners in Optometry or a similar nationally recognized examination approved by the board.

~~(2) The examination shall consist of the appropriate subjects, including applicable state laws and rules and general and ocular pharmacology with emphasis on the use and side effects of ocular pharmaceutical agents. The board may by rule substitute a national examination as part or all of the examination and may by rule offer a practical examination in addition to the written examination.~~

(2)~~(3)~~ Each applicant who successfully passes the examination and otherwise meets the requirements of this chapter is entitled to be licensed as a practitioner and to be certified to administer and prescribe ocular pharmaceutical agents in the diagnosis and treatment of ocular conditions.

Section 10. Section 463.0061, Florida Statutes, is created to read:



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463.0061 Licensure by endorsement; requirements; fees.—

(1) Any person desiring to be a licensed practitioner pursuant to this chapter shall apply to the department. The department shall issue a license by endorsement to any applicant who, upon applying to the department on forms furnished by the department and remitting a nonrefundable application fee set by the board not to exceed \$250 and a licensure fee not to exceed \$325, the board certifies:

(a) Has graduated from an accredited school or college of optometry accredited by a regional or professional accrediting organization that is recognized and approved by the Commission on Recognition of Postsecondary Accreditation or the United States Department of Education.

(b) Has obtained an overall passing score, as established by rule of the board, on the licensure examination of the National Board of Examiners in Optometry or a similar nationally recognized examination approved by the board.

(c) Has submitted evidence of an active, licensed practice of optometry in another jurisdiction, for at least 5 of the immediately preceding 7 years, or evidence of successful completion of a board-approved clinical competency examination within the year preceding the filing of an application for licensure. For purposes of this paragraph, "active licensed practice of optometry" means the practice of optometry by optometrists, including those employed by any federal or state governmental entity in community or public health.

(d) Has successfully completed the clinical skills portion of the examination developed by the National Board of Examiners in Optometry. In addition to an overall passing score on the

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clinical skills portion, an applicant must obtain a score of 75 percent or better on each of the biomicroscopy, binocular indirect ophthalmoscopy, and dilated biomicroscopy and noncontact fundus lens evaluation skills individually.

(e) Has successfully completed a written examination on applicable general laws and rules governing the practice of optometry.

(f) Has obtained a passing score on either the Treatment and Management of Ocular Disease examination in the Patient Assessment and Management portion of the examination developed by the National Board of Examiners in Optometry or the stand-alone Treatment and Management of Ocular Disease examination developed by the National Board of Examiners in Optometry.

(2) The applicant shall submit evidence of completing a total of at least 30 hours of board-approved continuing education for the 2 calendar years immediately preceding application.

(3) The department shall not issue a license by endorsement to any applicant who is under investigation in any jurisdiction for an act or offense which would constitute a violation of this chapter until such time as the investigation is complete, at which time the provisions of s. 463.016 shall apply.

Furthermore, the department may not issue an unrestricted license to any individual who has committed any act or offense in any jurisdiction constituting the basis for disciplining an optometrist pursuant to s. 463.016. If the board finds that an individual has committed an act or offense constituting the basis for disciplining an optometrist pursuant to s. 463.016, the board may enter an order imposing one or more of the terms

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958 set forth in subsection (4).

959 (4) If the board determines that an applicant for licensure  
960 by endorsement has failed to satisfy the appropriate  
961 requirements in this section, it may enter an order that  
962 requires one or more of the following actions:

963 (a) A refusal to certify to the department an application  
964 for licensure or certification;

965 (b) A certification to the department of an application for  
966 licensure or certification with restrictions on the scope of  
967 practice of the licensee; or

968 (c) A certification to the department of an application for  
969 licensure or certification with a probationary period subject to  
970 conditions specified by the board, including, but not limited  
971 to, requiring the optometrist to submit to treatment, attend  
972 continuing education courses, submit to reexamination, or work  
973 under the supervision of another licensed optometrist.

974 Section 11. Section 464.006, Florida Statutes, is amended  
975 to read:

976 464.006 Rulemaking authority.—The board may ~~has authority~~  
977 ~~to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 to  
978 implement the provisions of this part conferring duties upon it  
979 and establish standards of care.

980 Section 12. Section 464.202, Florida Statutes, is amended  
981 to read:

982 464.202 Duties and powers of the board.—The board shall  
983 maintain, or contract with or approve another entity to  
984 maintain, a state registry of certified nursing assistants. The  
985 registry must consist of the name of each certified nursing  
986 assistant in this state; other identifying information defined

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by board rule; certification status; the effective date of certification; other information required by state or federal law; information regarding any crime or any abuse, neglect, or exploitation as provided under chapter 435; and any disciplinary action taken against the certified nursing assistant. The registry shall be accessible to the public, the certificateholder, employers, and other state agencies. The board shall adopt by rule testing procedures for use in certifying nursing assistants and shall adopt rules regulating the practice of certified nursing assistants, including discipline and establishing standards of care, and specifying the scope of practice authorized and the level of supervision required for the practice of certified nursing assistants. The board may contract with or approve another entity or organization to provide the examination services, including the development and administration of examinations. The board shall require that the contract provider offer certified nursing assistant applications via the Internet, and may require the contract provider to accept certified nursing assistant applications for processing via the Internet. The board shall require the contract provider to provide the preliminary results of the certified nursing examination on the date the test is administered. The provider shall pay all reasonable costs and expenses incurred by the board in evaluating the provider's application and performance during the delivery of services, including examination services and procedures for maintaining the certified nursing assistant registry.

Section 13. Paragraph (c) of subsection (1) of section 464.203, Florida Statutes, is amended to read:

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1016 464.203 Certified nursing assistants; certification  
1017 requirement.—

1018 (1) The board shall issue a certificate to practice as a  
1019 certified nursing assistant to any person who demonstrates a  
1020 minimum competency to read and write and successfully passes the  
1021 required background screening pursuant to s. 400.215. If the  
1022 person has successfully passed the required background screening  
1023 pursuant to s. 400.215 or s. 408.809 within 90 days before  
1024 applying for a certificate to practice and the person's  
1025 background screening results are not retained in the  
1026 clearinghouse created under s. 435.12, the board shall waive the  
1027 requirement that the applicant successfully pass an additional  
1028 background screening pursuant to s. 400.215. The person must  
1029 also meet one of the following requirements:

1030 (c) Is currently certified in another state or territory or  
1031 the District of Columbia; is listed on that state's certified  
1032 nursing assistant registry; and has not been found to have  
1033 committed abuse, neglect, or exploitation in that state.

1034 Section 14. Subsection (1) of section 464.204, Florida  
1035 Statutes, is amended to read:

1036 464.204 Denial, suspension, or revocation of certification;  
1037 disciplinary actions.—

1038 (1) The following acts constitute grounds for which the  
1039 board may impose disciplinary sanctions as specified in  
1040 subsection (2):

1041 (a) Obtaining or attempting to obtain certification or an  
1042 exemption, or possessing or attempting to possess certification  
1043 or a letter of exemption, by bribery, misrepresentation, deceit,  
1044 or through an error of the board.

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(b) ~~Intentionally~~ Violating any provision of this chapter, chapter 456, or the rules adopted by the board.

Section 15. Subsection (7) is added to section 465.019, Florida Statutes, to read:

465.019 Institutional pharmacies; permits.—

(7) An institutional pharmacy must pass an onsite inspection by the department as a prerequisite to the issuance of an initial permit or a permit for a change of location. The inspection must be completed within 90 days before the issuance of the permit.

Section 16. Section 465.0193, Florida Statutes, is amended to read:

465.0193 Nuclear pharmacy permits.—Any person desiring a permit to operate a nuclear pharmacy shall apply to the department. If the board certifies that the application complies with applicable law, the department shall issue the permit. No permit shall be issued unless a duly licensed and qualified nuclear pharmacist is designated as being responsible for activities described in s. 465.0126. A nuclear pharmacy must pass an onsite inspection by the department as a prerequisite to the issuance of an initial permit or a permit for a change of location. The inspection must be completed within 90 days before the issuance of the permit. The permittee shall notify the department within 10 days of any change of the licensed pharmacist responsible for the compounding and dispensing of nuclear pharmaceuticals.

Section 17. Section 465.0195, Florida Statutes, is created to read:

465.0195 Pharmacy or outsourcing facility; sterile

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1074 compounding permit.—Before a pharmacy or outsourcing facility  
1075 located in this state dispenses, creates, delivers, ships, or  
1076 mails, in any manner, a compounded sterile product, the pharmacy  
1077 or outsourcing facility must hold a sterile compounding permit.

1078 (1) An application for a sterile compounding permit shall  
1079 be submitted on a form furnished by the board. The board may  
1080 require such information as it deems reasonably necessary to  
1081 carry out the purposes of this section.

1082 (2) If the board certifies that the application complies  
1083 with applicable laws and rules of the board governing  
1084 pharmacies, the department shall issue the permit.

1085 (3) A pharmacy or outsourcing facility must pass an onsite  
1086 inspection by the department as a prerequisite to the issuance  
1087 of an initial permit or a permit for a change of location. The  
1088 inspection must be completed within 90 days before the issuance  
1089 of the permit. The board may adopt by rule standards for  
1090 conducting an onsite inspection for issuance of a sterile  
1091 compounding permit.

1092 (4) A permit may not be issued unless a licensed pharmacist  
1093 is designated to undertake the professional supervision of the  
1094 compounding and dispensing of all drugs dispensed by the  
1095 permittee.

1096 (5) A permittee must notify the department within 10 days  
1097 after any change of the licensed pharmacist under subsection  
1098 (4). Each permittee that employs or otherwise uses registered  
1099 pharmacy technicians shall have a written policy and procedures  
1100 manual specifying those duties, tasks, and functions that a  
1101 registered pharmacy technician is authorized to perform.

1102 (6) The board may adopt by rule standards of practice for

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sterile compounding. In adopting such rules, the board shall give due consideration to the standards and requirements provided in chapter 797 of the United States Pharmacopeia, or other professionally accepted standards deemed authoritative by the board. In adopting such rules for an outsourcing facility, the board shall consider the standards and requirements of current good manufacturing practices as set forth by federal law and any other professionally accepted standards deemed authoritative by the board.

(7) All provisions relating to pharmacy permits found in ss. 465.022 and 465.023 apply to permits issued pursuant to this section.

Section 18. Section 465.0196, Florida Statutes, is amended to read:

465.0196 Special pharmacy permits.—Any person desiring a permit to operate a special pharmacy shall apply to the department for a special pharmacy permit. If the board certifies that the application complies with the applicable laws and rules of the board governing the practice of the profession of pharmacy, the department shall issue the permit. A special pharmacy must pass an onsite inspection by the department as a prerequisite to the issuance of an initial permit or a permit for a change of location. The inspection must be completed within 90 days before the issuance of the permit. A permit may not be issued unless a licensed pharmacist is designated to undertake the professional supervision of the compounding and dispensing of all drugs dispensed by the pharmacy. The licensed pharmacist shall be responsible for maintaining all drug records and for providing for the security of the area in the facility



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in which the compounding, storing, and dispensing of medicinal drugs occurs. The permittee shall notify the department within 10 days after any change of the licensed pharmacist responsible for such duties. Each permittee that employs or otherwise uses registered pharmacy technicians shall have a written policy and procedures manual specifying those duties, tasks, and functions that a registered pharmacy technician is allowed to perform.

Section 19. Subsection (2) of section 465.0197, Florida Statutes, is amended to read:

465.0197 Internet pharmacy permits.—

(2) An Internet pharmacy must obtain a permit under this section to sell medicinal drugs to persons in this state. An Internet pharmacy must pass an onsite inspection by the department as a prerequisite to the issuance of an initial permit or a permit for a change of location. The inspection must be completed within 90 days before the issuance of the permit.

Section 20. Subsection (4) of section 466.006, Florida Statutes, is amended to read:

466.006 Examination of dentists.—

(4) Notwithstanding any other provision of law in chapter 456 pertaining to the clinical dental licensure examination or national examinations, to be licensed as a dentist in this state, an applicant must successfully complete the following:

(a) A written examination on the laws and rules of the state regulating the practice of dentistry;

(b)1. A practical or clinical examination, which shall be the American Dental Licensing Examination produced by the American Board of Dental Examiners, Inc., or its successor entity, if any, that is administered in this state ~~and graded by~~

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~~dentists licensed in this state and employed by the department~~  
~~for just such purpose~~, provided that the board has attained, and  
continues to maintain thereafter, representation on the board of  
directors of the American Board of Dental Examiners, the  
examination development committee of the American Board of  
Dental Examiners, and such other committees of the American  
Board of Dental Examiners as the board deems appropriate by rule  
to assure that the standards established herein are maintained  
organizationally. A passing score on the American Dental  
Licensing Examination administered in this state ~~and graded by~~  
~~dentists who are licensed in this state~~ is valid for 365 days  
after the date the official examination results are published.

2.a. As an alternative to the requirements of subparagraph  
1., an applicant may submit scores from an American Dental  
Licensing Examination previously administered in a jurisdiction  
other than this state after October 1, 2011, and such  
examination results shall be recognized as valid for the purpose  
of licensure in this state. A passing score on the American  
Dental Licensing Examination administered out-of-state shall be  
the same as the passing score for the American Dental Licensing  
Examination administered in this state ~~and graded by dentists~~  
~~who are licensed in this state~~. The examination results are  
valid for 365 days after the date the official examination  
results are published. The applicant must have completed the  
examination after October 1, 2011.

b. This subparagraph may not be given retroactive  
application.

3. If the date of an applicant's passing American Dental  
Licensing Examination scores from an examination previously

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administered in a jurisdiction other than this state under subparagraph 2. is older than 365 days, then such scores shall nevertheless be recognized as valid for the purpose of licensure in this state, but only if the applicant demonstrates that all of the following additional standards have been met:

a. (I) The applicant completed the American Dental Licensing Examination after October 1, 2011.

(II) This sub-subparagraph may not be given retroactive application;

b. The applicant graduated from a dental school accredited by the American Dental Association Commission on Dental Accreditation or its successor entity, if any, or any other dental accrediting organization recognized by the United States Department of Education. Provided, however, if the applicant did not graduate from such a dental school, the applicant may submit proof of having successfully completed a full-time supplemental general dentistry program accredited by the American Dental Association Commission on Dental Accreditation of at least 2 consecutive academic years at such accredited sponsoring institution. Such program must provide didactic and clinical education at the level of a D.D.S. or D.M.D. program accredited by the American Dental Association Commission on Dental Accreditation;

c. The applicant currently possesses a valid and active dental license in good standing, with no restriction, which has never been revoked, suspended, restricted, or otherwise disciplined, from another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;

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d. The applicant submits proof that he or she has never been reported to the National Practitioner Data Bank, the Healthcare Integrity and Protection Data Bank, or the American Association of Dental Boards Clearinghouse. This subparagraph does not apply if the applicant successfully appealed to have his or her name removed from the data banks of these agencies;

e.(I) In the 5 years immediately preceding the date of application for licensure in this state, the applicant must submit proof of having been consecutively engaged in the full-time practice of dentistry in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico, or, if the applicant has been licensed in another state or territory of the United States, the District of Columbia, or the Commonwealth of Puerto Rico for less than 5 years, the applicant must submit proof of having been engaged in the full-time practice of dentistry since the date of his or her initial licensure.

(II) As used in this section, "full-time practice" is defined as a minimum of 1,200 hours per year for each and every year in the consecutive 5-year period or, where applicable, the period since initial licensure, and must include any combination of the following:

(A) Active clinical practice of dentistry providing direct patient care.

(B) Full-time practice as a faculty member employed by a dental or dental hygiene school approved by the board or accredited by the American Dental Association Commission on Dental Accreditation.

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(C) Full-time practice as a student at a postgraduate dental education program approved by the board or accredited by the American Dental Association Commission on Dental Accreditation.

(III) The board shall develop rules to determine what type of proof of full-time practice is required and to recoup the cost to the board of verifying full-time practice under this section. Such proof must, at a minimum, be:

(A) Admissible as evidence in an administrative proceeding;

(B) Submitted in writing;

(C) Submitted by the applicant under oath with penalties of perjury attached;

(D) Further documented by an affidavit of someone unrelated to the applicant who is familiar with the applicant's practice and testifies with particularity that the applicant has been engaged in full-time practice; and

(E) Specifically found by the board to be both credible and admissible.

(IV) An affidavit of only the applicant is not acceptable proof of full-time practice unless it is further attested to by someone unrelated to the applicant who has personal knowledge of the applicant's practice. If the board deems it necessary to assess credibility or accuracy, the board may require the applicant or the applicant's witnesses to appear before the board and give oral testimony under oath;

f. The applicant must submit documentation that he or she has completed, or will complete, prior to licensure in this state, continuing education equivalent to this state's requirements for the last full reporting biennium;

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g. The applicant must prove that he or she has never been convicted of, or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession in any jurisdiction;

h. The applicant must successfully pass a written examination on the laws and rules of this state regulating the practice of dentistry and must successfully pass the computer-based diagnostic skills examination; and

i. The applicant must submit documentation that he or she has successfully completed the National Board of Dental Examiners dental examination.

Section 21. Paragraph (b) of subsection (4) and paragraph (a) of subsection (6) of section 466.007, Florida Statutes, are amended to read:

466.007 Examination of dental hygienists.—

(4) Effective July 1, 2012, to be licensed as a dental hygienist in this state, an applicant must successfully complete the following:

(b) A practical or clinical examination approved by the board. The examination shall be the Dental Hygiene Examination produced by the American Board of Dental Examiners, Inc. (ADEX) or its successor entity, if any, if the board finds that the successor entity's clinical examination meets or exceeds the provisions of this section. The board shall approve the ADEX Dental Hygiene Examination if the board has attained and continues to maintain representation on the ADEX House of Representatives, the ADEX Dental Hygiene Examination Development Committee, and such other ADEX Dental Hygiene committees as the board deems appropriate through rulemaking to ensure that the

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standards established in this section are maintained organizationally. The ADEX Dental Hygiene Examination or the examination produced by its successor entity is a comprehensive examination in which an applicant must demonstrate skills within the dental hygiene scope of practice on a live patient and any other components that the board deems necessary for the applicant to successfully demonstrate competency for the purpose of licensure. ~~The ADEX Dental Hygiene Examination or the examination by the successor entity administered in this state shall be graded by dentists and dental hygienists licensed in this state who are employed by the department for this purpose.~~

(6) (a) A passing score on the ADEX Dental Hygiene Examination administered out of state shall be considered the same as a passing score for the ADEX Dental Hygiene Examination administered in this state ~~and graded by licensed dentists and dental hygienists.~~

Section 22. Subsections (9) through (15) are added to section 466.017, Florida Statutes, to read:

466.017 Prescription of drugs; anesthesia.—

(9) Any adverse incident that occurs in an office maintained by a dentist must be reported to the department. The required notification to the department must be submitted in writing by certified mail and postmarked within 48 hours after the incident occurs.

(10) A dentist practicing in this state must notify the board in writing by certified mail within 48 hours of any mortality or other adverse incident that occurs in the dentist's outpatient facility. A complete written report must be filed with the board within 30 days after the mortality or other

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adverse incident.

(11) For purposes of notification to the department pursuant to this section, the term "adverse incident" means any mortality that occurs during or as the result of a dental procedure, or an incident that results in a temporary or permanent physical or mental injury that requires hospitalization or emergency room treatment of a dental patient which occurred during or as a direct result of the use of general anesthesia, deep sedation, conscious sedation, pediatric conscious sedation, oral sedation, minimal sedation (anxiolysis), nitrous oxide, or local anesthesia.

(12) Any certified registered dental hygienist administering local anesthesia must notify the board, in writing by registered mail within 48 hours of any adverse incident that was related to or the result of the administration of local anesthesia. A complete written report must be filed with the board within 30 days after the mortality or other adverse incident.

(13) A failure by the dentist or dental hygienist to timely and completely comply with all the reporting requirements in this section is the basis for disciplinary action by the board pursuant to s. 466.028(1).

(14) The department shall review each incident and determine whether it involved conduct by a health care professional subject to disciplinary action, in which case s. 456.073 applies. Disciplinary action, if any, shall be taken by the board under which the health care professional is licensed.

(15) The board may adopt rules to administer this section.  
Section 23. Sections 466.032, 466.033, 466.034, 466.035,



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466.036, 466.037, 466.038, and 466.039, Florida Statutes, are  
repealed.

Section 24. Subsection (1) of section 468.701, Florida  
Statutes, is amended to read:

468.701 Definitions.—As used in this part, the term:

(1) "Athletic trainer" means a person licensed under this  
part who has met the requirements under this part, including  
education requirements as set forth by the Commission on  
Accreditation of Athletic Training Education or its successor  
and necessary credentials from the Board of Certification. An  
athletic trainer must work within his or her scope of practice  
as established in the rules adopted by the board under s.  
468.705. An individual who is licensed as an athletic trainer  
may not otherwise provide, offer to provide, or represent that  
he or she is qualified to provide any care or services beyond  
his or her scope of practice, or that he or she lacks the  
education, training, or experience to provide, or that he or she  
is otherwise prohibited by law from providing.

Section 25. Section 468.707, Florida Statutes, is amended  
to read:

468.707 Licensure requirements.—Any person desiring to be  
licensed as an athletic trainer shall apply to the department on  
a form approved by the department. An applicant shall also  
provide records or other evidence, as determined by the board,  
to prove he or she has met the requirements of this section. The  
department shall license each applicant who:

(1) Has completed the application form and remitted the  
required fees.

(2) ~~For a person who applies on or after July 1, 2016,~~ Has

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submitted to background screening pursuant to s. 456.0135. The board may require a background screening for an applicant whose license has expired or who is undergoing disciplinary action.

(3) (a) Has obtained a baccalaureate or higher degree from a college or university professional athletic training degree program accredited by the Commission on Accreditation of Athletic Training Education or its successor recognized and approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, approved by the board, or recognized by the Board of Certification, and has passed the national examination to be certified by the Board of Certification; or-

(b) ~~(4)~~ Has obtained, at a minimum, a bachelor's degree and has completed the Board of Certification internship requirements and if graduated before 2004, has a current certification from the Board of Certification.

(4) ~~(5)~~ Has current certification in both cardiopulmonary resuscitation and the use of an automated external defibrillator set forth in the continuing education requirements as determined by the board pursuant to s. 468.711.

(5) ~~(6)~~ Has completed any other requirements as determined by the department and approved by the board.

Section 26. Subsection (3) of section 468.711, Florida Statutes, is amended to read:

468.711 Renewal of license; continuing education.—

(3) If initially licensed after January 1, 1998, the licensee must be currently certified by the Board of Certification or its successor agency and maintain that certification in good standing without lapse.

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Section 27. Subsection (2) of section 468.723, Florida Statutes, is amended to read:

468.723 Exemptions.—This part does not prevent or restrict:

(2) An athletic training student acting under the direct supervision of a licensed athletic trainer. For purposes of this subsection, "direct supervision" means the physical presence of an athletic trainer so that the athletic trainer is immediately available to the athletic training student and able to intervene on behalf of the athletic training student. The supervision must be in accordance with rules adopted by the board ~~the standards set forth by the Commission on Accreditation of Athletic Training Education or its successor.~~

Section 28. Subsections (1), (3), and (4) of section 468.803, Florida Statutes, are amended to read:

468.803 License, registration, and examination requirements.—

(1) The department shall issue a license to practice orthotics, prosthetics, or pedorthics, or a registration for a resident to practice orthotics or prosthetics, to qualified applicants. Licenses shall be granted independently in orthotics, prosthetics, or pedorthics, but a person may be licensed in more than one such discipline, and a prosthetist-orthotist license may be granted to persons meeting the requirements for both a prosthetist and an orthotist license. Registrations shall be granted independently in orthotics or prosthetics, and a person may be registered in both fields at the same time or jointly in orthotics and prosthetics as a dual registration.

(3) A person seeking to attain the required orthotics or

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1451 prosthetics experience in this state must be approved by the  
1452 board and registered as a resident by the department. Although a  
1453 registration may be held in both practice fields, for  
1454 independent registrations, the board shall not approve a second  
1455 registration until at least 1 year after the issuance of the  
1456 first registration. Notwithstanding subsection (2), an applicant  
1457 for independent registrations who has been approved by the board  
1458 and registered by the department in one practice field may apply  
1459 for registration in the second practice field without an  
1460 additional state or national criminal history check during the  
1461 period in which the first registration is valid. Each  
1462 independent registration or dual registration is valid for 2  
1463 years from the date of issuance unless otherwise revoked by the  
1464 department upon recommendation of the board. The board shall set  
1465 a registration fee not to exceed \$500 to be paid by the  
1466 applicant. A registration may be renewed once by the department  
1467 upon recommendation of the board for a period no longer than 1  
1468 year, as such renewal is defined by the board by rule. The  
1469 registration renewal fee shall not exceed one-half the current  
1470 registration fee. To be considered by the board for approval of  
1471 registration as a resident, the applicant must have:

1472 (a) A Bachelor of Science or higher-level postgraduate  
1473 degree in Orthotics and Prosthetics from a regionally accredited  
1474 college or university recognized by the Commission on  
1475 Accreditation of Allied Health Education Programs or, at a  
1476 minimum, a bachelor's degree from a regionally accredited  
1477 college or university and a certificate in orthotics from a  
1478 program recognized by the Commission on Accreditation of Allied  
1479 Health Education Programs, or its equivalent, as determined by

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the board; ~~or~~

(b) A Bachelor of Science or higher-level postgraduate degree in Orthotics and Prosthetics from a regionally accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs or, at a minimum, a bachelor's degree from a regionally accredited college or university and a certificate in prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board; or

(c) A Bachelor of Science or higher-level postgraduate degree in Orthotics and Prosthetics from a regionally accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs or, at a minimum, a bachelor's degree from a regionally accredited college or university and a dual certificate in both orthotics and prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board.

(4) The department may develop and administer a state examination for an orthotist or a prosthetist license, or the board may approve the existing examination of a national standards organization. The examination must be predicated on a minimum of a baccalaureate-level education and formalized specialized training in the appropriate field. Each examination must demonstrate a minimum level of competence in basic scientific knowledge, written problem solving, and practical clinical patient management. The board shall require an examination fee not to exceed the actual cost to the board in

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developing, administering, and approving the examination, which fee must be paid by the applicant. To be considered by the board for examination, the applicant must have:

(a) For an examination in orthotics:

1. A Bachelor of Science or higher-level postgraduate degree in Orthotics and Prosthetics from a regionally accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs or, at a minimum, a bachelor's degree from a regionally accredited college or university and a certificate in orthotics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board; and

2. An approved orthotics internship of 1 year of qualified experience, as determined by the board, or an orthotic residency program or a dual residency program recognized by the board.

(b) For an examination in prosthetics:

1. A Bachelor of Science or higher-level postgraduate degree in Orthotics and Prosthetics from a regionally accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs or, at a minimum, a bachelor's degree from a regionally accredited college or university and a certificate in prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board; and

2. An approved prosthetics internship of 1 year of qualified experience, as determined by the board, or a prosthetic residency program or dual residency program

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1538 recognized by the board.

1539 Section 29. Subsection (5) of section 480.033, Florida  
1540 Statutes, is amended to read:

1541 480.033 Definitions.—As used in this act:

1542 (5) "Apprentice" means a person approved by the board to  
1543 study colonic irrigation ~~massage~~ under the instruction of a  
1544 licensed massage therapist practicing colonic irrigation.

1545 Section 30. Subsections (1) and (2) of section 480.041,  
1546 Florida Statutes, are amended, and subsection (8) is added to  
1547 that section, to read:

1548 480.041 Massage therapists; qualifications; licensure;  
1549 endorsement.—

1550 (1) Any person is qualified for licensure as a massage  
1551 therapist under this act who:

1552 (a) Is at least 18 years of age or has received a high  
1553 school diploma or high school equivalency diploma;

1554 (b) Has completed a course of study at a board-approved  
1555 massage school ~~or has completed an apprenticeship program~~ that  
1556 meets standards adopted by the board; and

1557 (c) Has received a passing grade on a national ~~an~~  
1558 examination designated ~~administered~~ by the board ~~department~~.

1559 (2) Every person desiring to be examined for licensure as a  
1560 massage therapist shall apply to the department in writing upon  
1561 forms prepared and furnished by the department. Such applicants  
1562 shall be subject to the provisions of s. 480.046(1). ~~Applicants~~  
1563 ~~may take an examination administered by the department only upon~~  
1564 ~~meeting the requirements of this section as determined by the~~  
1565 ~~board.~~

1566 (8) A person issued a license as a massage apprentice

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before July 1, 2018, may continue that apprenticeship and perform massage therapy as permitted under that license until it expires. Upon completion of the apprenticeship, before July 1, 2021, a massage apprentice may apply to the board for full licensure and be granted a license if all other applicable licensure requirements are met.

Section 31. Section 480.042, Florida Statutes, is repealed.

Section 32. Subsection (3) of section 480.046, Florida Statutes, is amended, and subsection (5) is added to that section, to read:

480.046 Grounds for disciplinary action by the board.—

(3) The board may ~~shall have the power to~~ revoke or suspend the license of a massage establishment licensed under this act, or ~~to~~ deny subsequent licensure of such an establishment, if the establishment is owned by an individual or entity who has had a prior establishment license revoked, in either of the following cases:

(a) Upon proof that a license has been obtained by fraud or misrepresentation.

(b) Upon proof that the holder of a license is guilty of fraud or deceit or of gross negligence, incompetency, or misconduct in the operation of the establishment so licensed.

(c) Upon proof that the owner of the massage establishment or any individual or individuals providing massage therapy services within the establishment, in the aggregate or individually, have had three convictions of, or pleas of guilty or nolo contendere to, or dismissals of a criminal action after a successful completion of a pretrial intervention, diversion, or substance abuse program for any misdemeanor or felony,



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regardless of adjudication, a crime in any jurisdiction related to prostitution and related acts as defined in s. 796.07, which occurred at or within the establishment.

(5) An establishment may not apply for relicensure if disciplined under this section unless there is a change in ownership.

Section 33. Section 483.824, Florida Statutes, is amended to read:

483.824 Qualifications of clinical laboratory director.—A clinical laboratory director must qualify as a clinical laboratory director according to 42 C.F.R. part 493, must be a currently licensed laboratory director, have 4 years of clinical laboratory experience with 2 years of experience in the specialty to be directed or be nationally board certified in the specialty to be directed, and must meet one of the following requirements:

(1) Be a physician licensed under chapter 458 or chapter 459;

(2) Hold an earned doctoral degree in a chemical, physical, or biological science from a regionally accredited institution and maintain national certification requirements equal to those required by the federal Centers for Medicare and Medicaid Services or the federal Health Care Financing Administration; or

(3) For the subspecialty of oral pathology, be a physician licensed under chapter 458 or chapter 459 or a dentist licensed under chapter 466. The laboratory director, if qualified, may perform the duties of the technical supervisor, clinical consultant, general supervisor, and testing personnel, or delegate these responsibilities to personnel meeting the

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qualifications under 42 C.F.R. ss. 493.1447, 493.1453, 493.1459, and 493.1487.

Section 34. Subsection (3) of section 490.003, Florida Statutes, is amended to read:

490.003 Definitions.—As used in this chapter:

(3) ~~(a) Prior to July 1, 1999, "doctoral-level psychological education" and "doctoral degree in psychology" mean a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from:~~

~~1. An educational institution which, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and~~

~~2. A psychology program within that educational institution which, at the time the applicant was enrolled and graduated, had programmatic accreditation from an accrediting agency recognized and approved by the United States Department of Education or was comparable to such programs.~~

~~(b) Effective July 1, 1999, "doctoral-level psychological education" and "doctoral degree in psychology" mean a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from:~~

~~(a) 1.~~ (a) ~~1.~~ An educational institution that ~~which~~, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and

(b) 2. A psychology program within that educational

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institution which, at the time the applicant was enrolled and graduated, had programmatic accreditation from the American Psychological Association ~~an agency recognized and approved by the United States Department of Education.~~

Section 35. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 490.005, Florida Statutes, are amended to read:

490.005 Licensure by examination.—

(1) Any person desiring to be licensed as a psychologist shall apply to the department to take the licensure examination. The department shall license each applicant who the board certifies has:

(b) Submitted proof satisfactory to the board that the applicant has:

1. Received doctoral-level psychological education, as defined in s. 490.003(3); or

2. Received the equivalent of a doctoral-level psychological education, as defined in s. 490.003(3), from a program at a school or university located outside the United States of America ~~and Canada~~, which was officially recognized by the government of the country in which it is located as an institution or program to train students to practice professional psychology. The burden of establishing that the requirements of this provision have been met shall be upon the applicant;

~~3. Received and submitted to the board, prior to July 1, 1999, certification of an augmented doctoral-level psychological education from the program director of a doctoral-level psychology program accredited by a programmatic agency~~

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1683 ~~recognized and approved by the United States Department of~~  
1684 ~~Education; or~~

1685 ~~4. Received and submitted to the board, prior to August 31,~~  
1686 ~~2001, certification of a doctoral-level program that at the time~~  
1687 ~~the applicant was enrolled and graduated maintained a standard~~  
1688 ~~of education and training comparable to the standard of training~~  
1689 ~~of programs accredited by a programmatic agency recognized and~~  
1690 ~~approved by the United States Department of Education. Such~~  
1691 ~~certification of comparability shall be provided by the program~~  
1692 ~~director of a doctoral-level psychology program accredited by a~~  
1693 ~~programmatic agency recognized and approved by the United States~~  
1694 ~~Department of Education.~~

1695 (2) Any person desiring to be licensed as a school  
1696 psychologist shall apply to the department to take the licensure  
1697 examination. The department shall license each applicant who the  
1698 department certifies has:

1699 (b) Submitted satisfactory proof to the department that the  
1700 applicant:

1701 1. Has received a doctorate, specialist, or equivalent  
1702 degree from a program primarily psychological in nature and has  
1703 completed 60 semester hours or 90 quarter hours of graduate  
1704 study, in areas related to school psychology as defined by rule  
1705 of the department, from a college or university which at the  
1706 time the applicant was enrolled and graduated was accredited by  
1707 an accrediting agency recognized and approved by the Council for  
1708 Higher Education Accreditation, its successor, Commission on  
1709 Recognition of Postsecondary Accreditation or an institution  
1710 which is publicly recognized as a member in good standing with  
1711 the Association of Universities and Colleges of Canada.

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2. Has had a minimum of 3 years of experience in school psychology, 2 years of which must be supervised by an individual who is a licensed school psychologist or who has otherwise qualified as a school psychologist supervisor, by education and experience, as set forth by rule of the department. A doctoral internship may be applied toward the supervision requirement.

3. Has passed an examination provided by the department.

Section 36. Subsection (1) of section 490.006, Florida Statutes, is amended to read:

490.006 Licensure by endorsement.—

(1) The department shall license a person as a psychologist or school psychologist who, upon applying to the department and remitting the appropriate fee, demonstrates to the department or, in the case of psychologists, to the board that the applicant:

~~(a) Holds a valid license or certificate in another state to practice psychology or school psychology, as applicable, provided that, when the applicant secured such license or certificate, the requirements were substantially equivalent to or more stringent than those set forth in this chapter at that time; and, if no Florida law existed at that time, then the requirements in the other state must have been substantially equivalent to or more stringent than those set forth in this chapter at the present time;~~

(a) ~~(b)~~ Is a diplomate in good standing with the American Board of Professional Psychology, Inc.; or

(b) ~~(c)~~ Possesses a doctoral degree in psychology ~~as described in s. 490.003~~ and has at least 10 ~~20~~ years of experience as a licensed psychologist in any jurisdiction or

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territory of the United States within 25 years preceding the date of application.

Section 37. Subsection (6) of section 491.0045, Florida Statutes, as amended by chapter 2016-80 and chapter 2016-241, Laws of Florida, is amended to read:

491.0045 Intern registration; requirements.—

(6) A registration issued on or before March 31, 2017, expires March 31, 2022, and may not be renewed or reissued. Any registration issued after March 31, 2017, expires 60 months after the date it is issued. The board may make a one-time exception from the requirements of this section in emergency or hardship cases, as defined by board rule, if ~~A subsequent intern registration may not be issued unless~~ the candidate has passed the theory and practice examination described in s. 491.005(1)(d), (3)(d), and (4)(d).

Section 38. Subsections (3) and (4) of section 491.005, Florida Statutes, are amended to read:

491.005 Licensure by examination.—

(3) MARRIAGE AND FAMILY THERAPY.—Upon verification of documentation and payment of a fee not to exceed \$200, as set by board rule, plus the actual cost ~~to the department~~ for the purchase of the examination from the Association of Marital and Family Therapy Regulatory Board, or similar national organization, the department shall issue a license as a marriage and family therapist to an applicant who the board certifies:

(a) Has submitted an application and paid the appropriate fee.

(b)1. Has a minimum of a master's degree with major emphasis in marriage and family therapy from a program

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1770 accredited by the Commission on Accreditation for Marriage and  
1771 Family Therapy Education or from a Florida university program  
1772 accredited by the Council for Accreditation of Counseling and  
1773 Related Educational Programs, or a closely related field, and  
1774 has completed graduate courses approved by the Board of Clinical  
1775 Social Work, Marriage and Family Therapy, and Mental Health  
1776 Counseling. ~~has completed all of the following requirements:~~

1777       ~~a. Thirty-six semester hours or 48 quarter hours of~~  
1778 ~~graduate coursework, which must include a minimum of 3 semester~~  
1779 ~~hours or 4 quarter hours of graduate-level course credits in~~  
1780 ~~each of the following nine areas: dynamics of marriage and~~  
1781 ~~family systems; marriage therapy and counseling theory and~~  
1782 ~~techniques; family therapy and counseling theory and techniques;~~  
1783 ~~individual human development theories throughout the life cycle;~~  
1784 ~~personality theory or general counseling theory and techniques;~~  
1785 ~~psychopathology; human sexuality theory and counseling~~  
1786 ~~techniques; psychosocial theory; and substance abuse theory and~~  
1787 ~~counseling techniques. Courses in research, evaluation,~~  
1788 ~~appraisal, assessment, or testing theories and procedures;~~  
1789 ~~thesis or dissertation work; or practicums, internships, or~~  
1790 ~~fieldwork may not be applied toward this requirement.~~

1791       ~~b. A minimum of one graduate-level course of 3 semester~~  
1792 ~~hours or 4 quarter hours in legal, ethical, and professional~~  
1793 ~~standards issues in the practice of marriage and family therapy~~  
1794 ~~or a course determined by the board to be equivalent.~~

1795       ~~c. A minimum of one graduate-level course of 3 semester~~  
1796 ~~hours or 4 quarter hours in diagnosis, appraisal, assessment,~~  
1797 ~~and testing for individual or interpersonal disorder or~~  
1798 ~~dysfunction; and a minimum of one 3-semester hour or 4-quarter~~

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1799 ~~hour graduate-level course in behavioral research which focuses~~  
1800 ~~on the interpretation and application of research data as it~~  
1801 ~~applies to clinical practice. Credit for thesis or dissertation~~  
1802 ~~work, practicums, internships, or fieldwork may not be applied~~  
1803 ~~toward this requirement.~~

1804 ~~d. A minimum of one supervised clinical practicum,~~  
1805 ~~internship, or field experience in a marriage and family~~  
1806 ~~counseling setting, during which the student provided 180 direct~~  
1807 ~~client contact hours of marriage and family therapy services~~  
1808 ~~under the supervision of an individual who met the requirements~~  
1809 ~~for supervision under paragraph (c). This requirement may be met~~  
1810 ~~by a supervised practice experience which took place outside the~~  
1811 ~~academic arena, but which is certified as equivalent to a~~  
1812 ~~graduate-level practicum or internship program which required a~~  
1813 ~~minimum of 180 direct client contact hours of marriage and~~  
1814 ~~family therapy services currently offered within an academic~~  
1815 ~~program of a college or university accredited by an accrediting~~  
1816 ~~agency approved by the United States Department of Education, or~~  
1817 ~~an institution which is publicly recognized as a member in good~~  
1818 ~~standing with the Association of Universities and Colleges of~~  
1819 ~~Canada or a training institution accredited by the Commission on~~  
1820 ~~Accreditation for Marriage and Family Therapy Education~~  
1821 ~~recognized by the United States Department of Education.~~  
1822 ~~Certification shall be required from an official of such~~  
1823 ~~college, university, or training institution.~~

1824 2. If the course title which appears on the applicant's  
1825 transcript does not clearly identify the content of the  
1826 coursework, the applicant shall be required to provide  
1827 additional documentation, including, but not limited to, a



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1828 syllabus or catalog description published for the course.

1829

1830 The required master's degree must have been received in an

1831 institution of higher education which at the time the applicant

1832 graduated was: fully accredited by a regional accrediting body

1833 recognized by the Commission on Recognition of Postsecondary

1834 Accreditation; publicly recognized as a member in good standing

1835 with the Association of Universities and Colleges of Canada; or

1836 an institution of higher education located outside the United

1837 States and Canada, which at the time the applicant was enrolled

1838 and at the time the applicant graduated maintained a standard of

1839 training substantially equivalent to the standards of training

1840 of those institutions in the United States which are accredited

1841 by a regional accrediting body recognized by the Commission on

1842 Recognition of Postsecondary Accreditation. Such foreign

1843 education and training must have been received in an institution

1844 or program of higher education officially recognized by the

1845 government of the country in which it is located as an

1846 institution or program to train students to practice as

1847 professional marriage and family therapists or psychotherapists.

1848 The burden of establishing that the requirements of this

1849 provision have been met shall be upon the applicant, and the

1850 board shall require documentation, such as, but not limited to,

1851 an evaluation by a foreign equivalency determination service, as

1852 evidence that the applicant's graduate degree program and

1853 education were equivalent to an accredited program in this

1854 country. An applicant with a master's degree from a program

1855 which did not emphasize marriage and family therapy may complete

1856 the coursework requirement in a training institution fully

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1857 accredited by the Commission on Accreditation for Marriage and  
1858 Family Therapy Education recognized by the United States  
1859 Department of Education.

1860 (c) Has had at least 2 years of clinical experience during  
1861 which 50 percent of the applicant's clients were receiving  
1862 marriage and family therapy services, which must be at the post-  
1863 master's level under the supervision of a licensed marriage and  
1864 family therapist with at least 5 years of experience, or the  
1865 equivalent, who is a qualified supervisor as determined by the  
1866 board. An individual who intends to practice in Florida to  
1867 satisfy the clinical experience requirements must register  
1868 pursuant to s. 491.0045 before commencing practice. If a  
1869 graduate has a master's degree with a major emphasis in marriage  
1870 and family therapy or a closely related field that did not  
1871 include all the coursework required under subparagraph (b)1.  
1872 ~~sub-subparagraphs (b)1.a.-c.~~, credit for the post-master's level  
1873 clinical experience shall not commence until the applicant has  
1874 completed a minimum of 10 of the courses required under  
1875 subparagraph (b)1. ~~sub-subparagraphs (b)1.a.-c.~~, as determined  
1876 by the board, and at least 6 semester hours or 9 quarter hours  
1877 of the course credits must have been completed in the area of  
1878 marriage and family systems, theories, or techniques. Within the  
1879 2 ~~3~~ years of required experience, the applicant shall provide  
1880 direct individual, group, or family therapy and counseling, to  
1881 include the following categories of cases: unmarried dyads,  
1882 married couples, separating and divorcing couples, and family  
1883 groups including children. A doctoral internship may be applied  
1884 toward the clinical experience requirement. A licensed mental  
1885 health professional must be on the premises when clinical

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services are provided by a registered intern in a private practice setting.

(d) Has passed a theory and practice examination provided by the department for this purpose.

(e) Has demonstrated, in a manner designated by rule of the board, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

(f) For the purposes of dual licensure, the department shall license as a marriage and family therapist any person who meets the requirements of s. 491.0057. Fees for dual licensure shall not exceed those stated in this subsection.

(4) MENTAL HEALTH COUNSELING.—Upon verification of documentation and payment of a fee not to exceed \$200, as set by board rule, plus the actual per applicant cost to the department for purchase of the examination from the National Board for Certified Counselors or its successor ~~Professional Examination Service for the National Academy of Certified Clinical Mental Health Counselors or a similar national organization~~, the department shall issue a license as a mental health counselor to an applicant who the board certifies:

(a) Has submitted an application and paid the appropriate fee.

(b)1. Has a minimum of an earned master's degree from a mental health counseling program accredited by the Council for the Accreditation of Counseling and Related Educational Programs that consists of at least 60 semester hours or 80 quarter hours of clinical and didactic instruction, including a course in human sexuality and a course in substance abuse. If the master's

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degree is earned from a program related to the practice of mental health counseling that is not accredited by the Council for the Accreditation of Counseling and Related Educational Programs, then the coursework and practicum, internship, or fieldwork must consist of at least 60 semester hours or 80 quarter hours and meet the following requirements:

a. Thirty-three semester hours or 44 quarter hours of graduate coursework, which must include a minimum of 3 semester hours or 4 quarter hours of graduate-level coursework in each of the following 11 content areas: counseling theories and practice; human growth and development; diagnosis and treatment of psychopathology; human sexuality; group theories and practice; individual evaluation and assessment; career and lifestyle assessment; research and program evaluation; social and cultural foundations; counseling in community settings; and substance abuse. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

b. A minimum of 3 semester hours or 4 quarter hours of graduate-level coursework in legal, ethical, and professional standards issues in the practice of mental health counseling, which includes goals, objectives, and practices of professional counseling organizations, codes of ethics, legal considerations, standards of preparation, certifications and licensing, and the role identity and professional obligations of mental health counselors. Courses in research, thesis or dissertation work, practicums, internships, or fieldwork may not be applied toward this requirement.

c. The equivalent, as determined by the board, of at least

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1944 700 ~~1,000~~ hours of university-sponsored supervised clinical  
1945 practicum, internship, or field experience as required in the  
1946 accrediting standards of the Council for Accreditation of  
1947 Counseling and Related Educational Programs for mental health  
1948 counseling programs. This experience may not be used to satisfy  
1949 the post-master's clinical experience requirement.

1950       2. If the course title which appears on the applicant's  
1951 transcript does not clearly identify the content of the  
1952 coursework, the applicant shall be required to provide  
1953 additional documentation, including, but not limited to, a  
1954 syllabus or catalog description published for the course.

1955  
1956 Education and training in mental health counseling must have  
1957 been received in an institution of higher education which at the  
1958 time the applicant graduated was: fully accredited by a regional  
1959 accrediting body recognized by the Commission on Recognition of  
1960 Postsecondary Accreditation; publicly recognized as a member in  
1961 good standing with the Association of Universities and Colleges  
1962 of Canada; or an institution of higher education located outside  
1963 the United States and Canada, which at the time the applicant  
1964 was enrolled and at the time the applicant graduated maintained  
1965 a standard of training substantially equivalent to the standards  
1966 of training of those institutions in the United States which are  
1967 accredited by a regional accrediting body recognized by the  
1968 Commission on Recognition of Postsecondary Accreditation. Such  
1969 foreign education and training must have been received in an  
1970 institution or program of higher education officially recognized  
1971 by the government of the country in which it is located as an  
1972 institution or program to train students to practice as mental

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health counselors. The burden of establishing that the requirements of this provision have been met shall be upon the applicant, and the board shall require documentation, such as, but not limited to, an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country.

(c) Has had at least 2 years of clinical experience in mental health counseling, which must be at the post-master's level under the supervision of a licensed mental health counselor or the equivalent who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045 before commencing practice. If a graduate has a master's degree with a major related to the practice of mental health counseling that did not include all the coursework required under sub-subparagraphs (b)1.a.-b., credit for the post-master's level clinical experience shall not commence until the applicant has completed a minimum of seven of the courses required under sub-subparagraphs (b)1.a.-b., as determined by the board, one of which must be a course in psychopathology or abnormal psychology. A doctoral internship may be applied toward the clinical experience requirement. A licensed mental health professional must be on the premises when clinical services are provided by a registered intern in a private practice setting.

(d) Has passed a theory and practice examination provided by the department for this purpose.

(e) Has demonstrated, in a manner designated by rule of the

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board, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental health counseling.

Section 39. Paragraph (b) of subsection (1) of section 491.006, Florida Statutes, is amended to read:

491.006 Licensure or certification by endorsement.—

(1) The department shall license or grant a certificate to a person in a profession regulated by this chapter who, upon applying to the department and remitting the appropriate fee, demonstrates to the board that he or she:

(b)1. Holds an active valid license to practice and has actively practiced the profession for which licensure is applied in another state for 3 of the last 5 years immediately preceding licensure.

~~2. Meets the education requirements of this chapter for the profession for which licensure is applied.~~

~~2.3.~~ Has passed a substantially equivalent licensing examination in another state or has passed the licensure examination in this state in the profession for which the applicant seeks licensure.

~~3.4.~~ Holds a license in good standing, is not under investigation for an act that would constitute a violation of this chapter, and has not been found to have committed any act that would constitute a violation of this chapter. The fees paid by any applicant for certification as a master social worker under this section are nonrefundable.

Section 40. Subsection (3) of section 491.007, Florida Statutes, is amended to read:

491.007 Renewal of license, registration, or certificate.—

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~~(3) The board or department shall prescribe by rule a method for the biennial renewal of an intern registration at a fee set by rule, not to exceed \$100.~~

Section 41. Subsection (2) of section 491.009, Florida Statutes, is amended to read:

491.009 Discipline.—

(2) The board ~~department~~, or, in the case of certified master social workers ~~psychologists~~, the department ~~board~~, may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Section 42. Subsection (3) of section 463.0057, Florida Statutes, is amended to read:

463.0057 Optometric faculty certificate.—

(3) The holder of a faculty certificate may engage in the practice of optometry as permitted by this section but may not administer or prescribe topical ocular pharmaceutical agents unless the certificateholder has satisfied the requirements of s. 463.006(1)(b)3. and 4. ~~s. 463.006(1)(b)4. and 5.~~ If a certificateholder wishes to administer or prescribe oral ocular pharmaceutical agents, the certificateholder must also satisfy the requirements of s. 463.0055(1)(b).

Section 43. Paragraph (c) of subsection (2) of section 491.0046, Florida Statutes, is amended to read:

491.0046 Provisional license; requirements.—

(2) The department shall issue a provisional clinical social worker license, provisional marriage and family therapist



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license, or provisional mental health counselor license to each applicant who the board certifies has:

(c) Has met the following minimum coursework requirements:

1. For clinical social work, a minimum of 15 semester hours or 22 quarter hours of the coursework required by s.

491.005(1)(b)2.b.

2. For marriage and family therapy, 10 of the courses required by s. 491.005(3)(b)1. ~~s. 491.005(3)(b)1.a.-c.~~, as determined by the board, and at least 6 semester hours or 9 quarter hours of the course credits must have been completed in the area of marriage and family systems, theories, or techniques.

3. For mental health counseling, a minimum of seven of the courses required under s. 491.005(4)(b)1.a.-c.

Section 44. Subsection (11) of section 945.42, Florida Statutes, is amended to read:

945.42 Definitions; ss. 945.40-945.49.—As used in ss. 945.40-945.49, the following terms shall have the meanings ascribed to them, unless the context shall clearly indicate otherwise:

(11) "Psychological professional" means a behavioral practitioner who has an approved doctoral degree in psychology as defined in s. 490.003(3) ~~s. 490.003(3)(b)~~ and is employed by the department or who is licensed as a psychologist pursuant to chapter 490.

Section 45. This act shall take effect July 1, 2018.



The Florida Senate

## Committee Agenda Request

**To:** Senator Dana D. Young, Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** January 19, 2018

---

I respectfully request that **Senate Bill #1486**, relating to Department of Health, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in cursive script that reads "Denise Grimsley".

---

Senator Denise Grimsley  
Florida Senate, District 26

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18  
Meeting Date

1486  
Bill Number (if applicable)

776 508  
Amendment Barcode (if applicable)

Topic Dolt

Name Corinne Mixon

Job Title Government Consultant

Address 1195 Monroe  
Street

Phone 766-5795

Tallahassee FL 32301  
City State Zip

Email corinne@rutledge-ecology.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Mental Health Counselors Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/2018  
Meeting Date

1486  
Bill Number (if applicable)

470560  
Amendment Barcode (if applicable)

Topic OPTOMETRY

Name DAVID RAMBA

Job Title ATTORNEY

Address 120 S. MONROE ST.  
Street

Phone \_\_\_\_\_

TALLAHASSEE FL 32311  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FLORIDA OPTOMETRIC ASSOCIATION

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

1486

Bill Number (if applicable)

Topic Dept of Health

Amendment Barcode (if applicable)

Name Cynthia Henderson

Job Title \_\_\_\_\_

Address 108 E Jefferson St

Street

Phone 850 559 0855

Tallahassee FL

City

State

32301

Zip

Email cjhenderson@me.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Luxottica

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

11/30/18  
Meeting Date

1486  
Bill Number (if applicable)

Topic Pharmacy

Amendment Barcode (if applicable)

Name David Christian

Job Title Director Gov't Relations

Address 500 Nopc Way

Phone 407/357-2493

Pittman Springs FL  
City State Zip

Email david.christian@chss.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Adventist Health/Florida Hospital

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-30-18  
Meeting Date

1486  
Bill Number (if applicable)

Topic Dept of Health

Amendment Barcode (if applicable)

Name Paul Runk

Job Title Legislative Affairs Director

Address 4052 Bald Cypress Way

Phone 850-245-4444

Street

Tallahassee FL 32399

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Dept. of Health

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

---

Prepared By: The Professional Staff of the Committee on Health Policy

---

BILL: CS/SB 1594

INTRODUCER: Health Policy Committee and Senator Brandes

SUBJECT: Nursing

DATE: January 31, 2018

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Stovall	Stovall	HP	<b>Fav/CS</b>
2. _____	_____	AP	_____
3. _____	_____	RC	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1594 changes the title of “advanced registered nurse practitioner” (ARNP) to “advanced practice registered nurse” (APRN) throughout the Florida Statutes. Instead of being certified to practice in this state as currently required for ARNPs, the bill requires APRNs to be licensed.

The bill repeals the clinical nurse specialist (CNS) license; adding the CNS specialty certification into APRN licensure. All authorizations granted to, and requirements of, APRNs will be applicable to a CNS, including but not limited to, the authority to prescribe controlled substances under certain parameters and to maintain medical malpractice insurance.

The effective date of the act is October 1, 2018.

**II. Present Situation:**

Part I of ch. 464, F.S., the Nurse Practice Act, governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health (DOH)<sup>1</sup> and regulated by the Board of Nursing (BON).<sup>2</sup>

---

<sup>1</sup> Section 464.008, F.S.

<sup>2</sup> The BON is comprised of 13 members appointed by the Governor and confirmed by the Senate who serve four-year terms. All members must be residents of the state. Seven members must be registered nurses who are representative of the diverse areas of practice within the nursing profession. Three members must be licensed practical nurses and three members must be laypersons. At least one member of the board must be 60 years of age or older. *See* Section 464.004, F.S.



A person desiring to practice nursing in the state of Florida must obtain a Florida license by examination<sup>3</sup> or endorsement,<sup>4</sup> or hold an active multistate license pursuant to s. 464.0095, F.S., the Nurse Licensure Compact.<sup>5</sup>

### **Advanced Registered Nurse Practitioner (ARNP)**

An ARNP is a person licensed in this state to practice professional nursing and certified in advanced or specialized nursing practice, including certified registered nurse anesthetists, psychiatric nurses, certified nurse midwives, and nurse practitioners.<sup>6</sup>

Advanced or specialized nursing practice means, in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of postbasic specialized education, training, and experience, are appropriately performed by an ARNP. Within the context of advanced or specialized nursing practice, the ARNP may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The ARNP may also perform acts of medical diagnosis and treatment, prescription, and operation as authorized within the framework of an established supervisory protocol.<sup>7</sup> In addition, within a supervisory protocol an ARNP may:

- Prescribe, dispense, administer, or order any drug; however, an ARNP must have graduated from a program leading to a master's or doctoral degree in a clinical nursing specialty area with training in specialized practitioner skills to prescribe controlled substances;
- Order diagnostic tests and physical and occupational therapy;
- Order any medication for administration in a hospital, ambulatory surgical center; or nursing home; and
- Perform additional acts within his or her specialty.<sup>8</sup>

An ARNP must maintain medical malpractice insurance or provide proof of financial responsibility, unless exempt.<sup>9</sup>

Any nurse desiring to obtain Florida certification as an ARNP must, among other things, submit to the DOH proof that he or she holds a current Florida professional nursing license as an RN or holds an active multistate license to practice professional nursing, and meets at least one of the following additional requirements:

---

<sup>3</sup> Pass the National Council Licensure Examination (NCLEX), have graduated from an approved nursing education program, and pass applicable background screening. *See* s. 464.008, F.S.

<sup>4</sup> Licensed in another state or territory, actively practiced nursing for two of the previous three years prior to application without discipline, and meet the equivalent educational and examination qualifications.

<sup>5</sup> In 2016, the Legislature created s. 464.0095, F.S., which adopts the revised Nurse Licensure Compact (NLC) in its entirety into state law. This legislation allows licensed practical and professional nurses to practice in all member states by maintaining a single license in the nurse's primary state of residence. The effective date of s. 464.0095, F.S., was December 31, 2018, or upon enactment of the revised NLC into law by 26 states, whichever occurs first. At least 26 states have enacted the revised NLC into law and the Enhanced Nurse Licensure Compact Interstate Commission set the Implementation date as January 19, 2018. The DOH and the Florida BON have implemented the NLC. *See* <http://floridasnursing.gov/latest-news/the-enlc-was-implemented-on-january-19-2018/> (last visited Jan. 25, 2018).

<sup>6</sup> *See* ss. 464.003(3) and 464.012(1)(a), F.S.

<sup>7</sup> Section 464.003(2), F.S.

<sup>8</sup> Section 464.012(3) and (4), F.S.

<sup>9</sup> Section 456.048, F.S.

- Certification by an appropriate specialty board such as a registered nurse anesthetist, psychiatric nurse, or nurse midwife; or
- Graduation from a nursing program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. An applicant graduating on or after October 1, 1998, must meet this requirement for initial certification as a nurse practitioner. An applicant graduating on or after October 1, 2001, must meet this requirement for initial certification as a CRNA<sup>10</sup>

As of June 30, 2017, there were 27,705 certified ARNPs and 32 ARNP/CNSs certified in Florida.<sup>11</sup>

### **Clinical Nurse Specialists**

Clinical nurse specialist practice means the delivery and management of advanced practice nursing care to individuals or groups, including the ability to:

- Assess the health status of individuals and families using methods appropriate to the population and area of practice.
- Diagnose human responses to actual or potential health problems.
- Plan for health promotion, disease prevention, and therapeutic intervention in collaboration with the patient or client.
- Implement therapeutic interventions based on the nurse specialist's area of expertise and within the scope of advanced nursing practice, including, but not limited to, direct nursing care, counseling, teaching, and collaboration with other licensed health care providers.
- Coordinate health care as necessary and appropriate and evaluate with the patient or client the effectiveness of care.<sup>12</sup>

A nurse seeking certification as a clinical nurse specialist must submit to the DOH proof that he or she holds a current Florida professional nursing license as an RN, a master's degree in a clinical nursing specialty and either:

- Current certification in a specialty area as a clinical nurse specialist from a nationally recognized certifying body, or
- If the master's degree is in a specialty area for which there is no certification within the clinical nurse specialist role and specialty, 1000 hours of clinical experience in the clinical specialty in which he or she is academically prepared, with at least 500 hours of clinical practice after graduation.

As of June 30, 2017, there were 182 CNSs certified in Florida.<sup>13</sup>

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<sup>10</sup> Section 464.012(1), F.S., as amended by Ch. 2017-134, Laws of Fla.

<sup>11</sup> Department of Health, Division of Medical Quality Assurance *Annual Report & Long-Range Plan Fiscal Year 2016-2017* available at [http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/\\_documents/annual-report-1617.pdf](http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/_documents/annual-report-1617.pdf), p. 12 (last visited Jan. 25, 2018)

<sup>12</sup> Section 464.003(7), F.S.

<sup>13</sup> *Id.* at p. 13.

### **APRN Title Nationally**

Currently 36 states use the APRN title.<sup>14</sup> The National Council of State Boards of Nursing's Consensus Model for APRN Regulation recommends, among other things, using the title of APRN and state recognition of four categories of APRN: CNS, CNP, CRNA, and CNM.<sup>15</sup>

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 464.003, F.S., to define the term “advanced practice registered nurse” to mean any person licensed in this state to practice professional nursing and who is licensed in an advanced nursing practice, including certified nurse midwives (CNMs), certified nurse practitioners, certified registered nurse anesthetists (CRNAs), clinical nurse specialists (CNSs), and psychiatric nurses.

The definitions of “clinical nurse specialist” and “clinical nurse specialist practice” are repealed.

**Section 2** repeals s. 464.0115, F.S., relating to the certification of clinical nurse specialists.

**Section 3** amends s. 464.012, F.S., to create a licensure structure instead of a certification process for the renamed advanced practice registered nurse (APRN).

Clinical nurse specialists are added to the provisions applicable to licensure as an APRN. This will require the APRN/CNS to maintain medical malpractice insurance, or provide proof of financial responsibility, which is not currently required for a CNS.<sup>16</sup> The APRN/CNS will be authorized to prescribe controlled substances if qualified, and in accordance with the limitations applicable to other categories of APRN.<sup>17</sup>

One of the requirements for licensure and licensure renewal is certification by an appropriate specialty board. The bill identifies the acceptable categories of certifications to include certified nurse midwife, certified nurse practitioner, certified registered nurse anesthetist, clinical nurse specialist, or psychiatric nurse. The bill authorizes the board, by rule, to provide for provisional state licensure of all five categories of specialization to allow for passing the national certification examination.

The bill adds a new requirement for the initial licensure of a CNW or CNS as an APRN. Proof of graduation from a master's degree program is required if the applicant graduated on or after October 1, 1998, and is seeking licensure as a CNW or if the applicant graduated on or after July 1, 2007, and is seeking licensure as a CNS.

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<sup>14</sup> National Council of State Boards of Nursing, *APRN Title Map*, (last updated 9/27/2017), available at <https://ncsbn.org/5398.htm> (last visited Jan. 25, 2018).

<sup>15</sup> National Council of State Boards of Nursing, *ARNP Campaign for Consensus: Moving Toward Uniformity in State Laws*, available at <https://ncsbn.org/campaign-for-consensus.htm> (last visited Jan. 25, 2018).

<sup>16</sup> Section 456.048, F.S.

<sup>17</sup> Prescribing privileges are limited to a seven-day supply for controlled substances listed in Schedule II; do not include the prescribing of psychotropic medications for children under 18 years of age, unless prescribed by a psychiatric nurse; and do not extend to prescribing in a pain management clinic. The APRN/CNS will also be subject to the disciplinary actions applicable to an ARNP (APRN under this bill). *See* ss. 456.44, 458.3265(2)(b), 459.0137(2)(b), 464.012(3)(a) and (6), and 464.018, F.S.

Practice parameters for each category of APRN and conforming references to the categories and the APRN title are provided in this section.

The bill requires the DOH and the BON to establish a transition plan for converting a certificate holder in good standing to a licensee. The bill authorizes an ARNP or a CNS holding a certificate to practice that is in good standing on September 30, 2018, to continue practicing with all rights, authorizations, and responsibilities under the bill for licensure as an APRN and to use the new title after the effective date of this act while the transition is completed. Applicable departmental or board disciplinary authority or enforcement responsibilities for ensuring safe nursing practice are preserved. This subsection of law expires on October 1, 2020.

**Section 4** amends s. 960.28, F.S., relating to payment for victims' initial forensic physical examinations, to conform a cross-reference.

The following sections of law are amended in the remainder of the bill to conform the term "advanced registered nurse practitioner" to "advanced practice registered nurse" and to change the reference from certification to licensure, where appropriate:

<a href="#"><u>39.303</u></a>	Child protection teams and sexual abuse treatment programs; services; eligible cases.
<a href="#"><u>39.304</u></a>	Photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected child.
<a href="#"><u>90.503</u></a>	Psychotherapist-patient privilege.
<a href="#"><u>110.12315</u></a>	Prescription drug program.
<a href="#"><u>121.0515</u></a>	Special Risk Class.
<a href="#"><u>252.515</u></a>	Postdisaster Relief Assistance Act; immunity from civil liability.
<a href="#"><u>310.071</u></a>	Deputy pilot certification.
<a href="#"><u>310.073</u></a>	State pilot licensing.
<a href="#"><u>310.081</u></a>	Department to examine and license state pilots and certificate deputy pilots; vacancies.
<a href="#"><u>320.0848</u></a>	Persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.
<a href="#"><u>381.00315</u></a>	Public health advisories; public health emergencies; isolation and quarantines.
<a href="#"><u>381.00593</u></a>	Public school volunteer health care practitioner program.
<a href="#"><u>383.14</u></a>	Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.
<a href="#"><u>383.141</u></a>	Prenatally diagnosed conditions; patient to be provided information; definitions; information clearinghouse; advisory council.
<a href="#"><u>384.27</u></a>	Physical examination and treatment.
<a href="#"><u>390.0111</u></a>	Termination of pregnancies.
<a href="#"><u>390.012</u></a>	Powers of agency; rules; disposal of fetal remains.
<a href="#"><u>394.455</u></a>	Definitions.
<a href="#"><u>395.0191</u></a>	Staff membership and clinical privileges.
<a href="#"><u>397.311</u></a>	Definitions.

<a href="#"><u>397.4012</u></a>	Exemptions from licensure.
<a href="#"><u>397.427</u></a>	Medication-assisted treatment service providers; rehabilitation program; needs assessment and provision of services; persons authorized to issue takeout medication; unlawful operation; penalty.
<a href="#"><u>397.679</u></a>	Emergency admission; circumstances justifying.
<a href="#"><u>397.6793</u></a>	Professional's certificate for emergency admission.
<a href="#"><u>400.021</u></a>	Definitions.
<a href="#"><u>400.462</u></a>	Definitions.
<a href="#"><u>400.487</u></a>	Home health service agreements; physician's, physician assistant's, and advanced registered nurse practitioner's treatment orders; patient assessment; establishment and review of plan of care; provision of services; orders not to resuscitate.
<a href="#"><u>400.506</u></a>	Licensure of nurse registries; requirements; penalties.
<a href="#"><u>400.9973</u></a>	Client admission, transfer, and discharge.
<a href="#"><u>400.9974</u></a>	Client comprehensive treatment plans; client services.
<a href="#"><u>400.9976</u></a>	Administration of medication.
<a href="#"><u>400.9979</u></a>	Restraint and seclusion; client safety.
<a href="#"><u>401.445</u></a>	Emergency examination and treatment of incapacitated persons.
<a href="#"><u>409.905</u></a>	Mandatory Medicaid services.
<a href="#"><u>409.908</u></a>	Reimbursement of Medicaid providers.
<a href="#"><u>409.973</u></a>	Benefits.
<a href="#"><u>429.918</u></a>	Licensure designation as a specialized Alzheimer's services adult day care center.
<a href="#"><u>456.0391</u></a>	Advanced registered nurse practitioners; information required for certification.
<a href="#"><u>456.0392</u></a>	Prescription labeling.
<a href="#"><u>456.041</u></a>	Practitioner profile; creation.
<a href="#"><u>456.048</u></a>	Financial responsibility requirements for certain health care practitioners.
<a href="#"><u>456.072</u></a>	Grounds for discipline; penalties; enforcement.
<a href="#"><u>456.44</u></a>	Controlled substance prescribing.
<a href="#"><u>458.3265</u></a>	Pain-management clinics.
<a href="#"><u>458.331</u></a>	Grounds for disciplinary action; action by the board and department.
<a href="#"><u>458.348</u></a>	Formal supervisory relationships, standing orders, and established protocols; notice; standards.
<a href="#"><u>459.0137</u></a>	Pain-management clinics.
<a href="#"><u>459.015</u></a>	Grounds for disciplinary action; action by the board and department.
<a href="#"><u>459.025</u></a>	Formal supervisory relationships, standing orders, and established protocols; notice; standards.
<a href="#"><u>464.004</u></a>	Board of Nursing; membership; appointment; terms.
<a href="#"><u>464.013</u></a>	Renewal of license or certificate.
<a href="#"><u>464.015</u></a>	Titles and abbreviations; restrictions; penalty.
<a href="#"><u>464.016</u></a>	Violations and penalties.
<a href="#"><u>464.018</u></a>	Disciplinary actions.
<a href="#"><u>464.0205</u></a>	Retired volunteer nurse certificate.
<a href="#"><u>467.003</u></a>	Definitions.

<a href="#">480.0475</a>	Massage establishments; prohibited practices.
<a href="#">483.041</a>	Definitions.
<a href="#">483.801</a>	Exemptions.
<a href="#">486.021</a>	Definitions.
<a href="#">490.012</a>	Violations; penalties; injunction.
<a href="#">491.0057</a>	Dual licensure as a marriage and family therapist.
<a href="#">491.012</a>	Violations; penalty; injunction.
<a href="#">493.6108</a>	Investigation of applicants by Department of Agriculture and Consumer Services.
<a href="#">627.357</a>	Medical malpractice self-insurance.
<a href="#">627.6471</a>	Contracts for reduced rates of payment; limitations; coinsurance and deductibles.
<a href="#">627.6472</a>	Exclusive provider organizations.
<a href="#">627.736</a>	Required personal injury protection benefits; exclusions; priority; claims.
<a href="#">633.412</a>	Firefighters; qualifications for certification.
<a href="#">641.3923</a>	Discrimination against providers prohibited.
<a href="#">766.103</a>	Florida Medical Consent Law.
<a href="#">766.1115</a>	Health care providers; creation of agency relationship with governmental contractors.
<a href="#">766.1116</a>	Health care practitioner; waiver of license renewal fees and continuing education requirements.
<a href="#">766.118</a>	Determination of noneconomic damages
<a href="#">794.08</a>	Female genital mutilation.
<a href="#">893.02</a>	Definitions.
<a href="#">893.05</a>	Practitioners and persons administering controlled substances in their absence.
<a href="#">943.13</a>	Officers' minimum qualifications for employment or appointment.
<a href="#">948.03</a>	Terms and conditions of probation.
<a href="#">1002.20</a>	K-12 student and parent rights.
<a href="#">1002.42</a>	Private schools.
<a href="#">1006.062</a>	Administration of medication and provision of medical services by district school board personnel.
<a href="#">1009.65</a>	Medical Education Reimbursement and Loan Repayment Program.
<a href="#">1009.66</a>	Nursing Student Loan Forgiveness Program.
<a href="#">1009.67</a>	Nursing scholarship program.

The effective date of the bill is October 1, 2018.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Currently certified CNSs (168 are in an active status) who wish to become licensed as an APRN will incur a \$100 APRN licensure fee. However, the renewal fee as an APRN will be slightly less on a recurring basis because the current ARNP renewal fee is \$25 less than the CNS renewal fee. The APRN/CNS will incur a cost to meet the financial responsibility requirements.

**C. Government Sector Impact:**

The DOH notes the nonrecurring and recurring revenue impact in fee collections reflected above. The DOH also notes a nonrecurring workload impact to update the Licensing and Enforcement Information Database System (LEIDS) licensure system, the Nursing website, and the Medical Quality Assurance online systems. However, the DOH indicates that current resources are able to absorb this impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Lines 105-111 authorize the BON to provide for provisional state licensure of CRNAs, CNSs, CNPs, psychiatric nurses and CNMs for a period of time to allow for preparing for and passing the national certification examination. This language is unclear. Under the bill, licensure is as an APRN, not in the individual categories of specialized practice for which certification is required.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 464.003, 464.0115, 464.012, 960.28, 39.303, 39.304, 90.503, 110.12315, 121.0515, 252.515, 310.071, 310.073, 310.081, 320.0848, 381.00315, 381.00593, 383.14, 383.141, 384.27, 390.0111, 390.012, 394.455, 395.0191, 397.311, 397.4012, 397.427, 397.679, 397.6793, 400.021, 400.462, 400.487, 400.506, 400.9973, 400.9974, 400.9976, 400.9979, 401.445, 409.905, 409.908, 409.973, 429.918, 456.0391, 456.0392, 456.041, 456.048, 456.072, 456.44, 458.3265, 458.331, 458.348,

459.0137, 459.015, 459.025, 464.004, 464.013, 464.015, 464.016, 464.018, 464.0205, 467.003, 480.0475, 483.041, 483.801, 486.021, 490.012, 491.0057, 491.012, 493.6108, 627.357, 627.6471, 627.6472, 627.736, 633.412, 641.3923, 766.103, 766.1115, 766.1116, 766.118, 794.08, 893.02, 893.05, 943.13, 948.03, 1002.20, 1002.42, 1006.062, 1009.65, 1009.66, and 1009.67.

The bill substantially amends Chapter 2016-109, Laws of Florida.

## **IX. Additional Information:**

### **A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

#### **CS by Health Policy on January 30, 2018**

The CS:

- Removed a pathway for licensure added in the bill, which had been repealed last year as obsolete,
- Added practice parameters for CNSs which were listed in the repealed certification of CNSs section of law that was inadvertently omitted when the licensure of CNSs was merged into APRN licensure,
- Removed sections in the bill that had become unnecessary since the Nurse Licensure Compact found in s. 464.0095, F.S., is now effective,
- Required a transition plan from certification to licensure and authorized practitioners to continue practicing after the effective date of the bill, under specified conditions,
- Reorganized certain provisions for uniformity and corrected grammatical and technical errors, and
- Changed the effective date of the bill from July 1, 2018, to October 1, 2018.

### **B. Amendments:**

None.





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
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	.	
	.	

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The Committee on Health Policy (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (3), (6), and (7) of section  
464.003, Florida Statutes, are amended, and subsections (8)  
through (23) are redesignated as subsections (6) through (21),  
respectively, to read:

464.003 Definitions.—As used in this part, the term:

(3) "Advanced practice registered nurse" ~~"Advanced~~



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~~registered nurse practitioner~~" means any person licensed in this state to practice professional nursing and who is licensed ~~certified~~ in an advanced ~~or specialized~~ nursing practice, including certified nurse midwives, certified nurse practitioners, certified registered nurse anesthetists, clinical nurse specialists ~~certified nurse midwives,~~ and psychiatric nurses ~~nurse practitioners~~.

~~(6) "Clinical nurse specialist" means any person licensed in this state to practice professional nursing and certified in clinical nurse specialist practice.~~

~~(7) "Clinical nurse specialist practice" means the delivery and management of advanced practice nursing care to individuals or groups, including the ability to:~~

~~(a) Assess the health status of individuals and families using methods appropriate to the population and area of practice.~~

~~(b) Diagnose human responses to actual or potential health problems.~~

~~(c) Plan for health promotion, disease prevention, and therapeutic intervention in collaboration with the patient or client.~~

~~(d) Implement therapeutic interventions based on the nurse specialist's area of expertise and within the scope of advanced nursing practice, including, but not limited to, direct nursing care, counseling, teaching, and collaboration with other licensed health care providers.~~

~~(e) Coordinate health care as necessary and appropriate and evaluate with the patient or client the effectiveness of care.~~

Section 2. Section 464.0115, Florida Statutes, is repealed.



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Section 3. Section 464.012, Florida Statutes, as amended by section 3 of chapter 2017-134, Laws of Florida, is amended to read:

464.012 Licensure ~~Certification~~ of advanced practice registered nurses ~~advanced registered nurse practitioners~~; fees; controlled substance prescribing.—

(1) Any nurse desiring to be licensed ~~certified~~ as an advanced practice registered nurse ~~must advanced registered nurse practitioner~~ shall apply to the department and submit proof that he or she holds a current license to practice professional nursing or holds an active multistate license to practice professional nursing pursuant to s. 464.0095 and that he or she meets one or more of the following requirements as determined by the board:

(a) Certification by an appropriate specialty board. Such certification ~~is shall be~~ required for initial state licensure ~~certification~~ and any licensure renewal ~~recertification~~ as a certified nurse midwife, certified nurse practitioner, certified registered nurse anesthetist, clinical nurse specialist, or psychiatric nurse, ~~or nurse midwife~~. The board may by rule provide for provisional state licensure ~~certification~~ of graduate certified registered nurse anesthetists, clinical nurse specialists, certified nurse practitioners, psychiatric nurses, and certified nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

(b) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. For applicants graduating on or



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after October 1, 1998, graduation from a master's degree program ~~is shall be~~ required for initial licensure certification as a certified nurse practitioner under paragraph (4) (a) ~~(4) (e)~~.

1. For applicants graduating on or after October 1, 2001, graduation from a master's degree program ~~is shall be~~ required for initial licensure certification as a certified registered nurse anesthetist who may perform the acts listed in ~~under~~ paragraph (4) (b) ~~(4) (a)~~.

2. For applicants graduating on or after October 1, 1998, graduation from a master's degree program is required for the initial licensure as a certified nurse midwife who may perform the acts listed in (4) (c).

3. For applicants graduating on or after July 1, 2007, graduation from a master's degree program is required for the initial licensure as a clinical nurse specialist who may perform the acts listed in (4) (d).

(2) (a) The board shall provide by rule the appropriate requirements for advanced practice registered nurses for ~~advanced registered nurse practitioners in the advanced nursing practices categories~~ of certified nurse midwives, certified nurse practitioners, certified registered nurse anesthetists ~~anesthetist, clinical certified nurse specialists midwife, and psychiatric nurses nurse practitioner.~~

(3) An advanced practice registered nurse ~~advanced registered nurse practitioner~~ shall perform those functions authorized in this section within the framework of an established protocol that ~~which~~ must be maintained on site at the location or locations at which an advanced practice registered nurse ~~advanced registered nurse practitioner~~



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practices. In the case of multiple supervising physicians in the same group, an advanced practice registered nurse ~~advanced registered nurse practitioner~~ must enter into a supervisory protocol with at least one physician within the physician group practice. A practitioner currently licensed under chapter 458, chapter 459, or chapter 466 shall maintain supervision for directing the specific course of medical treatment. Within the established framework, an advanced practice registered nurse ~~advanced registered nurse practitioner~~ may:

(a) Prescribe, dispense, administer, or order any drug; however, an advanced practice registered nurse ~~advanced registered nurse practitioner~~ may prescribe or dispense a controlled substance as defined in s. 893.03 only if the advanced practice registered nurse ~~advanced registered nurse practitioner~~ has graduated from a program leading to a master's or doctoral degree in a clinical nursing specialty area with training in specialized practitioner skills.

(b) Initiate appropriate therapies for certain conditions.

(c) Perform additional functions as may be determined by rule in accordance with s. 464.003(2).

(d) Order diagnostic tests and physical and occupational therapy.

(e) Order any medication for administration to a patient in a facility licensed under chapter 395 or part II of chapter 400, notwithstanding any provisions in chapter 465 or chapter 893.

(4) In addition to the general functions specified in subsection (3), an advanced practice registered nurse ~~advanced registered nurse practitioner~~ may perform the following acts within his or her specialty:



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(a) The certified nurse practitioner may perform any or all of the following acts within the framework of established protocol:

1. Manage selected medical problems.
2. Order physical and occupational therapy.
3. Initiate, monitor, or alter therapies for certain uncomplicated acute illnesses.
4. Monitor and manage patients with stable chronic diseases.
5. Establish behavioral problems and diagnosis and make treatment recommendations.

~~(b)-(a)~~ The certified registered nurse anesthetist may, to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed, perform any or all of the following:

1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.
2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the responsible physician, the appropriate type of anesthesia within the framework of the protocol.
3. Order under the protocol preanesthetic medication.
4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of



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hypnosis.

5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.

6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.

7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.

9. Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs.

10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

(c) ~~(b)~~ The certified nurse midwife may, to the extent authorized by an established protocol which has been approved by the medical staff of the health care facility in which the midwifery services are performed, or approved by the nurse midwife's physician backup when the delivery is performed in a patient's home, perform any or all of the following:

1. Perform superficial minor surgical procedures.

2. Manage the patient during labor and delivery to include amniotomy, episiotomy, and repair.

3. Order, initiate, and perform appropriate anesthetic procedures.



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185           4. Perform postpartum examination.  
186           5. Order appropriate medications.  
187           6. Provide family-planning services and well-woman care.  
188           7. Manage the medical care of the normal obstetrical  
189 patient and the initial care of a newborn patient.  
190           ~~(c) The nurse practitioner may perform any or all of the~~  
191 ~~following acts within the framework of established protocol:~~  
192           ~~1. Manage selected medical problems.~~  
193           ~~2. Order physical and occupational therapy.~~  
194           ~~3. Initiate, monitor, or alter therapies for certain~~  
195 ~~uncomplicated acute illnesses.~~  
196           ~~4. Monitor and manage patients with stable chronic~~  
197 ~~diseases.~~  
198           ~~5. Establish behavioral problems and diagnosis and make~~  
199 ~~treatment recommendations.~~  
200           (d) The clinical nurse specialist may perform any or all of  
201 the following acts within the framework of established protocol:  
202           1. Assess the health status of individuals and families  
203 using methods appropriate to the population and area of  
204 practice.  
205           2. Diagnose human responses to actual or potential health  
206 problems.  
207           3. Plan for health promotion, disease prevention, and  
208 therapeutic intervention in collaboration with the patient or  
209 client.  
210           4. Implement therapeutic interventions based on the nurse  
211 specialist's area of expertise and within the scope of advanced  
212 nursing practice, including, but not limited to, direct nursing  
213 care, counseling, teaching, and collaboration with other





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licensed health care providers.

5. Coordinate health care as necessary and appropriate and evaluate with the patient or client the effectiveness of care.

(e)~~(5)~~ A psychiatric nurse, who meets the requirements in s. 394.555(35) as defined in s. 394.455, within the framework of an established protocol with a psychiatrist, may prescribe psychotropic controlled substances for the treatment of mental disorders.

(5)~~(6)~~ The board shall approve for licensure ~~certify~~, and the department shall issue a license ~~certificate~~ to, any nurse meeting the qualifications in this section. The board shall establish an application fee not to exceed \$100 and a biennial renewal fee not to exceed \$50. The board is authorized to adopt such other rules as are necessary to implement the provisions of this section.

(6)~~(7)~~ (a) The board shall establish a committee to recommend a formulary of controlled substances that an advanced practice registered nurse ~~advanced registered nurse practitioner~~ may not prescribe or may prescribe only for specific uses or in limited quantities. The committee must consist of three advanced practice registered nurses ~~advanced registered nurse practitioners~~ licensed under this section, recommended by the board; three physicians licensed under chapter 458 or chapter 459 who have work experience with advanced practice registered nurses ~~advanced registered nurse practitioners~~, recommended by the Board of Medicine; and a pharmacist licensed under chapter 465 who is a doctor of pharmacy, recommended by the Board of Pharmacy. The committee may recommend an evidence-based formulary applicable to all advanced practice registered nurses



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advanced registered nurse practitioners which is limited by specialty certification, is limited to approved uses of controlled substances, or is subject to other similar restrictions the committee finds are necessary to protect the health, safety, and welfare of the public. The formulary must restrict the prescribing of psychiatric mental health controlled substances for children younger than 18 years of age to advanced practice registered nurses ~~advanced registered nurse practitioners~~ who also are psychiatric nurses as defined in s. 394.455. The formulary must also limit the prescribing of Schedule II controlled substances as listed in s. 893.03 to a 7-day supply, except that such restriction does not apply to controlled substances that are psychiatric medications prescribed by psychiatric nurses as defined in s. 394.455.

(b) The board shall adopt by rule the recommended formulary and any revision to the formulary which it finds is supported by evidence-based clinical findings presented by the Board of Medicine, the Board of Osteopathic Medicine, or the Board of Dentistry.

(c) The formulary required under this subsection does not apply to a controlled substance that is dispensed for administration pursuant to an order, including an order for medication authorized by subparagraph (4)(b)3., subparagraph (4)(b)4., or subparagraph (4)(b)9 ~~subparagraph (4)(a)3., subparagraph (4)(a)4., or subparagraph (4)(a)9.~~

(d) The board shall adopt the committee's initial recommendation no later than October 31, 2016.

(7)(8) This section shall be known as "The Barbara Lumpkin Prescribing Act."



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Section 4. Subsection (2) of section 960.28, Florida Statutes, is amended to read:

960.28 Payment for victims' initial forensic physical examinations.—

(2) The Crime Victims' Services Office of the department shall pay for medical expenses connected with an initial forensic physical examination of a victim of sexual battery as defined in chapter 794 or a lewd or lascivious offense as defined in chapter 800. Such payment shall be made regardless of whether the victim is covered by health or disability insurance and whether the victim participates in the criminal justice system or cooperates with law enforcement. The payment shall be made only out of moneys allocated to the Crime Victims' Services Office for the purposes of this section, and the payment may not exceed \$500 with respect to any violation. The department shall develop and maintain separate protocols for the initial forensic physical examination of adults and children. Payment under this section is limited to medical expenses connected with the initial forensic physical examination, and payment may be made to a medical provider using an examiner qualified under part I of chapter 464, excluding s. 464.003(14) ~~s. 464.003(16)~~; chapter 458; or chapter 459. Payment made to the medical provider by the department shall be considered by the provider as payment in full for the initial forensic physical examination associated with the collection of evidence. The victim may not be required to pay, directly or indirectly, the cost of an initial forensic physical examination performed in accordance with this section.

Section 5. Paragraph (c) of subsection (5) and paragraph (a) of subsection (6) of section 39.303, Florida Statutes, are



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amended to read:

39.303 Child protection teams and sexual abuse treatment programs; services; eligible cases.—

(5) All abuse and neglect cases transmitted for investigation to a circuit by the hotline must be simultaneously transmitted to the child protection team for review. For the purpose of determining whether a face-to-face medical evaluation by a child protection team is necessary, all cases transmitted to the child protection team which meet the criteria in subsection (4) must be timely reviewed by:

(c) An advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under chapter 464 who has a specialty in pediatrics or family medicine and is a member of a child protection team;

(6) A face-to-face medical evaluation by a child protection team is not necessary when:

(a) The child was examined for the alleged abuse or neglect by a physician who is not a member of the child protection team, and a consultation between the child protection team medical director or a child protection team board-certified pediatrician, advanced practice registered nurse ~~advanced registered nurse practitioner~~, physician assistant working under the supervision of a child protection team medical director or a child protection team board-certified pediatrician, or registered nurse working under the direct supervision of a child protection team medical director or a child protection team board-certified pediatrician, and the examining physician concludes that a further medical evaluation is unnecessary;



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Notwithstanding paragraphs (a), (b), and (c), a child protection team medical director or a child protection team pediatrician, as authorized in subsection (5), may determine that a face-to-face medical evaluation is necessary.

Section 6. Paragraph (b) of subsection (1) of section 39.304, Florida Statutes, is amended to read:

39.304 Photographs, medical examinations, X rays, and medical treatment of abused, abandoned, or neglected child.—

(1)

(b) If the areas of trauma visible on a child indicate a need for a medical examination, or if the child verbally complains or otherwise exhibits distress as a result of injury through suspected child abuse, abandonment, or neglect, or is alleged to have been sexually abused, the person required to investigate may cause the child to be referred for diagnosis to a licensed physician or an emergency department in a hospital without the consent of the child's parents or legal custodian. Such examination may be performed by any licensed physician or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed pursuant to part I of chapter 464. Any licensed physician~~7~~ or advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed pursuant to part I of chapter 464~~7~~, who has reasonable cause to suspect that an injury was the result of child abuse, abandonment, or neglect may authorize a radiological examination to be performed on the child without the consent of the child's parent or legal custodian.

Section 7. Paragraph (a) of subsection (1) of section 90.503, Florida Statutes, is amended to read:



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90.503 Psychotherapist-patient privilege.—

(1) For purposes of this section:

(a) A "psychotherapist" is:

1. A person authorized to practice medicine in any state or nation, or reasonably believed by the patient so to be, who is engaged in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction;

2. A person licensed or certified as a psychologist under the laws of any state or nation, who is engaged primarily in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction;

3. A person licensed or certified as a clinical social worker, marriage and family therapist, or mental health counselor under the laws of this state, who is engaged primarily in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction;

4. Treatment personnel of facilities licensed by the state pursuant to chapter 394, chapter 395, or chapter 397, of facilities designated by the Department of Children and Families pursuant to chapter 394 as treatment facilities, or of facilities defined as community mental health centers pursuant to s. 394.907(1), who are engaged primarily in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction; or

5. An advanced practice registered nurse licensed ~~advanced registered nurse practitioner certified~~ under s. 464.012, whose primary scope of practice is the diagnosis or treatment of mental or emotional conditions, including chemical abuse, and limited only to actions performed in accordance with part I of



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chapter 464.

Section 8. Paragraph (d) of subsection (2) of section 110.12315, Florida Statutes, is amended to read:

110.12315 Prescription drug program.—The state employees' prescription drug program is established. This program shall be administered by the Department of Management Services, according to the terms and conditions of the plan as established by the relevant provisions of the annual General Appropriations Act and implementing legislation, subject to the following conditions:

(2) In providing for reimbursement of pharmacies for prescription drugs and supplies dispensed to members of the state group health insurance plan and their dependents under the state employees' prescription drug program:

(d) The department shall establish the reimbursement schedule for prescription drugs and supplies dispensed under the program. Reimbursement rates for a prescription drug or supply must be based on the cost of the generic equivalent drug or supply if a generic equivalent exists, unless the physician, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant prescribing the drug or supply clearly states on the prescription that the brand name drug or supply is medically necessary or that the drug or supply is included on the formulary of drugs and supplies that may not be interchanged as provided in chapter 465, in which case reimbursement must be based on the cost of the brand name drug or supply as specified in the reimbursement schedule adopted by the department.

Section 9. Paragraph (f) of subsection (3) of section 121.0515, Florida Statutes, is amended to read:



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121.0515 Special Risk Class.—

(3) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(f) Effective January 1, 2001, the member must be employed in one of the following classes and must spend at least 75 percent of his or her time performing duties which involve contact with patients or inmates in a correctional or forensic facility or institution:

1. Dietitian (class codes 5203 and 5204);
2. Public health nutrition consultant (class code 5224);
3. Psychological specialist (class codes 5230 and 5231);
4. Psychologist (class code 5234);
5. Senior psychologist (class codes 5237 and 5238);
6. Regional mental health consultant (class code 5240);
7. Psychological Services Director—DCF (class code 5242);
8. Pharmacist (class codes 5245 and 5246);
9. Senior pharmacist (class codes 5248 and 5249);
10. Dentist (class code 5266);
11. Senior dentist (class code 5269);
12. Registered nurse (class codes 5290 and 5291);
13. Senior registered nurse (class codes 5292 and 5293);
14. Registered nurse specialist (class codes 5294 and 5295);
15. Clinical associate (class codes 5298 and 5299);
16. Advanced practice registered nurse ~~Advanced registered nurse practitioner~~ (class codes 5297 and 5300);
17. Advanced practice registered nurse ~~Advanced registered nurse practitioner~~ specialist (class codes 5304 and 5305);
18. Registered nurse supervisor (class codes 5306 and





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5307);

19. Senior registered nurse supervisor (class codes 5308 and 5309);

20. Registered nursing consultant (class codes 5312 and 5313);

21. Quality management program supervisor (class code 5314);

22. Executive nursing director (class codes 5320 and 5321);

23. Speech and hearing therapist (class code 5406); or

24. Pharmacy manager (class code 5251);

Section 10. Paragraph (a) of subsection (3) of section 252.515, Florida Statutes, is amended to read:

252.515 Postdisaster Relief Assistance Act; immunity from civil liability.—

(3) As used in this section, the term:

(a) "Emergency first responder" means:

1. A physician licensed under chapter 458.
2. An osteopathic physician licensed under chapter 459.
3. A chiropractic physician licensed under chapter 460.
4. A podiatric physician licensed under chapter 461.
5. A dentist licensed under chapter 466.
6. An advanced practice registered nurse licensed ~~advanced registered nurse practitioner certified~~ under s. 464.012.
7. A physician assistant licensed under s. 458.347 or s. 459.022.
8. A worker employed by a public or private hospital in the state.
9. A paramedic as defined in s. 401.23(17).
10. An emergency medical technician as defined in s.



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401.23(11).

11. A firefighter as defined in s. 633.102.

12. A law enforcement officer as defined in s. 943.10.

13. A member of the Florida National Guard.

14. Any other personnel designated as emergency personnel by the Governor pursuant to a declared emergency.

Section 11. Paragraph (c) of subsection (1) of section 310.071, Florida Statutes, is amended to read:

310.071 Deputy pilot certification.—

(1) In addition to meeting other requirements specified in this chapter, each applicant for certification as a deputy pilot must:

(c) Be in good physical and mental health, as evidenced by documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician within the preceding 6 months. The board shall adopt rules to establish requirements for passing the physical examination, which rules shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a certificated deputy pilot. Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, or a physician assistant and that controlled substance was prescribed by that physician, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant. To maintain eligibility as a certificated deputy pilot, each certificated deputy pilot must annually provide documentary proof of having satisfactorily passed a



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complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the certificateholder satisfactorily meets the standards. The standards for certificateholders shall include a drug test.

Section 12. Subsection (3) of section 310.073, Florida Statutes, is amended to read:

310.073 State pilot licensing.—In addition to meeting other requirements specified in this chapter, each applicant for license as a state pilot must:

(3) Be in good physical and mental health, as evidenced by documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician within the preceding 6 months. The board shall adopt rules to establish requirements for passing the physical examination, which rules shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a licensed state pilot. Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, or a physician assistant and that controlled substance was prescribed by that physician, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant. To maintain eligibility as a licensed state pilot, each licensed state pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the



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licensee satisfactorily meets the standards. The standards for licensees shall include a drug test.

Section 13. Paragraph (b) of subsection (3) of section 310.081, Florida Statutes, is amended to read:

310.081 Department to examine and license state pilots and certificate deputy pilots; vacancies.—

(3) Pilots shall hold their licenses or certificates pursuant to the requirements of this chapter so long as they:

(b) Are in good physical and mental health as evidenced by documentary proof of having satisfactorily passed a physical examination administered by a licensed physician or physician assistant within each calendar year. The board shall adopt rules to establish requirements for passing the physical examination, which rules shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a licensed state pilot or a certificated deputy pilot. Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, or a physician assistant and that controlled substance was prescribed by that physician, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant. To maintain eligibility as a certificated deputy pilot or licensed state pilot, each certificated deputy pilot or licensed state pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the certificateholder or



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licensee satisfactorily meets the standards. The standards for certificateholders and for licensees shall include a drug test.

Upon resignation or in the case of disability permanently affecting a pilot's ability to serve, the state license or certificate issued under this chapter shall be revoked by the department.

Section 14. Paragraph (b) of subsection (1) of section 320.0848, Florida Statutes, is amended to read:

320.0848 Persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.—

(1)

(b)1. The person must be currently certified as being legally blind or as having any of the following disabilities that render him or her unable to walk 200 feet without stopping to rest:

a. Inability to walk without the use of or assistance from a brace, cane, crutch, prosthetic device, or other assistive device, or without the assistance of another person. If the assistive device significantly restores the person's ability to walk to the extent that the person can walk without severe limitation, the person is not eligible for the exemption parking permit.

b. The need to permanently use a wheelchair.

c. Restriction by lung disease to the extent that the person's forced (respiratory) expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or the



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person's arterial oxygen is less than 60 mm/hg on room air at rest.

d. Use of portable oxygen.

e. Restriction by cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association.

f. Severe limitation in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.

2. The certification of disability which is required under subparagraph 1. must be provided by a physician licensed under chapter 458, chapter 459, or chapter 460, by a podiatric physician licensed under chapter 461, by an optometrist licensed under chapter 463, by an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under chapter 464 under the protocol of a licensed physician as stated in this subparagraph, by a physician assistant licensed under chapter 458 or chapter 459, or by a similarly licensed physician from another state if the application is accompanied by documentation of the physician's licensure in the other state and a form signed by the out-of-state physician verifying his or her knowledge of this state's eligibility guidelines.

Section 15. Paragraph (c) of subsection (1) of section 381.00315, Florida Statutes, is amended to read:

381.00315 Public health advisories; public health emergencies; isolation and quarantines.—The State Health Officer is responsible for declaring public health emergencies, issuing public health advisories, and ordering isolation or quarantines.

(1) As used in this section, the term:



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(c) "Public health emergency" means any occurrence, or threat thereof, whether natural or manmade, which results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters. Before declaring a public health emergency, the State Health Officer shall, to the extent possible, consult with the Governor and shall notify the Chief of Domestic Security. The declaration of a public health emergency shall continue until the State Health Officer finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and he or she terminates the declaration. However, a declaration of a public health emergency may not continue for longer than 60 days unless the Governor concurs in the renewal of the declaration. The State Health Officer, upon declaration of a public health emergency, may take actions that are necessary to protect the public health. Such actions include, but are not limited to:

1. Directing manufacturers of prescription drugs or over-the-counter drugs who are permitted under chapter 499 and wholesalers of prescription drugs located in this state who are permitted under chapter 499 to give priority to the shipping of specified drugs to pharmacies and health care providers within geographic areas that have been identified by the State Health Officer. The State Health Officer must identify the drugs to be shipped. Manufacturers and wholesalers located in the state must respond to the State Health Officer's priority shipping directive before shipping the specified drugs.

2. Notwithstanding chapters 465 and 499 and rules adopted



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thereunder, directing pharmacists employed by the department to compound bulk prescription drugs and provide these bulk prescription drugs to physicians and nurses of county health departments or any qualified person authorized by the State Health Officer for administration to persons as part of a prophylactic or treatment regimen.

3. Notwithstanding s. 456.036, temporarily reactivating the inactive license of the following health care practitioners, when such practitioners are needed to respond to the public health emergency: physicians licensed under chapter 458 or chapter 459; physician assistants licensed under chapter 458 or chapter 459; licensed practical nurses, registered nurses, and advanced practice registered nurses ~~advanced registered nurse practitioners~~ licensed under part I of chapter 464; respiratory therapists licensed under part V of chapter 468; and emergency medical technicians and paramedics certified under part III of chapter 401. Only those health care practitioners specified in this paragraph who possess an unencumbered inactive license and who request that such license be reactivated are eligible for reactivation. An inactive license that is reactivated under this paragraph shall return to inactive status when the public health emergency ends or before the end of the public health emergency if the State Health Officer determines that the health care practitioner is no longer needed to provide services during the public health emergency. Such licenses may only be reactivated for a period not to exceed 90 days without meeting the requirements of s. 456.036 or chapter 401, as applicable.

4. Ordering an individual to be examined, tested, vaccinated, treated, isolated, or quarantined for communicable





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diseases that have significant morbidity or mortality and present a severe danger to public health. Individuals who are unable or unwilling to be examined, tested, vaccinated, or treated for reasons of health, religion, or conscience may be subjected to isolation or quarantine.

a. Examination, testing, vaccination, or treatment may be performed by any qualified person authorized by the State Health Officer.

b. If the individual poses a danger to the public health, the State Health Officer may subject the individual to isolation or quarantine. If there is no practical method to isolate or quarantine the individual, the State Health Officer may use any means necessary to vaccinate or treat the individual.

Any order of the State Health Officer given to effectuate this paragraph shall be immediately enforceable by a law enforcement officer under s. 381.0012.

Section 16. Subsection (3) of section 381.00593, Florida Statutes, is amended to read:

381.00593 Public school volunteer health care practitioner program.—

(3) For purposes of this section, the term "health care practitioner" means a physician licensed under chapter 458; an osteopathic physician licensed under chapter 459; a chiropractic physician licensed under chapter 460; a podiatric physician licensed under chapter 461; an optometrist licensed under chapter 463; an advanced practice registered nurse ~~advanced registered nurse practitioner~~, registered nurse, or licensed practical nurse licensed under part I of chapter 464; a



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pharmacist licensed under chapter 465; a dentist or dental hygienist licensed under chapter 466; a midwife licensed under chapter 467; a speech-language pathologist or audiologist licensed under part I of chapter 468; a dietitian/nutritionist licensed under part X of chapter 468; or a physical therapist licensed under chapter 486.

Section 17. Paragraph (c) of subsection (1) of section 383.14, Florida Statutes, is amended to read:

383.14 Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.—

(1) SCREENING REQUIREMENTS.—To help ensure access to the maternal and child health care system, the Department of Health shall promote the screening of all newborns born in Florida for metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect, as screening programs accepted by current medical practice become available and practical in the judgment of the department. The department shall also promote the identification and screening of all newborns in this state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management. Identification, perinatal screening, and intervention efforts shall begin prior to and immediately following the birth of the child by the attending health care provider. Such efforts shall be conducted in hospitals,



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perinatal centers, county health departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics.

(c) *Release of screening results.*—Notwithstanding any law to the contrary, the State Public Health Laboratory may release, directly or through the Children's Medical Services program, the results of a newborn's hearing and metabolic tests or screenings to the newborn's health care practitioner, the newborn's parent or legal guardian, the newborn's personal representative, or a person designated by the newborn's parent or legal guardian. As used in this paragraph, the term "health care practitioner" means a physician or physician assistant licensed under chapter 458; an osteopathic physician or physician assistant licensed under chapter 459; an advanced practice registered nurse ~~advanced registered nurse practitioner~~, registered nurse, or licensed practical nurse licensed under part I of chapter 464; a midwife licensed under chapter 467; a speech-language pathologist or audiologist licensed under part I of chapter 468; or a dietitian or nutritionist licensed under part X of chapter 468.

Section 18. Paragraph (c) of subsection (1) of section 383.141, Florida Statutes, is amended to read:

383.141 Prenatally diagnosed conditions; patient to be provided information; definitions; information clearinghouse; advisory council.—

(1) As used in this section, the term:

(c) "Health care provider" means a practitioner licensed or registered under chapter 458 or chapter 459 or an advanced practice registered nurse ~~advanced registered nurse~~



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~~practitioner certified~~ under chapter 464.

Section 19. Paragraph (a) of subsection (7) of section 384.27, Florida Statutes, is amended to read:

384.27 Physical examination and treatment.—

(7) (a) A health care practitioner licensed under chapter 458, ~~or~~ chapter 459, ~~or certified under~~ s. 464.012 may provide expedited partner therapy if the following requirements are met:

1. The patient has a laboratory-confirmed or suspected clinical diagnosis of a sexually transmissible disease.

2. The patient indicates that he or she has a partner with whom he or she engaged in sexual activity before the diagnosis of the sexually transmissible disease.

3. The patient indicates that his or her partner is unable or unlikely to seek clinical services in a timely manner.

Section 20. Paragraph (a) of subsection (3) of section 390.0111, Florida Statutes, is amended to read:

390.0111 Termination of pregnancies.—

(3) CONSENTS REQUIRED.—A termination of pregnancy may not be performed or induced except with the voluntary and informed written consent of the pregnant woman or, in the case of a mental incompetent, the voluntary and informed written consent of her court-appointed guardian.

(a) Except in the case of a medical emergency, consent to a termination of pregnancy is voluntary and informed only if:

1. The physician who is to perform the procedure, or the referring physician, has, at a minimum, orally, while physically present in the same room, and at least 24 hours before the procedure, informed the woman of:

a. The nature and risks of undergoing or not undergoing the



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proposed procedure that a reasonable patient would consider material to making a knowing and willful decision of whether to terminate a pregnancy.

b. The probable gestational age of the fetus, verified by an ultrasound, at the time the termination of pregnancy is to be performed.

(I) The ultrasound must be performed by the physician who is to perform the abortion or by a person having documented evidence that he or she has completed a course in the operation of ultrasound equipment as prescribed by rule and who is working in conjunction with the physician.

(II) The person performing the ultrasound must offer the woman the opportunity to view the live ultrasound images and hear an explanation of them. If the woman accepts the opportunity to view the images and hear the explanation, a physician or a registered nurse, licensed practical nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant working in conjunction with the physician must contemporaneously review and explain the images to the woman before the woman gives informed consent to having an abortion procedure performed.

(III) The woman has a right to decline to view and hear the explanation of the live ultrasound images after she is informed of her right and offered an opportunity to view the images and hear the explanation. If the woman declines, the woman shall complete a form acknowledging that she was offered an opportunity to view and hear the explanation of the images but that she declined that opportunity. The form must also indicate that the woman's decision was not based on any undue influence



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from any person to discourage her from viewing the images or hearing the explanation and that she declined of her own free will.

(IV) Unless requested by the woman, the person performing the ultrasound may not offer the opportunity to view the images and hear the explanation and the explanation may not be given if, at the time the woman schedules or arrives for her appointment to obtain an abortion, a copy of a restraining order, police report, medical record, or other court order or documentation is presented which provides evidence that the woman is obtaining the abortion because the woman is a victim of rape, incest, domestic violence, or human trafficking or that the woman has been diagnosed as having a condition that, on the basis of a physician's good faith clinical judgment, would create a serious risk of substantial and irreversible impairment of a major bodily function if the woman delayed terminating her pregnancy.

c. The medical risks to the woman and fetus of carrying the pregnancy to term.

The physician may provide the information required in this subparagraph within 24 hours before the procedure if requested by the woman at the time she schedules or arrives for her appointment to obtain an abortion and if she presents to the physician a copy of a restraining order, police report, medical record, or other court order or documentation evidencing that she is obtaining the abortion because she is a victim of rape, incest, domestic violence, or human trafficking.

2. Printed materials prepared and provided by the



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department have been provided to the pregnant woman, if she chooses to view these materials, including:

a. A description of the fetus, including a description of the various stages of development.

b. A list of entities that offer alternatives to terminating the pregnancy.

c. Detailed information on the availability of medical assistance benefits for prenatal care, childbirth, and neonatal care.

3. The woman acknowledges in writing, before the termination of pregnancy, that the information required to be provided under this subsection has been provided.

Nothing in this paragraph is intended to prohibit a physician from providing any additional information which the physician deems material to the woman's informed decision to terminate her pregnancy.

Section 21. Paragraphs (c), (e), and (f) of subsection (3) of section 390.012, Florida Statutes, are amended to read:

390.012 Powers of agency; rules; disposal of fetal remains.—

(3) For clinics that perform or claim to perform abortions after the first trimester of pregnancy, the agency shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter, including the following:

(c) Rules relating to abortion clinic personnel. At a minimum, these rules shall require that:

1. The abortion clinic designate a medical director who is licensed to practice medicine in this state, and all physicians



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who perform abortions in the clinic have admitting privileges at a hospital within reasonable proximity to the clinic, unless the clinic has a written patient transfer agreement with a hospital within reasonable proximity to the clinic which includes the transfer of the patient's medical records held by both the clinic and the treating physician.

2. If a physician is not present after an abortion is performed, a registered nurse, licensed practical nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant be present and remain at the clinic to provide postoperative monitoring and care until the patient is discharged.

3. Surgical assistants receive training in counseling, patient advocacy, and the specific responsibilities associated with the services the surgical assistants provide.

4. Volunteers receive training in the specific responsibilities associated with the services the volunteers provide, including counseling and patient advocacy as provided in the rules adopted by the director for different types of volunteers based on their responsibilities.

(e) Rules relating to the abortion procedure. At a minimum, these rules shall require:

1. That a physician, registered nurse, licensed practical nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant is available to all patients throughout the abortion procedure.

2. Standards for the safe conduct of abortion procedures that conform to obstetric standards in keeping with established standards of care regarding the estimation of fetal age as





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defined in rule.

3. Appropriate use of general and local anesthesia, analgesia, and sedation if ordered by the physician.

4. Appropriate precautions, such as the establishment of intravenous access at least for patients undergoing post-first trimester abortions.

5. Appropriate monitoring of the vital signs and other defined signs and markers of the patient's status throughout the abortion procedure and during the recovery period until the patient's condition is deemed to be stable in the recovery room.

(f) Rules that prescribe minimum recovery room standards. At a minimum, these rules must require that:

1. Postprocedure recovery rooms be supervised and staffed to meet the patients' needs.

2. Immediate postprocedure care consist of observation in a supervised recovery room for as long as the patient's condition warrants.

3. A registered nurse, licensed practical nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant who is trained in the management of the recovery area and is capable of providing basic cardiopulmonary resuscitation and related emergency procedures remain on the premises of the abortion clinic until all patients are discharged.

4. A physician sign the discharge order and be readily accessible and available until the last patient is discharged to facilitate the transfer of emergency cases if hospitalization of the patient or viable fetus is necessary.

5. A physician discuss Rho(D) immune globulin with each



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patient for whom it is indicated and ensure that it is offered to the patient in the immediate postoperative period or will be available to her within 72 hours after completion of the abortion procedure. If the patient refuses the Rho(D) immune globulin, she and a witness must sign a refusal form approved by the agency which must be included in the medical record.

6. Written instructions with regard to postabortion coitus, signs of possible problems, and general aftercare which are specific to the patient be given to each patient. The instructions must include information regarding access to medical care for complications, including a telephone number for use in the event of a medical emergency.

7. A minimum length of time be specified, by type of abortion procedure and duration of gestation, during which a patient must remain in the recovery room.

8. The physician ensure that, with the patient's consent, a registered nurse, licensed practical nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant from the abortion clinic makes a good faith effort to contact the patient by telephone within 24 hours after surgery to assess the patient's recovery.

9. Equipment and services be readily accessible to provide appropriate emergency resuscitative and life support procedures pending the transfer of the patient or viable fetus to the hospital.

Section 22. Subsections (35) and (44) of section 394.455, Florida Statutes, are amended to read:

394.455 Definitions.—As used in this part, the term:

(35) "Psychiatric nurse" means an advanced practice



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968 registered nurse licensed ~~advanced registered nurse practitioner~~  
969 ~~certified~~ under s. 464.012 who has a master's or doctoral degree  
970 in psychiatric nursing, holds a national advanced practice  
971 certification as a psychiatric mental health advanced practice  
972 nurse, and has 2 years of post-master's clinical experience  
973 under the supervision of a physician.

974 (44) "Service provider" means a receiving facility, a  
975 facility licensed under chapter 397, a treatment facility, an  
976 entity under contract with the department to provide mental  
977 health or substance abuse services, a community mental health  
978 center or clinic, a psychologist, a clinical social worker, a  
979 marriage and family therapist, a mental health counselor, a  
980 physician, a psychiatrist, an advanced practice registered nurse  
981 ~~advanced registered nurse practitioner~~, a psychiatric nurse, or  
982 a qualified professional as defined in s. 39.01.

983 Section 23. Paragraphs (a) and (b) of subsection (2) and  
984 subsection (4) of section 395.0191, Florida Statutes, are  
985 amended to read:

986 395.0191 Staff membership and clinical privileges.—

987 (2)(a) Each licensed facility shall establish rules and  
988 procedures for consideration of an application for clinical  
989 privileges submitted by an advanced practice registered nurse  
990 ~~advanced registered nurse practitioner~~ licensed ~~and certified~~  
991 under part I of chapter 464, in accordance with the provisions  
992 of this section. No licensed facility shall deny such  
993 application solely because the applicant is licensed under part  
994 I of chapter 464 or because the applicant is not a participant  
995 in the Florida Birth-Related Neurological Injury Compensation  
996 Plan.



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(b) An advanced practice registered nurse ~~advanced~~  
~~registered nurse practitioner~~ who is certified as a registered  
nurse anesthetist licensed under part I of chapter 464 shall  
administer anesthesia under the onsite medical direction of a  
professional licensed under chapter 458, chapter 459, or chapter  
466, and in accordance with an established protocol approved by  
the medical staff. The medical direction shall specifically  
address the needs of the individual patient.

(4) Nothing herein shall restrict in any way the authority  
of the medical staff of a licensed facility to review for  
approval or disapproval all applications for appointment and  
reappointment to all categories of staff and to make  
recommendations on each applicant to the governing board,  
including the delineation of privileges to be granted in each  
case. In making such recommendations and in the delineation of  
privileges, each applicant shall be considered individually  
pursuant to criteria for a doctor licensed under chapter 458,  
chapter 459, chapter 461, or chapter 466, or for an advanced  
practice registered nurse ~~advanced registered nurse practitioner~~  
~~licensed and certified~~ under part I of chapter 464, or for a  
psychologist licensed under chapter 490, as applicable. The  
applicant's eligibility for staff membership or clinical  
privileges shall be determined by the applicant's background,  
experience, health, training, and demonstrated competency; the  
applicant's adherence to applicable professional ethics; the  
applicant's reputation; and the applicant's ability to work with  
others and by such other elements as determined by the governing  
board, consistent with this part.

Section 24. Subsection (34) of section 397.311, Florida



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Statutes, is amended to read:

397.311 Definitions.—As used in this chapter, except part VIII, the term:

(34) "Qualified professional" means a physician or a physician assistant licensed under chapter 458 or chapter 459; a professional licensed under chapter 490 or chapter 491; an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under part I of chapter 464; or a person who is certified through a department-recognized certification process for substance abuse treatment services and who holds, at a minimum, a bachelor's degree. A person who is certified in substance abuse treatment services by a state-recognized certification process in another state at the time of employment with a licensed substance abuse provider in this state may perform the functions of a qualified professional as defined in this chapter but must meet certification requirements contained in this subsection no later than 1 year after his or her date of employment.

Section 25. Section 397.4012, Florida Statutes, is amended to read:

397.4012 Exemptions from licensure.—The following are exempt from the licensing provisions of this chapter:

(1) A hospital or hospital-based component licensed under chapter 395.

(2) A nursing home facility as defined in s. 400.021.

(3) A substance abuse education program established pursuant to s. 1003.42.

(4) A facility or institution operated by the Federal Government.



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(5) A physician or physician assistant licensed under chapter 458 or chapter 459.

(6) A psychologist licensed under chapter 490.

(7) A social worker, marriage and family therapist, or mental health counselor licensed under chapter 491.

(8) A legally cognizable church or nonprofit religious organization or denomination providing substance abuse services, including prevention services, which are solely religious, spiritual, or ecclesiastical in nature. A church or nonprofit religious organization or denomination providing any of the licensed service components itemized under s. 397.311(26) is not exempt from substance abuse licensure but retains its exemption with respect to all services which are solely religious, spiritual, or ecclesiastical in nature.

(9) Facilities licensed under chapter 393 which, in addition to providing services to persons with developmental disabilities, also provide services to persons developmentally at risk as a consequence of exposure to alcohol or other legal or illegal drugs while in utero.

(10) DUI education and screening services provided pursuant to ss. 316.192, 316.193, 322.095, 322.271, and 322.291. Persons or entities providing treatment services must be licensed under this chapter unless exempted from licensing as provided in this section.

(11) A facility licensed under s. 394.875 as a crisis stabilization unit.

The exemptions from licensure in this section do not apply to any service provider that receives an appropriation, grant, or



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contract from the state to operate as a service provider as defined in this chapter or to any substance abuse program regulated pursuant to s. 397.4014. Furthermore, this chapter may not be construed to limit the practice of a physician or physician assistant licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, a psychotherapist licensed under chapter 491, or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under part I of chapter 464, who provides substance abuse treatment, so long as the physician, physician assistant, psychologist, psychotherapist, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ does not represent to the public that he or she is a licensed service provider and does not provide services to individuals pursuant to part V of this chapter. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 26. Subsections (4), (7), and (8) of section 397.427, Florida Statutes, are amended to read:

397.427 Medication-assisted treatment service providers; rehabilitation program; needs assessment and provision of services; persons authorized to issue takeout medication; unlawful operation; penalty.—

(4) Notwithstanding s. 465.019(2), a physician assistant, a registered nurse, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, or a licensed practical nurse working for a licensed service provider may deliver takeout medication for opiate treatment to persons enrolled in a



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1113 maintenance treatment program for medication-assisted treatment  
1114 for opiate addiction if:

1115 (a) The medication-assisted treatment program for opiate  
1116 addiction has an appropriate valid permit issued pursuant to  
1117 rules adopted by the Board of Pharmacy;

1118 (b) The medication for treatment of opiate addiction has  
1119 been delivered pursuant to a valid prescription written by the  
1120 program's physician licensed pursuant to chapter 458 or chapter  
1121 459;

1122 (c) The medication for treatment of opiate addiction which  
1123 is ordered appears on a formulary and is prepackaged and  
1124 prelabeled with dosage instructions and distributed from a  
1125 source authorized under chapter 499;

1126 (d) Each licensed provider adopts written protocols which  
1127 provide for supervision of the physician assistant, registered  
1128 nurse, advanced practice registered nurse ~~advanced registered~~  
1129 ~~nurse-practitioner~~, or licensed practical nurse by a physician  
1130 licensed pursuant to chapter 458 or chapter 459 and for the  
1131 procedures by which patients' medications may be delivered by  
1132 the physician assistant, registered nurse, advanced practice  
1133 registered nurse ~~advanced registered nurse-practitioner~~, or  
1134 licensed practical nurse. Such protocols shall be signed by the  
1135 supervising physician and either the administering registered  
1136 nurse, the advanced practice registered nurse ~~advanced~~  
1137 ~~registered nurse-practitioner~~, or the licensed practical nurse.

1138 (e) Each licensed service provider maintains and has  
1139 available for inspection by representatives of the Board of  
1140 Pharmacy all medical records and patient care protocols,  
1141 including records of medications delivered to patients, in





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accordance with the board.

(7) A physician assistant, a registered nurse, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, or a licensed practical nurse working for a licensed service provider may deliver medication as prescribed by rule if:

(a) The service provider is authorized to provide medication-assisted treatment;

(b) The medication has been administered pursuant to a valid prescription written by the program's physician who is licensed under chapter 458 or chapter 459; and

(c) The medication ordered appears on a formulary or meets federal requirements for medication-assisted treatment.

(8) Each licensed service provider that provides medication-assisted treatment must adopt written protocols as specified by the department and in accordance with federally required rules, regulations, or procedures. The protocol shall provide for the supervision of the physician assistant, registered nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or licensed practical nurse working under the supervision of a physician who is licensed under chapter 458 or chapter 459. The protocol must specify how the medication will be used in conjunction with counseling or psychosocial treatment and that the services provided will be included on the treatment plan. The protocol must specify the procedures by which medication-assisted treatment may be administered by the physician assistant, registered nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or licensed practical nurse. These protocols shall



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be signed by the supervising physician and the administering physician assistant, registered nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or licensed practical nurse.

Section 27. Section 397.679, Florida Statutes, is amended to read:

397.679 Emergency admission; circumstances justifying.—A person who meets the criteria for involuntary admission in s. 397.675 may be admitted to a hospital or to a licensed detoxification facility or addictions receiving facility for emergency assessment and stabilization, or to a less intensive component of a licensed service provider for assessment only, upon receipt by the facility of a certificate by a physician, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, a psychiatric nurse, a clinical psychologist, a clinical social worker, a marriage and family therapist, a mental health counselor, a physician assistant working under the scope of practice of the supervising physician, or a master's-level-certified addictions professional for substance abuse services, if the certificate is specific to substance abuse impairment, and the completion of an application for emergency admission.

Section 28. Subsection (1) of section 397.6793, Florida Statutes, is amended to read:

397.6793 Professional's certificate for emergency admission.—

(1) A physician, a clinical psychologist, a physician assistant working under the scope of practice of the supervising physician, a psychiatric nurse, an advanced practice registered



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~~nurse advanced registered nurse practitioner~~, a mental health counselor, a marriage and family therapist, a master's-level-certified addictions professional for substance abuse services, or a clinical social worker may execute a professional's certificate for emergency admission. The professional's certificate must include the name of the person to be admitted, the relationship between the person and the professional executing the certificate, the relationship between the applicant and the professional, any relationship between the professional and the licensed service provider, a statement that the person has been examined and assessed within the preceding 5 days after the application date, and factual allegations with respect to the need for emergency admission, including:

(a) The reason for the belief that the person is substance abuse impaired;

(b) The reason for the belief that because of such impairment the person has lost the power of self-control with respect to substance abuse; and

(c) 1. The reason for the belief that, without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; that such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and that it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services, or there is substantial likelihood that the person has inflicted or, unless admitted, is likely to inflict, physical harm on himself, herself, or another; or

2. The reason for the belief that the person's refusal to



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voluntarily receive care is based on judgment so impaired by reason of substance abuse that the person is incapable of appreciating his or her need for care and of making a rational decision regarding his or her need for care.

Section 29. Subsection (8) of section 400.021, Florida Statutes, is amended to read:

400.021 Definitions.—When used in this part, unless the context otherwise requires, the term:

(8) "Geriatric outpatient clinic" means a site for providing outpatient health care to persons 60 years of age or older, which is staffed by a registered nurse, a physician assistant, or a licensed practical nurse under the direct supervision of a registered nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, physician assistant, or physician.

Section 30. Subsection (3) of section 400.462, Florida Statutes, is amended to read:

400.462 Definitions.—As used in this part, the term:

(3) "Advanced practice registered nurse" ~~"Advanced registered nurse practitioner"~~ means a person licensed in this state to practice professional nursing and certified in advanced or specialized nursing practice, as defined in s. 464.003.

Section 31. Section 400.487, Florida Statutes, is amended to read:

400.487 Home health service agreements; physician's, physician assistant's, and advanced practice registered nurse's ~~advanced registered nurse practitioner's~~ treatment orders; patient assessment; establishment and review of plan of care; provision of services; orders not to resuscitate.—



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(1) Services provided by a home health agency must be covered by an agreement between the home health agency and the patient or the patient's legal representative specifying the home health services to be provided, the rates or charges for services paid with private funds, and the sources of payment, which may include Medicare, Medicaid, private insurance, personal funds, or a combination thereof. A home health agency providing skilled care must make an assessment of the patient's needs within 48 hours after the start of services.

(2) When required by the provisions of chapter 464; part I, part III, or part V of chapter 468; or chapter 486, the attending physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~, acting within his or her respective scope of practice, shall establish treatment orders for a patient who is to receive skilled care. The treatment orders must be signed by the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ before a claim for payment for the skilled services is submitted by the home health agency. If the claim is submitted to a managed care organization, the treatment orders must be signed within the time allowed under the provider agreement. The treatment orders shall be reviewed, as frequently as the patient's illness requires, by the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ in consultation with the home health agency.

(3) A home health agency shall arrange for supervisory visits by a registered nurse to the home of a patient receiving home health aide services in accordance with the patient's



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direction, approval, and agreement to pay the charge for the visits.

(4) Each patient has the right to be informed of and to participate in the planning of his or her care. Each patient must be provided, upon request, a copy of the plan of care established and maintained for that patient by the home health agency.

(5) When nursing services are ordered, the home health agency to which a patient has been admitted for care must provide the initial admission visit, all service evaluation visits, and the discharge visit by a direct employee. Services provided by others under contractual arrangements to a home health agency must be monitored and managed by the admitting home health agency. The admitting home health agency is fully responsible for ensuring that all care provided through its employees or contract staff is delivered in accordance with this part and applicable rules.

(6) The skilled care services provided by a home health agency, directly or under contract, must be supervised and coordinated in accordance with the plan of care.

(7) Home health agency personnel may withhold or withdraw cardiopulmonary resuscitation if presented with an order not to resuscitate executed pursuant to s. 401.45. The agency shall adopt rules providing for the implementation of such orders. Home health personnel and agencies shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct, for withholding or withdrawing cardiopulmonary resuscitation pursuant to such an order and rules adopted by the agency.



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Section 32. Paragraph (a) of subsection (13) of section 400.506, Florida Statutes, is amended to read:

400.506 Licensure of nurse registries; requirements; penalties.—

(13) All persons referred for contract in private residences by a nurse registry must comply with the following requirements for a plan of treatment:

(a) When, in accordance with the privileges and restrictions imposed upon a nurse under part I of chapter 464, the delivery of care to a patient is under the direction or supervision of a physician or when a physician is responsible for the medical care of the patient, a medical plan of treatment must be established for each patient receiving care or treatment provided by a licensed nurse in the home. The original medical plan of treatment must be timely signed by the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~, acting within his or her respective scope of practice, and reviewed in consultation with the licensed nurse at least every 2 months. Any additional order or change in orders must be obtained from the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ and reduced to writing and timely signed by the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~. The delivery of care under a medical plan of treatment must be substantiated by the appropriate nursing notes or documentation made by the nurse in compliance with nursing practices established under part I of chapter 464.

Section 33. Subsections (5) and (7) of section 400.9973,



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Florida Statutes, are amended to read:

400.9973 Client admission, transfer, and discharge.—

(5) A client admitted to a transitional living facility must be admitted upon prescription by a licensed physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ and must remain under the care of a licensed physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ for the duration of the client's stay in the facility.

(7) A person may not be admitted to a transitional living facility if the person:

(a) Presents significant risk of infection to other clients or personnel. A health care practitioner must provide documentation that the person is free of apparent signs and symptoms of communicable disease;

(b) Is a danger to himself or herself or others as determined by a physician, physician assistant, advanced practice registered nurse, ~~or advanced registered nurse practitioner~~ or a mental health practitioner licensed under chapter 490 or chapter 491, unless the facility provides adequate staffing and support to ensure patient safety;

(c) Is bedridden; or

(d) Requires 24-hour nursing supervision.

Section 34. Subsection (1) and paragraphs (a) and (b) of subsection (2) of section 400.9974, Florida Statutes, are amended to read:

400.9974 Client comprehensive treatment plans; client services.—

(1) A transitional living facility shall develop a





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comprehensive treatment plan for each client as soon as practicable but no later than 30 days after the initial comprehensive treatment plan is developed. The comprehensive treatment plan must be developed by an interdisciplinary team consisting of the case manager, the program director, the advanced practice registered nurse ~~advanced registered nurse practitioner~~, and appropriate therapists. The client or, if appropriate, the client's representative must be included in developing the comprehensive treatment plan. The comprehensive treatment plan must be reviewed and updated if the client fails to meet projected improvements outlined in the plan or if a significant change in the client's condition occurs. The comprehensive treatment plan must be reviewed and updated at least once monthly.

(2) The comprehensive treatment plan must include:

(a) Orders obtained from the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ and the client's diagnosis, medical history, physical examination, and rehabilitative or restorative needs.

(b) A preliminary nursing evaluation, including orders for immediate care provided by the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~, which shall be completed when the client is admitted.

Section 35. Section 400.9976, Florida Statutes, is amended to read:

400.9976 Administration of medication.—

(1) An individual medication administration record must be



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maintained for each client. A dose of medication, including a self-administered dose, shall be properly recorded in the client's record. A client who self-administers medication shall be given a pill organizer. Medication must be placed in the pill organizer by a nurse. A nurse shall document the date and time that medication is placed into each client's pill organizer. All medications must be administered in compliance with orders of a physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~.

(2) If an interdisciplinary team determines that self-administration of medication is an appropriate objective, and if the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ does not specify otherwise, the client must be instructed by the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ to self-administer his or her medication without the assistance of a staff person. All forms of self-administration of medication, including administration orally, by injection, and by suppository, shall be included in the training. The client's physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ must be informed of the interdisciplinary team's decision that self-administration of medication is an objective for the client. A client may not self-administer medication until he or she demonstrates the competency to take the correct medication in the correct dosage at the correct time, to respond to missed doses, and to contact the appropriate person with questions.

(3) Medication administration discrepancies and adverse



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drug reactions must be recorded and reported immediately to a physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~.

Section 36. Subsections (2) through (5) of section 400.9979, Florida Statutes, are amended to read:

400.9979 Restraint and seclusion; client safety.—

(2) The use of physical restraints must be ordered and documented by a physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ and must be consistent with the policies and procedures adopted by the facility. The client or, if applicable, the client's representative shall be informed of the facility's physical restraint policies and procedures when the client is admitted.

(3) The use of chemical restraints shall be limited to prescribed dosages of medications as ordered by a physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ and must be consistent with the client's diagnosis and the policies and procedures adopted by the facility. The client and, if applicable, the client's representative shall be informed of the facility's chemical restraint policies and procedures when the client is admitted.

(4) Based on the assessment by a physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~, if a client exhibits symptoms that present an immediate risk of injury or death to himself or herself or others, a physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ may issue an emergency treatment order to immediately administer



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rapid-response psychotropic medications or other chemical restraints. Each emergency treatment order must be documented and maintained in the client's record.

(a) An emergency treatment order is not effective for more than 24 hours.

(b) Whenever a client is medicated under this subsection, the client's representative or a responsible party and the client's physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ shall be notified as soon as practicable.

(5) A client who is prescribed and receives a medication that can serve as a chemical restraint for a purpose other than an emergency treatment order must be evaluated by his or her physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ at least monthly to assess:

(a) The continued need for the medication.

(b) The level of the medication in the client's blood.

(c) The need for adjustments to the prescription.

Section 37. Subsections (1) and (2) of section 401.445, Florida Statutes, are amended to read:

401.445 Emergency examination and treatment of incapacitated persons.—

(1) No recovery shall be allowed in any court in this state against any emergency medical technician, paramedic, or physician as defined in this chapter, any advanced practice registered nurse licensed ~~advanced registered nurse practitioner~~ ~~certified~~ under s. 464.012, or any physician assistant licensed under s. 458.347 or s. 459.022, or any person acting under the



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direct medical supervision of a physician, in an action brought for examining or treating a patient without his or her informed consent if:

(a) The patient at the time of examination or treatment is intoxicated, under the influence of drugs, or otherwise incapable of providing informed consent as provided in s. 766.103;

(b) The patient at the time of examination or treatment is experiencing an emergency medical condition; and

(c) The patient would reasonably, under all the surrounding circumstances, undergo such examination, treatment, or procedure if he or she were advised by the emergency medical technician, paramedic, physician, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant in accordance with s. 766.103(3).

Examination and treatment provided under this subsection shall be limited to reasonable examination of the patient to determine the medical condition of the patient and treatment reasonably necessary to alleviate the emergency medical condition or to stabilize the patient.

(2) In examining and treating a person who is apparently intoxicated, under the influence of drugs, or otherwise incapable of providing informed consent, the emergency medical technician, paramedic, physician, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant, or any person acting under the direct medical supervision of a physician, shall proceed wherever possible with the consent of the person. If the person reasonably appears to



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be incapacitated and refuses his or her consent, the person may be examined, treated, or taken to a hospital or other appropriate treatment resource if he or she is in need of emergency attention, without his or her consent, but unreasonable force shall not be used.

Section 38. Subsection (1) of section 409.905, Florida Statutes, is amended to read:

409.905 Mandatory Medicaid services.—The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law. Mandatory services rendered by providers in mobile units to Medicaid recipients may be restricted by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, number of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(1) ADVANCED PRACTICE REGISTERED NURSE ~~ADVANCED REGISTERED NURSE PRACTITIONER~~ SERVICES.—The agency shall pay for services provided to a recipient by a licensed advanced practice registered nurse ~~advanced registered nurse practitioner~~ who has a valid collaboration agreement with a licensed physician on file with the Department of Health or who provides anesthesia services in accordance with established protocol required by



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state law and approved by the medical staff of the facility in which the anesthetic service is performed. Reimbursement for such services must be provided in an amount that equals not less than 80 percent of the reimbursement to a physician who provides the same services, unless otherwise provided for in the General Appropriations Act.

Section 39. Paragraph (a) of subsection (3) and subsection (7) of section 409.908, Florida Statutes, are amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be effected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.



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Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(3) Subject to any limitations or directions provided for in the General Appropriations Act, the following Medicaid services and goods may be reimbursed on a fee-for-service basis. For each allowable service or goods furnished in accordance with Medicaid rules, policy manuals, handbooks, and state and federal law, the payment shall be the amount billed by the provider, the provider's usual and customary charge, or the maximum allowable fee established by the agency, whichever amount is less, with the exception of those services or goods for which the agency makes payment using a methodology based on capitation rates, average costs, or negotiated fees.

(a) Advanced practice registered nurse ~~Advanced registered nurse practitioner~~ services.

(7) A provider of family planning services shall be reimbursed the lesser of the amount billed by the provider or an all-inclusive amount per type of visit for physicians and advanced practice registered nurses ~~advanced registered nurse practitioners~~, as established by the agency in a fee schedule.

Section 40. Paragraph (a) of subsection (1) of section 409.973, Florida Statutes, is amended to read:

409.973 Benefits.—

(1) MINIMUM BENEFITS.—Managed care plans shall cover, at a





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minimum, the following services:

(a) Advanced practice registered nurse ~~Advanced registered nurse practitioner~~ services.

Section 41. Section 1 of chapter 2016-109, Laws of Florida, is amended to read:

Section 1. Effective March 1, 2019, subsection (1) of section 409.973, Florida Statutes, is amended to read:

409.973 Benefits.—

(1) MINIMUM BENEFITS.—Managed care plans shall cover, at a minimum, the following services:

(a) Advanced practice registered nurse ~~Advanced registered nurse practitioner~~ services.

(b) Ambulatory surgical treatment center services.

(c) Birthing center services.

(d) Chiropractic services.

(e) Early periodic screening diagnosis and treatment services for recipients under age 21.

(f) Emergency services.

(g) Family planning services and supplies. Pursuant to 42 C.F.R. s. 438.102, plans may elect to not provide these services due to an objection on moral or religious grounds, and must notify the agency of that election when submitting a reply to an invitation to negotiate.

(h) Healthy start services, except as provided in s. 409.975(4).

(i) Hearing services.

(j) Home health agency services.

(k) Hospice services.

(l) Hospital inpatient services.



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(m) Hospital outpatient services.  
(n) Laboratory and imaging services.  
(o) Medical supplies, equipment, prostheses, and orthoses.  
(p) Mental health services.  
(q) Nursing care.  
(r) Optical services and supplies.  
(s) Optometrist services.  
(t) Physical, occupational, respiratory, and speech therapy services.  
(u) Physician services, including physician assistant services.  
(v) Podiatric services.  
(w) Prescription drugs.  
(x) Renal dialysis services.  
(y) Respiratory equipment and supplies.  
(z) Rural health clinic services.  
(aa) Substance abuse treatment services.  
(bb) Transportation to access covered services.  
Section 42. Paragraph (a) of subsection (2) and paragraph (a) of subsection (7) of section 429.918, Florida Statutes, are amended to read:  
429.918 Licensure designation as a specialized Alzheimer's services adult day care center.—  
(2) As used in this section, the term:  
(a) "ADRD participant" means a participant who has a documented diagnosis of Alzheimer's disease or a dementia-related disorder (ADRD) from a licensed physician, licensed physician assistant, or a licensed advanced practice registered nurse ~~advanced registered nurse practitioner~~.



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(7)(a) An ADRD participant admitted to an adult day care center having a license designated under this section, or the caregiver when applicable, must:

1. Require ongoing supervision to maintain the highest level of medical or custodial functioning and have a demonstrated need for a responsible party to oversee his or her care.

2. Not actively demonstrate aggressive behavior that places himself, herself, or others at risk of harm.

3. Provide the following medical documentation signed by a licensed physician, licensed physician assistant, or a licensed advanced practice registered nurse ~~advanced registered nurse practitioner~~:

a. Any physical, health, or emotional conditions that require medical care.

b. A listing of the ADRD participant's current prescribed and over-the-counter medications and dosages, diet restrictions, mobility restrictions, and other physical limitations.

4. Provide documentation signed by a health care provider licensed in this state which indicates that the ADRD participant is free of the communicable form of tuberculosis and free of signs and symptoms of other communicable diseases.

Section 43. Section 456.0391, Florida Statutes, is amended to read:

456.0391 Advanced practice registered nurses ~~Advanced registered nurse practitioners~~; information required for licensure ~~certification~~.

(1)(a) Each person who applies for initial licensure ~~certification~~ under s. 464.012 must, at the time of application,



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and each person licensed ~~certified~~ under s. 464.012 who applies for licensure ~~certification~~ renewal must, in conjunction with the renewal of such licensure ~~certification~~ and under procedures adopted by the Department of Health, and in addition to any other information that may be required from the applicant, furnish the following information to the Department of Health:

1. The name of each school or training program that the applicant has attended, with the months and years of attendance and the month and year of graduation, and a description of all graduate professional education completed by the applicant, excluding any coursework taken to satisfy continuing education requirements.

2. The name of each location at which the applicant practices.

3. The address at which the applicant will primarily conduct his or her practice.

4. Any certification or designation that the applicant has received from a specialty or certification board that is recognized or approved by the regulatory board or department to which the applicant is applying.

5. The year that the applicant received initial certification or licensure and began practicing the profession in any jurisdiction and the year that the applicant received initial certification or licensure in this state.

6. Any appointment which the applicant currently holds to the faculty of a school related to the profession and an indication as to whether the applicant has had the responsibility for graduate education within the most recent 10 years.



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7. A description of any criminal offense of which the applicant has been found guilty, regardless of whether adjudication of guilt was withheld, or to which the applicant has pled guilty or nolo contendere. A criminal offense committed in another jurisdiction which would have been a felony or misdemeanor if committed in this state must be reported. If the applicant indicates that a criminal offense is under appeal and submits a copy of the notice for appeal of that criminal offense, the department must state that the criminal offense is under appeal if the criminal offense is reported in the applicant's profile. If the applicant indicates to the department that a criminal offense is under appeal, the applicant must, within 15 days after the disposition of the appeal, submit to the department a copy of the final written order of disposition.

8. A description of any final disciplinary action taken within the previous 10 years against the applicant by a licensing or regulatory body in any jurisdiction, by a specialty board that is recognized by the board or department, or by a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home. Disciplinary action includes resignation from or nonrenewal of staff membership or the restriction of privileges at a licensed hospital, health maintenance organization, prepaid health clinic, ambulatory surgical center, or nursing home taken in lieu of or in settlement of a pending disciplinary case related to competence or character. If the applicant indicates that the disciplinary action is under appeal and submits a copy of the document initiating an appeal of the disciplinary action, the



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department must state that the disciplinary action is under appeal if the disciplinary action is reported in the applicant's profile.

(b) In addition to the information required under paragraph (a), each applicant for initial licensure ~~certification~~ or licensure ~~certification~~ renewal must provide the information required of licensees pursuant to s. 456.049.

(2) The Department of Health shall send a notice to each person licensed ~~certified~~ under s. 464.012 at the licensee's ~~certificateholder's~~ last known address of record regarding the requirements for information to be submitted by advanced practice registered nurses ~~advanced registered nurse practitioners~~ pursuant to this section in conjunction with the renewal of such license ~~certificate~~.

(3) Each person licensed ~~certified~~ under s. 464.012 who has submitted information pursuant to subsection (1) must update that information in writing by notifying the Department of Health within 45 days after the occurrence of an event or the attainment of a status that is required to be reported by subsection (1). Failure to comply with the requirements of this subsection to update and submit information constitutes a ground for disciplinary action under chapter 464 and s. 456.072(1)(k). For failure to comply with the requirements of this subsection to update and submit information, the department or board, as appropriate, may:

(a) Refuse to issue a license ~~certificate~~ to any person applying for initial licensure ~~certification~~ who fails to submit and update the required information.

(b) Issue a citation to any certificateholder or licensee



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who fails to submit and update the required information and may fine the certificateholder or licensee up to \$50 for each day that the certificateholder or licensee is not in compliance with this subsection. The citation must clearly state that the certificateholder or licensee may choose, in lieu of accepting the citation, to follow the procedure under s. 456.073. If the certificateholder or licensee disputes the matter in the citation, the procedures set forth in s. 456.073 must be followed. However, if the certificateholder or licensee does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the certificateholder's or licensee's last known address.

(4) (a) An applicant for initial licensure ~~certification~~ under s. 464.012 must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for a national criminal history check of the applicant.

(b) An applicant for renewed licensure ~~certification~~ who has not previously submitted a set of fingerprints to the Department of Health for purposes of certification must submit a set of fingerprints to the department as a condition of the initial renewal of his or her certificate after the effective date of this section. The applicant must submit the fingerprints on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by



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the Department of Health for a national criminal history check. For subsequent renewals, the applicant for renewed licensure ~~certification~~ must only submit information necessary to conduct a statewide criminal history check, along with payment in an amount equal to the costs incurred by the Department of Health for a statewide criminal history check.

(c)1. The Department of Health shall submit the fingerprints provided by an applicant for initial licensure ~~certification~~ to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant.

2. The department shall submit the fingerprints provided by an applicant for the initial renewal of licensure ~~certification~~ to the Florida Department of Law Enforcement for a statewide criminal history check, and the Florida Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check for the initial renewal of the applicant's certificate after the effective date of this section.

3. For any subsequent renewal of the applicant's certificate, the department shall submit the required information for a statewide criminal history check of the applicant to the Florida Department of Law Enforcement.

(d) Any applicant for initial licensure ~~certification~~ or renewal of licensure ~~certification~~ as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ who submits to the Department of Health a set of fingerprints and





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information required for the criminal history check required under this section shall not be required to provide a subsequent set of fingerprints or other duplicate information required for a criminal history check to the Agency for Health Care Administration, the Department of Juvenile Justice, or the Department of Children and Families for employment or licensure with such agency or department, if the applicant has undergone a criminal history check as a condition of initial licensure ~~certification~~ or renewal of licensure ~~certification~~ as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ with the Department of Health, notwithstanding any other provision of law to the contrary. In lieu of such duplicate submission, the Agency for Health Care Administration, the Department of Juvenile Justice, and the Department of Children and Families shall obtain criminal history information for employment or licensure of persons licensed ~~certified~~ under s. 464.012 by such agency or department from the Department of Health's health care practitioner credentialing system.

(5) Each person who is required to submit information pursuant to this section may submit additional information to the Department of Health. Such information may include, but is not limited to:

(a) Information regarding publications in peer-reviewed professional literature within the previous 10 years.

(b) Information regarding professional or community service activities or awards.

(c) Languages, other than English, used by the applicant to communicate with patients or clients and identification of any translating service that may be available at the place where the



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applicant primarily conducts his or her practice.

(d) An indication of whether the person participates in the Medicaid program.

Section 44. Subsection (2) of section 456.0392, Florida Statutes, is amended to read:

456.0392 Prescription labeling.—

(2) A prescription for a drug that is not listed as a controlled substance in chapter 893 which is written by an advanced practice registered nurse licensed ~~advanced registered nurse practitioner certified~~ under s. 464.012 is presumed, subject to rebuttal, to be valid and within the parameters of the prescriptive authority delegated by a practitioner licensed under chapter 458, chapter 459, or chapter 466.

Section 45. Paragraph (a) of subsection (1) and subsection (6) of section 456.041, Florida Statutes, are amended to read:

456.041 Practitioner profile; creation.—

(1)(a) The Department of Health shall compile the information submitted pursuant to s. 456.039 into a practitioner profile of the applicant submitting the information, except that the Department of Health shall develop a format to compile uniformly any information submitted under s. 456.039(4)(b). Beginning July 1, 2001, the Department of Health may compile the information submitted pursuant to s. 456.0391 into a practitioner profile of the applicant submitting the information. The protocol submitted pursuant to s. 464.012(3) must be included in the practitioner profile of the advanced practice registered nurse ~~advanced registered nurse practitioner~~.

(6) The Department of Health shall provide in each



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practitioner profile for every physician or advanced practice  
registered nurse ~~advanced registered nurse practitioner~~  
terminated for cause from participating in the Medicaid program,  
pursuant to s. 409.913, or sanctioned by the Medicaid program a  
statement that the practitioner has been terminated from  
participating in the Florida Medicaid program or sanctioned by  
the Medicaid program.

Section 46. Subsection (1) of section 456.048, Florida  
Statutes, is amended to read:

456.048 Financial responsibility requirements for certain  
health care practitioners.—

(1) As a prerequisite for licensure or license renewal, the  
Board of Acupuncture, the Board of Chiropractic Medicine, the  
Board of Podiatric Medicine, and the Board of Dentistry shall,  
by rule, require that all health care practitioners licensed  
under the respective board, and the Board of Medicine and the  
Board of Osteopathic Medicine shall, by rule, require that all  
anesthesiologist assistants licensed pursuant to s. 458.3475 or  
s. 459.023, and the Board of Nursing shall, by rule, require  
that advanced practice registered nurses licensed ~~advanced~~  
~~registered nurse practitioners certified~~ under s. 464.012, and  
the department shall, by rule, require that midwives maintain  
medical malpractice insurance or provide proof of financial  
responsibility in an amount and in a manner determined by the  
board or department to be sufficient to cover claims arising out  
of the rendering of or failure to render professional care and  
services in this state.

Section 47. Subsection (7) of section 456.072, Florida  
Statutes, is amended to read:



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456.072 Grounds for discipline; penalties; enforcement.—

(7) Notwithstanding subsection (2), upon a finding that a physician has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed, in a manner that violates the standard of practice set forth in s. 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o) or (s), or s. 466.028(1)(p) or (x), or that an advanced practice registered nurse ~~advanced registered nurse practitioner~~ has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed, in a manner that violates the standard of practice set forth in s. 464.018(1)(n) or (p)6., the physician or advanced practice registered nurse ~~advanced registered nurse practitioner~~ shall be suspended for a period of not less than 6 months and pay a fine of not less than \$10,000 per count. Repeated violations shall result in increased penalties.

Section 48. Paragraph (g) of subsection (1) and subsection (2) of section 456.44, Florida Statutes, are amended to read:

456.44 Controlled substance prescribing.—

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

(g) "Registrant" means a physician, a physician assistant, or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ who meets the requirements of subsection (2).

(2) REGISTRATION.—A physician licensed under chapter 458, chapter 459, chapter 461, or chapter 466, a physician assistant licensed under chapter 458 or chapter 459, or an advanced practice registered nurse licensed ~~advanced registered nurse practitioner certified~~ under part I of chapter 464 who prescribes any controlled substance, listed in Schedule II,



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Schedule III, or Schedule IV as defined in s. 893.03, for the treatment of chronic nonmalignant pain, must:

(a) Designate himself or herself as a controlled substance prescribing practitioner on his or her practitioner profile.

(b) Comply with the requirements of this section and applicable board rules.

Section 49. Paragraph (c) of subsection (2) of section 458.3265, Florida Statutes, is amended to read:

458.3265 Pain-management clinics.—

(2) PHYSICIAN RESPONSIBILITIES.—These responsibilities apply to any physician who provides professional services in a pain-management clinic that is required to be registered in subsection (1).

(c) A physician, a physician assistant, or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ must perform a physical examination of a patient on the same day that the physician prescribes a controlled substance to a patient at a pain-management clinic. If the physician prescribes more than a 72-hour dose of controlled substances for the treatment of chronic nonmalignant pain, the physician must document in the patient's record the reason for prescribing that quantity.

Section 50. Paragraph (dd) of subsection (1) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(dd) Failing to supervise adequately the activities of



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those physician assistants, paramedics, emergency medical technicians, advanced practice registered nurses ~~advanced registered nurse practitioners~~, or anesthesiologist assistants acting under the supervision of the physician.

Section 51. Paragraph (a) of subsection (1) and subsection (3) of section 458.348, Florida Statutes, are amended to read:

458.348 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(1) NOTICE.—

(a) When a physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which relationship or orders contemplate the performance of medical acts, or when a physician enters into an established protocol with an advanced practice registered nurse ~~advanced registered nurse practitioner~~, which protocol contemplates the performance of medical acts set forth in s. 464.012(3) and (4), the physician shall submit notice to the board. The notice shall contain a statement in substantially the following form:

I, ...(name and professional license number of physician)..., of ...(address of physician)... have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with ...(number of persons)... emergency medical technician(s), ...(number of persons)... paramedic(s), or ...(number of persons)... advanced practice registered nurse(s) ~~advanced registered nurse practitioner(s)~~.

(3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—A



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physician who supervises an advanced practice registered nurse  
~~advanced registered nurse practitioner~~ or physician assistant at  
a medical office other than the physician's primary practice  
location, where the advanced practice registered nurse ~~advanced~~  
~~registered nurse practitioner~~ or physician assistant is not  
under the onsite supervision of a supervising physician, must  
comply with the standards set forth in this subsection. For the  
purpose of this subsection, a physician's "primary practice  
location" means the address reflected on the physician's profile  
published pursuant to s. 456.041.

(a) A physician who is engaged in providing primary health  
care services may not supervise more than four offices in  
addition to the physician's primary practice location. For the  
purpose of this subsection, "primary health care" means health  
care services that are commonly provided to patients without  
referral from another practitioner, including obstetrical and  
gynecological services, and excludes practices providing  
primarily dermatologic and skin care services, which include  
aesthetic skin care services.

(b) A physician who is engaged in providing specialty  
health care services may not supervise more than two offices in  
addition to the physician's primary practice location. For the  
purpose of this subsection, "specialty health care" means health  
care services that are commonly provided to patients with a  
referral from another practitioner and excludes practices  
providing primarily dermatologic and skin care services, which  
include aesthetic skin care services.

(c) A physician who supervises an advanced practice  
registered nurse ~~advanced registered nurse practitioner~~ or



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physician assistant at a medical office other than the physician's primary practice location, where the advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant is not under the onsite supervision of a supervising physician and the services offered at the office are primarily dermatologic or skin care services, which include aesthetic skin care services other than plastic surgery, must comply with the standards listed in subparagraphs 1.-4.

Notwithstanding s. 458.347(4)(e)6., a physician supervising a physician assistant pursuant to this paragraph may not be required to review and cosign charts or medical records prepared by such physician assistant.

1. The physician shall submit to the board the addresses of all offices where he or she is supervising an advanced practice registered nurse ~~advanced registered nurse practitioner~~ or a physician's assistant which are not the physician's primary practice location.

2. The physician must be board certified or board eligible in dermatology or plastic surgery as recognized by the board pursuant to s. 458.3312.

3. All such offices that are not the physician's primary place of practice must be within 25 miles of the physician's primary place of practice or in a county that is contiguous to the county of the physician's primary place of practice. However, the distance between any of the offices may not exceed 75 miles.

4. The physician may supervise only one office other than the physician's primary place of practice except that until July 1, 2011, the physician may supervise up to two medical offices





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other than the physician's primary place of practice if the addresses of the offices are submitted to the board before July 1, 2006. Effective July 1, 2011, the physician may supervise only one office other than the physician's primary place of practice, regardless of when the addresses of the offices were submitted to the board.

(d) A physician who supervises an office in addition to the physician's primary practice location must conspicuously post in each of the physician's offices a current schedule of the regular hours when the physician is present in that office and the hours when the office is open while the physician is not present.

(e) This subsection does not apply to health care services provided in facilities licensed under chapter 395 or in conjunction with a college of medicine, a college of nursing, an accredited graduate medical program, or a nursing education program; not-for-profit, family-planning clinics that are not licensed pursuant to chapter 390; rural and federally qualified health centers; health care services provided in a nursing home licensed under part II of chapter 400, an assisted living facility licensed under part I of chapter 429, a continuing care facility licensed under chapter 651, or a retirement community consisting of independent living units and a licensed nursing home or assisted living facility; anesthesia services provided in accordance with law; health care services provided in a designated rural health clinic; health care services provided to persons enrolled in a program designed to maintain elderly persons and persons with disabilities in a home or community-based setting; university primary care student health centers;



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school health clinics; or health care services provided in federal, state, or local government facilities. Subsection (2) and this subsection do not apply to offices at which the exclusive service being performed is laser hair removal by an advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant.

Section 52. Paragraph (c) of subsection (2) of section 459.0137, Florida Statutes, is amended to read:

459.0137 Pain-management clinics.—

(2) PHYSICIAN RESPONSIBILITIES.—These responsibilities apply to any osteopathic physician who provides professional services in a pain-management clinic that is required to be registered in subsection (1).

(c) An osteopathic physician, a physician assistant, or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ must perform a physical examination of a patient on the same day that the physician prescribes a controlled substance to a patient at a pain-management clinic. If the osteopathic physician prescribes more than a 72-hour dose of controlled substances for the treatment of chronic nonmalignant pain, the osteopathic physician must document in the patient's record the reason for prescribing that quantity.

Section 53. Paragraph (hh) of subsection (1) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(hh) Failing to supervise adequately the activities of



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those physician assistants, paramedics, emergency medical technicians, advanced practice registered nurses ~~advanced registered nurse practitioners~~, anesthesiologist assistants, or other persons acting under the supervision of the osteopathic physician.

Section 54. Paragraph (a) of subsection (1) and subsection (3) of section 459.025, Florida Statutes, are amended to read:  
459.025 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(1) NOTICE.—

(a) When an osteopathic physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which relationship or orders contemplate the performance of medical acts, or when an osteopathic physician enters into an established protocol with an advanced practice registered nurse ~~advanced registered nurse practitioner~~, which protocol contemplates the performance of medical acts or acts set forth in s. 464.012(3) and (4), the osteopathic physician shall submit notice to the board. The notice must contain a statement in substantially the following form:

I, ...(name and professional license number of osteopathic physician)..., of ...(address of osteopathic physician)... have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with ...(number of persons)... emergency medical technician(s), ...(number of persons)... paramedic(s), or ...(number of persons)... advanced practice registered nurse(s) ~~advanced registered nurse~~



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~~practitioner(s).~~

(3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—

An osteopathic physician who supervises an advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant at a medical office other than the osteopathic physician's primary practice location, where the advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant is not under the onsite supervision of a supervising osteopathic physician, must comply with the standards set forth in this subsection. For the purpose of this subsection, an osteopathic physician's "primary practice location" means the address reflected on the physician's profile published pursuant to s. 456.041.

(a) An osteopathic physician who is engaged in providing primary health care services may not supervise more than four offices in addition to the osteopathic physician's primary practice location. For the purpose of this subsection, "primary health care" means health care services that are commonly provided to patients without referral from another practitioner, including obstetrical and gynecological services, and excludes practices providing primarily dermatologic and skin care services, which include aesthetic skin care services.

(b) An osteopathic physician who is engaged in providing specialty health care services may not supervise more than two offices in addition to the osteopathic physician's primary practice location. For the purpose of this subsection, "specialty health care" means health care services that are commonly provided to patients with a referral from another practitioner and excludes practices providing primarily



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dermatologic and skin care services, which include aesthetic skin care services.

(c) An osteopathic physician who supervises an advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant at a medical office other than the osteopathic physician's primary practice location, where the advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant is not under the onsite supervision of a supervising osteopathic physician and the services offered at the office are primarily dermatologic or skin care services, which include aesthetic skin care services other than plastic surgery, must comply with the standards listed in subparagraphs 1.-4. Notwithstanding s. 459.022(4)(e)6., an osteopathic physician supervising a physician assistant pursuant to this paragraph may not be required to review and cosign charts or medical records prepared by such physician assistant.

1. The osteopathic physician shall submit to the Board of Osteopathic Medicine the addresses of all offices where he or she is supervising or has a protocol with an advanced practice registered nurse ~~advanced registered nurse practitioner~~ or a physician ~~physician's~~ assistant which are not the osteopathic physician's primary practice location.

2. The osteopathic physician must be board certified or board eligible in dermatology or plastic surgery as recognized by the Board of Osteopathic Medicine pursuant to s. 459.0152.

3. All such offices that are not the osteopathic physician's primary place of practice must be within 25 miles of the osteopathic physician's primary place of practice or in a



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county that is contiguous to the county of the osteopathic physician's primary place of practice. However, the distance between any of the offices may not exceed 75 miles.

4. The osteopathic physician may supervise only one office other than the osteopathic physician's primary place of practice except that until July 1, 2011, the osteopathic physician may supervise up to two medical offices other than the osteopathic physician's primary place of practice if the addresses of the offices are submitted to the Board of Osteopathic Medicine before July 1, 2006. Effective July 1, 2011, the osteopathic physician may supervise only one office other than the osteopathic physician's primary place of practice, regardless of when the addresses of the offices were submitted to the Board of Osteopathic Medicine.

(d) An osteopathic physician who supervises an office in addition to the osteopathic physician's primary practice location must conspicuously post in each of the osteopathic physician's offices a current schedule of the regular hours when the osteopathic physician is present in that office and the hours when the office is open while the osteopathic physician is not present.

(e) This subsection does not apply to health care services provided in facilities licensed under chapter 395 or in conjunction with a college of medicine or college of nursing or an accredited graduate medical or nursing education program; offices where the only service being performed is hair removal by an advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant; not-for-profit, family-planning clinics that are not licensed pursuant to



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chapter 390; rural and federally qualified health centers; health care services provided in a nursing home licensed under part II of chapter 400, an assisted living facility licensed under part I of chapter 429, a continuing care facility licensed under chapter 651, or a retirement community consisting of independent living units and either a licensed nursing home or assisted living facility; anesthesia services provided in accordance with law; health care services provided in a designated rural health clinic; health care services provided to persons enrolled in a program designed to maintain elderly persons and persons with disabilities in a home or community-based setting; university primary care student health centers; school health clinics; or health care services provided in federal, state, or local government facilities.

Section 55. Subsection (2) of section 464.003, Florida Statutes, is amended to read:

464.003 Definitions.—As used in this part, the term:

(2) "Advanced or specialized nursing practice" means, in addition to the practice of professional nursing, the performance of advanced-level nursing acts approved by the board which, by virtue of postbasic specialized education, training, and experience, are appropriately performed by an advanced practice registered nurse ~~advanced registered nurse practitioner~~. Within the context of advanced or specialized nursing practice, the advanced practice registered nurse ~~advanced registered nurse practitioner~~ may perform acts of nursing diagnosis and nursing treatment of alterations of the health status. The advanced practice registered nurse ~~advanced registered nurse practitioner~~ may also perform acts of medical



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diagnosis and treatment, prescription, and operation as authorized within the framework of an established supervisory protocol. The department may, by rule, require that a copy of the protocol be filed with the department along with the notice required by s. 458.348.

Section 56. Subsection (2) of section 464.004, Florida Statutes, is amended to read:

464.004 Board of Nursing; membership; appointment; terms.—

(2) Seven members of the board must be registered nurses who are residents of this state and who have been engaged in the practice of professional nursing for at least 4 years, including at least one advanced practice registered nurse ~~advanced registered nurse practitioner~~, one nurse educator member of an approved program, and one nurse executive. These seven board members should be representative of the diverse areas of practice within the nursing profession. In addition, three members of the board must be licensed practical nurses who are residents of this state and who have been actively engaged in the practice of practical nursing for at least 4 years prior to their appointment. The remaining three members must be residents of the state who have never been licensed as nurses and who are in no way connected with the practice of nursing. No person may be appointed as a lay member who is in any way connected with, or has any financial interest in, any health care facility, agency, or insurer. At least one member of the board must be 60 years of age or older.

Section 57. Paragraph (b) of subsection (3) of section 464.013, Florida Statutes, is amended to read:

464.013 Renewal of license or certificate.—





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(3) The board shall by rule prescribe up to 30 hours of continuing education biennially as a condition for renewal of a license or certificate.

(b) Notwithstanding the exemption in paragraph (a), as part of the maximum 30 hours of continuing education hours required under this subsection, advanced practice registered nurses licensed ~~advanced registered nurse practitioners certified~~ under s. 464.012 must complete at least 3 hours of continuing education on the safe and effective prescription of controlled substances. Such continuing education courses must be offered by a statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award Category 1 credit, the American Nurses Credentialing Center, the American Association of Nurse Anesthetists, or the American Association of Nurse Practitioners and may be offered in a distance learning format.

Section 58. Subsections (5) and (8), of section 464.015, Florida Statutes, are amended to read:

464.015 Titles and abbreviations; restrictions; penalty.—

(5) Only persons who hold valid licenses ~~certificates~~ to practice as clinical nurse specialists in this state may use the title "Clinical Nurse Specialist" and the abbreviation "C.N.S."

(8) Only persons who hold valid licenses ~~certificates~~ to practice as advanced practice registered nurses ~~advanced registered nurse practitioners~~ in this state may use the title "Advanced Practice Registered Nurse" ~~"Advanced Registered Nurse Practitioner"~~ and the abbreviation "A.P.R.N." ~~"A.R.N.P."~~

Section 59. Subsection (9) of section 464.015, Florida



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Statutes, as amended by section 9 of chapter 2016-139, Laws of Florida, is amended to read:

464.015 Titles and abbreviations; restrictions; penalty.—

(9) A person may not practice or advertise as, or assume the title of, registered nurse, licensed practical nurse, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, certified nurse practitioner, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ or use the abbreviation "R.N.," "L.P.N.," "C.N.S.," "C.R.N.A.," "C.N.M.," "C.N.P.," or "A.P.R.N.," ~~"A.R.N.P."~~ or take any other action that would lead the public to believe that person was authorized by law to practice as such or is performing nursing services pursuant to the exception set forth in s. 464.022(8) unless that person is licensed, certified, or authorized pursuant to s. 464.0095 to practice as such.

Section 60. Paragraph (a) of subsection (2) of section 464.016, Florida Statutes, is amended to read:

464.016 Violations and penalties.—

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Using the name or title "Nurse," "Registered Nurse," "Licensed Practical Nurse," "Clinical Nurse Specialist," "Certified Registered Nurse Anesthetist," "Certified Nurse Practitioner," "Certified Nurse Midwife," "Advanced Practice Registered Nurse," ~~"Advanced Registered Nurse Practitioner,"~~ or any other name or title which implies that a person was licensed or certified as same, unless such person is duly licensed or



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certified.

Section 61. Paragraphs (p) and (q) of subsection (1) of section 464.018, Florida Statutes, are amended to read:

464.018 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(p) For an advanced practice registered nurse ~~advanced registered nurse practitioner~~:

1. Presigning blank prescription forms.

2. Prescribing for office use any medicinal drug appearing on Schedule II in chapter 893.

3. Prescribing, ordering, dispensing, administering, supplying, selling, or giving a drug that is an amphetamine, a sympathomimetic amine drug, or a compound designated in s. 893.03(2) as a Schedule II controlled substance, to or for any person except for:

a. The treatment of narcolepsy; hyperkinesis; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

b. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities.

c. The clinical investigation of the effects of such drugs or compounds when an investigative protocol is submitted to, reviewed by, and approved by the department before such investigation is begun.

4. Prescribing, ordering, dispensing, administering,



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supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. As used in this subparagraph, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products identified in this subparagraph may be dispensed by a pharmacist with the presumption that the prescription is for legitimate medical use.

5. Promoting or advertising on any prescription form a community pharmacy unless the form also states: "This prescription may be filled at any pharmacy of your choice."

6. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including a controlled substance, other than in the course of his or her professional practice. For the purposes of this subparagraph, it is legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the advanced practice registered nurse's ~~advanced registered nurse practitioner's~~ professional practice, without regard to his or her intent.

7. Prescribing, dispensing, or administering a medicinal drug appearing on any schedule set forth in chapter 893 to himself or herself, except a drug prescribed, dispensed, or administered to the advanced practice registered nurse ~~advanced registered nurse practitioner~~ by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

8. Prescribing, ordering, dispensing, administering,



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supplying, selling, or giving amygdalin (laetrile) to any person.

9. Dispensing a substance designated in s. 893.03(2) or (3) as a substance controlled in Schedule II or Schedule III, respectively, in violation of s. 465.0276.

10. Promoting or advertising through any communication medium the use, sale, or dispensing of a substance designated in s. 893.03 as a controlled substance.

(q) For a psychiatric nurse:

1. Presigning blank prescription forms.

2. Prescribing for office use any medicinal drug appearing in Schedule II of s. 893.03.

3. Prescribing, ordering, dispensing, administering, supplying, selling, or giving a drug that is an amphetamine, a sympathomimetic amine drug, or a compound designated in s. 893.03(2) as a Schedule II controlled substance, to or for any person except for:

a. The treatment of narcolepsy; hyperkinesia; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

b. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities.

c. The clinical investigation of the effects of such drugs or compounds when an investigative protocol is submitted to, reviewed by, and approved by the department before such investigation is begun.



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4. Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. As used in this subparagraph, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products identified in this subparagraph may be dispensed by a pharmacist with the presumption that the prescription is for legitimate medical use.

5. Promoting or advertising on any prescription form a community pharmacy unless the form also states: "This prescription may be filled at any pharmacy of your choice."

6. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including a controlled substance, other than in the course of his or her professional practice. For the purposes of this subparagraph, it is legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the advanced practice registered nurse's ~~advanced registered nurse practitioner's~~ professional practice, without regard to his or her intent.

7. Prescribing, dispensing, or administering a medicinal drug appearing on any schedule set forth in chapter 893 to himself or herself, except a drug prescribed, dispensed, or administered to the psychiatric nurse by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.



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8. Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

9. Dispensing a substance designated in s. 893.03(2) or (3) as a substance controlled in Schedule II or Schedule III, respectively, in violation of s. 465.0276.

10. Promoting or advertising through any communication medium the use, sale, or dispensing of a substance designated in s. 893.03 as a controlled substance.

Section 62. Paragraph (a) of subsection (4) of section 464.0205, Florida Statutes, is amended to read:

464.0205 Retired volunteer nurse certificate.—

(4) A retired volunteer nurse receiving certification from the board shall:

(a) Work under the direct supervision of the director of a county health department, a physician working under a limited license issued pursuant to s. 458.317 or s. 459.0075, a physician licensed under chapter 458 or chapter 459, an advanced practice registered nurse ~~licensed advanced registered nurse practitioner certified~~ under s. 464.012, or a registered nurse licensed under s. 464.008 or s. 464.009.

Section 63. Subsection (2) of section 467.003, Florida Statutes, is amended to read:

467.003 Definitions.—As used in this chapter, unless the context otherwise requires:

(2) "Certified nurse midwife" means a person who is licensed as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ under part I of chapter 464 and who is certified to practice midwifery by the American College



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of Nurse Midwives.

Section 64. Subsection (1) of section 480.0475, Florida Statutes, is amended to read:

480.0475 Massage establishments; prohibited practices.—

(1) A person may not operate a massage establishment between the hours of midnight and 5 a.m. This subsection does not apply to a massage establishment:

(a) Located on the premises of a health care facility as defined in s. 408.07; a health care clinic as defined in s. 400.9905(4); a hotel, motel, or bed and breakfast inn, as those terms are defined in s. 509.242; a timeshare property as defined in s. 721.05; a public airport as defined in s. 330.27; or a pari-mutuel facility as defined in s. 550.002;

(b) In which every massage performed between the hours of midnight and 5 a.m. is performed by a massage therapist acting under the prescription of a physician or physician assistant licensed under chapter 458, an osteopathic physician or physician assistant licensed under chapter 459, a chiropractic physician licensed under chapter 460, a podiatric physician licensed under chapter 461, an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under part I of chapter 464, or a dentist licensed under chapter 466; or

(c) Operating during a special event if the county or municipality in which the establishment operates has approved such operation during the special event.

Section 65. Subsection (7) of section 483.041, Florida Statutes, is amended to read:

483.041 Definitions.—As used in this part, the term:

(7) "Licensed practitioner" means a physician licensed





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under chapter 458, chapter 459, chapter 460, or chapter 461; a certified optometrist licensed under chapter 463; a dentist licensed under chapter 466; a person licensed under chapter 462; a consultant pharmacist or doctor of pharmacy licensed under chapter 465; or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under part I of chapter 464; or a duly licensed practitioner from another state licensed under similar statutes who orders examinations on materials or specimens for nonresidents of the State of Florida, but who reside in the same state as the requesting licensed practitioner.

Section 66. Subsection (5) of section 483.801, Florida Statutes, is amended to read:

483.801 Exemptions.—This part applies to all clinical laboratories and clinical laboratory personnel within this state, except:

(5) Advanced practice registered nurses ~~advanced registered nurse practitioners~~ licensed under part I of chapter 464 who perform provider-performed microscopy procedures (PPMP) in an exclusive-use laboratory setting.

Section 67. Paragraph (a) of subsection (11) of section 486.021, Florida Statutes, is amended to read:

486.021 Definitions.—In this chapter, unless the context otherwise requires, the term:

(11) "Practice of physical therapy" means the performance of physical therapy assessments and the treatment of any disability, injury, disease, or other health condition of human beings, or the prevention of such disability, injury, disease, or other condition of health, and rehabilitation as related



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thereto by the use of the physical, chemical, and other properties of air; electricity; exercise; massage; the performance of acupuncture only upon compliance with the criteria set forth by the Board of Medicine, when no penetration of the skin occurs; the use of radiant energy, including ultraviolet, visible, and infrared rays; ultrasound; water; the use of apparatus and equipment in the application of the foregoing or related thereto; the performance of tests of neuromuscular functions as an aid to the diagnosis or treatment of any human condition; or the performance of electromyography as an aid to the diagnosis of any human condition only upon compliance with the criteria set forth by the Board of Medicine.

(a) A physical therapist may implement a plan of treatment developed by the physical therapist for a patient or provided for a patient by a practitioner of record or by an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under s. 464.012. The physical therapist shall refer the patient to or consult with a practitioner of record if the patient's condition is found to be outside the scope of physical therapy. If physical therapy treatment for a patient is required beyond 30 days for a condition not previously assessed by a practitioner of record, the physical therapist shall have a practitioner of record review and sign the plan. The requirement that a physical therapist have a practitioner of record review and sign a plan of treatment does not apply when a patient has been physically examined by a physician licensed in another state, the patient has been diagnosed by the physician as having a condition for which physical therapy is required, and the physical therapist is treating the condition. For purposes of



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this paragraph, a health care practitioner licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 and engaged in active practice is eligible to serve as a practitioner of record.

Section 68. Paragraph (d) of subsection (1) of section 490.012, Florida Statutes, is amended to read:

490.012 Violations; penalties; injunction.-

(1)

(d) A person may not ~~No person shall~~ hold herself or himself out by any title or description incorporating the word, or a permutation of the word, "psychotherapy" unless such person holds a valid, active license under chapter 458, chapter 459, chapter 490, or chapter 491, or such person is licensed ~~certified~~ as an advanced practice registered nurse under ~~advanced registered nurse practitioner, pursuant to s. 464.012,~~ who has been determined by the Board of Nursing as a specialist in psychiatric mental health.

Section 69. Subsection (1) of section 491.0057, Florida Statutes, is amended to read:

491.0057 Dual licensure as a marriage and family therapist.-The department shall license as a marriage and family therapist any person who demonstrates to the board that he or she:

(1) Holds a valid, active license as a psychologist under chapter 490 or as a clinical social worker or mental health counselor under this chapter, or is licensed ~~certified~~ under s. 464.012 as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ who has been determined by the Board of Nursing as a specialist in psychiatric mental health.



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Section 70. Paragraph (d) of subsection (1) and subsection (2) of section 491.012, Florida Statutes, are amended to read:

491.012 Violations; penalty; injunction.—

(1) It is unlawful and a violation of this chapter for any person to:

(d) Use the terms psychotherapist, sex therapist, or juvenile sexual offender therapist unless such person is licensed pursuant to this chapter or chapter 490, or is licensed ~~certified~~ under s. 464.012 as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ who has been determined by the Board of Nursing as a specialist in psychiatric mental health and the use of such terms is within the scope of her or his practice based on education, training, and licensure.

(2) It is unlawful and a violation of this chapter for any person to describe her or his services using the following terms or any derivative thereof, unless such person holds a valid, active license under this chapter or chapter 490, or is licensed ~~certified~~ under s. 464.012 as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ who has been determined by the Board of Nursing as a specialist in psychiatric mental health and the use of such terms is within the scope of her or his practice based on education, training, and licensure:

- (a) "Psychotherapy."
- (b) "Sex therapy."
- (c) "Sex counseling."
- (d) "Clinical social work."
- (e) "Psychiatric social work."



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(f) "Marriage and family therapy."

(g) "Marriage and family counseling."

(h) "Marriage counseling."

(i) "Family counseling."

(j) "Mental health counseling."

Section 71. Subsection (2) of section 493.6108, Florida Statutes, is amended to read:

493.6108 Investigation of applicants by Department of Agriculture and Consumer Services.—

(2) In addition to subsection (1), the department shall make an investigation of the general physical fitness of the Class "G" applicant to bear a weapon or firearm. Determination of physical fitness shall be certified by a physician or physician assistant currently licensed pursuant to chapter 458, chapter 459, or any similar law of another state or authorized to act as a licensed physician by a federal agency or department or by an advanced practice registered nurse ~~advanced registered nurse-practitioner~~ currently licensed pursuant to chapter 464. Such certification shall be submitted on a form provided by the department.

Section 72. Paragraph (b) of subsection (1) of section 627.357, Florida Statutes, is amended to read:

627.357 Medical malpractice self-insurance.—

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

(b) "Health care provider" means any:

1. Hospital licensed under chapter 395.

2. Physician licensed, or physician assistant licensed, under chapter 458.

3. Osteopathic physician or physician assistant licensed



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under chapter 459.

4. Podiatric physician licensed under chapter 461.

5. Health maintenance organization certificated under part I of chapter 641.

6. Ambulatory surgical center licensed under chapter 395.

7. Chiropractic physician licensed under chapter 460.

8. Psychologist licensed under chapter 490.

9. Optometrist licensed under chapter 463.

10. Dentist licensed under chapter 466.

11. Pharmacist licensed under chapter 465.

12. Registered nurse, licensed practical nurse, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed or registered under part I of chapter 464.

13. Other medical facility.

14. Professional association, partnership, corporation, joint venture, or other association established by the individuals set forth in subparagraphs 2., 3., 4., 7., 8., 9., 10., 11., and 12. for professional activity.

Section 73. Subsection (6) of section 627.6471, Florida Statutes, is amended to read:

627.6471 Contracts for reduced rates of payment; limitations; coinsurance and deductibles.—

(6) If psychotherapeutic services are covered by a policy issued by the insurer, the insurer shall provide eligibility criteria for each group of health care providers licensed under chapter 458, chapter 459, chapter 490, or chapter 491, which include psychotherapy within the scope of their practice as provided by law, or for any person who is licensed ~~certified~~ as an advanced practice registered nurse ~~advanced registered nurse~~



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~~practitioner~~ in psychiatric mental health under s. 464.012. When psychotherapeutic services are covered, eligibility criteria shall be established by the insurer to be included in the insurer's criteria for selection of network providers. The insurer may not discriminate against a health care provider by excluding such practitioner from its provider network solely on the basis of the practitioner's license.

Section 74. Subsections (15) and (17) of section 627.6472, Florida Statutes, are amended to read:

627.6472 Exclusive provider organizations.—

(15) If psychotherapeutic services are covered by a policy issued by the insurer, the insurer shall provide eligibility criteria for all groups of health care providers licensed under chapter 458, chapter 459, chapter 490, or chapter 491, which include psychotherapy within the scope of their practice as provided by law, or for any person who is licensed ~~certified~~ as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ in psychiatric mental health under s. 464.012. When psychotherapeutic services are covered, eligibility criteria shall be established by the insurer to be included in the insurer's criteria for selection of network providers. The insurer may not discriminate against a health care provider by excluding such practitioner from its provider network solely on the basis of the practitioner's license.

(17) An exclusive provider organization shall not discriminate with respect to participation as to any advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed ~~and certified~~ pursuant to s. 464.012, who is acting within the scope of such license ~~and certification~~, solely on



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the basis of such license ~~or certification~~. This subsection shall not be construed to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

Section 75. Paragraph (a) of subsection (1) of section 627.736, Florida Statutes, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.—

(1) REQUIRED BENEFITS.—An insurance policy complying with the security requirements of s. 627.733 must provide personal injury protection to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in the motor vehicle, and other persons struck by the motor vehicle and suffering bodily injury while not an occupant of a self-propelled vehicle, subject to subsection (2) and paragraph (4)(e), to a limit of \$10,000 in medical and disability benefits and \$5,000 in death benefits resulting from bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

(a) *Medical benefits*.—Eighty percent of all reasonable expenses for medically necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices and medically necessary ambulance, hospital, and nursing services if the individual receives initial services and care pursuant to subparagraph 1. within 14 days after the motor vehicle accident. The medical benefits provide reimbursement only for:





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1. Initial services and care that are lawfully provided, supervised, ordered, or prescribed by a physician licensed under chapter 458 or chapter 459, a dentist licensed under chapter 466, or a chiropractic physician licensed under chapter 460 or that are provided in a hospital or in a facility that owns, or is wholly owned by, a hospital. Initial services and care may also be provided by a person or entity licensed under part III of chapter 401 which provides emergency transportation and treatment.

2. Upon referral by a provider described in subparagraph 1., followup services and care consistent with the underlying medical diagnosis rendered pursuant to subparagraph 1. which may be provided, supervised, ordered, or prescribed only by a physician licensed under chapter 458 or chapter 459, a chiropractic physician licensed under chapter 460, a dentist licensed under chapter 466, or, to the extent permitted by applicable law and under the supervision of such physician, osteopathic physician, chiropractic physician, or dentist, by a physician assistant licensed under chapter 458 or chapter 459 or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under chapter 464. Followup services and care may also be provided by the following persons or entities:

a. A hospital or ambulatory surgical center licensed under chapter 395.

b. An entity wholly owned by one or more physicians licensed under chapter 458 or chapter 459, chiropractic physicians licensed under chapter 460, or dentists licensed under chapter 466 or by such practitioners and the spouse, parent, child, or sibling of such practitioners.



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c. An entity that owns or is wholly owned, directly or indirectly, by a hospital or hospitals.

d. A physical therapist licensed under chapter 486, based upon a referral by a provider described in this subparagraph.

e. A health care clinic licensed under part X of chapter 400 which is accredited by an accrediting organization whose standards incorporate comparable regulations required by this state, or

(I) Has a medical director licensed under chapter 458, chapter 459, or chapter 460;

(II) Has been continuously licensed for more than 3 years or is a publicly traded corporation that issues securities traded on an exchange registered with the United States Securities and Exchange Commission as a national securities exchange; and

(III) Provides at least four of the following medical specialties:

(A) General medicine.

(B) Radiography.

(C) Orthopedic medicine.

(D) Physical medicine.

(E) Physical therapy.

(F) Physical rehabilitation.

(G) Prescribing or dispensing outpatient prescription medication.

(H) Laboratory services.

3. Reimbursement for services and care provided in subparagraph 1. or subparagraph 2. up to \$10,000 if a physician licensed under chapter 458 or chapter 459, a dentist licensed



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under chapter 466, a physician assistant licensed under chapter 458 or chapter 459, or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under chapter 464 has determined that the injured person had an emergency medical condition.

4. Reimbursement for services and care provided in subparagraph 1. or subparagraph 2. is limited to \$2,500 if a provider listed in subparagraph 1. or subparagraph 2. determines that the injured person did not have an emergency medical condition.

5. Medical benefits do not include massage as defined in s. 480.033 or acupuncture as defined in s. 457.102, regardless of the person, entity, or licensee providing massage or acupuncture, and a licensed massage therapist or licensed acupuncturist may not be reimbursed for medical benefits under this section.

6. The Financial Services Commission shall adopt by rule the form that must be used by an insurer and a health care provider specified in sub-subparagraph 2.b., sub-subparagraph 2.c., or sub-subparagraph 2.e. to document that the health care provider meets the criteria of this paragraph. Such rule must include a requirement for a sworn statement or affidavit.

Only insurers writing motor vehicle liability insurance in this state may provide the required benefits of this section, and such insurer may not require the purchase of any other motor vehicle coverage other than the purchase of property damage liability coverage as required by s. 627.7275 as a condition for providing such benefits. Insurers may not require that property



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damage liability insurance in an amount greater than \$10,000 be purchased in conjunction with personal injury protection. Such insurers shall make benefits and required property damage liability insurance coverage available through normal marketing channels. An insurer writing motor vehicle liability insurance in this state who fails to comply with such availability requirement as a general business practice violates part IX of chapter 626, and such violation constitutes an unfair method of competition or an unfair or deceptive act or practice involving the business of insurance. An insurer committing such violation is subject to the penalties provided under that part, as well as those provided elsewhere in the insurance code.

Section 76. Subsection (5) of section 633.412, Florida Statutes, is amended to read:

633.412 Firefighters; qualifications for certification.—A person applying for certification as a firefighter must:

(5) Be in good physical condition as determined by a medical examination given by a physician, surgeon, or physician assistant licensed to practice in the state pursuant to chapter 458; an osteopathic physician, surgeon, or physician assistant licensed to practice in the state pursuant to chapter 459; or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed to practice in the state pursuant to chapter 464. Such examination may include, but need not be limited to, the National Fire Protection Association Standard 1582. A medical examination evidencing good physical condition shall be submitted to the division, on a form as provided by rule, before an individual is eligible for admission into a course under s. 633.408.



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Section 77. Section 641.3923, Florida Statutes, is amended to read:

641.3923 Discrimination against providers prohibited.—A health maintenance organization may ~~shall~~ not discriminate with respect to participation as to any advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed and ~~certified~~ pursuant to s. 464.012, who is acting within the scope of such license ~~and certification~~, solely on the basis of such license ~~or certification~~. This section may ~~shall~~ not be construed to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

Section 78. Subsection (3) of section 766.103, Florida Statutes, is amended to read:

766.103 Florida Medical Consent Law.—

(3) No recovery shall be allowed in any court in this state against any physician licensed under chapter 458, osteopathic physician licensed under chapter 459, chiropractic physician licensed under chapter 460, podiatric physician licensed under chapter 461, dentist licensed under chapter 466, advanced practice registered nurse ~~advanced registered nurse practitioner~~ ~~certified~~ under s. 464.012, or physician assistant licensed under s. 458.347 or s. 459.022 in an action brought for treating, examining, or operating on a patient without his or her informed consent when:

(a)1. The action of the physician, osteopathic physician, chiropractic physician, podiatric physician, dentist, advanced



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2911 practice registered nurse ~~advanced registered nurse~~  
2912 ~~practitioner~~, or physician assistant in obtaining the consent of  
2913 the patient or another person authorized to give consent for the  
2914 patient was in accordance with an accepted standard of medical  
2915 practice among members of the medical profession with similar  
2916 training and experience in the same or similar medical community  
2917 as that of the person treating, examining, or operating on the  
2918 patient for whom the consent is obtained; and

2919         2. A reasonable individual, from the information provided  
2920 by the physician, osteopathic physician, chiropractic physician,  
2921 podiatric physician, dentist, advanced practice registered nurse  
2922 ~~advanced registered nurse practitioner~~, or physician assistant,  
2923 under the circumstances, would have a general understanding of  
2924 the procedure, the medically acceptable alternative procedures  
2925 or treatments, and the substantial risks and hazards inherent in  
2926 the proposed treatment or procedures, which are recognized among  
2927 other physicians, osteopathic physicians, chiropractic  
2928 physicians, podiatric physicians, or dentists in the same or  
2929 similar community who perform similar treatments or procedures;  
2930 or

2931         (b) The patient would reasonably, under all the surrounding  
2932 circumstances, have undergone such treatment or procedure had he  
2933 or she been advised by the physician, osteopathic physician,  
2934 chiropractic physician, podiatric physician, dentist, advanced  
2935 practice registered nurse ~~advanced registered nurse~~  
2936 ~~practitioner~~, or physician assistant in accordance with the  
2937 provisions of paragraph (a).

2938         Section 79. Paragraph (d) of subsection (3) of section  
2939 766.1115, Florida Statutes, is amended to read:



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766.1115 Health care providers; creation of agency relationship with governmental contractors.—

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

(d) "Health care provider" or "provider" means:

1. A birth center licensed under chapter 383.
2. An ambulatory surgical center licensed under chapter 395.
3. A hospital licensed under chapter 395.
4. A physician or physician assistant licensed under chapter 458.
5. An osteopathic physician or osteopathic physician assistant licensed under chapter 459.
6. A chiropractic physician licensed under chapter 460.
7. A podiatric physician licensed under chapter 461.
8. A registered nurse, nurse midwife, licensed practical nurse, or advanced practice registered nurse ~~advanced registered nurse-practitioner~~ licensed or registered under part I of chapter 464 or any facility which employs nurses licensed or registered under part I of chapter 464 to supply all or part of the care delivered under this section.
9. A midwife licensed under chapter 467.
10. A health maintenance organization certificated under part I of chapter 641.
11. A health care professional association and its employees or a corporate medical group and its employees.
12. Any other medical facility the primary purpose of which is to deliver human medical diagnostic services or which delivers nonsurgical human medical treatment, and which includes an office maintained by a provider.



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13. A dentist or dental hygienist licensed under chapter 466.

14. A free clinic that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income recipients.

15. Any other health care professional, practitioner, provider, or facility under contract with a governmental contractor, including a student enrolled in an accredited program that prepares the student for licensure as any one of the professionals listed in subparagraphs 4.-9.

The term includes any nonprofit corporation qualified as exempt from federal income taxation under s. 501(a) of the Internal Revenue Code, and described in s. 501(c) of the Internal Revenue Code, which delivers health care services provided by licensed professionals listed in this paragraph, any federally funded community health center, and any volunteer corporation or volunteer health care provider that delivers health care services.

Section 80. Subsection (1) of section 766.1116, Florida Statutes, is amended to read:

766.1116 Health care practitioner; waiver of license renewal fees and continuing education requirements.—

(1) As used in this section, the term "health care practitioner" means a physician or physician assistant licensed under chapter 458; an osteopathic physician or physician assistant licensed under chapter 459; a chiropractic physician licensed under chapter 460; a podiatric physician licensed under chapter 461; an advanced practice registered nurse ~~advanced~~





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~~registered nurse practitioner~~, registered nurse, or licensed practical nurse licensed under part I of chapter 464; a dentist or dental hygienist licensed under chapter 466; or a midwife licensed under chapter 467, who participates as a health care provider under s. 766.1115.

Section 81. Paragraph (c) of subsection (1) of section 766.118, Florida Statutes, is amended to read:

766.118 Determination of noneconomic damages.—

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

(c) "Practitioner" means any person licensed under chapter 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 463, chapter 466, chapter 467, ~~or chapter 486 or certified under~~ s. 464.012. "Practitioner" also means any association, corporation, firm, partnership, or other business entity under which such practitioner practices or any employee of such practitioner or entity acting in the scope of his or her employment. For the purpose of determining the limitations on noneconomic damages set forth in this section, the term "practitioner" includes any person or entity for whom a practitioner is vicariously liable and any person or entity whose liability is based solely on such person or entity being vicariously liable for the actions of a practitioner.

Section 82. Subsection (5) of section 794.08, Florida Statutes, is amended to read:

794.08 Female genital mutilation.—

(5) This section does not apply to procedures performed by or under the direction of a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a registered nurse licensed under part I of chapter 464, a



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practical nurse licensed under part I of chapter 464, an  
advanced practice registered nurse ~~advanced registered nurse~~  
~~practitioner~~ licensed under part I of chapter 464, a midwife  
licensed under chapter 467, or a physician assistant licensed  
under chapter 458 or chapter 459 when necessary to preserve the  
physical health of a female person. This section also does not  
apply to any autopsy or limited dissection conducted pursuant to  
chapter 406.

Section 83. Subsection (23) of section 893.02, Florida  
Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used  
in this chapter shall have the following meanings, unless the  
context otherwise requires:

(23) "Practitioner" means a physician licensed under  
chapter 458, a dentist licensed under chapter 466, a  
veterinarian licensed under chapter 474, an osteopathic  
physician licensed under chapter 459, an advanced practice  
registered nurse licensed ~~advanced registered nurse practitioner~~  
~~certified~~ under chapter 464, a naturopath licensed under chapter  
462, a certified optometrist licensed under chapter 463, a  
psychiatric nurse as defined in s. 394.455, a podiatric  
physician licensed under chapter 461, or a physician assistant  
licensed under chapter 458 or chapter 459, provided such  
practitioner holds a valid federal controlled substance registry  
number.

Section 84. Paragraph (b) of subsection (1) of section  
893.05, Florida Statutes, is amended to read:

893.05 Practitioners and persons administering controlled  
substances in their absence.—



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(1)

(b) Pursuant to s. 458.347(4)(g), s. 459.022(4)(f), or s. 464.012(3), as applicable, a practitioner who supervises a licensed physician assistant or advanced practice registered nurse ~~advanced registered nurse practitioner~~ may authorize the licensed physician assistant or advanced practice registered nurse ~~advanced registered nurse practitioner~~ to order controlled substances for administration to a patient in a facility licensed under chapter 395 or part II of chapter 400.

Section 85. Subsection (6) of section 943.13, Florida Statutes, is amended to read:

943.13 Officers' minimum qualifications for employment or appointment.—On or after October 1, 1984, any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer or correctional officer; on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional probation officer; and on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional officer by a private entity under contract to the Department of Corrections, to a county commission, or to the Department of Management Services shall:

(6) Have passed a physical examination by a licensed physician, physician assistant, or licensed advanced practice registered nurse ~~certified advanced registered nurse practitioner~~, based on specifications established by the commission. In order to be eligible for the presumption set forth in s. 112.18 while employed with an employing agency, a law enforcement officer, correctional officer, or correctional probation officer must have successfully passed the physical



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examination required by this subsection upon entering into service as a law enforcement officer, correctional officer, or correctional probation officer with the employing agency, which examination must have failed to reveal any evidence of tuberculosis, heart disease, or hypertension. A law enforcement officer, correctional officer, or correctional probation officer may not use a physical examination from a former employing agency for purposes of claiming the presumption set forth in s. 112.18 against the current employing agency.

Section 86. Paragraph (n) of subsection (1) of section 948.03, Florida Statutes, is amended to read:

948.03 Terms and conditions of probation.—

(1) The court shall determine the terms and conditions of probation. Conditions specified in this section do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. These conditions may include among them the following, that the probationer or offender in community control shall:

(n) Be prohibited from using intoxicants to excess or possessing any drugs or narcotics unless prescribed by a physician, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, or a physician assistant. The probationer or community controllee may not knowingly visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.

Section 87. Paragraph (i) of subsection (3) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information



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regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(3) HEALTH ISSUES.—

(i) *Epinephrine use and supply.*—

1. A student who has experienced or is at risk for life-threatening allergic reactions may carry an epinephrine auto-injector and self-administer epinephrine by auto-injector while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities if the school has been provided with parental and physician authorization. The State Board of Education, in cooperation with the Department of Health, shall adopt rules for such use of epinephrine auto-injectors that shall include provisions to protect the safety of all students from the misuse or abuse of auto-injectors. A school district, county health department, public-private partner, and their employees and volunteers shall be indemnified by the parent of a student authorized to carry an epinephrine auto-injector for any and all liability with respect to the student's use of an epinephrine auto-injector pursuant to this paragraph.

2. A public school may purchase a supply of epinephrine auto-injectors from a wholesale distributor as defined in s. 499.003 or may enter into an arrangement with a wholesale distributor or manufacturer as defined in s. 499.003 for the epinephrine auto-injectors at fair-market, free, or reduced prices for use in the event a student has an anaphylactic reaction. The epinephrine auto-injectors must be maintained in a



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secure location on the public school's premises. The participating school district shall adopt a protocol developed by a licensed physician for the administration by school personnel who are trained to recognize an anaphylactic reaction and to administer an epinephrine auto-injection. The supply of epinephrine auto-injectors may be provided to and used by a student authorized to self-administer epinephrine by auto-injector under subparagraph 1. or trained school personnel.

3. The school district and its employees, agents, and the physician who provides the standing protocol for school epinephrine auto-injectors are not liable for any injury arising from the use of an epinephrine auto-injector administered by trained school personnel who follow the adopted protocol and whose professional opinion is that the student is having an anaphylactic reaction:

a. Unless the trained school personnel's action is willful and wanton;

b. Notwithstanding that the parents or guardians of the student to whom the epinephrine is administered have not been provided notice or have not signed a statement acknowledging that the school district is not liable; and

c. Regardless of whether authorization has been given by the student's parents or guardians or by the student's physician, physician's assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~.

Section 88. Paragraph (b) of subsection (17) of section 1002.42, Florida Statutes, is amended to read:

1002.42 Private schools.—

(17) EPINEPHRINE SUPPLY.—



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(b) The private school and its employees, agents, and the physician who provides the standing protocol for school epinephrine auto-injectors are not liable for any injury arising from the use of an epinephrine auto-injector administered by trained school personnel who follow the adopted protocol and whose professional opinion is that the student is having an anaphylactic reaction:

1. Unless the trained school personnel's action is willful and wanton;

2. Notwithstanding that the parents or guardians of the student to whom the epinephrine is administered have not been provided notice or have not signed a statement acknowledging that the school district is not liable; and

3. Regardless of whether authorization has been given by the student's parents or guardians or by the student's physician, physician's assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~.

Section 89. Subsections (4) and (5) of section 1006.062, Florida Statutes, are amended to read:

1006.062 Administration of medication and provision of medical services by district school board personnel.—

(4) Nonmedical assistive personnel shall be allowed to perform health-related services upon successful completion of child-specific training by a registered nurse or advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under chapter 464, a physician licensed pursuant to chapter 458 or chapter 459, or a physician assistant licensed pursuant to chapter 458 or chapter 459. All procedures shall be monitored periodically by a nurse, advanced practice registered



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nurse ~~advanced registered nurse practitioner~~, physician assistant, or physician, including, but not limited to:

- (a) Intermittent clean catheterization.
- (b) Gastrostomy tube feeding.
- (c) Monitoring blood glucose.
- (d) Administering emergency injectable medication.
- (5) For all other invasive medical services not listed in this subsection, a registered nurse or advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under chapter 464, a physician licensed pursuant to chapter 458 or chapter 459, or a physician assistant licensed pursuant to chapter 458 or chapter 459 shall determine if nonmedical district school board personnel shall be allowed to perform such service.

Section 90. Subsection (1) and paragraph (a) of subsection (2) of section 1009.65, Florida Statutes, are amended to read:

1009.65 Medical Education Reimbursement and Loan Repayment Program.—

(1) To encourage qualified medical professionals to practice in underserved locations where there are shortages of such personnel, there is established the Medical Education Reimbursement and Loan Repayment Program. The function of the program is to make payments that offset loans and educational expenses incurred by students for studies leading to a medical or nursing degree, medical or nursing licensure, or advanced practice registered nurse licensure ~~advanced registered nurse practitioner certification~~ or physician assistant licensure. The following licensed or certified health care professionals are eligible to participate in this program: medical doctors with





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primary care specialties, doctors of osteopathic medicine with  
primary care specialties, physician's assistants, licensed  
practical nurses and registered nurses, and advanced practice  
registered nurses ~~advanced registered nurse practitioners~~ with  
primary care specialties such as certified nurse midwives.

Primary care medical specialties for physicians include  
obstetrics, gynecology, general and family practice, internal  
medicine, pediatrics, and other specialties which may be  
identified by the Department of Health.

(2) From the funds available, the Department of Health  
shall make payments to selected medical professionals as  
follows:

(a) Up to \$4,000 per year for licensed practical nurses and  
registered nurses, up to \$10,000 per year for advanced practice  
registered nurses ~~advanced registered nurse practitioners~~ and  
physician's assistants, and up to \$20,000 per year for  
physicians. Penalties for noncompliance shall be the same as  
those in the National Health Services Corps Loan Repayment  
Program. Educational expenses include costs for tuition,  
matriculation, registration, books, laboratory and other fees,  
other educational costs, and reasonable living expenses as  
determined by the Department of Health.

Section 91. Subsection (2) of section 1009.66, Florida  
Statutes, is amended to read:

1009.66 Nursing Student Loan Forgiveness Program.—

(2) To be eligible, a candidate must have graduated from an  
accredited or approved nursing program and have received a  
Florida license as a licensed practical nurse or a registered  
nurse or a Florida license ~~certificate~~ as an advanced practice



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registered nurse ~~advanced registered nurse practitioner.~~

Section 92. Subsection (3) of section 1009.67, Florida Statutes, is amended to read:

1009.67 Nursing scholarship program.—

(3) A scholarship may be awarded for no more than 2 years, in an amount not to exceed \$8,000 per year. However, registered nurses pursuing a graduate degree for a faculty position or to practice as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ may receive up to \$12,000 per year. These amounts shall be adjusted by the amount of increase or decrease in the Consumer Price Index for All Urban Consumers published by the United States Department of Commerce.

Section 93. This act shall take effect October 1, 2018.

===== 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 nursing; amending s. 464.003, F.S.; defining the term "advanced practice registered nurse"; deleting the terms "advanced registered nurse practitioner", "clinical nurse specialist" and "clinical nurse specialist practice," to conform to changes made by the act; repealing s. 464.0115, F.S., relating to the certification of clinical nurse specialists; amending s. 464.012, F.S.; requiring any nurse desiring to be licensed as an advanced practice registered nurse to apply to the Department of Health,



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3288 submit proof that he or she holds a current license to  
3289 practice professional nursing, and meet one or more  
3290 specified requirements as determined by the Board of  
3291 Nursing; authorizing the board to adopt rules to  
3292 provide for provisional state licensure of certified  
3293 nurse midwives, certified nurse practitioners,  
3294 certified registered nurse anesthetists, clinical  
3295 nurse specialists, and psychiatric nurses for a  
3296 specified period of time; conforming provisions to  
3297 changes made by the act; amending s. 960.28, F.S.;  
3298 conforming a cross-reference; amending ss. 39.303,  
3299 39.304, 90.503, 110.12315, 121.0515, 252.515, 310.071,  
3300 310.073, 310.081, 320.0848, 381.00315, 381.00593,  
3301 383.14, 383.141, 384.27, 390.0111, 390.012, 394.455,  
3302 395.0191, 397.311, 397.4012, 397.427, 397.679,  
3303 397.6793, 400.021, 400.462, 400.487, 400.506,  
3304 400.9973, 400.9974, 400.9976, 400.9979, 401.445,  
3305 409.905, 409.908, 409.973, 429.918, 456.0391,  
3306 456.0392, 456.041, 456.048, 456.072, 456.44, 458.3265,  
3307 458.331, 458.348, 459.0137, 459.015, 459.025, 464.003,  
3308 464.004, 464.013, 464.015, 464.016, 464.018, 464.0205,  
3309 467.003, 480.0475, 483.041, 483.801, 486.021, 490.012,  
3310 491.0057, 491.012, 493.6108, 627.357, 627.6471,  
3311 627.6472, 627.736, 633.412, 641.3923, 766.103,  
3312 766.1115, 766.1116, 766.118, 794.08, 893.02, 893.05,  
3313 943.13, 948.03, 1002.20, 1002.42, 1006.062, 1009.65,  
3314 1009.66, and 1009.67, F.S.; conforming provisions to  
3315 changes made by the act; providing an effective date.



709366

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
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The Committee on Health Policy (Brandes) recommended the following:

**Senate Amendment to Amendment (200842) (with title amendment)**

Between lines 271 and 272  
insert:

(8) The department and board shall establish a transition timeline and process for practitioners certified as of September 30, 2018, as advanced registered nurse practitioners or clinical nurse specialists, to convert a certificate in good standing to a license that becomes effective on October 1, 2018, to practice



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as an advanced practice registered nurse. An advanced registered nurse practitioner or a clinical nurse specialist holding a certificate to practice in good standing on September 30, 2018, may continue to practice with all rights, authorizations, and responsibilities authorized under this section for licensure as an advanced practice registered nurse and may use the applicable title under s. 464.015 after the effective date of this act while the department and board complete the transition from certification to licensure, as established under this act. This subsection may not be construed to limit or restrict the department's or board's disciplinary authority or enforcement responsibilities for safe nursing practice. This subsection expires on October 1, 2020.

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

And the title is amended as follows:

Delete line 3296

and insert:

specified period of time; requiring the department and the board to establish a transition process for converting certain certified practitioners to licensed practitioners; authorizing certain certified practitioners to continue practicing advanced nursing during a specified period of time; providing construction; providing an expiration date for provisions relating to the transition from certification to licensure; conforming provisions to

By Senator Brandes

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A bill to be entitled  
An act relating to nursing; amending s. 464.003, F.S.;  
defining the term "advanced practice registered  
nurse"; deleting the terms "advanced registered nurse  
practitioner" and "clinical nurse specialist," to  
conform to changes made by the act; repealing s.  
464.0115, F.S., relating to the certification of  
clinical nurse specialists; amending s. 464.012, F.S.;  
requiring any nurse desiring to be licensed as an  
advanced practice registered nurse to apply to the  
Department of Health, submit proof that he or she  
holds a current license to practice professional  
nursing, and meet one or more specified requirements  
as determined by the Board of Nursing; authorizing the  
board to adopt rules to provide for provisional state  
licensure of graduate registered nurse anesthetists,  
clinical nurse specialists, certified nurse  
practitioners, and certified nurse midwives for a  
specified period of time; conforming provisions to  
changes made by the act; amending s. 960.28, F.S.;  
conforming a cross-reference; amending ss. 39.303,  
39.304, 90.503, 110.12315, 121.0515, 252.515, 310.071,  
310.073, 310.081, 320.0848, 381.00315, 381.00593,  
383.14, 383.141, 390.0111, 390.012, 394.455, 395.0191,  
397.311, 397.4012, 397.427, 397.679, 397.6793,  
400.021, 400.462, 400.487, 400.506, 400.9973,  
400.9974, 400.9976, 400.9979, 401.445, 409.905,  
409.908, 409.973, 429.918, 456.0391, 456.0392,  
456.041, 456.048, 456.072, 456.44, 458.3265, 458.331,

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458.348, 459.0137, 459.015, 459.025, 464.003, 464.004,  
464.013, 464.015, 464.016, 464.018, 464.0205, 467.003,  
480.0475, 483.041, 483.801, 486.021, 490.012,  
491.0057, 491.012, 493.6108, 627.357, 627.6471,  
627.6472, 627.736, 633.412, 641.3923, 766.103,  
766.1115, 766.1116, 794.08, 893.02, 893.05, 943.13,  
948.03, 1002.20, 1002.42, 1006.062, 1009.65, 1009.66,  
and 1009.67, F.S.; conforming provisions to changes  
made by the act; providing an effective date.

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

Section 1. Subsections (3) and (6) of section 464.003,  
Florida Statutes are amended, and subsections (7) through (23)  
are redesignated as subsections (6) through (22), respectively,  
to read:

464.003 Definitions.—As used in this part, the term:

(3) "Advanced practice registered nurse" ~~"Advanced  
registered nurse practitioner"~~ means any person licensed in this  
state to practice professional nursing and licensed ~~certified~~ in  
advanced ~~or specialized~~ nursing practice, including certified  
registered nurse anesthetists, certified nurse midwives,  
clinical nurse specialists, and certified nurse practitioners.

~~(6) "Clinical nurse specialist" means any person licensed  
in this state to practice professional nursing and certified in  
clinical nurse specialist practice.~~

Section 2. Section 464.0115, Florida Statutes, is repealed.

Section 3. Section 464.012, Florida Statutes, is amended to  
read:

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59       464.012 Licensure ~~Certification~~ of advanced practice  
60 registered nurses ~~advanced registered nurse practitioners~~; fees;  
61 controlled substance prescribing.-

62       (1) Any nurse desiring to be licensed ~~certified~~ as an  
63 advanced practice registered nurse ~~must advanced registered~~  
64 ~~nurse practitioner~~ shall apply to the department and submit  
65 proof that he or she holds a current license to practice  
66 professional nursing and that he or she meets one or more of the  
67 following requirements as determined by the board:

68       (a) Completion of a postbasic educational program.  
69 Satisfactory completion of a formal postbasic educational  
70 program of at least 1 academic year, the primary purpose of  
71 which is to prepare nurses for advanced or specialized practice.

72       (b) Certification by an appropriate specialty board. Such  
73 certification shall be required for initial state licensure  
74 ~~certification~~ and any licensure renewal ~~recertification~~ as a  
75 certified registered nurse anesthetist, psychiatric nurse,  
76 certified nurse practitioner, clinical nurse specialist, or  
77 certified nurse midwife. The board may by rule provide for  
78 provisional state licensure ~~certification~~ of graduate registered  
79 nurse anesthetists, clinical nurse specialists, certified nurse  
80 practitioners, psychiatric nurses, and certified nurse midwives  
81 for a period of time determined to be appropriate for preparing  
82 for and passing the national certification examination.

83       (c) ~~(b)~~ Graduation from a program leading to a master's  
84 degree in a nursing clinical specialty area with preparation in  
85 specialized practitioner skills. For applicants graduating on or  
86 after October 1, 1998, graduation from a master's degree program  
87 is ~~shall be~~ required for initial licensure ~~certification~~ as a



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88 certified nurse practitioner under paragraph (4)(c). For  
89 applicants graduating on or after October 1, 2001, graduation  
90 from a master's degree program is ~~shall be~~ required for initial  
91 licensure ~~certification~~ as a certified registered nurse  
92 anesthetist under paragraph (4)(a). For applicants graduating on  
93 or after October 1, 1998, graduation from a master's degree  
94 program is required for the initial licensure of a certified  
95 nurse midwife or clinical nurse specialist as an advanced  
96 practice registered nurse.

97 (2) The board shall provide by rule the appropriate  
98 requirements for advanced practice registered nurses ~~advanced~~  
99 ~~registered nurse practitioners~~ in the categories of certified  
100 registered nurse anesthetist, certified nurse midwife, and nurse  
101 practitioner.

102 (3) An advanced practice registered nurse ~~advanced~~  
103 ~~registered nurse practitioner~~ shall perform those functions  
104 authorized in this section within the framework of an  
105 established protocol, which must be maintained on site at the  
106 location or locations at which an advanced practice registered  
107 nurse ~~advanced registered nurse practitioner~~ practices. In the  
108 case of multiple supervising physicians in the same group, an  
109 advanced practice registered nurse ~~advanced registered nurse~~  
110 ~~practitioner~~ must enter into a supervisory protocol with at  
111 least one physician within the physician group practice. A  
112 practitioner currently licensed under chapter 458, chapter 459,  
113 or chapter 466 shall maintain supervision for directing the  
114 specific course of medical treatment. Within the established  
115 framework, an advanced practice registered nurse ~~advanced~~  
116 ~~registered nurse practitioner~~ may:

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117 (a) Prescribe, dispense, administer, or order any drug;  
118 however, an advanced practice registered nurse ~~advanced~~  
119 ~~registered nurse practitioner~~ may prescribe or dispense a  
120 controlled substance as defined in s. 893.03 only if the  
121 advanced practice registered nurse ~~advanced registered nurse~~  
122 ~~practitioner~~ has graduated from a program leading to a master's  
123 or doctoral degree in a clinical nursing specialty area with  
124 training in specialized practitioner skills.

125 (b) Initiate appropriate therapies for certain conditions.

126 (c) Perform additional functions as may be determined by  
127 rule in accordance with s. 464.003(2).

128 (d) Order diagnostic tests and physical and occupational  
129 therapy.

130 (e) Order any medication for administration to a patient in  
131 a facility licensed under chapter 395 or part II of chapter 400,  
132 notwithstanding any provisions in chapter 465 or chapter 893.

133 (4) In addition to the general functions specified in  
134 subsection (3), an advanced practice registered nurse ~~advanced~~  
135 ~~registered nurse practitioner~~ may perform the following acts  
136 within his or her specialty:

137 (a) The certified registered nurse anesthetist may, to the  
138 extent authorized by established protocol approved by the  
139 medical staff of the facility in which the anesthetic service is  
140 performed, perform any or all of the following:

141 1. Determine the health status of the patient as it relates  
142 to the risk factors and to the anesthetic management of the  
143 patient through the performance of the general functions.

144 2. Based on history, physical assessment, and supplemental  
145 laboratory results, determine, with the consent of the

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responsible physician, the appropriate type of anesthesia within the framework of the protocol.

3. Order under the protocol preanesthetic medication.

4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.

5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.

6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of fluid, electrolyte, and blood component balances.

7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.

9. Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs.

10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

(b) The certified nurse midwife may, to the extent authorized by an established protocol which has been approved by

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the medical staff of the health care facility in which the midwifery services are performed, or approved by the nurse midwife's physician backup when the delivery is performed in a patient's home, perform any or all of the following:

1. Perform superficial minor surgical procedures.
2. Manage the patient during labor and delivery to include amniotomy, episiotomy, and repair.
3. Order, initiate, and perform appropriate anesthetic procedures.
4. Perform postpartum examination.
5. Order appropriate medications.
6. Provide family-planning services and well-woman care.
7. Manage the medical care of the normal obstetrical patient and the initial care of a newborn patient.

(c) The certified nurse practitioner may perform any or all of the following acts within the framework of established protocol:

1. Manage selected medical problems.
2. Order physical and occupational therapy.
3. Initiate, monitor, or alter therapies for certain uncomplicated acute illnesses.
4. Monitor and manage patients with stable chronic diseases.
5. Establish behavioral problems and diagnosis and make treatment recommendations.

(5) A psychiatric nurse, as defined in s. 394.455, within the framework of an established protocol with a psychiatrist, may prescribe psychotropic controlled substances for the treatment of mental disorders.

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(6) The board shall certify, and the department shall issue a certificate to, any nurse meeting the qualifications in this section. The board shall establish an application fee not to exceed \$100 and a biennial renewal fee not to exceed \$50. The board is authorized to adopt such other rules as are necessary to implement the provisions of this section.

(7) (a) The board shall establish a committee to recommend a formulary of controlled substances that an advanced practice registered nurse ~~advanced registered nurse practitioner~~ may not prescribe or may prescribe only for specific uses or in limited quantities. The committee must consist of three advanced practice registered nurses ~~advanced registered nurse practitioners~~ licensed under this section, recommended by the board; three physicians licensed under chapter 458 or chapter 459 who have work experience with advanced practice registered nurses ~~advanced registered nurse practitioners~~, recommended by the Board of Medicine; and a pharmacist licensed under chapter 465 who is a doctor of pharmacy, recommended by the Board of Pharmacy. The committee may recommend an evidence-based formulary applicable to all advanced practice registered nurses ~~advanced registered nurse practitioners~~ which is limited by specialty certification, is limited to approved uses of controlled substances, or is subject to other similar restrictions the committee finds are necessary to protect the health, safety, and welfare of the public. The formulary must restrict the prescribing of psychiatric mental health controlled substances for children younger than 18 years of age to advanced practice registered nurses ~~advanced registered nurse practitioners~~ who also are psychiatric nurses as defined in s.

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394.455. The formulary must also limit the prescribing of Schedule II controlled substances as listed in s. 893.03 to a 7-day supply, except that such restriction does not apply to controlled substances that are psychiatric medications prescribed by psychiatric nurses as defined in s. 394.455.

(b) The board shall adopt by rule the recommended formulary and any revision to the formulary which it finds is supported by evidence-based clinical findings presented by the Board of Medicine, the Board of Osteopathic Medicine, or the Board of Dentistry.

(c) The formulary required under this subsection does not apply to a controlled substance that is dispensed for administration pursuant to an order, including an order for medication authorized by subparagraph (4)(a)3., subparagraph (4)(a)4., or subparagraph (4)(a)9.

(d) The board shall adopt the committee's initial recommendation no later than October 31, 2016.

(8) This section shall be known as "The Barbara Lumpkin Prescribing Act."

Section 4. Section 3 of chapter 2017-134, Laws of Florida, is amended to read:

Section 3. Effective December 31, 2018, or upon enactment of the Nurse Licensure Compact into law by 26 states, whichever occurs first, subsection (1) of section 464.012, Florida Statutes, as amended by section 8 of chapter 2016-139, section 12 of chapter 2016-224, and section 7 of chapter 2016-231, Laws of Florida, is amended to read:

464.012 Licensure Certification of advanced practice registered nurses ~~advanced registered nurse practitioners~~; fees;

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controlled substance prescribing.—

(1) Any nurse desiring to be licensed ~~certified~~ as an advanced practice registered nurse must ~~advanced registered nurse practitioner shall~~ apply to the department and submit proof that he or she holds a current license to practice professional nursing or holds an active multistate license to practice professional nursing pursuant to s. 464.0095, and that he or she meets one or more of the following requirements as determined by the board:

(a) Completion of a postbasic educational program.  
Satisfactory completion of a formal postbasic educational program of at least 1 academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.

(b) Certification by an appropriate specialty board. Such certification shall be required for initial state licensure ~~certification~~ and any licensure renewal ~~recertification~~ as a certified registered nurse anesthetist, psychiatric nurse, certified nurse practitioner, clinical nurse specialist, or certified nurse midwife. The board shall ~~may~~ by rule provide for provisional state licensure ~~certification~~ of graduate registered nurse anesthetists, clinical nurse specialist, certified nurse practitioners, psychiatric nurses, and certified nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

(c) ~~(b)~~ Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. For applicants graduating on or after October 1, 1998, graduation from a master's degree program is ~~shall be~~ required for initial licensure ~~certification~~ as a

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certified nurse practitioner under paragraph (4)(c). For applicants graduating on or after October 1, 2001, graduation from a master's degree program ~~is shall be~~ required for initial licensure ~~certification~~ as a certified registered nurse anesthetist under paragraph (4)(a). For applicants graduating on or after October 1, 1998, graduation from a master's degree program is required for the initial licensure of a certified nurse midwife or clinical nurse specialist as an advanced practice registered nurse.

Section 5. Subsection (2) of section 960.28, Florida Statutes, is amended to read:

960.28 Payment for victims' initial forensic physical examinations.—

(2) The Crime Victims' Services Office of the department shall pay for medical expenses connected with an initial forensic physical examination of a victim of sexual battery as defined in chapter 794 or a lewd or lascivious offense as defined in chapter 800. Such payment shall be made regardless of whether the victim is covered by health or disability insurance and whether the victim participates in the criminal justice system or cooperates with law enforcement. The payment shall be made only out of moneys allocated to the Crime Victims' Services Office for the purposes of this section, and the payment may not exceed \$500 with respect to any violation. The department shall develop and maintain separate protocols for the initial forensic physical examination of adults and children. Payment under this section is limited to medical expenses connected with the initial forensic physical examination, and payment may be made to a medical provider using an examiner qualified under part I



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of chapter 464, excluding s. 464.003(15) ~~s. 464.003(16)~~; chapter 458; or chapter 459. Payment made to the medical provider by the department shall be considered by the provider as payment in full for the initial forensic physical examination associated with the collection of evidence. The victim may not be required to pay, directly or indirectly, the cost of an initial forensic physical examination performed in accordance with this section.

Section 6. Paragraph (c) of subsection (5) and paragraph (a) of subsection (6) of section 39.303, Florida Statutes, are amended to read:

39.303 Child protection teams and sexual abuse treatment programs; services; eligible cases.—

(5) All abuse and neglect cases transmitted for investigation to a circuit by the hotline must be simultaneously transmitted to the child protection team for review. For the purpose of determining whether a face-to-face medical evaluation by a child protection team is necessary, all cases transmitted to the child protection team which meet the criteria in subsection (4) must be timely reviewed by:

(c) An advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under chapter 464 who has a specialty in pediatrics or family medicine and is a member of a child protection team;

(6) A face-to-face medical evaluation by a child protection team is not necessary when:

(a) The child was examined for the alleged abuse or neglect by a physician who is not a member of the child protection team, and a consultation between the child protection team medical director or a child protection team board-certified

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349 pediatrician, advanced practice registered nurse ~~advanced~~  
350 ~~registered nurse practitioner~~, physician assistant working under  
351 the supervision of a child protection team medical director or a  
352 child protection team board-certified pediatrician, or  
353 registered nurse working under the direct supervision of a child  
354 protection team medical director or a child protection team  
355 board-certified pediatrician, and the examining physician  
356 concludes that a further medical evaluation is unnecessary;  
357

358 Notwithstanding paragraphs (a), (b), and (c), a child protection  
359 team medical director or a child protection team pediatrician,  
360 as authorized in subsection (5), may determine that a face-to-  
361 face medical evaluation is necessary.

362 Section 7. Paragraph (b) of subsection (1) of section  
363 39.304, Florida Statutes, is amended to read:

364 39.304 Photographs, medical examinations, X rays, and  
365 medical treatment of abused, abandoned, or neglected child.—

366 (1)

367 (b) If the areas of trauma visible on a child indicate a  
368 need for a medical examination, or if the child verbally  
369 complains or otherwise exhibits distress as a result of injury  
370 through suspected child abuse, abandonment, or neglect, or is  
371 alleged to have been sexually abused, the person required to  
372 investigate may cause the child to be referred for diagnosis to  
373 a licensed physician or an emergency department in a hospital  
374 without the consent of the child's parents or legal custodian.  
375 Such examination may be performed by any licensed physician or  
376 an advanced practice registered nurse ~~advanced registered nurse~~  
377 ~~practitioner~~ licensed pursuant to part I of chapter 464. Any

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378 licensed physician~~7~~ or advanced practice registered nurse  
379 ~~advanced registered nurse practitioner~~ licensed pursuant to part  
380 I of chapter 464~~7~~ who has reasonable cause to suspect that an  
381 injury was the result of child abuse, abandonment, or neglect  
382 may authorize a radiological examination to be performed on the  
383 child without the consent of the child's parent or legal  
384 custodian.

385 Section 8. Paragraph (a) of subsection (1) of section  
386 90.503, Florida Statutes, is amended to read:

387 90.503 Psychotherapist-patient privilege.—

388 (1) For purposes of this section:

389 (a) A "psychotherapist" is:

390 1. A person authorized to practice medicine in any state or  
391 nation, or reasonably believed by the patient so to be, who is  
392 engaged in the diagnosis or treatment of a mental or emotional  
393 condition, including alcoholism and other drug addiction;

394 2. A person licensed or certified as a psychologist under  
395 the laws of any state or nation, who is engaged primarily in the  
396 diagnosis or treatment of a mental or emotional condition,  
397 including alcoholism and other drug addiction;

398 3. A person licensed or certified as a clinical social  
399 worker, marriage and family therapist, or mental health  
400 counselor under the laws of this state, who is engaged primarily  
401 in the diagnosis or treatment of a mental or emotional  
402 condition, including alcoholism and other drug addiction;

403 4. Treatment personnel of facilities licensed by the state  
404 pursuant to chapter 394, chapter 395, or chapter 397, of  
405 facilities designated by the Department of Children and Families  
406 pursuant to chapter 394 as treatment facilities, or of

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facilities defined as community mental health centers pursuant to s. 394.907(1), who are engaged primarily in the diagnosis or treatment of a mental or emotional condition, including alcoholism and other drug addiction; or

5. An advanced practice registered nurse ~~advanced registered nurse practitioner~~ certified under s. 464.012, whose primary scope of practice is the diagnosis or treatment of mental or emotional conditions, including chemical abuse, and limited only to actions performed in accordance with part I of chapter 464.

Section 9. Paragraph (d) of subsection (2) of section 110.12315, Florida Statutes, is amended to read:

110.12315 Prescription drug program.—The state employees' prescription drug program is established. This program shall be administered by the Department of Management Services, according to the terms and conditions of the plan as established by the relevant provisions of the annual General Appropriations Act and implementing legislation, subject to the following conditions:

(2) In providing for reimbursement of pharmacies for prescription drugs and supplies dispensed to members of the state group health insurance plan and their dependents under the state employees' prescription drug program:

(d) The department shall establish the reimbursement schedule for prescription drugs and supplies dispensed under the program. Reimbursement rates for a prescription drug or supply must be based on the cost of the generic equivalent drug or supply if a generic equivalent exists, unless the physician, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant prescribing the drug or

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supply clearly states on the prescription that the brand name drug or supply is medically necessary or that the drug or supply is included on the formulary of drugs and supplies that may not be interchanged as provided in chapter 465, in which case reimbursement must be based on the cost of the brand name drug or supply as specified in the reimbursement schedule adopted by the department.

Section 10. Paragraph (f) of subsection (3) of section 121.0515, Florida Statutes, is amended to read:

121.0515 Special Risk Class.—

(3) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(f) Effective January 1, 2001, the member must be employed in one of the following classes and must spend at least 75 percent of his or her time performing duties which involve contact with patients or inmates in a correctional or forensic facility or institution:

1. Dietitian (class codes 5203 and 5204);
2. Public health nutrition consultant (class code 5224);
3. Psychological specialist (class codes 5230 and 5231);
4. Psychologist (class code 5234);
5. Senior psychologist (class codes 5237 and 5238);
6. Regional mental health consultant (class code 5240);
7. Psychological Services Director—DCF (class code 5242);
8. Pharmacist (class codes 5245 and 5246);
9. Senior pharmacist (class codes 5248 and 5249);
10. Dentist (class code 5266);
11. Senior dentist (class code 5269);
12. Registered nurse (class codes 5290 and 5291);

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- 465 13. Senior registered nurse (class codes 5292 and 5293);
- 466 14. Registered nurse specialist (class codes 5294 and
- 467 5295);
- 468 15. Clinical associate (class codes 5298 and 5299);
- 469 16. Advanced practice registered nurse ~~Advanced registered~~
- 470 ~~nurse practitioner~~ (class codes 5297 and 5300);
- 471 17. Advanced practice registered nurse ~~Advanced registered~~
- 472 ~~nurse practitioner~~ specialist (class codes 5304 and 5305);
- 473 18. Registered nurse supervisor (class codes 5306 and
- 474 5307);
- 475 19. Senior registered nurse supervisor (class codes 5308
- 476 and 5309);
- 477 20. Registered nursing consultant (class codes 5312 and
- 478 5313);
- 479 21. Quality management program supervisor (class code
- 480 5314);
- 481 22. Executive nursing director (class codes 5320 and 5321);
- 482 23. Speech and hearing therapist (class code 5406); or
- 483 24. Pharmacy manager (class code 5251);
- 484 Section 11. Paragraph (a) of subsection (3) of section
- 485 252.515, Florida Statutes, is amended to read:
- 486 252.515 Postdisaster Relief Assistance Act; immunity from
- 487 civil liability.—
- 488 (3) As used in this section, the term:
- 489 (a) "Emergency first responder" means:
- 490 1. A physician licensed under chapter 458.
- 491 2. An osteopathic physician licensed under chapter 459.
- 492 3. A chiropractic physician licensed under chapter 460.
- 493 4. A podiatric physician licensed under chapter 461.

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5. A dentist licensed under chapter 466.

6. An advanced practice registered nurse ~~advanced~~  
~~registered nurse practitioner~~ certified under s. 464.012.

7. A physician assistant licensed under s. 458.347 or s.  
459.022.

8. A worker employed by a public or private hospital in the  
state.

9. A paramedic as defined in s. 401.23(17).

10. An emergency medical technician as defined in s.  
401.23(11).

11. A firefighter as defined in s. 633.102.

12. A law enforcement officer as defined in s. 943.10.

13. A member of the Florida National Guard.

14. Any other personnel designated as emergency personnel  
by the Governor pursuant to a declared emergency.

Section 12. Paragraph (c) of subsection (1) of section  
310.071, Florida Statutes, is amended to read:

310.071 Deputy pilot certification.—

(1) In addition to meeting other requirements specified in  
this chapter, each applicant for certification as a deputy pilot  
must:

(c) Be in good physical and mental health, as evidenced by  
documentary proof of having satisfactorily passed a complete  
physical examination administered by a licensed physician within  
the preceding 6 months. The board shall adopt rules to establish  
requirements for passing the physical examination, which rules  
shall establish minimum standards for the physical or mental  
capabilities necessary to carry out the professional duties of a  
certificated deputy pilot. Such standards shall include zero

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tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, or a physician assistant and that controlled substance was prescribed by that physician, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant. To maintain eligibility as a certificated deputy pilot, each certificated deputy pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the certificateholder satisfactorily meets the standards. The standards for certificateholders shall include a drug test.

Section 13. Subsection (3) of section 310.073, Florida Statutes, is amended to read:

310.073 State pilot licensing.—In addition to meeting other requirements specified in this chapter, each applicant for license as a state pilot must:

(3) Be in good physical and mental health, as evidenced by documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician within the preceding 6 months. The board shall adopt rules to establish requirements for passing the physical examination, which rules shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a licensed state pilot. Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, an



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552 advanced practice registered nurse ~~advanced registered nurse~~  
553 ~~practitioner~~, or a physician assistant and that controlled  
554 substance was prescribed by that physician, advanced practice  
555 registered nurse ~~advanced registered nurse practitioner~~, or  
556 physician assistant. To maintain eligibility as a licensed state  
557 pilot, each licensed state pilot must annually provide  
558 documentary proof of having satisfactorily passed a complete  
559 physical examination administered by a licensed physician. The  
560 physician must know the minimum standards and certify that the  
561 licensee satisfactorily meets the standards. The standards for  
562 licensees shall include a drug test.

563 Section 14. Paragraph (b) of subsection (3) of section  
564 310.081, Florida Statutes, is amended to read:

565 310.081 Department to examine and license state pilots and  
566 certificate deputy pilots; vacancies.—

567 (3) Pilots shall hold their licenses or certificates  
568 pursuant to the requirements of this chapter so long as they:

569 (b) Are in good physical and mental health as evidenced by  
570 documentary proof of having satisfactorily passed a physical  
571 examination administered by a licensed physician or physician  
572 assistant within each calendar year. The board shall adopt rules  
573 to establish requirements for passing the physical examination,  
574 which rules shall establish minimum standards for the physical  
575 or mental capabilities necessary to carry out the professional  
576 duties of a licensed state pilot or a certificated deputy pilot.  
577 Such standards shall include zero tolerance for any controlled  
578 substance regulated under chapter 893 unless that individual is  
579 under the care of a physician, an advanced practice registered  
580 nurse ~~advanced registered nurse practitioner~~, or a physician

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581 assistant and that controlled substance was prescribed by that  
582 physician, advanced practice registered nurse ~~advanced~~  
583 ~~registered nurse practitioner~~, or physician assistant. To  
584 maintain eligibility as a certificated deputy pilot or licensed  
585 state pilot, each certificated deputy pilot or licensed state  
586 pilot must annually provide documentary proof of having  
587 satisfactorily passed a complete physical examination  
588 administered by a licensed physician. The physician must know  
589 the minimum standards and certify that the certificateholder or  
590 licensee satisfactorily meets the standards. The standards for  
591 certificateholders and for licensees shall include a drug test.

592  
593 Upon resignation or in the case of disability permanently  
594 affecting a pilot's ability to serve, the state license or  
595 certificate issued under this chapter shall be revoked by the  
596 department.

597 Section 15. Paragraph (b) of subsection (1) of section  
598 320.0848, Florida Statutes, is amended to read:

599 320.0848 Persons who have disabilities; issuance of  
600 disabled parking permits; temporary permits; permits for certain  
601 providers of transportation services to persons who have  
602 disabilities.—

603 (1)

604 (b)1. The person must be currently certified as being  
605 legally blind or as having any of the following disabilities  
606 that render him or her unable to walk 200 feet without stopping  
607 to rest:

608 a. Inability to walk without the use of or assistance from  
609 a brace, cane, crutch, prosthetic device, or other assistive

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device, or without the assistance of another person. If the assistive device significantly restores the person's ability to walk to the extent that the person can walk without severe limitation, the person is not eligible for the exemption parking permit.

b. The need to permanently use a wheelchair.

c. Restriction by lung disease to the extent that the person's forced (respiratory) expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or the person's arterial oxygen is less than 60 mm/hg on room air at rest.

d. Use of portable oxygen.

e. Restriction by cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association.

f. Severe limitation in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.

2. The certification of disability which is required under subparagraph 1. must be provided by a physician licensed under chapter 458, chapter 459, or chapter 460, by a podiatric physician licensed under chapter 461, by an optometrist licensed under chapter 463, by an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under chapter 464 under the protocol of a licensed physician as stated in this subparagraph, by a physician assistant licensed under chapter 458 or chapter 459, or by a similarly licensed physician from another state if the application is accompanied by documentation of the physician's licensure in the other state and a form

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signed by the out-of-state physician verifying his or her knowledge of this state's eligibility guidelines.

Section 16. Paragraph (c) of subsection (1) of section 381.00315, Florida Statutes, is amended to read:

381.00315 Public health advisories; public health emergencies; isolation and quarantines.—The State Health Officer is responsible for declaring public health emergencies, issuing public health advisories, and ordering isolation or quarantines.

(1) As used in this section, the term:

(c) "Public health emergency" means any occurrence, or threat thereof, whether natural or manmade, which results or may result in substantial injury or harm to the public health from infectious disease, chemical agents, nuclear agents, biological toxins, or situations involving mass casualties or natural disasters. Before declaring a public health emergency, the State Health Officer shall, to the extent possible, consult with the Governor and shall notify the Chief of Domestic Security. The declaration of a public health emergency shall continue until the State Health Officer finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and he or she terminates the declaration. However, a declaration of a public health emergency may not continue for longer than 60 days unless the Governor concurs in the renewal of the declaration. The State Health Officer, upon declaration of a public health emergency, may take actions that are necessary to protect the public health. Such actions include, but are not limited to:

1. Directing manufacturers of prescription drugs or over-the-counter drugs who are permitted under chapter 499 and

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wholesalers of prescription drugs located in this state who are permitted under chapter 499 to give priority to the shipping of specified drugs to pharmacies and health care providers within geographic areas that have been identified by the State Health Officer. The State Health Officer must identify the drugs to be shipped. Manufacturers and wholesalers located in the state must respond to the State Health Officer's priority shipping directive before shipping the specified drugs.

2. Notwithstanding chapters 465 and 499 and rules adopted thereunder, directing pharmacists employed by the department to compound bulk prescription drugs and provide these bulk prescription drugs to physicians and nurses of county health departments or any qualified person authorized by the State Health Officer for administration to persons as part of a prophylactic or treatment regimen.

3. Notwithstanding s. 456.036, temporarily reactivating the inactive license of the following health care practitioners, when such practitioners are needed to respond to the public health emergency: physicians licensed under chapter 458 or chapter 459; physician assistants licensed under chapter 458 or chapter 459; licensed practical nurses, registered nurses, and advanced practice registered nurses ~~advanced registered nurse practitioners~~ licensed under part I of chapter 464; respiratory therapists licensed under part V of chapter 468; and emergency medical technicians and paramedics certified under part III of chapter 401. Only those health care practitioners specified in this paragraph who possess an unencumbered inactive license and who request that such license be reactivated are eligible for reactivation. An inactive license that is reactivated under this

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paragraph shall return to inactive status when the public health emergency ends or before the end of the public health emergency if the State Health Officer determines that the health care practitioner is no longer needed to provide services during the public health emergency. Such licenses may only be reactivated for a period not to exceed 90 days without meeting the requirements of s. 456.036 or chapter 401, as applicable.

4. Ordering an individual to be examined, tested, vaccinated, treated, isolated, or quarantined for communicable diseases that have significant morbidity or mortality and present a severe danger to public health. Individuals who are unable or unwilling to be examined, tested, vaccinated, or treated for reasons of health, religion, or conscience may be subjected to isolation or quarantine.

a. Examination, testing, vaccination, or treatment may be performed by any qualified person authorized by the State Health Officer.

b. If the individual poses a danger to the public health, the State Health Officer may subject the individual to isolation or quarantine. If there is no practical method to isolate or quarantine the individual, the State Health Officer may use any means necessary to vaccinate or treat the individual.

Any order of the State Health Officer given to effectuate this paragraph shall be immediately enforceable by a law enforcement officer under s. 381.0012.

Section 17. Subsection (3) of section 381.00593, Florida Statutes, is amended to read:

381.00593 Public school volunteer health care practitioner

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726 program.—

727 (3) For purposes of this section, the term “health care  
728 practitioner” means a physician licensed under chapter 458; an  
729 osteopathic physician licensed under chapter 459; a chiropractic  
730 physician licensed under chapter 460; a podiatric physician  
731 licensed under chapter 461; an optometrist licensed under  
732 chapter 463; an advanced practice registered nurse ~~advanced~~  
733 ~~registered nurse practitioner~~, registered nurse, or licensed  
734 practical nurse licensed under part I of chapter 464; a  
735 pharmacist licensed under chapter 465; a dentist or dental  
736 hygienist licensed under chapter 466; a midwife licensed under  
737 chapter 467; a speech-language pathologist or audiologist  
738 licensed under part I of chapter 468; a dietitian/nutritionist  
739 licensed under part X of chapter 468; or a physical therapist  
740 licensed under chapter 486.

741 Section 18. Paragraph (c) of subsection (1) of section  
742 383.14, Florida Statutes, is amended to read:

743 383.14 Screening for metabolic disorders, other hereditary  
744 and congenital disorders, and environmental risk factors.—

745 (1) SCREENING REQUIREMENTS.—To help ensure access to the  
746 maternal and child health care system, the Department of Health  
747 shall promote the screening of all newborns born in Florida for  
748 metabolic, hereditary, and congenital disorders known to result  
749 in significant impairment of health or intellect, as screening  
750 programs accepted by current medical practice become available  
751 and practical in the judgment of the department. The department  
752 shall also promote the identification and screening of all  
753 newborns in this state and their families for environmental risk  
754 factors such as low income, poor education, maternal and family

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stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management. Identification, perinatal screening, and intervention efforts shall begin prior to and immediately following the birth of the child by the attending health care provider. Such efforts shall be conducted in hospitals, perinatal centers, county health departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics.

(c) *Release of screening results.*—Notwithstanding any law to the contrary, the State Public Health Laboratory may release, directly or through the Children’s Medical Services program, the results of a newborn’s hearing and metabolic tests or screenings to the newborn’s health care practitioner, the newborn’s parent or legal guardian, the newborn’s personal representative, or a person designated by the newborn’s parent or legal guardian. As used in this paragraph, the term “health care practitioner” means a physician or physician assistant licensed under chapter 458; an osteopathic physician or physician assistant licensed under chapter 459; an advanced practice registered nurse ~~advanced registered nurse practitioner~~, registered nurse, or licensed practical nurse licensed under part I of chapter 464; a midwife licensed under chapter 467; a speech-language pathologist or audiologist licensed under part I of chapter 468; or a dietitian or nutritionist licensed under part X of chapter 468.



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Section 19. Paragraph (c) of subsection (1) of section 383.141, Florida Statutes, is amended to read:

383.141 Prenatally diagnosed conditions; patient to be provided information; definitions; information clearinghouse; advisory council.—

(1) As used in this section, the term:

(c) "Health care provider" means a practitioner licensed or registered under chapter 458 or chapter 459 or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ certified under chapter 464.

Section 20. Paragraph (a) of subsection (3) of section 390.0111, Florida Statutes, is amended to read:

390.0111 Termination of pregnancies.—

(3) CONSENTS REQUIRED.—A termination of pregnancy may not be performed or induced except with the voluntary and informed written consent of the pregnant woman or, in the case of a mental incompetent, the voluntary and informed written consent of her court-appointed guardian.

(a) Except in the case of a medical emergency, consent to a termination of pregnancy is voluntary and informed only if:

1. The physician who is to perform the procedure, or the referring physician, has, at a minimum, orally, while physically present in the same room, and at least 24 hours before the procedure, informed the woman of:

a. The nature and risks of undergoing or not undergoing the proposed procedure that a reasonable patient would consider material to making a knowing and willful decision of whether to terminate a pregnancy.

b. The probable gestational age of the fetus, verified by

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an ultrasound, at the time the termination of pregnancy is to be performed.

(I) The ultrasound must be performed by the physician who is to perform the abortion or by a person having documented evidence that he or she has completed a course in the operation of ultrasound equipment as prescribed by rule and who is working in conjunction with the physician.

(II) The person performing the ultrasound must offer the woman the opportunity to view the live ultrasound images and hear an explanation of them. If the woman accepts the opportunity to view the images and hear the explanation, a physician or a registered nurse, licensed practical nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant working in conjunction with the physician must contemporaneously review and explain the images to the woman before the woman gives informed consent to having an abortion procedure performed.

(III) The woman has a right to decline to view and hear the explanation of the live ultrasound images after she is informed of her right and offered an opportunity to view the images and hear the explanation. If the woman declines, the woman shall complete a form acknowledging that she was offered an opportunity to view and hear the explanation of the images but that she declined that opportunity. The form must also indicate that the woman's decision was not based on any undue influence from any person to discourage her from viewing the images or hearing the explanation and that she declined of her own free will.

(IV) Unless requested by the woman, the person performing

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the ultrasound may not offer the opportunity to view the images and hear the explanation and the explanation may not be given if, at the time the woman schedules or arrives for her appointment to obtain an abortion, a copy of a restraining order, police report, medical record, or other court order or documentation is presented which provides evidence that the woman is obtaining the abortion because the woman is a victim of rape, incest, domestic violence, or human trafficking or that the woman has been diagnosed as having a condition that, on the basis of a physician's good faith clinical judgment, would create a serious risk of substantial and irreversible impairment of a major bodily function if the woman delayed terminating her pregnancy.

c. The medical risks to the woman and fetus of carrying the pregnancy to term.

The physician may provide the information required in this subparagraph within 24 hours before the procedure if requested by the woman at the time she schedules or arrives for her appointment to obtain an abortion and if she presents to the physician a copy of a restraining order, police report, medical record, or other court order or documentation evidencing that she is obtaining the abortion because she is a victim of rape, incest, domestic violence, or human trafficking.

2. Printed materials prepared and provided by the department have been provided to the pregnant woman, if she chooses to view these materials, including:

a. A description of the fetus, including a description of the various stages of development.

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b. A list of entities that offer alternatives to terminating the pregnancy.

c. Detailed information on the availability of medical assistance benefits for prenatal care, childbirth, and neonatal care.

3. The woman acknowledges in writing, before the termination of pregnancy, that the information required to be provided under this subsection has been provided.

Nothing in this paragraph is intended to prohibit a physician from providing any additional information which the physician deems material to the woman's informed decision to terminate her pregnancy.

Section 21. Paragraphs (c), (e), and (f) of subsection (3) of section 390.012, Florida Statutes, are amended to read:

390.012 Powers of agency; rules; disposal of fetal remains.—

(3) For clinics that perform or claim to perform abortions after the first trimester of pregnancy, the agency shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter, including the following:

(c) Rules relating to abortion clinic personnel. At a minimum, these rules shall require that:

1. The abortion clinic designate a medical director who is licensed to practice medicine in this state, and all physicians who perform abortions in the clinic have admitting privileges at a hospital within reasonable proximity to the clinic, unless the clinic has a written patient transfer agreement with a hospital within reasonable proximity to the clinic which includes the

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transfer of the patient's medical records held by both the clinic and the treating physician.

2. If a physician is not present after an abortion is performed, a registered nurse, licensed practical nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant be present and remain at the clinic to provide postoperative monitoring and care until the patient is discharged.

3. Surgical assistants receive training in counseling, patient advocacy, and the specific responsibilities associated with the services the surgical assistants provide.

4. Volunteers receive training in the specific responsibilities associated with the services the volunteers provide, including counseling and patient advocacy as provided in the rules adopted by the director for different types of volunteers based on their responsibilities.

(e) Rules relating to the abortion procedure. At a minimum, these rules shall require:

1. That a physician, registered nurse, licensed practical nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant is available to all patients throughout the abortion procedure.

2. Standards for the safe conduct of abortion procedures that conform to obstetric standards in keeping with established standards of care regarding the estimation of fetal age as defined in rule.

3. Appropriate use of general and local anesthesia, analgesia, and sedation if ordered by the physician.

4. Appropriate precautions, such as the establishment of

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intravenous access at least for patients undergoing post-first trimester abortions.

5. Appropriate monitoring of the vital signs and other defined signs and markers of the patient's status throughout the abortion procedure and during the recovery period until the patient's condition is deemed to be stable in the recovery room.

(f) Rules that prescribe minimum recovery room standards. At a minimum, these rules must require that:

1. Postprocedure recovery rooms be supervised and staffed to meet the patients' needs.

2. Immediate postprocedure care consist of observation in a supervised recovery room for as long as the patient's condition warrants.

3. A registered nurse, licensed practical nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant who is trained in the management of the recovery area and is capable of providing basic cardiopulmonary resuscitation and related emergency procedures remain on the premises of the abortion clinic until all patients are discharged.

4. A physician sign the discharge order and be readily accessible and available until the last patient is discharged to facilitate the transfer of emergency cases if hospitalization of the patient or viable fetus is necessary.

5. A physician discuss Rho(D) immune globulin with each patient for whom it is indicated and ensure that it is offered to the patient in the immediate postoperative period or will be available to her within 72 hours after completion of the abortion procedure. If the patient refuses the Rho(D) immune

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958 globulin, she and a witness must sign a refusal form approved by  
959 the agency which must be included in the medical record.

960 6. Written instructions with regard to postabortion coitus,  
961 signs of possible problems, and general aftercare which are  
962 specific to the patient be given to each patient. The  
963 instructions must include information regarding access to  
964 medical care for complications, including a telephone number for  
965 use in the event of a medical emergency.

966 7. A minimum length of time be specified, by type of  
967 abortion procedure and duration of gestation, during which a  
968 patient must remain in the recovery room.

969 8. The physician ensure that, with the patient's consent, a  
970 registered nurse, licensed practical nurse, advanced practice  
971 registered nurse ~~advanced registered nurse practitioner~~, or  
972 physician assistant from the abortion clinic makes a good faith  
973 effort to contact the patient by telephone within 24 hours after  
974 surgery to assess the patient's recovery.

975 9. Equipment and services be readily accessible to provide  
976 appropriate emergency resuscitative and life support procedures  
977 pending the transfer of the patient or viable fetus to the  
978 hospital.

979 Section 22. Subsections (35) and (44) of section 394.455,  
980 Florida Statutes, are amended to read:

981 394.455 Definitions.—As used in this part, the term:

982 (35) "Psychiatric nurse" means an advanced practice  
983 registered nurse ~~advanced registered nurse practitioner~~  
984 certified under s. 464.012 who has a master's or doctoral degree  
985 in psychiatric nursing, holds a national advanced practice  
986 certification as a psychiatric mental health advanced practice

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nurse, and has 2 years of post-master's clinical experience under the supervision of a physician.

(44) "Service provider" means a receiving facility, a facility licensed under chapter 397, a treatment facility, an entity under contract with the department to provide mental health or substance abuse services, a community mental health center or clinic, a psychologist, a clinical social worker, a marriage and family therapist, a mental health counselor, a physician, a psychiatrist, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, a psychiatric nurse, or a qualified professional as defined in s. 39.01.

Section 23. Paragraphs (a) and (b) of subsection (2) and subsection (4) of section 395.0191, Florida Statutes, are amended to read:

395.0191 Staff membership and clinical privileges.—

(2)(a) Each licensed facility shall establish rules and procedures for consideration of an application for clinical privileges submitted by an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed and certified under part I of chapter 464, in accordance with the provisions of this section. No licensed facility shall deny such application solely because the applicant is licensed under part I of chapter 464 or because the applicant is not a participant in the Florida Birth-Related Neurological Injury Compensation Plan.

(b) An advanced practice registered nurse ~~advanced registered nurse practitioner~~ who is certified as a registered nurse anesthetist licensed under part I of chapter 464 shall administer anesthesia under the onsite medical direction of a



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professional licensed under chapter 458, chapter 459, or chapter 466, and in accordance with an established protocol approved by the medical staff. The medical direction shall specifically address the needs of the individual patient.

(4) Nothing herein shall restrict in any way the authority of the medical staff of a licensed facility to review for approval or disapproval all applications for appointment and reappointment to all categories of staff and to make recommendations on each applicant to the governing board, including the delineation of privileges to be granted in each case. In making such recommendations and in the delineation of privileges, each applicant shall be considered individually pursuant to criteria for a doctor licensed under chapter 458, chapter 459, chapter 461, or chapter 466, or for an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed and certified under part I of chapter 464, or for a psychologist licensed under chapter 490, as applicable. The applicant's eligibility for staff membership or clinical privileges shall be determined by the applicant's background, experience, health, training, and demonstrated competency; the applicant's adherence to applicable professional ethics; the applicant's reputation; and the applicant's ability to work with others and by such other elements as determined by the governing board, consistent with this part.

Section 24. Subsection (34) of section 397.311, Florida Statutes, is amended to read:

397.311 Definitions.—As used in this chapter, except part VIII, the term:

(34) "Qualified professional" means a physician or a

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physician assistant licensed under chapter 458 or chapter 459; a professional licensed under chapter 490 or chapter 491; an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under part I of chapter 464; or a person who is certified through a department-recognized certification process for substance abuse treatment services and who holds, at a minimum, a bachelor's degree. A person who is certified in substance abuse treatment services by a state-recognized certification process in another state at the time of employment with a licensed substance abuse provider in this state may perform the functions of a qualified professional as defined in this chapter but must meet certification requirements contained in this subsection no later than 1 year after his or her date of employment.

Section 25. Section 397.4012, Florida Statutes, is amended to read:

397.4012 Exemptions from licensure.—The following are exempt from the licensing provisions of this chapter:

(1) A hospital or hospital-based component licensed under chapter 395.

(2) A nursing home facility as defined in s. 400.021.

(3) A substance abuse education program established pursuant to s. 1003.42.

(4) A facility or institution operated by the Federal Government.

(5) A physician or physician assistant licensed under chapter 458 or chapter 459.

(6) A psychologist licensed under chapter 490.

(7) A social worker, marriage and family therapist, or

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1074 mental health counselor licensed under chapter 491.

1075 (8) A legally cognizable church or nonprofit religious  
1076 organization or denomination providing substance abuse services,  
1077 including prevention services, which are solely religious,  
1078 spiritual, or ecclesiastical in nature. A church or nonprofit  
1079 religious organization or denomination providing any of the  
1080 licensed service components itemized under s. 397.311(26) is not  
1081 exempt from substance abuse licensure but retains its exemption  
1082 with respect to all services which are solely religious,  
1083 spiritual, or ecclesiastical in nature.

1084 (9) Facilities licensed under chapter 393 which, in  
1085 addition to providing services to persons with developmental  
1086 disabilities, also provide services to persons developmentally  
1087 at risk as a consequence of exposure to alcohol or other legal  
1088 or illegal drugs while in utero.

1089 (10) DUI education and screening services provided pursuant  
1090 to ss. 316.192, 316.193, 322.095, 322.271, and 322.291. Persons  
1091 or entities providing treatment services must be licensed under  
1092 this chapter unless exempted from licensing as provided in this  
1093 section.

1094 (11) A facility licensed under s. 394.875 as a crisis  
1095 stabilization unit.

1096  
1097 The exemptions from licensure in this section do not apply to  
1098 any service provider that receives an appropriation, grant, or  
1099 contract from the state to operate as a service provider as  
1100 defined in this chapter or to any substance abuse program  
1101 regulated pursuant to s. 397.4014. Furthermore, this chapter may  
1102 not be construed to limit the practice of a physician or

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physician assistant licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, a psychotherapist licensed under chapter 491, or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under part I of chapter 464, who provides substance abuse treatment, so long as the physician, physician assistant, psychologist, psychotherapist, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ does not represent to the public that he or she is a licensed service provider and does not provide services to individuals pursuant to part V of this chapter. Failure to comply with any requirement necessary to maintain an exempt status under this section is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 26. Subsections (4), (7), and (8) of section 397.427, Florida Statutes, are amended to read:

397.427 Medication-assisted treatment service providers; rehabilitation program; needs assessment and provision of services; persons authorized to issue takeout medication; unlawful operation; penalty.—

(4) Notwithstanding s. 465.019(2), a physician assistant, a registered nurse, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, or a licensed practical nurse working for a licensed service provider may deliver takeout medication for opiate treatment to persons enrolled in a maintenance treatment program for medication-assisted treatment for opiate addiction if:

(a) The medication-assisted treatment program for opiate addiction has an appropriate valid permit issued pursuant to

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rules adopted by the Board of Pharmacy;

(b) The medication for treatment of opiate addiction has been delivered pursuant to a valid prescription written by the program's physician licensed pursuant to chapter 458 or chapter 459;

(c) The medication for treatment of opiate addiction which is ordered appears on a formulary and is prepackaged and prelabeled with dosage instructions and distributed from a source authorized under chapter 499;

(d) Each licensed provider adopts written protocols which provide for supervision of the physician assistant, registered nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or licensed practical nurse by a physician licensed pursuant to chapter 458 or chapter 459 and for the procedures by which patients' medications may be delivered by the physician assistant, registered nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or licensed practical nurse. Such protocols shall be signed by the supervising physician and either the administering registered nurse, the advanced practice registered nurse ~~advanced registered nurse practitioner~~, or the licensed practical nurse.

(e) Each licensed service provider maintains and has available for inspection by representatives of the Board of Pharmacy all medical records and patient care protocols, including records of medications delivered to patients, in accordance with the board.

(7) A physician assistant, a registered nurse, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, or a licensed practical nurse working for a

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licensed service provider may deliver medication as prescribed by rule if:

(a) The service provider is authorized to provide medication-assisted treatment;

(b) The medication has been administered pursuant to a valid prescription written by the program's physician who is licensed under chapter 458 or chapter 459; and

(c) The medication ordered appears on a formulary or meets federal requirements for medication-assisted treatment.

(8) Each licensed service provider that provides medication-assisted treatment must adopt written protocols as specified by the department and in accordance with federally required rules, regulations, or procedures. The protocol shall provide for the supervision of the physician assistant, registered nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or licensed practical nurse working under the supervision of a physician who is licensed under chapter 458 or chapter 459. The protocol must specify how the medication will be used in conjunction with counseling or psychosocial treatment and that the services provided will be included on the treatment plan. The protocol must specify the procedures by which medication-assisted treatment may be administered by the physician assistant, registered nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or licensed practical nurse. These protocols shall be signed by the supervising physician and the administering physician assistant, registered nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or licensed practical nurse.

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Section 27. Section 397.679, Florida Statutes, is amended to read:

397.679 Emergency admission; circumstances justifying.—A person who meets the criteria for involuntary admission in s. 397.675 may be admitted to a hospital or to a licensed detoxification facility or addictions receiving facility for emergency assessment and stabilization, or to a less intensive component of a licensed service provider for assessment only, upon receipt by the facility of a certificate by a physician, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, a psychiatric nurse, a clinical psychologist, a clinical social worker, a marriage and family therapist, a mental health counselor, a physician assistant working under the scope of practice of the supervising physician, or a master's-level-certified addictions professional for substance abuse services, if the certificate is specific to substance abuse impairment, and the completion of an application for emergency admission.

Section 28. Subsection (1) of section 397.6793, Florida Statutes, is amended to read:

397.6793 Professional's certificate for emergency admission.—

(1) A physician, a clinical psychologist, a physician assistant working under the scope of practice of the supervising physician, a psychiatric nurse, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, a mental health counselor, a marriage and family therapist, a master's-level-certified addictions professional for substance abuse services, or a clinical social worker may execute a professional's

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1219 certificate for emergency admission. The professional's  
1220 certificate must include the name of the person to be admitted,  
1221 the relationship between the person and the professional  
1222 executing the certificate, the relationship between the  
1223 applicant and the professional, any relationship between the  
1224 professional and the licensed service provider, a statement that  
1225 the person has been examined and assessed within the preceding 5  
1226 days after the application date, and factual allegations with  
1227 respect to the need for emergency admission, including:

1228 (a) The reason for the belief that the person is substance  
1229 abuse impaired;

1230 (b) The reason for the belief that because of such  
1231 impairment the person has lost the power of self-control with  
1232 respect to substance abuse; and

1233 (c)1. The reason for the belief that, without care or  
1234 treatment, the person is likely to suffer from neglect or refuse  
1235 to care for himself or herself; that such neglect or refusal  
1236 poses a real and present threat of substantial harm to his or  
1237 her well-being; and that it is not apparent that such harm may  
1238 be avoided through the help of willing family members or friends  
1239 or the provision of other services, or there is substantial  
1240 likelihood that the person has inflicted or, unless admitted, is  
1241 likely to inflict, physical harm on himself, herself, or  
1242 another; or

1243 2. The reason for the belief that the person's refusal to  
1244 voluntarily receive care is based on judgment so impaired by  
1245 reason of substance abuse that the person is incapable of  
1246 appreciating his or her need for care and of making a rational  
1247 decision regarding his or her need for care.



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Section 29. Subsection (8) of section 400.021, Florida Statutes, is amended to read:

400.021 Definitions.—When used in this part, unless the context otherwise requires, the term:

(8) "Geriatric outpatient clinic" means a site for providing outpatient health care to persons 60 years of age or older, which is staffed by a registered nurse, a physician assistant, or a licensed practical nurse under the direct supervision of a registered nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, physician assistant, or physician.

Section 30. Subsection (3) of section 400.462, Florida Statutes, is amended to read:

400.462 Definitions.—As used in this part, the term:

(3) "Advanced practice registered nurse" ~~"Advanced registered nurse practitioner"~~ means a person licensed in this state to practice professional nursing and certified in advanced or specialized nursing practice, as defined in s. 464.003.

Section 31. Section 400.487, Florida Statutes, is amended to read:

400.487 Home health service agreements; physician's, physician assistant's, and advanced practice registered nurse's ~~advanced registered nurse practitioner's~~ treatment orders; patient assessment; establishment and review of plan of care; provision of services; orders not to resuscitate.—

(1) Services provided by a home health agency must be covered by an agreement between the home health agency and the patient or the patient's legal representative specifying the home health services to be provided, the rates or charges for

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services paid with private funds, and the sources of payment, which may include Medicare, Medicaid, private insurance, personal funds, or a combination thereof. A home health agency providing skilled care must make an assessment of the patient's needs within 48 hours after the start of services.

(2) When required by the provisions of chapter 464; part I, part III, or part V of chapter 468; or chapter 486, the attending physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~, acting within his or her respective scope of practice, shall establish treatment orders for a patient who is to receive skilled care. The treatment orders must be signed by the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ before a claim for payment for the skilled services is submitted by the home health agency. If the claim is submitted to a managed care organization, the treatment orders must be signed within the time allowed under the provider agreement. The treatment orders shall be reviewed, as frequently as the patient's illness requires, by the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ in consultation with the home health agency.

(3) A home health agency shall arrange for supervisory visits by a registered nurse to the home of a patient receiving home health aide services in accordance with the patient's direction, approval, and agreement to pay the charge for the visits.

(4) Each patient has the right to be informed of and to participate in the planning of his or her care. Each patient

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1306 must be provided, upon request, a copy of the plan of care  
1307 established and maintained for that patient by the home health  
1308 agency.

1309 (5) When nursing services are ordered, the home health  
1310 agency to which a patient has been admitted for care must  
1311 provide the initial admission visit, all service evaluation  
1312 visits, and the discharge visit by a direct employee. Services  
1313 provided by others under contractual arrangements to a home  
1314 health agency must be monitored and managed by the admitting  
1315 home health agency. The admitting home health agency is fully  
1316 responsible for ensuring that all care provided through its  
1317 employees or contract staff is delivered in accordance with this  
1318 part and applicable rules.

1319 (6) The skilled care services provided by a home health  
1320 agency, directly or under contract, must be supervised and  
1321 coordinated in accordance with the plan of care.

1322 (7) Home health agency personnel may withhold or withdraw  
1323 cardiopulmonary resuscitation if presented with an order not to  
1324 resuscitate executed pursuant to s. 401.45. The agency shall  
1325 adopt rules providing for the implementation of such orders.  
1326 Home health personnel and agencies shall not be subject to  
1327 criminal prosecution or civil liability, nor be considered to  
1328 have engaged in negligent or unprofessional conduct, for  
1329 withholding or withdrawing cardiopulmonary resuscitation  
1330 pursuant to such an order and rules adopted by the agency.

1331 Section 32. Paragraph (a) of subsection (13) of section  
1332 400.506, Florida Statutes, is amended to read:

1333 400.506 Licensure of nurse registries; requirements;  
1334 penalties.—

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(13) All persons referred for contract in private residences by a nurse registry must comply with the following requirements for a plan of treatment:

(a) When, in accordance with the privileges and restrictions imposed upon a nurse under part I of chapter 464, the delivery of care to a patient is under the direction or supervision of a physician or when a physician is responsible for the medical care of the patient, a medical plan of treatment must be established for each patient receiving care or treatment provided by a licensed nurse in the home. The original medical plan of treatment must be timely signed by the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~, acting within his or her respective scope of practice, and reviewed in consultation with the licensed nurse at least every 2 months. Any additional order or change in orders must be obtained from the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ and reduced to writing and timely signed by the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~. The delivery of care under a medical plan of treatment must be substantiated by the appropriate nursing notes or documentation made by the nurse in compliance with nursing practices established under part I of chapter 464.

Section 33. Subsections (5) and (7) of section 400.9973, Florida Statutes, are amended to read:

400.9973 Client admission, transfer, and discharge.—

(5) A client admitted to a transitional living facility must be admitted upon prescription by a licensed physician,

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physician assistant, or advanced practice registered nurse  
~~advanced registered nurse practitioner~~ and must remain under the  
care of a licensed physician, physician assistant, or advanced  
practice registered nurse ~~advanced registered nurse practitioner~~  
for the duration of the client's stay in the facility.

(7) A person may not be admitted to a transitional living  
facility if the person:

(a) Presents significant risk of infection to other clients  
or personnel. A health care practitioner must provide  
documentation that the person is free of apparent signs and  
symptoms of communicable disease;

(b) Is a danger to himself or herself or others as  
determined by a physician, physician assistant, ~~or~~ advanced  
practice registered nurse, ~~advanced registered nurse~~  
~~practitioner~~ or a mental health practitioner licensed under  
chapter 490 or chapter 491, unless the facility provides  
adequate staffing and support to ensure patient safety;

(c) Is bedridden; or

(d) Requires 24-hour nursing supervision.

Section 34. Subsection (1) and paragraphs (a) and (b) of  
subsection (2) of section 400.9974, Florida Statutes, are  
amended to read:

400.9974 Client comprehensive treatment plans; client  
services.—

(1) A transitional living facility shall develop a  
comprehensive treatment plan for each client as soon as  
practicable but no later than 30 days after the initial  
comprehensive treatment plan is developed. The comprehensive  
treatment plan must be developed by an interdisciplinary team

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consisting of the case manager, the program director, the advanced practice registered nurse ~~advanced registered nurse practitioner~~, and appropriate therapists. The client or, if appropriate, the client's representative must be included in developing the comprehensive treatment plan. The comprehensive treatment plan must be reviewed and updated if the client fails to meet projected improvements outlined in the plan or if a significant change in the client's condition occurs. The comprehensive treatment plan must be reviewed and updated at least once monthly.

(2) The comprehensive treatment plan must include:

(a) Orders obtained from the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ and the client's diagnosis, medical history, physical examination, and rehabilitative or restorative needs.

(b) A preliminary nursing evaluation, including orders for immediate care provided by the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~, which shall be completed when the client is admitted.

Section 35. Section 400.9976, Florida Statutes, is amended to read:

400.9976 Administration of medication.—

(1) An individual medication administration record must be maintained for each client. A dose of medication, including a self-administered dose, shall be properly recorded in the client's record. A client who self-administers medication shall be given a pill organizer. Medication must be placed in the pill

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organizer by a nurse. A nurse shall document the date and time that medication is placed into each client's pill organizer. All medications must be administered in compliance with orders of a physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~.

(2) If an interdisciplinary team determines that self-administration of medication is an appropriate objective, and if the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ does not specify otherwise, the client must be instructed by the physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ to self-administer his or her medication without the assistance of a staff person. All forms of self-administration of medication, including administration orally, by injection, and by suppository, shall be included in the training. The client's physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ must be informed of the interdisciplinary team's decision that self-administration of medication is an objective for the client. A client may not self-administer medication until he or she demonstrates the competency to take the correct medication in the correct dosage at the correct time, to respond to missed doses, and to contact the appropriate person with questions.

(3) Medication administration discrepancies and adverse drug reactions must be recorded and reported immediately to a physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~.

Section 36. Subsections (2) through (5) of section

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400.9979, Florida Statutes, are amended to read:

400.9979 Restraint and seclusion; client safety.—

(2) The use of physical restraints must be ordered and documented by a physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ and must be consistent with the policies and procedures adopted by the facility. The client or, if applicable, the client's representative shall be informed of the facility's physical restraint policies and procedures when the client is admitted.

(3) The use of chemical restraints shall be limited to prescribed dosages of medications as ordered by a physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ and must be consistent with the client's diagnosis and the policies and procedures adopted by the facility. The client and, if applicable, the client's representative shall be informed of the facility's chemical restraint policies and procedures when the client is admitted.

(4) Based on the assessment by a physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~, if a client exhibits symptoms that present an immediate risk of injury or death to himself or herself or others, a physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ may issue an emergency treatment order to immediately administer rapid-response psychotropic medications or other chemical restraints. Each emergency treatment order must be documented and maintained in the client's record.

(a) An emergency treatment order is not effective for more



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than 24 hours.

(b) Whenever a client is medicated under this subsection, the client's representative or a responsible party and the client's physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ shall be notified as soon as practicable.

(5) A client who is prescribed and receives a medication that can serve as a chemical restraint for a purpose other than an emergency treatment order must be evaluated by his or her physician, physician assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ at least monthly to assess:

(a) The continued need for the medication.

(b) The level of the medication in the client's blood.

(c) The need for adjustments to the prescription.

Section 37. Subsections (1) and (2) of section 401.445, Florida Statutes, are amended to read:

401.445 Emergency examination and treatment of incapacitated persons.—

(1) No recovery shall be allowed in any court in this state against any emergency medical technician, paramedic, or physician as defined in this chapter, any advanced practice registered nurse ~~advanced registered nurse practitioner~~ certified under s. 464.012, or any physician assistant licensed under s. 458.347 or s. 459.022, or any person acting under the direct medical supervision of a physician, in an action brought for examining or treating a patient without his or her informed consent if:

(a) The patient at the time of examination or treatment is

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intoxicated, under the influence of drugs, or otherwise  
incapable of providing informed consent as provided in s.  
766.103;

(b) The patient at the time of examination or treatment is  
experiencing an emergency medical condition; and

(c) The patient would reasonably, under all the surrounding  
circumstances, undergo such examination, treatment, or procedure  
if he or she were advised by the emergency medical technician,  
paramedic, physician, advanced practice registered nurse  
~~advanced registered nurse practitioner~~, or physician assistant  
in accordance with s. 766.103(3).

Examination and treatment provided under this subsection shall  
be limited to reasonable examination of the patient to determine  
the medical condition of the patient and treatment reasonably  
necessary to alleviate the emergency medical condition or to  
stabilize the patient.

(2) In examining and treating a person who is apparently  
intoxicated, under the influence of drugs, or otherwise  
incapable of providing informed consent, the emergency medical  
technician, paramedic, physician, advanced practice registered  
nurse ~~advanced registered nurse practitioner~~, or physician  
assistant, or any person acting under the direct medical  
supervision of a physician, shall proceed wherever possible with  
the consent of the person. If the person reasonably appears to  
be incapacitated and refuses his or her consent, the person may  
be examined, treated, or taken to a hospital or other  
appropriate treatment resource if he or she is in need of  
emergency attention, without his or her consent, but

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unreasonable force shall not be used.

Section 38. Subsection (1) of section 409.905, Florida Statutes, is amended to read:

409.905 Mandatory Medicaid services.—The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law.

Mandatory services rendered by providers in mobile units to Medicaid recipients may be restricted by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, number of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(1) ADVANCED PRACTICE REGISTERED NURSE ~~ADVANCED REGISTERED NURSE PRACTITIONER~~ SERVICES.—The agency shall pay for services provided to a recipient by a licensed advanced practice registered nurse ~~advanced registered nurse practitioner~~ who has a valid collaboration agreement with a licensed physician on file with the Department of Health or who provides anesthesia services in accordance with established protocol required by state law and approved by the medical staff of the facility in which the anesthetic service is performed. Reimbursement for such services must be provided in an amount that equals not less than 80 percent of the reimbursement to a physician who provides

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the same services, unless otherwise provided for in the General Appropriations Act.

Section 39. Paragraph (a) of subsection (3) and subsection (7) of section 409.908, Florida Statutes, are amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be effected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the

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availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(3) Subject to any limitations or directions provided for in the General Appropriations Act, the following Medicaid services and goods may be reimbursed on a fee-for-service basis. For each allowable service or goods furnished in accordance with Medicaid rules, policy manuals, handbooks, and state and federal law, the payment shall be the amount billed by the provider, the provider's usual and customary charge, or the maximum allowable fee established by the agency, whichever amount is less, with the exception of those services or goods for which the agency makes payment using a methodology based on capitation rates, average costs, or negotiated fees.

(a) Advanced practice registered nurse ~~Advanced registered nurse practitioner~~ services.

(7) A provider of family planning services shall be reimbursed the lesser of the amount billed by the provider or an all-inclusive amount per type of visit for physicians and advanced practice registered nurses ~~advanced registered nurse practitioners~~, as established by the agency in a fee schedule.

Section 40. Paragraph (a) of subsection (1) of section 409.973, Florida Statutes, is amended to read:

409.973 Benefits.—

(1) MINIMUM BENEFITS.—Managed care plans shall cover, at a minimum, the following services:

(a) Advanced practice registered nurse ~~Advanced registered nurse practitioner~~ services.

Section 41. Section 1 of chapter 2016-109, Laws of

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Florida, is amended to read:

Section 1. Effective March 1, 2019, subsection (1) of section 409.973, Florida Statutes, is amended to read:

409.973 Benefits.—

(1) MINIMUM BENEFITS.—Managed care plans shall cover, at a minimum, the following services:

(a) Advanced practice registered nurse ~~Advanced registered nurse practitioner~~ services.

(b) Ambulatory surgical treatment center services.

(c) Birthing center services.

(d) Chiropractic services.

(e) Early periodic screening diagnosis and treatment services for recipients under age 21.

(f) Emergency services.

(g) Family planning services and supplies. Pursuant to 42 C.F.R. s. 438.102, plans may elect to not provide these services due to an objection on moral or religious grounds, and must notify the agency of that election when submitting a reply to an invitation to negotiate.

(h) Healthy start services, except as provided in s. 409.975(4).

(i) Hearing services.

(j) Home health agency services.

(k) Hospice services.

(l) Hospital inpatient services.

(m) Hospital outpatient services.

(n) Laboratory and imaging services.

(o) Medical supplies, equipment, prostheses, and orthoses.

(p) Mental health services.

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- (q) Nursing care.
- (r) Optical services and supplies.
- (s) Optometrist services.
- (t) Physical, occupational, respiratory, and speech therapy services.
- (u) Physician services, including physician assistant services.
- (v) Podiatric services.
- (w) Prescription drugs.
- (x) Renal dialysis services.
- (y) Respiratory equipment and supplies.
- (z) Rural health clinic services.
- (aa) Substance abuse treatment services.
- (bb) Transportation to access covered services.

Section 42. Paragraph (a) of subsection (2) and paragraph (a) of subsection (7) of section 429.918, Florida Statutes, are amended to read:

429.918 Licensure designation as a specialized Alzheimer's services adult day care center.—

(2) As used in this section, the term:

(a) "ADRD participant" means a participant who has a documented diagnosis of Alzheimer's disease or a dementia-related disorder (ADRD) from a licensed physician, licensed physician assistant, or a licensed advanced practice registered nurse ~~advanced registered nurse practitioner~~.

(7) (a) An ADRD participant admitted to an adult day care center having a license designated under this section, or the caregiver when applicable, must:

1. Require ongoing supervision to maintain the highest

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level of medical or custodial functioning and have a demonstrated need for a responsible party to oversee his or her care.

2. Not actively demonstrate aggressive behavior that places himself, herself, or others at risk of harm.

3. Provide the following medical documentation signed by a licensed physician, licensed physician assistant, or a licensed advanced practice registered nurse ~~advanced registered nurse practitioner~~:

a. Any physical, health, or emotional conditions that require medical care.

b. A listing of the ADRD participant's current prescribed and over-the-counter medications and dosages, diet restrictions, mobility restrictions, and other physical limitations.

4. Provide documentation signed by a health care provider licensed in this state which indicates that the ADRD participant is free of the communicable form of tuberculosis and free of signs and symptoms of other communicable diseases.

Section 43. Section 456.0391, Florida Statutes, is amended to read:

456.0391 Advanced practice registered nurses ~~Advanced registered nurse practitioners~~; information required for certification.—

(1)(a) Each person who applies for initial certification under s. 464.012 must, at the time of application, and each person certified under s. 464.012 who applies for certification renewal must, in conjunction with the renewal of such certification and under procedures adopted by the Department of Health, and in addition to any other information that may be



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required from the applicant, furnish the following information to the Department of Health:

1. The name of each school or training program that the applicant has attended, with the months and years of attendance and the month and year of graduation, and a description of all graduate professional education completed by the applicant, excluding any coursework taken to satisfy continuing education requirements.

2. The name of each location at which the applicant practices.

3. The address at which the applicant will primarily conduct his or her practice.

4. Any certification or designation that the applicant has received from a specialty or certification board that is recognized or approved by the regulatory board or department to which the applicant is applying.

5. The year that the applicant received initial certification and began practicing the profession in any jurisdiction and the year that the applicant received initial certification in this state.

6. Any appointment which the applicant currently holds to the faculty of a school related to the profession and an indication as to whether the applicant has had the responsibility for graduate education within the most recent 10 years.

7. A description of any criminal offense of which the applicant has been found guilty, regardless of whether adjudication of guilt was withheld, or to which the applicant has pled guilty or nolo contendere. A criminal offense committed

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1741 in another jurisdiction which would have been a felony or  
1742 misdemeanor if committed in this state must be reported. If the  
1743 applicant indicates that a criminal offense is under appeal and  
1744 submits a copy of the notice for appeal of that criminal  
1745 offense, the department must state that the criminal offense is  
1746 under appeal if the criminal offense is reported in the  
1747 applicant's profile. If the applicant indicates to the  
1748 department that a criminal offense is under appeal, the  
1749 applicant must, within 15 days after the disposition of the  
1750 appeal, submit to the department a copy of the final written  
1751 order of disposition.

1752 8. A description of any final disciplinary action taken  
1753 within the previous 10 years against the applicant by a  
1754 licensing or regulatory body in any jurisdiction, by a specialty  
1755 board that is recognized by the board or department, or by a  
1756 licensed hospital, health maintenance organization, prepaid  
1757 health clinic, ambulatory surgical center, or nursing home.  
1758 Disciplinary action includes resignation from or nonrenewal of  
1759 staff membership or the restriction of privileges at a licensed  
1760 hospital, health maintenance organization, prepaid health  
1761 clinic, ambulatory surgical center, or nursing home taken in  
1762 lieu of or in settlement of a pending disciplinary case related  
1763 to competence or character. If the applicant indicates that the  
1764 disciplinary action is under appeal and submits a copy of the  
1765 document initiating an appeal of the disciplinary action, the  
1766 department must state that the disciplinary action is under  
1767 appeal if the disciplinary action is reported in the applicant's  
1768 profile.

1769 (b) In addition to the information required under paragraph

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(a), each applicant for initial certification or certification renewal must provide the information required of licensees pursuant to s. 456.049.

(2) The Department of Health shall send a notice to each person certified under s. 464.012 at the certificateholder's last known address of record regarding the requirements for information to be submitted by advanced practice registered nurses ~~advanced registered nurse practitioners~~ pursuant to this section in conjunction with the renewal of such certificate.

(3) Each person certified under s. 464.012 who has submitted information pursuant to subsection (1) must update that information in writing by notifying the Department of Health within 45 days after the occurrence of an event or the attainment of a status that is required to be reported by subsection (1). Failure to comply with the requirements of this subsection to update and submit information constitutes a ground for disciplinary action under chapter 464 and s. 456.072(1)(k). For failure to comply with the requirements of this subsection to update and submit information, the department or board, as appropriate, may:

(a) Refuse to issue a certificate to any person applying for initial certification who fails to submit and update the required information.

(b) Issue a citation to any certificateholder who fails to submit and update the required information and may fine the certificateholder up to \$50 for each day that the certificateholder is not in compliance with this subsection. The citation must clearly state that the certificateholder may choose, in lieu of accepting the citation, to follow the

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1799 procedure under s. 456.073. If the certificateholder disputes  
1800 the matter in the citation, the procedures set forth in s.  
1801 456.073 must be followed. However, if the certificateholder does  
1802 not dispute the matter in the citation with the department  
1803 within 30 days after the citation is served, the citation  
1804 becomes a final order and constitutes discipline. Service of a  
1805 citation may be made by personal service or certified mail,  
1806 restricted delivery, to the subject at the certificateholder's  
1807 last known address.

1808 (4) (a) An applicant for initial certification under s.  
1809 464.012 must submit a set of fingerprints to the Department of  
1810 Health on a form and under procedures specified by the  
1811 department, along with payment in an amount equal to the costs  
1812 incurred by the Department of Health for a national criminal  
1813 history check of the applicant.

1814 (b) An applicant for renewed certification who has not  
1815 previously submitted a set of fingerprints to the Department of  
1816 Health for purposes of certification must submit a set of  
1817 fingerprints to the department as a condition of the initial  
1818 renewal of his or her certificate after the effective date of  
1819 this section. The applicant must submit the fingerprints on a  
1820 form and under procedures specified by the department, along  
1821 with payment in an amount equal to the costs incurred by the  
1822 Department of Health for a national criminal history check. For  
1823 subsequent renewals, the applicant for renewed certification  
1824 must only submit information necessary to conduct a statewide  
1825 criminal history check, along with payment in an amount equal to  
1826 the costs incurred by the Department of Health for a statewide  
1827 criminal history check.

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1828 (c)1. The Department of Health shall submit the  
1829 fingerprints provided by an applicant for initial certification  
1830 to the Florida Department of Law Enforcement for a statewide  
1831 criminal history check, and the Florida Department of Law  
1832 Enforcement shall forward the fingerprints to the Federal Bureau  
1833 of Investigation for a national criminal history check of the  
1834 applicant.

1835 2. The department shall submit the fingerprints provided by  
1836 an applicant for the initial renewal of certification to the  
1837 Florida Department of Law Enforcement for a statewide criminal  
1838 history check, and the Florida Department of Law Enforcement  
1839 shall forward the fingerprints to the Federal Bureau of  
1840 Investigation for a national criminal history check for the  
1841 initial renewal of the applicant's certificate after the  
1842 effective date of this section.

1843 3. For any subsequent renewal of the applicant's  
1844 certificate, the department shall submit the required  
1845 information for a statewide criminal history check of the  
1846 applicant to the Florida Department of Law Enforcement.

1847 (d) Any applicant for initial certification or renewal of  
1848 certification as an advanced practice registered nurse ~~advanced~~  
1849 ~~registered nurse practitioner~~ who submits to the Department of  
1850 Health a set of fingerprints and information required for the  
1851 criminal history check required under this section shall not be  
1852 required to provide a subsequent set of fingerprints or other  
1853 duplicate information required for a criminal history check to  
1854 the Agency for Health Care Administration, the Department of  
1855 Juvenile Justice, or the Department of Children and Families for  
1856 employment or licensure with such agency or department, if the

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applicant has undergone a criminal history check as a condition of initial certification or renewal of certification as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ with the Department of Health, notwithstanding any other provision of law to the contrary. In lieu of such duplicate submission, the Agency for Health Care Administration, the Department of Juvenile Justice, and the Department of Children and Families shall obtain criminal history information for employment or licensure of persons certified under s. 464.012 by such agency or department from the Department of Health's health care practitioner credentialing system.

(5) Each person who is required to submit information pursuant to this section may submit additional information to the Department of Health. Such information may include, but is not limited to:

(a) Information regarding publications in peer-reviewed professional literature within the previous 10 years.

(b) Information regarding professional or community service activities or awards.

(c) Languages, other than English, used by the applicant to communicate with patients or clients and identification of any translating service that may be available at the place where the applicant primarily conducts his or her practice.

(d) An indication of whether the person participates in the Medicaid program.

Section 44. Subsection (2) of section 456.0392, Florida Statutes, is amended to read:

456.0392 Prescription labeling.—

(2) A prescription for a drug that is not listed as a

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controlled substance in chapter 893 which is written by an  
advanced practice registered nurse ~~advanced registered nurse~~  
~~practitioner~~ certified under s. 464.012 is presumed, subject to  
rebuttal, to be valid and within the parameters of the  
prescriptive authority delegated by a practitioner licensed  
under chapter 458, chapter 459, or chapter 466.

Section 45. Paragraph (a) of subsection (1) and subsection  
(6) of section 456.041, Florida Statutes, are amended to read:

456.041 Practitioner profile; creation.—

(1)(a) The Department of Health shall compile the  
information submitted pursuant to s. 456.039 into a practitioner  
profile of the applicant submitting the information, except that  
the Department of Health shall develop a format to compile  
uniformly any information submitted under s. 456.039(4)(b).  
Beginning July 1, 2001, the Department of Health may compile the  
information submitted pursuant to s. 456.0391 into a  
practitioner profile of the applicant submitting the  
information. The protocol submitted pursuant to s. 464.012(3)  
must be included in the practitioner profile of the advanced  
practice registered nurse ~~advanced registered nurse~~  
~~practitioner~~.

(6) The Department of Health shall provide in each  
practitioner profile for every physician or advanced practice  
registered nurse ~~advanced registered nurse practitioner~~  
terminated for cause from participating in the Medicaid program,  
pursuant to s. 409.913, or sanctioned by the Medicaid program a  
statement that the practitioner has been terminated from  
participating in the Florida Medicaid program or sanctioned by  
the Medicaid program.

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1915 Section 46. Subsection (1) of section 456.048, Florida  
1916 Statutes, is amended to read:

1917 456.048 Financial responsibility requirements for certain  
1918 health care practitioners.—

1919 (1) As a prerequisite for licensure or license renewal, the  
1920 Board of Acupuncture, the Board of Chiropractic Medicine, the  
1921 Board of Podiatric Medicine, and the Board of Dentistry shall,  
1922 by rule, require that all health care practitioners licensed  
1923 under the respective board, and the Board of Medicine and the  
1924 Board of Osteopathic Medicine shall, by rule, require that all  
1925 anesthesiologist assistants licensed pursuant to s. 458.3475 or  
1926 s. 459.023, and the Board of Nursing shall, by rule, require  
1927 that advanced practice registered nurses ~~advanced registered~~  
1928 ~~nurse practitioners~~ certified under s. 464.012, and the  
1929 department shall, by rule, require that midwives maintain  
1930 medical malpractice insurance or provide proof of financial  
1931 responsibility in an amount and in a manner determined by the  
1932 board or department to be sufficient to cover claims arising out  
1933 of the rendering of or failure to render professional care and  
1934 services in this state.

1935 Section 47. Subsection (7) of section 456.072, Florida  
1936 Statutes, is amended to read:

1937 456.072 Grounds for discipline; penalties; enforcement.—

1938 (7) Notwithstanding subsection (2), upon a finding that a  
1939 physician has prescribed or dispensed a controlled substance, or  
1940 caused a controlled substance to be prescribed or dispensed, in  
1941 a manner that violates the standard of practice set forth in s.  
1942 458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o)  
1943 or (s), or s. 466.028(1)(p) or (x), or that an advanced practice



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1944 registered nurse ~~advanced registered nurse practitioner~~ has  
1945 prescribed or dispensed a controlled substance, or caused a  
1946 controlled substance to be prescribed or dispensed, in a manner  
1947 that violates the standard of practice set forth in s.  
1948 464.018(1)(n) or (p)6., the physician or advanced practice  
1949 registered nurse ~~advanced registered nurse practitioner~~ shall be  
1950 suspended for a period of not less than 6 months and pay a fine  
1951 of not less than \$10,000 per count. Repeated violations shall  
1952 result in increased penalties.

1953 Section 48. Paragraph (g) of subsection (1) and subsection  
1954 (2) of section 456.44, Florida Statutes, are amended to read:

1955 456.44 Controlled substance prescribing.—

1956 (1) DEFINITIONS.—As used in this section, the term:

1957 (g) "Registrant" means a physician, a physician assistant,  
1958 or an advanced practice registered nurse ~~advanced registered~~  
1959 ~~nurse practitioner~~ who meets the requirements of subsection (2).

1960 (2) REGISTRATION.—A physician licensed under chapter 458,  
1961 chapter 459, chapter 461, or chapter 466, a physician assistant  
1962 licensed under chapter 458 or chapter 459, or an advanced  
1963 practice registered nurse ~~advanced registered nurse practitioner~~  
1964 certified under part I of chapter 464 who prescribes any  
1965 controlled substance, listed in Schedule II, Schedule III, or  
1966 Schedule IV as defined in s. 893.03, for the treatment of  
1967 chronic nonmalignant pain, must:

1968 (a) Designate himself or herself as a controlled substance  
1969 prescribing practitioner on his or her practitioner profile.

1970 (b) Comply with the requirements of this section and  
1971 applicable board rules.

1972 Section 49. Paragraph (c) of subsection (2) of section

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458.3265, Florida Statutes, is amended to read:

458.3265 Pain-management clinics.—

(2) PHYSICIAN RESPONSIBILITIES.—These responsibilities apply to any physician who provides professional services in a pain-management clinic that is required to be registered in subsection (1).

(c) A physician, a physician assistant, or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ must perform a physical examination of a patient on the same day that the physician prescribes a controlled substance to a patient at a pain-management clinic. If the physician prescribes more than a 72-hour dose of controlled substances for the treatment of chronic nonmalignant pain, the physician must document in the patient's record the reason for prescribing that quantity.

Section 50. Paragraph (dd) of subsection (1) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(dd) Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, advanced practice registered nurses ~~advanced registered nurse practitioners~~, or anesthesiologist assistants acting under the supervision of the physician.

Section 51. Paragraph (a) of subsection (1) and subsection (3) of section 458.348, Florida Statutes, are amended to read:

458.348 Formal supervisory relationships, standing orders,

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and established protocols; notice; standards.—

(1) NOTICE.—

(a) When a physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which relationship or orders contemplate the performance of medical acts, or when a physician enters into an established protocol with an advanced practice registered nurse ~~advanced registered nurse practitioner~~, which protocol contemplates the performance of medical acts set forth in s. 464.012(3) and (4), the physician shall submit notice to the board. The notice shall contain a statement in substantially the following form:

I, ...(name and professional license number of physician)..., of ...(address of physician)... have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with ...(number of persons)... emergency medical technician(s), ...(number of persons)... paramedic(s), or ...(number of persons)... advanced practice registered nurse(s) ~~advanced registered nurse practitioner(s)~~.

(3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—A physician who supervises an advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant at a medical office other than the physician's primary practice location, where the advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant is not under the onsite supervision of a supervising physician, must comply with the standards set forth in this subsection. For the

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purpose of this subsection, a physician's "primary practice location" means the address reflected on the physician's profile published pursuant to s. 456.041.

(a) A physician who is engaged in providing primary health care services may not supervise more than four offices in addition to the physician's primary practice location. For the purpose of this subsection, "primary health care" means health care services that are commonly provided to patients without referral from another practitioner, including obstetrical and gynecological services, and excludes practices providing primarily dermatologic and skin care services, which include aesthetic skin care services.

(b) A physician who is engaged in providing specialty health care services may not supervise more than two offices in addition to the physician's primary practice location. For the purpose of this subsection, "specialty health care" means health care services that are commonly provided to patients with a referral from another practitioner and excludes practices providing primarily dermatologic and skin care services, which include aesthetic skin care services.

(c) A physician who supervises an advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant at a medical office other than the physician's primary practice location, where the advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant is not under the onsite supervision of a supervising physician and the services offered at the office are primarily dermatologic or skin care services, which include aesthetic skin care services other than plastic surgery, must

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2060 comply with the standards listed in subparagraphs 1.-4.  
2061 Notwithstanding s. 458.347(4)(e)6., a physician supervising a  
2062 physician assistant pursuant to this paragraph may not be  
2063 required to review and cosign charts or medical records prepared  
2064 by such physician assistant.

2065 1. The physician shall submit to the board the addresses of  
2066 all offices where he or she is supervising an advanced practice  
2067 registered nurse ~~advanced registered nurse practitioner~~ or a  
2068 physician's assistant which are not the physician's primary  
2069 practice location.

2070 2. The physician must be board certified or board eligible  
2071 in dermatology or plastic surgery as recognized by the board  
2072 pursuant to s. 458.3312.

2073 3. All such offices that are not the physician's primary  
2074 place of practice must be within 25 miles of the physician's  
2075 primary place of practice or in a county that is contiguous to  
2076 the county of the physician's primary place of practice.  
2077 However, the distance between any of the offices may not exceed  
2078 75 miles.

2079 4. The physician may supervise only one office other than  
2080 the physician's primary place of practice except that until July  
2081 1, 2011, the physician may supervise up to two medical offices  
2082 other than the physician's primary place of practice if the  
2083 addresses of the offices are submitted to the board before July  
2084 1, 2006. Effective July 1, 2011, the physician may supervise  
2085 only one office other than the physician's primary place of  
2086 practice, regardless of when the addresses of the offices were  
2087 submitted to the board.

2088 (d) A physician who supervises an office in addition to the

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physician's primary practice location must conspicuously post in each of the physician's offices a current schedule of the regular hours when the physician is present in that office and the hours when the office is open while the physician is not present.

(e) This subsection does not apply to health care services provided in facilities licensed under chapter 395 or in conjunction with a college of medicine, a college of nursing, an accredited graduate medical program, or a nursing education program; not-for-profit, family-planning clinics that are not licensed pursuant to chapter 390; rural and federally qualified health centers; health care services provided in a nursing home licensed under part II of chapter 400, an assisted living facility licensed under part I of chapter 429, a continuing care facility licensed under chapter 651, or a retirement community consisting of independent living units and a licensed nursing home or assisted living facility; anesthesia services provided in accordance with law; health care services provided in a designated rural health clinic; health care services provided to persons enrolled in a program designed to maintain elderly persons and persons with disabilities in a home or community-based setting; university primary care student health centers; school health clinics; or health care services provided in federal, state, or local government facilities. Subsection (2) and this subsection do not apply to offices at which the exclusive service being performed is laser hair removal by an advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant.

Section 52. Paragraph (c) of subsection (2) of section

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459.0137, Florida Statutes, is amended to read:

459.0137 Pain-management clinics.—

(2) PHYSICIAN RESPONSIBILITIES.—These responsibilities apply to any osteopathic physician who provides professional services in a pain-management clinic that is required to be registered in subsection (1).

(c) An osteopathic physician, a physician assistant, or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ must perform a physical examination of a patient on the same day that the physician prescribes a controlled substance to a patient at a pain-management clinic. If the osteopathic physician prescribes more than a 72-hour dose of controlled substances for the treatment of chronic nonmalignant pain, the osteopathic physician must document in the patient's record the reason for prescribing that quantity.

Section 53. Paragraph (hh) of subsection (1) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(hh) Failing to supervise adequately the activities of those physician assistants, paramedics, emergency medical technicians, advanced practice registered nurses ~~advanced registered nurse practitioners~~, anesthesiologist assistants, or other persons acting under the supervision of the osteopathic physician.

Section 54. Paragraph (a) of subsection (1) and subsection (3) of section 459.025, Florida Statutes, are amended to read:

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459.025 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(1) NOTICE.—

(a) When an osteopathic physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which relationship or orders contemplate the performance of medical acts, or when an osteopathic physician enters into an established protocol with an advanced practice registered nurse ~~advanced registered nurse practitioner~~, which protocol contemplates the performance of medical acts or acts set forth in s. 464.012(3) and (4), the osteopathic physician shall submit notice to the board. The notice must contain a statement in substantially the following form:

I, ...(name and professional license number of osteopathic physician)..., of ...(address of osteopathic physician)... have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with ...(number of persons)... emergency medical technician(s), ...(number of persons)... paramedic(s), or ...(number of persons)... advanced practice registered nurse(s) ~~advanced registered nurse practitioner(s)~~.

(3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.—

An osteopathic physician who supervises an advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant at a medical office other than the osteopathic physician's primary practice location, where the advanced practice registered nurse ~~advanced registered nurse~~



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2176 ~~practitioner~~ or physician assistant is not under the onsite  
2177 supervision of a supervising osteopathic physician, must comply  
2178 with the standards set forth in this subsection. For the purpose  
2179 of this subsection, an osteopathic physician's "primary practice  
2180 location" means the address reflected on the physician's profile  
2181 published pursuant to s. 456.041.

2182 (a) An osteopathic physician who is engaged in providing  
2183 primary health care services may not supervise more than four  
2184 offices in addition to the osteopathic physician's primary  
2185 practice location. For the purpose of this subsection, "primary  
2186 health care" means health care services that are commonly  
2187 provided to patients without referral from another practitioner,  
2188 including obstetrical and gynecological services, and excludes  
2189 practices providing primarily dermatologic and skin care  
2190 services, which include aesthetic skin care services.

2191 (b) An osteopathic physician who is engaged in providing  
2192 specialty health care services may not supervise more than two  
2193 offices in addition to the osteopathic physician's primary  
2194 practice location. For the purpose of this subsection,  
2195 "specialty health care" means health care services that are  
2196 commonly provided to patients with a referral from another  
2197 practitioner and excludes practices providing primarily  
2198 dermatologic and skin care services, which include aesthetic  
2199 skin care services.

2200 (c) An osteopathic physician who supervises an advanced  
2201 practice registered nurse ~~advanced registered nurse practitioner~~  
2202 or physician assistant at a medical office other than the  
2203 osteopathic physician's primary practice location, where the  
2204 advanced practice registered nurse ~~advanced registered nurse~~

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2205 ~~practitioner~~ or physician assistant is not under the onsite  
2206 supervision of a supervising osteopathic physician and the  
2207 services offered at the office are primarily dermatologic or  
2208 skin care services, which include aesthetic skin care services  
2209 other than plastic surgery, must comply with the standards  
2210 listed in subparagraphs 1.-4. Notwithstanding s.  
2211 459.022(4)(e)6., an osteopathic physician supervising a  
2212 physician assistant pursuant to this paragraph may not be  
2213 required to review and cosign charts or medical records prepared  
2214 by such physician assistant.

2215 1. The osteopathic physician shall submit to the Board of  
2216 Osteopathic Medicine the addresses of all offices where he or  
2217 she is supervising or has a protocol with an advanced practice  
2218 registered nurse ~~advanced registered nurse practitioner~~ or a  
2219 physician's assistant which are not the osteopathic physician's  
2220 primary practice location.

2221 2. The osteopathic physician must be board certified or  
2222 board eligible in dermatology or plastic surgery as recognized  
2223 by the Board of Osteopathic Medicine pursuant to s. 459.0152.

2224 3. All such offices that are not the osteopathic  
2225 physician's primary place of practice must be within 25 miles of  
2226 the osteopathic physician's primary place of practice or in a  
2227 county that is contiguous to the county of the osteopathic  
2228 physician's primary place of practice. However, the distance  
2229 between any of the offices may not exceed 75 miles.

2230 4. The osteopathic physician may supervise only one office  
2231 other than the osteopathic physician's primary place of practice  
2232 except that until July 1, 2011, the osteopathic physician may  
2233 supervise up to two medical offices other than the osteopathic

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physician's primary place of practice if the addresses of the offices are submitted to the Board of Osteopathic Medicine before July 1, 2006. Effective July 1, 2011, the osteopathic physician may supervise only one office other than the osteopathic physician's primary place of practice, regardless of when the addresses of the offices were submitted to the Board of Osteopathic Medicine.

(d) An osteopathic physician who supervises an office in addition to the osteopathic physician's primary practice location must conspicuously post in each of the osteopathic physician's offices a current schedule of the regular hours when the osteopathic physician is present in that office and the hours when the office is open while the osteopathic physician is not present.

(e) This subsection does not apply to health care services provided in facilities licensed under chapter 395 or in conjunction with a college of medicine or college of nursing or an accredited graduate medical or nursing education program; offices where the only service being performed is hair removal by an advanced practice registered nurse ~~advanced registered nurse practitioner~~ or physician assistant; not-for-profit, family-planning clinics that are not licensed pursuant to chapter 390; rural and federally qualified health centers; health care services provided in a nursing home licensed under part II of chapter 400, an assisted living facility licensed under part I of chapter 429, a continuing care facility licensed under chapter 651, or a retirement community consisting of independent living units and either a licensed nursing home or assisted living facility; anesthesia services provided in

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2263 accordance with law; health care services provided in a  
2264 designated rural health clinic; health care services provided to  
2265 persons enrolled in a program designed to maintain elderly  
2266 persons and persons with disabilities in a home or community-  
2267 based setting; university primary care student health centers;  
2268 school health clinics; or health care services provided in  
2269 federal, state, or local government facilities.

2270 Section 55. Subsection (2) of section 464.003, Florida  
2271 Statutes, is amended to read:

2272 464.003 Definitions.—As used in this part, the term:

2273 (2) "Advanced or specialized nursing practice" means, in  
2274 addition to the practice of professional nursing, the  
2275 performance of advanced-level nursing acts approved by the board  
2276 which, by virtue of postbasic specialized education, training,  
2277 and experience, are appropriately performed by an advanced  
2278 practice registered nurse ~~advanced registered nurse~~  
2279 ~~practitioner~~. Within the context of advanced or specialized  
2280 nursing practice, the advanced practice registered nurse  
2281 ~~advanced registered nurse practitioner~~ may perform acts of  
2282 nursing diagnosis and nursing treatment of alterations of the  
2283 health status. The advanced practice registered nurse ~~advanced~~  
2284 ~~registered nurse practitioner~~ may also perform acts of medical  
2285 diagnosis and treatment, prescription, and operation as  
2286 authorized within the framework of an established supervisory  
2287 protocol. The department may, by rule, require that a copy of  
2288 the protocol be filed with the department along with the notice  
2289 required by s. 458.348.

2290 Section 56. Subsection (2) of section 464.004, Florida  
2291 Statutes, is amended to read:

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464.004 Board of Nursing; membership; appointment; terms.—

(2) Seven members of the board must be registered nurses who are residents of this state and who have been engaged in the practice of professional nursing for at least 4 years, including at least one advanced practice registered nurse ~~advanced registered nurse practitioner~~, one nurse educator member of an approved program, and one nurse executive. These seven board members should be representative of the diverse areas of practice within the nursing profession. In addition, three members of the board must be licensed practical nurses who are residents of this state and who have been actively engaged in the practice of practical nursing for at least 4 years prior to their appointment. The remaining three members must be residents of the state who have never been licensed as nurses and who are in no way connected with the practice of nursing. No person may be appointed as a lay member who is in any way connected with, or has any financial interest in, any health care facility, agency, or insurer. At least one member of the board must be 60 years of age or older.

Section 57. Paragraph (b) of subsection (3) of section 464.013, Florida Statutes, is amended to read:

464.013 Renewal of license or certificate.—

(3) The board shall by rule prescribe up to 30 hours of continuing education biennially as a condition for renewal of a license or certificate.

(b) Notwithstanding the exemption in paragraph (a), as part of the maximum 30 hours of continuing education hours required under this subsection, advanced practice registered nurses ~~advanced registered nurse practitioners~~ certified under s.

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464.012 must complete at least 3 hours of continuing education on the safe and effective prescription of controlled substances. Such continuing education courses must be offered by a statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award Category 1 credit, the American Nurses Credentialing Center, the American Association of Nurse Anesthetists, or the American Association of Nurse Practitioners and may be offered in a distance learning format.

Section 58. Subsections (8) and (9) of section 464.015, Florida Statutes, are amended to read:

464.015 Titles and abbreviations; restrictions; penalty.—

(8) Only persons who hold valid certificates to practice as advanced practice registered nurses ~~advanced registered nurse practitioners~~ in this state may use the title "Advanced Practice Registered Nurse" ~~"Advanced Registered Nurse Practitioner"~~ and the abbreviation "A.P.R.N." ~~"A.R.N.P."~~

(9) A person may not practice or advertise as, or assume the title of, registered nurse, licensed practical nurse, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ or use the abbreviation "R.N.," "L.P.N.," "C.N.S.," "C.R.N.A.," "C.N.M.," or "A.P.R.N." ~~"A.R.N.P."~~ or take any other action that would lead the public to believe that person was certified as such or is performing nursing services pursuant to the exception set forth in s. 464.022(8), unless that person is licensed or certified to practice as such.

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Section 59. Section 9 of chapter 2016-139, Laws of Florida, is amended to read:

Section 9. Subsections (1), (2), and (9) of section 464.015, Florida Statutes, are amended to read:

464.015 Titles and abbreviations; restrictions; penalty.—

(1) Only a person who holds a license in this state or a multistate license pursuant to s. 464.0095 to practice professional nursing or who performs nursing services pursuant to the exception set forth in s. 464.022(8) may use the title "Registered Nurse" and the abbreviation "R.N."

(2) Only a person who holds a license in this state or a multistate license pursuant to s. 464.0095 to practice as a licensed practical nurse or who performs practical nursing services pursuant to the exception set forth in s. 464.022(8) may use the title "Licensed Practical Nurse" and the abbreviation "L.P.N."

(9) A person may not practice or advertise as, or assume the title of, registered nurse, licensed practical nurse, clinical nurse specialist, certified registered nurse anesthetist, certified nurse midwife, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ or use the abbreviation "R.N.," "L.P.N.," "C.N.S.," "C.R.N.A.," "C.N.M.," or "A.P.R.N." ~~"A.R.N.P."~~ or take any other action that would lead the public to believe that person was authorized by law to practice as such or is performing nursing services pursuant to the exception set forth in s. 464.022(8) unless that person is licensed, certified, or authorized pursuant to s. 464.0095 to practice as such.

Section 60. Paragraph (a) of subsection (2) of section

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464.016, Florida Statutes, is amended to read:

464.016 Violations and penalties.—

(2) Each of the following acts constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083:

(a) Using the name or title "Nurse," "Registered Nurse," "Licensed Practical Nurse," "Clinical Nurse Specialist," "Certified Registered Nurse Anesthetist," "Certified Nurse Midwife," "Advanced Practice Registered Nurse," ~~"Advanced Registered Nurse Practitioner,"~~ or any other name or title which implies that a person was licensed or certified as same, unless such person is duly licensed or certified.

Section 61. Paragraphs (p) and (q) of subsection (1) of section 464.018, Florida Statutes, are amended to read:

464.018 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(p) For an advanced practice registered nurse ~~advanced registered nurse practitioner~~:

1. Presigning blank prescription forms.

2. Prescribing for office use any medicinal drug appearing on Schedule II in chapter 893.

3. Prescribing, ordering, dispensing, administering, supplying, selling, or giving a drug that is an amphetamine, a sympathomimetic amine drug, or a compound designated in s. 893.03(2) as a Schedule II controlled substance, to or for any person except for:

a. The treatment of narcolepsy; hyperkinesia; behavioral syndrome in children characterized by the developmentally



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inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

b. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities.

c. The clinical investigation of the effects of such drugs or compounds when an investigative protocol is submitted to, reviewed by, and approved by the department before such investigation is begun.

4. Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. As used in this subparagraph, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products identified in this subparagraph may be dispensed by a pharmacist with the presumption that the prescription is for legitimate medical use.

5. Promoting or advertising on any prescription form a community pharmacy unless the form also states: "This prescription may be filled at any pharmacy of your choice."

6. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including a controlled substance, other than in the course of his or her professional practice. For the purposes of this subparagraph, it is legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate

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quantities is not in the best interest of the patient and is not in the course of the advanced practice registered nurse's ~~advanced registered nurse practitioner's~~ professional practice, without regard to his or her intent.

7. Prescribing, dispensing, or administering a medicinal drug appearing on any schedule set forth in chapter 893 to himself or herself, except a drug prescribed, dispensed, or administered to the advanced practice registered nurse ~~advanced registered nurse practitioner~~ by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

8. Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

9. Dispensing a substance designated in s. 893.03(2) or (3) as a substance controlled in Schedule II or Schedule III, respectively, in violation of s. 465.0276.

10. Promoting or advertising through any communication medium the use, sale, or dispensing of a substance designated in s. 893.03 as a controlled substance.

(q) For a psychiatric nurse:

1. Presigning blank prescription forms.

2. Prescribing for office use any medicinal drug appearing in Schedule II of s. 893.03.

3. Prescribing, ordering, dispensing, administering, supplying, selling, or giving a drug that is an amphetamine, a sympathomimetic amine drug, or a compound designated in s. 893.03(2) as a Schedule II controlled substance, to or for any person except for:

a. The treatment of narcolepsy; hyperkinesis; behavioral

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syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

b. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities.

c. The clinical investigation of the effects of such drugs or compounds when an investigative protocol is submitted to, reviewed by, and approved by the department before such investigation is begun.

4. Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. As used in this subparagraph, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products identified in this subparagraph may be dispensed by a pharmacist with the presumption that the prescription is for legitimate medical use.

5. Promoting or advertising on any prescription form a community pharmacy unless the form also states: "This prescription may be filled at any pharmacy of your choice."

6. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including a controlled substance, other than in the course of his or her professional practice. For the purposes of this subparagraph, it is legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled

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substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the advanced practice registered nurse's ~~advanced registered nurse practitioner's~~ professional practice, without regard to his or her intent.

7. Prescribing, dispensing, or administering a medicinal drug appearing on any schedule set forth in chapter 893 to himself or herself, except a drug prescribed, dispensed, or administered to the psychiatric nurse by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

8. Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

9. Dispensing a substance designated in s. 893.03(2) or (3) as a substance controlled in Schedule II or Schedule III, respectively, in violation of s. 465.0276.

10. Promoting or advertising through any communication medium the use, sale, or dispensing of a substance designated in s. 893.03 as a controlled substance.

Section 62. Section 10 of chapter 2016-139, Laws of Florida, as amended, is amended to read:

Section 10. Subsections (1) and (2) of section 464.018, Florida Statutes, are amended to read:

464.018 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in ss. 456.072(2) and 464.0095:

(a) Procuring, attempting to procure, or renewing a license

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to practice nursing or the authority to practice practical or professional nursing pursuant to s. 464.0095 by bribery, by knowing misrepresentations, or through an error of the department or the board.

(b) Having a license to practice nursing revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of another state, territory, or country.

(c) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the practice of nursing or to the ability to practice nursing.

(d) Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, any of the following offenses:

1. A forcible felony as defined in chapter 776.

2. A violation of chapter 812, relating to theft, robbery, and related crimes.

3. A violation of chapter 817, relating to fraudulent practices.

4. A violation of chapter 800, relating to lewdness and indecent exposure.

5. A violation of chapter 784, relating to assault, battery, and culpable negligence.

6. A violation of chapter 827, relating to child abuse.

7. A violation of chapter 415, relating to protection from abuse, neglect, and exploitation.

8. A violation of chapter 39, relating to child abuse, abandonment, and neglect.

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2553 9. For an applicant for a multistate license or for a  
2554 multistate licenseholder under s. 464.0095, a felony offense  
2555 under Florida law or federal criminal law.

2556 (e) Having been found guilty of, regardless of  
2557 adjudication, or entered a plea of nolo contendere or guilty to,  
2558 any offense prohibited under s. 435.04 or similar statute of  
2559 another jurisdiction; or having committed an act which  
2560 constitutes domestic violence as defined in s. 741.28.

2561 (f) Making or filing a false report or record, which the  
2562 nurse knows to be false, intentionally or negligently failing to  
2563 file a report or record required by state or federal law,  
2564 willfully impeding or obstructing such filing or inducing  
2565 another person to do so. Such reports or records shall include  
2566 only those which are signed in the nurse's capacity as a  
2567 licensed nurse.

2568 (g) False, misleading, or deceptive advertising.

2569 (h) Unprofessional conduct, as defined by board rule.

2570 (i) Engaging or attempting to engage in the possession,  
2571 sale, or distribution of controlled substances as set forth in  
2572 chapter 893, for any other than legitimate purposes authorized  
2573 by this part.

2574 (j) Being unable to practice nursing with reasonable skill  
2575 and safety to patients by reason of illness or use of alcohol,  
2576 drugs, narcotics, or chemicals or any other type of material or  
2577 as a result of any mental or physical condition. In enforcing  
2578 this paragraph, the department shall have, upon a finding of the  
2579 State Surgeon General or the State Surgeon General's designee  
2580 that probable cause exists to believe that the nurse is unable  
2581 to practice nursing because of the reasons stated in this

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paragraph, the authority to issue an order to compel a nurse to submit to a mental or physical examination by physicians designated by the department. If the nurse refuses to comply with such order, the department's order directing such examination may be enforced by filing a petition for enforcement in the circuit court where the nurse resides or does business. The nurse against whom the petition is filed shall not be named or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A nurse affected by this paragraph shall at reasonable intervals be afforded an opportunity to demonstrate that she or he can resume the competent practice of nursing with reasonable skill and safety to patients.

(k) Failing to report to the department any person who the nurse knows is in violation of this part or of the rules of the department or the board. However, a person who the licensee knows is unable to practice nursing with reasonable skill and safety to patients by reason of illness or use of alcohol, drugs, narcotics, chemicals, or any other type of material, or as a result of a mental or physical condition, may be reported to a consultant operating an impaired practitioner program as described in s. 456.076 rather than to the department.

(l) Knowingly violating any provision of this part, a rule of the board or the department, or a lawful order of the board or department previously entered in a disciplinary proceeding or failing to comply with a lawfully issued subpoena of the department.

(m) Failing to report to the department any licensee under

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chapter 458 or under chapter 459 who the nurse knows has violated the grounds for disciplinary action set out in the law under which that person is licensed and who provides health care services in a facility licensed under chapter 395, or a health maintenance organization certificated under part I of chapter 641, in which the nurse also provides services.

(n) Failing to meet minimal standards of acceptable and prevailing nursing practice, including engaging in acts for which the nurse is not qualified by training or experience.

(o) Violating any provision of this chapter or chapter 456, or any rules adopted pursuant thereto.

(p) For an advanced practice registered nurse ~~advanced registered nurse practitioner~~:

1. Presigning blank prescription forms.

2. Prescribing for office use any medicinal drug appearing on Schedule II in chapter 893.

3. Prescribing, ordering, dispensing, administering, supplying, selling, or giving a drug that is an amphetamine, a sympathomimetic amine drug, or a compound designated in s. 893.03(2) as a Schedule II controlled substance, to or for any person except for:

a. The treatment of narcolepsy; hyperkinesis; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

b. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities.



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c. The clinical investigation of the effects of such drugs or compounds when an investigative protocol is submitted to, reviewed by, and approved by the department before such investigation is begun.

4. Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. As used in this subparagraph, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products identified in this subparagraph may be dispensed by a pharmacist with the presumption that the prescription is for legitimate medical use.

5. Promoting or advertising on any prescription form a community pharmacy unless the form also states: "This prescription may be filled at any pharmacy of your choice."

6. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including a controlled substance, other than in the course of his or her professional practice. For the purposes of this subparagraph, it is legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the advanced practice registered nurse's ~~advanced registered nurse practitioner's~~ professional practice, without regard to his or her intent.

7. Prescribing, dispensing, or administering a medicinal drug appearing on any schedule set forth in chapter 893 to

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himself or herself, except a drug prescribed, dispensed, or administered to the advanced practice registered nurse ~~advanced registered nurse practitioner~~ by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

8. Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

9. Dispensing a substance designated in s. 893.03(2) or (3) as a substance controlled in Schedule II or Schedule III, respectively, in violation of s. 465.0276.

10. Promoting or advertising through any communication medium the use, sale, or dispensing of a substance designated in s. 893.03 as a controlled substance.

(q) For a psychiatric nurse:

1. Presigning blank prescription forms.

2. Prescribing for office use any medicinal drug appearing in Schedule II of s. 893.03.

3. Prescribing, ordering, dispensing, administering, supplying, selling, or giving a drug that is an amphetamine, a sympathomimetic amine drug, or a compound designated in s. 893.03(2) as a Schedule II controlled substance, to or for any person except for:

a. The treatment of narcolepsy; hyperkinesia; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

b. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory

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to other therapeutic modalities.

c. The clinical investigation of the effects of such drugs or compounds when an investigative protocol is submitted to, reviewed by, and approved by the department before such investigation is begun.

4. Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. As used in this subparagraph, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products identified in this subparagraph may be dispensed by a pharmacist with the presumption that the prescription is for legitimate medical use.

5. Promoting or advertising on any prescription form a community pharmacy unless the form also states: "This prescription may be filled at any pharmacy of your choice."

6. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including a controlled substance, other than in the course of his or her professional practice. For the purposes of this subparagraph, it is legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the advanced practice registered nurse's ~~advanced registered nurse practitioner's~~ professional practice, without regard to his or her intent.

7. Prescribing, dispensing, or administering a medicinal

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2727 drug appearing on any schedule set forth in chapter 893 to  
2728 himself or herself, except a drug prescribed, dispensed, or  
2729 administered to the psychiatric nurse by another practitioner  
2730 authorized to prescribe, dispense, or administer medicinal  
2731 drugs.

2732 8. Prescribing, ordering, dispensing, administering,  
2733 supplying, selling, or giving amygdalin (laetrile) to any  
2734 person.

2735 9. Dispensing a substance designated in s. 893.03(2) or (3)  
2736 as a substance controlled in Schedule II or Schedule III,  
2737 respectively, in violation of s. 465.0276.

2738 10. Promoting or advertising through any communication  
2739 medium the use, sale, or dispensing of a substance designated in  
2740 s. 893.03 as a controlled substance.

2741 (2)(a) The board may enter an order denying licensure or  
2742 imposing any of the penalties in s. 456.072(2) against any  
2743 applicant for licensure or nurse who is found guilty of  
2744 violating subsection (1) or s. 456.072(1).

2745 (b) The board may take adverse action against a nurse's  
2746 multistate licensure privilege and impose any of the penalties  
2747 in s. 456.072(2) when the nurse is found guilty of violating  
2748 subsection (1) or s. 456.072(1).

2749 Section 63. Paragraph (a) of subsection (4) of section  
2750 464.0205, Florida Statutes, is amended to read:

2751 464.0205 Retired volunteer nurse certificate.—

2752 (4) A retired volunteer nurse receiving certification from  
2753 the board shall:

2754 (a) Work under the direct supervision of the director of a  
2755 county health department, a physician working under a limited

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license issued pursuant to s. 458.317 or s. 459.0075, a physician licensed under chapter 458 or chapter 459, an advanced practice registered nurse ~~advanced registered nurse practitioner~~ certified under s. 464.012, or a registered nurse licensed under s. 464.008 or s. 464.009.

Section 64. Subsection (2) of section 467.003, Florida Statutes, is amended to read:

467.003 Definitions.—As used in this chapter, unless the context otherwise requires:

(2) "Certified nurse midwife" means a person who is licensed as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ under part I of chapter 464 and who is certified to practice midwifery by the American College of Nurse Midwives.

Section 65. Subsection (1) of section 480.0475, Florida Statutes, is amended to read:

480.0475 Massage establishments; prohibited practices.—

(1) A person may not operate a massage establishment between the hours of midnight and 5 a.m. This subsection does not apply to a massage establishment:

(a) Located on the premises of a health care facility as defined in s. 408.07; a health care clinic as defined in s. 400.9905(4); a hotel, motel, or bed and breakfast inn, as those terms are defined in s. 509.242; a timeshare property as defined in s. 721.05; a public airport as defined in s. 330.27; or a pari-mutuel facility as defined in s. 550.002;

(b) In which every massage performed between the hours of midnight and 5 a.m. is performed by a massage therapist acting under the prescription of a physician or physician assistant

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licensed under chapter 458, an osteopathic physician or  
physician assistant licensed under chapter 459, a chiropractic  
physician licensed under chapter 460, a podiatric physician  
licensed under chapter 461, an advanced practice registered  
nurse ~~advanced registered nurse practitioner~~ licensed under part  
I of chapter 464, or a dentist licensed under chapter 466; or

(c) Operating during a special event if the county or  
municipality in which the establishment operates has approved  
such operation during the special event.

Section 66. Subsection (7) of section 483.041, Florida  
Statutes, is amended to read:

483.041 Definitions.—As used in this part, the term:

(7) "Licensed practitioner" means a physician licensed  
under chapter 458, chapter 459, chapter 460, or chapter 461; a  
certified optometrist licensed under chapter 463; a dentist  
licensed under chapter 466; a person licensed under chapter 462;  
a consultant pharmacist or doctor of pharmacy licensed under  
chapter 465; or an advanced practice registered nurse ~~advanced~~  
~~registered nurse practitioner~~ licensed under part I of chapter  
464; or a duly licensed practitioner from another state licensed  
under similar statutes who orders examinations on materials or  
specimens for nonresidents of the State of Florida, but who  
reside in the same state as the requesting licensed  
practitioner.

Section 67. Subsection (5) of section 483.801, Florida  
Statutes, is amended to read:

483.801 Exemptions.—This part applies to all clinical  
laboratories and clinical laboratory personnel within this  
state, except:

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(5) Advanced practice registered nurses ~~advanced registered nurse practitioners~~ licensed under part I of chapter 464 who perform provider-performed microscopy procedures (PPMP) in an exclusive-use laboratory setting.

Section 68. Paragraph (a) of subsection (11) of section 486.021, Florida Statutes, is amended to read:

486.021 Definitions.—In this chapter, unless the context otherwise requires, the term:

(11) "Practice of physical therapy" means the performance of physical therapy assessments and the treatment of any disability, injury, disease, or other health condition of human beings, or the prevention of such disability, injury, disease, or other condition of health, and rehabilitation as related thereto by the use of the physical, chemical, and other properties of air; electricity; exercise; massage; the performance of acupuncture only upon compliance with the criteria set forth by the Board of Medicine, when no penetration of the skin occurs; the use of radiant energy, including ultraviolet, visible, and infrared rays; ultrasound; water; the use of apparatus and equipment in the application of the foregoing or related thereto; the performance of tests of neuromuscular functions as an aid to the diagnosis or treatment of any human condition; or the performance of electromyography as an aid to the diagnosis of any human condition only upon compliance with the criteria set forth by the Board of Medicine.

(a) A physical therapist may implement a plan of treatment developed by the physical therapist for a patient or provided for a patient by a practitioner of record or by an advanced practice registered nurse ~~advanced registered nurse practitioner~~

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licensed under s. 464.012. The physical therapist shall refer the patient to or consult with a practitioner of record if the patient's condition is found to be outside the scope of physical therapy. If physical therapy treatment for a patient is required beyond 30 days for a condition not previously assessed by a practitioner of record, the physical therapist shall have a practitioner of record review and sign the plan. The requirement that a physical therapist have a practitioner of record review and sign a plan of treatment does not apply when a patient has been physically examined by a physician licensed in another state, the patient has been diagnosed by the physician as having a condition for which physical therapy is required, and the physical therapist is treating the condition. For purposes of this paragraph, a health care practitioner licensed under chapter 458, chapter 459, chapter 460, chapter 461, or chapter 466 and engaged in active practice is eligible to serve as a practitioner of record.

Section 69. Paragraph (d) of subsection (1) of section 490.012, Florida Statutes, is amended to read:

490.012 Violations; penalties; injunction.-

(1)

(d) A person may not ~~No person shall~~ hold herself or himself out by any title or description incorporating the word, or a permutation of the word, "psychotherapy" unless such person holds a valid, active license under chapter 458, chapter 459, chapter 490, or chapter 491, or such person is certified as an advanced practice registered nurse ~~advanced registered nurse practitioner~~, pursuant to s. 464.012, who has been determined by the Board of Nursing as a specialist in psychiatric mental



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health.

Section 70. Subsection (1) of section 491.0057, Florida Statutes, is amended to read:

491.0057 Dual licensure as a marriage and family therapist.—The department shall license as a marriage and family therapist any person who demonstrates to the board that he or she:

(1) Holds a valid, active license as a psychologist under chapter 490 or as a clinical social worker or mental health counselor under this chapter, or is certified under s. 464.012 as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ who has been determined by the Board of Nursing as a specialist in psychiatric mental health.

Section 71. Paragraph (d) of subsection (1) and subsection (2) of section 491.012, Florida Statutes, are amended to read:

491.012 Violations; penalty; injunction.—

(1) It is unlawful and a violation of this chapter for any person to:

(d) Use the terms psychotherapist, sex therapist, or juvenile sexual offender therapist unless such person is licensed pursuant to this chapter or chapter 490, or is certified under s. 464.012 as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ who has been determined by the Board of Nursing as a specialist in psychiatric mental health and the use of such terms is within the scope of her or his practice based on education, training, and licensure.

(2) It is unlawful and a violation of this chapter for any person to describe her or his services using the following terms

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or any derivative thereof, unless such person holds a valid, active license under this chapter or chapter 490, or is certified under s. 464.012 as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ who has been determined by the Board of Nursing as a specialist in psychiatric mental health and the use of such terms is within the scope of her or his practice based on education, training, and licensure:

- (a) "Psychotherapy."
- (b) "Sex therapy."
- (c) "Sex counseling."
- (d) "Clinical social work."
- (e) "Psychiatric social work."
- (f) "Marriage and family therapy."
- (g) "Marriage and family counseling."
- (h) "Marriage counseling."
- (i) "Family counseling."
- (j) "Mental health counseling."

Section 72. Subsection (2) of section 493.6108, Florida Statutes, is amended to read:

493.6108 Investigation of applicants by Department of Agriculture and Consumer Services.—

(2) In addition to subsection (1), the department shall make an investigation of the general physical fitness of the Class "G" applicant to bear a weapon or firearm. Determination of physical fitness shall be certified by a physician or physician assistant currently licensed pursuant to chapter 458, chapter 459, or any similar law of another state or authorized to act as a licensed physician by a federal agency or department

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or by an advanced practice registered nurse ~~advanced registered nurse practitioner~~ currently licensed pursuant to chapter 464. Such certification shall be submitted on a form provided by the department.

Section 73. Paragraph (b) of subsection (1) of section 627.357, Florida Statutes, is amended to read:

627.357 Medical malpractice self-insurance.—

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

(b) "Health care provider" means any:

1. Hospital licensed under chapter 395.

2. Physician licensed, or physician assistant licensed, under chapter 458.

3. Osteopathic physician or physician assistant licensed under chapter 459.

4. Podiatric physician licensed under chapter 461.

5. Health maintenance organization certificated under part I of chapter 641.

6. Ambulatory surgical center licensed under chapter 395.

7. Chiropractic physician licensed under chapter 460.

8. Psychologist licensed under chapter 490.

9. Optometrist licensed under chapter 463.

10. Dentist licensed under chapter 466.

11. Pharmacist licensed under chapter 465.

12. Registered nurse, licensed practical nurse, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed or registered under part I of chapter 464.

13. Other medical facility.

14. Professional association, partnership, corporation, joint venture, or other association established by the

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individuals set forth in subparagraphs 2., 3., 4., 7., 8., 9., 10., 11., and 12. for professional activity.

Section 74. Subsection (6) of section 627.6471, Florida Statutes, is amended to read:

627.6471 Contracts for reduced rates of payment; limitations; coinsurance and deductibles.—

(6) If psychotherapeutic services are covered by a policy issued by the insurer, the insurer shall provide eligibility criteria for each group of health care providers licensed under chapter 458, chapter 459, chapter 490, or chapter 491, which include psychotherapy within the scope of their practice as provided by law, or for any person who is certified as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ in psychiatric mental health under s. 464.012. When psychotherapeutic services are covered, eligibility criteria shall be established by the insurer to be included in the insurer's criteria for selection of network providers. The insurer may not discriminate against a health care provider by excluding such practitioner from its provider network solely on the basis of the practitioner's license.

Section 75. Subsections (15) and (17) of section 627.6472, Florida Statutes, are amended to read:

627.6472 Exclusive provider organizations.—

(15) If psychotherapeutic services are covered by a policy issued by the insurer, the insurer shall provide eligibility criteria for all groups of health care providers licensed under chapter 458, chapter 459, chapter 490, or chapter 491, which include psychotherapy within the scope of their practice as provided by law, or for any person who is certified as an

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2988 advanced practice registered nurse ~~advanced registered nurse~~  
2989 ~~practitioner~~ in psychiatric mental health under s. 464.012. When  
2990 psychotherapeutic services are covered, eligibility criteria  
2991 shall be established by the insurer to be included in the  
2992 insurer's criteria for selection of network providers. The  
2993 insurer may not discriminate against a health care provider by  
2994 excluding such practitioner from its provider network solely on  
2995 the basis of the practitioner's license.

2996 (17) An exclusive provider organization shall not  
2997 discriminate with respect to participation as to any advanced  
2998 practice registered nurse ~~advanced registered nurse practitioner~~  
2999 licensed and certified pursuant to s. 464.012, who is acting  
3000 within the scope of such license and certification, solely on  
3001 the basis of such license or certification. This subsection  
3002 shall not be construed to prohibit a plan from including  
3003 providers only to the extent necessary to meet the needs of the  
3004 plan's enrollees or from establishing any measure designed to  
3005 maintain quality and control costs consistent with the  
3006 responsibilities of the plan.

3007 Section 76. Paragraph (a) of subsection (1) of section  
3008 627.736, Florida Statutes, is amended to read:

3009 627.736 Required personal injury protection benefits;  
3010 exclusions; priority; claims.—

3011 (1) REQUIRED BENEFITS.—An insurance policy complying with  
3012 the security requirements of s. 627.733 must provide personal  
3013 injury protection to the named insured, relatives residing in  
3014 the same household, persons operating the insured motor vehicle,  
3015 passengers in the motor vehicle, and other persons struck by the  
3016 motor vehicle and suffering bodily injury while not an occupant

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of a self-propelled vehicle, subject to subsection (2) and paragraph (4)(e), to a limit of \$10,000 in medical and disability benefits and \$5,000 in death benefits resulting from bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

(a) *Medical benefits.*—Eighty percent of all reasonable expenses for medically necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices and medically necessary ambulance, hospital, and nursing services if the individual receives initial services and care pursuant to subparagraph 1. within 14 days after the motor vehicle accident. The medical benefits provide reimbursement only for:

1. Initial services and care that are lawfully provided, supervised, ordered, or prescribed by a physician licensed under chapter 458 or chapter 459, a dentist licensed under chapter 466, or a chiropractic physician licensed under chapter 460 or that are provided in a hospital or in a facility that owns, or is wholly owned by, a hospital. Initial services and care may also be provided by a person or entity licensed under part III of chapter 401 which provides emergency transportation and treatment.

2. Upon referral by a provider described in subparagraph 1., followup services and care consistent with the underlying medical diagnosis rendered pursuant to subparagraph 1. which may be provided, supervised, ordered, or prescribed only by a physician licensed under chapter 458 or chapter 459, a chiropractic physician licensed under chapter 460, a dentist licensed under chapter 466, or, to the extent permitted by

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applicable law and under the supervision of such physician,  
osteopathic physician, chiropractic physician, or dentist, by a  
physician assistant licensed under chapter 458 or chapter 459 or  
an advanced practice registered nurse ~~advanced registered nurse~~  
~~practitioner~~ licensed under chapter 464. Followup services and

care may also be provided by the following persons or entities:

a. A hospital or ambulatory surgical center licensed under  
chapter 395.

b. An entity wholly owned by one or more physicians  
licensed under chapter 458 or chapter 459, chiropractic  
physicians licensed under chapter 460, or dentists licensed  
under chapter 466 or by such practitioners and the spouse,  
parent, child, or sibling of such practitioners.

c. An entity that owns or is wholly owned, directly or  
indirectly, by a hospital or hospitals.

d. A physical therapist licensed under chapter 486, based  
upon a referral by a provider described in this subparagraph.

e. A health care clinic licensed under part X of chapter  
400 which is accredited by an accrediting organization whose  
standards incorporate comparable regulations required by this  
state, or

(I) Has a medical director licensed under chapter 458,  
chapter 459, or chapter 460;

(II) Has been continuously licensed for more than 3 years  
or is a publicly traded corporation that issues securities  
traded on an exchange registered with the United States  
Securities and Exchange Commission as a national securities  
exchange; and

(III) Provides at least four of the following medical

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specialties:

(A) General medicine.

(B) Radiography.

(C) Orthopedic medicine.

(D) Physical medicine.

(E) Physical therapy.

(F) Physical rehabilitation.

(G) Prescribing or dispensing outpatient prescription medication.

(H) Laboratory services.

3. Reimbursement for services and care provided in subparagraph 1. or subparagraph 2. up to \$10,000 if a physician licensed under chapter 458 or chapter 459, a dentist licensed under chapter 466, a physician assistant licensed under chapter 458 or chapter 459, or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under chapter 464 has determined that the injured person had an emergency medical condition.

4. Reimbursement for services and care provided in subparagraph 1. or subparagraph 2. is limited to \$2,500 if a provider listed in subparagraph 1. or subparagraph 2. determines that the injured person did not have an emergency medical condition.

5. Medical benefits do not include massage as defined in s. 480.033 or acupuncture as defined in s. 457.102, regardless of the person, entity, or licensee providing massage or acupuncture, and a licensed massage therapist or licensed acupuncturist may not be reimbursed for medical benefits under this section.



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3104           6. The Financial Services Commission shall adopt by rule  
3105 the form that must be used by an insurer and a health care  
3106 provider specified in sub-subparagraph 2.b., sub-subparagraph  
3107 2.c., or sub-subparagraph 2.e. to document that the health care  
3108 provider meets the criteria of this paragraph. Such rule must  
3109 include a requirement for a sworn statement or affidavit.

3110  
3111 Only insurers writing motor vehicle liability insurance in this  
3112 state may provide the required benefits of this section, and  
3113 such insurer may not require the purchase of any other motor  
3114 vehicle coverage other than the purchase of property damage  
3115 liability coverage as required by s. 627.7275 as a condition for  
3116 providing such benefits. Insurers may not require that property  
3117 damage liability insurance in an amount greater than \$10,000 be  
3118 purchased in conjunction with personal injury protection. Such  
3119 insurers shall make benefits and required property damage  
3120 liability insurance coverage available through normal marketing  
3121 channels. An insurer writing motor vehicle liability insurance  
3122 in this state who fails to comply with such availability  
3123 requirement as a general business practice violates part IX of  
3124 chapter 626, and such violation constitutes an unfair method of  
3125 competition or an unfair or deceptive act or practice involving  
3126 the business of insurance. An insurer committing such violation  
3127 is subject to the penalties provided under that part, as well as  
3128 those provided elsewhere in the insurance code.

3129           Section 77. Subsection (5) of section 633.412, Florida  
3130 Statutes, is amended to read:

3131           633.412 Firefighters; qualifications for certification.—A  
3132 person applying for certification as a firefighter must:

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(5) Be in good physical condition as determined by a medical examination given by a physician, surgeon, or physician assistant licensed to practice in the state pursuant to chapter 458; an osteopathic physician, surgeon, or physician assistant licensed to practice in the state pursuant to chapter 459; or an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed to practice in the state pursuant to chapter 464. Such examination may include, but need not be limited to, the National Fire Protection Association Standard 1582. A medical examination evidencing good physical condition shall be submitted to the division, on a form as provided by rule, before an individual is eligible for admission into a course under s. 633.408.

Section 78. Section 641.3923, Florida Statutes, is amended to read:

641.3923 Discrimination against providers prohibited.—A health maintenance organization may ~~shall~~ not discriminate with respect to participation as to any advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed and certified pursuant to s. 464.012, who is acting within the scope of such license and certification, solely on the basis of such license or certification. This section may ~~shall~~ not be construed to prohibit a plan from including providers only to the extent necessary to meet the needs of the plan's enrollees or from establishing any measure designed to maintain quality and control costs consistent with the responsibilities of the plan.

Section 79. Subsection (3) of section 766.103, Florida Statutes, is amended to read:

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766.103 Florida Medical Consent Law.—

(3) No recovery shall be allowed in any court in this state against any physician licensed under chapter 458, osteopathic physician licensed under chapter 459, chiropractic physician licensed under chapter 460, podiatric physician licensed under chapter 461, dentist licensed under chapter 466, advanced practice registered nurse ~~advanced registered nurse practitioner~~ certified under s. 464.012, or physician assistant licensed under s. 458.347 or s. 459.022 in an action brought for treating, examining, or operating on a patient without his or her informed consent when:

(a)1. The action of the physician, osteopathic physician, chiropractic physician, podiatric physician, dentist, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant in obtaining the consent of the patient or another person authorized to give consent for the patient was in accordance with an accepted standard of medical practice among members of the medical profession with similar training and experience in the same or similar medical community as that of the person treating, examining, or operating on the patient for whom the consent is obtained; and

2. A reasonable individual, from the information provided by the physician, osteopathic physician, chiropractic physician, podiatric physician, dentist, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant, under the circumstances, would have a general understanding of the procedure, the medically acceptable alternative procedures or treatments, and the substantial risks and hazards inherent in the proposed treatment or procedures, which are recognized among

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other physicians, osteopathic physicians, chiropractic physicians, podiatric physicians, or dentists in the same or similar community who perform similar treatments or procedures; or

(b) The patient would reasonably, under all the surrounding circumstances, have undergone such treatment or procedure had he or she been advised by the physician, osteopathic physician, chiropractic physician, podiatric physician, dentist, advanced practice registered nurse ~~advanced registered nurse practitioner~~, or physician assistant in accordance with the provisions of paragraph (a).

Section 80. Paragraph (d) of subsection (3) of section 766.1115, Florida Statutes, is amended to read:

766.1115 Health care providers; creation of agency relationship with governmental contractors.—

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

(d) "Health care provider" or "provider" means:

1. A birth center licensed under chapter 383.

2. An ambulatory surgical center licensed under chapter 395.

3. A hospital licensed under chapter 395.

4. A physician or physician assistant licensed under chapter 458.

5. An osteopathic physician or osteopathic physician assistant licensed under chapter 459.

6. A chiropractic physician licensed under chapter 460.

7. A podiatric physician licensed under chapter 461.

8. A registered nurse, nurse midwife, licensed practical nurse, or advanced practice registered nurse ~~advanced registered~~

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~~nurse-practitioner~~ licensed or registered under part I of chapter 464 or any facility which employs nurses licensed or registered under part I of chapter 464 to supply all or part of the care delivered under this section.

9. A midwife licensed under chapter 467.

10. A health maintenance organization certificated under part I of chapter 641.

11. A health care professional association and its employees or a corporate medical group and its employees.

12. Any other medical facility the primary purpose of which is to deliver human medical diagnostic services or which delivers nonsurgical human medical treatment, and which includes an office maintained by a provider.

13. A dentist or dental hygienist licensed under chapter 466.

14. A free clinic that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income recipients.

15. Any other health care professional, practitioner, provider, or facility under contract with a governmental contractor, including a student enrolled in an accredited program that prepares the student for licensure as any one of the professionals listed in subparagraphs 4.-9.

The term includes any nonprofit corporation qualified as exempt from federal income taxation under s. 501(a) of the Internal Revenue Code, and described in s. 501(c) of the Internal Revenue Code, which delivers health care services provided by licensed professionals listed in this paragraph, any federally funded

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community health center, and any volunteer corporation or volunteer health care provider that delivers health care services.

Section 81. Subsection (1) of section 766.1116, Florida Statutes, is amended to read:

766.1116 Health care practitioner; waiver of license renewal fees and continuing education requirements.—

(1) As used in this section, the term "health care practitioner" means a physician or physician assistant licensed under chapter 458; an osteopathic physician or physician assistant licensed under chapter 459; a chiropractic physician licensed under chapter 460; a podiatric physician licensed under chapter 461; an advanced practice registered nurse ~~advanced registered nurse practitioner~~, registered nurse, or licensed practical nurse licensed under part I of chapter 464; a dentist or dental hygienist licensed under chapter 466; or a midwife licensed under chapter 467, who participates as a health care provider under s. 766.1115.

Section 82. Subsection (5) of section 794.08, Florida Statutes, is amended to read:

794.08 Female genital mutilation.—

(5) This section does not apply to procedures performed by or under the direction of a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a registered nurse licensed under part I of chapter 464, a practical nurse licensed under part I of chapter 464, an advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under part I of chapter 464, a midwife licensed under chapter 467, or a physician assistant licensed

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under chapter 458 or chapter 459 when necessary to preserve the physical health of a female person. This section also does not apply to any autopsy or limited dissection conducted pursuant to chapter 406.

Section 83. Subsection (23) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(23) "Practitioner" means a physician licensed under chapter 458, a dentist licensed under chapter 466, a veterinarian licensed under chapter 474, an osteopathic physician licensed under chapter 459, an advanced practice registered nurse ~~advanced registered nurse practitioner~~ certified under chapter 464, a naturopath licensed under chapter 462, a certified optometrist licensed under chapter 463, a psychiatric nurse as defined in s. 394.455, a podiatric physician licensed under chapter 461, or a physician assistant licensed under chapter 458 or chapter 459, provided such practitioner holds a valid federal controlled substance registry number.

Section 84. Paragraph (b) of subsection (1) of section 893.05, Florida Statutes, is amended to read:

893.05 Practitioners and persons administering controlled substances in their absence.—

(1)

(b) Pursuant to s. 458.347(4)(g), s. 459.022(4)(f), or s. 464.012(3), as applicable, a practitioner who supervises a licensed physician assistant or advanced practice registered

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nurse ~~advanced registered nurse practitioner~~ may authorize the licensed physician assistant or advanced practice registered nurse ~~advanced registered nurse practitioner~~ to order controlled substances for administration to a patient in a facility licensed under chapter 395 or part II of chapter 400.

Section 85. Subsection (6) of section 943.13, Florida Statutes, is amended to read:

943.13 Officers' minimum qualifications for employment or appointment.—On or after October 1, 1984, any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer or correctional officer; on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional probation officer; and on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional officer by a private entity under contract to the Department of Corrections, to a county commission, or to the Department of Management Services shall:

(6) Have passed a physical examination by a licensed physician, physician assistant, or certified advanced practice registered nurse ~~advanced registered nurse practitioner~~, based on specifications established by the commission. In order to be eligible for the presumption set forth in s. 112.18 while employed with an employing agency, a law enforcement officer, correctional officer, or correctional probation officer must have successfully passed the physical examination required by this subsection upon entering into service as a law enforcement officer, correctional officer, or correctional probation officer with the employing agency, which examination must have failed to reveal any evidence of tuberculosis, heart disease, or



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hypertension. A law enforcement officer, correctional officer, or correctional probation officer may not use a physical examination from a former employing agency for purposes of claiming the presumption set forth in s. 112.18 against the current employing agency.

Section 86. Paragraph (n) of subsection (1) of section 948.03, Florida Statutes, is amended to read:

948.03 Terms and conditions of probation.—

(1) The court shall determine the terms and conditions of probation. Conditions specified in this section do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. These conditions may include among them the following, that the probationer or offender in community control shall:

(n) Be prohibited from using intoxicants to excess or possessing any drugs or narcotics unless prescribed by a physician, an advanced practice registered nurse ~~advanced registered nurse practitioner~~, or a physician assistant. The probationer or community controllee may not knowingly visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.

Section 87. Paragraph (i) of subsection (3) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

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(3) HEALTH ISSUES.—

(i) *Epinephrine use and supply.*—

1. A student who has experienced or is at risk for life-threatening allergic reactions may carry an epinephrine auto-injector and self-administer epinephrine by auto-injector while in school, participating in school-sponsored activities, or in transit to or from school or school-sponsored activities if the school has been provided with parental and physician authorization. The State Board of Education, in cooperation with the Department of Health, shall adopt rules for such use of epinephrine auto-injectors that shall include provisions to protect the safety of all students from the misuse or abuse of auto-injectors. A school district, county health department, public-private partner, and their employees and volunteers shall be indemnified by the parent of a student authorized to carry an epinephrine auto-injector for any and all liability with respect to the student's use of an epinephrine auto-injector pursuant to this paragraph.

2. A public school may purchase a supply of epinephrine auto-injectors from a wholesale distributor as defined in s. 499.003 or may enter into an arrangement with a wholesale distributor or manufacturer as defined in s. 499.003 for the epinephrine auto-injectors at fair-market, free, or reduced prices for use in the event a student has an anaphylactic reaction. The epinephrine auto-injectors must be maintained in a secure location on the public school's premises. The participating school district shall adopt a protocol developed by a licensed physician for the administration by school personnel who are trained to recognize an anaphylactic reaction

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and to administer an epinephrine auto-injection. The supply of epinephrine auto-injectors may be provided to and used by a student authorized to self-administer epinephrine by auto-injector under subparagraph 1. or trained school personnel.

3. The school district and its employees, agents, and the physician who provides the standing protocol for school epinephrine auto-injectors are not liable for any injury arising from the use of an epinephrine auto-injector administered by trained school personnel who follow the adopted protocol and whose professional opinion is that the student is having an anaphylactic reaction:

a. Unless the trained school personnel's action is willful and wanton;

b. Notwithstanding that the parents or guardians of the student to whom the epinephrine is administered have not been provided notice or have not signed a statement acknowledging that the school district is not liable; and

c. Regardless of whether authorization has been given by the student's parents or guardians or by the student's physician, physician's assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~.

Section 88. Paragraph (b) of subsection (17) of section 1002.42, Florida Statutes, is amended to read:

1002.42 Private schools.—

(17) EPINEPHRINE SUPPLY.—

(b) The private school and its employees, agents, and the physician who provides the standing protocol for school epinephrine auto-injectors are not liable for any injury arising from the use of an epinephrine auto-injector administered by

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trained school personnel who follow the adopted protocol and whose professional opinion is that the student is having an anaphylactic reaction:

1. Unless the trained school personnel's action is willful and wanton;

2. Notwithstanding that the parents or guardians of the student to whom the epinephrine is administered have not been provided notice or have not signed a statement acknowledging that the school district is not liable; and

3. Regardless of whether authorization has been given by the student's parents or guardians or by the student's physician, physician's assistant, or advanced practice registered nurse ~~advanced registered nurse practitioner~~.

Section 89. Subsections (4) and (5) of section 1006.062, Florida Statutes, are amended to read:

1006.062 Administration of medication and provision of medical services by district school board personnel.—

(4) Nonmedical assistive personnel shall be allowed to perform health-related services upon successful completion of child-specific training by a registered nurse or advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under chapter 464, a physician licensed pursuant to chapter 458 or chapter 459, or a physician assistant licensed pursuant to chapter 458 or chapter 459. All procedures shall be monitored periodically by a nurse, advanced practice registered nurse ~~advanced registered nurse practitioner~~, physician assistant, or physician, including, but not limited to:

(a) Intermittent clean catheterization.

(b) Gastrostomy tube feeding.

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(c) Monitoring blood glucose.

(d) Administering emergency injectable medication.

(5) For all other invasive medical services not listed in this subsection, a registered nurse or advanced practice registered nurse ~~advanced registered nurse practitioner~~ licensed under chapter 464, a physician licensed pursuant to chapter 458 or chapter 459, or a physician assistant licensed pursuant to chapter 458 or chapter 459 shall determine if nonmedical district school board personnel shall be allowed to perform such service.

Section 90. Subsection (1) and paragraph (a) of subsection (2) of section 1009.65, Florida Statutes, are amended to read:  
1009.65 Medical Education Reimbursement and Loan Repayment Program.—

(1) To encourage qualified medical professionals to practice in underserved locations where there are shortages of such personnel, there is established the Medical Education Reimbursement and Loan Repayment Program. The function of the program is to make payments that offset loans and educational expenses incurred by students for studies leading to a medical or nursing degree, medical or nursing licensure, or advanced practice registered nurse ~~advanced registered nurse practitioner~~ certification or physician assistant licensure. The following licensed or certified health care professionals are eligible to participate in this program: medical doctors with primary care specialties, doctors of osteopathic medicine with primary care specialties, physician's assistants, licensed practical nurses and registered nurses, and advanced practice registered nurses ~~advanced registered nurse practitioners~~ with primary care

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specialties such as certified nurse midwives. Primary care medical specialties for physicians include obstetrics, gynecology, general and family practice, internal medicine, pediatrics, and other specialties which may be identified by the Department of Health.

(2) From the funds available, the Department of Health shall make payments to selected medical professionals as follows:

(a) Up to \$4,000 per year for licensed practical nurses and registered nurses, up to \$10,000 per year for advanced practice registered nurses ~~advanced registered nurse practitioners~~ and physician's assistants, and up to \$20,000 per year for physicians. Penalties for noncompliance shall be the same as those in the National Health Services Corps Loan Repayment Program. Educational expenses include costs for tuition, matriculation, registration, books, laboratory and other fees, other educational costs, and reasonable living expenses as determined by the Department of Health.

Section 91. Subsection (2) of section 1009.66, Florida Statutes, is amended to read:

1009.66 Nursing Student Loan Forgiveness Program.—

(2) To be eligible, a candidate must have graduated from an accredited or approved nursing program and have received a Florida license as a licensed practical nurse or a registered nurse or a Florida certificate as an advanced practice registered nurse ~~advanced registered nurse practitioner~~.

Section 92. Subsection (3) of section 1009.67, Florida Statutes, is amended to read:

1009.67 Nursing scholarship program.—

24-01080A-18

20181594\_\_

(3) A scholarship may be awarded for no more than 2 years, in an amount not to exceed \$8,000 per year. However, registered nurses pursuing a graduate degree for a faculty position or to practice as an advanced practice registered nurse ~~advanced registered nurse practitioner~~ may receive up to \$12,000 per year. These amounts shall be adjusted by the amount of increase or decrease in the Consumer Price Index for All Urban Consumers published by the United States Department of Commerce.

Section 93. This act shall take effect July 1, 2018.



The Florida Senate

## Committee Agenda Request

**To:** Senator Dana Young  
Chair, Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** January 16, 2018

---

I respectfully request that **Senate Bill #1594**, relating to **Nursing**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

A handwritten signature in black ink, appearing to read "Jeff Brandes", is written over a horizontal line.

Senator Jeff Brandes  
Florida Senate, District 24



THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

1594

Bill Number (if applicable)

Topic Nursing

Amendment Barcode (if applicable)

Name Chris Spencer

Job Title Government Consultant

Address 401 E. Jackson Street #2700

Phone 813 273 5000

Street

Tampa FL 33703

City

State

Zip

Email Chris.spencer@gray-robinson.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Nurses Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date \_\_\_\_\_

1594  
Bill Number (if applicable) \_\_\_\_\_

Topic Nursing

Amendment Barcode (if applicable) \_\_\_\_\_

Name Andrea Reilly

Job Title Consultant

Address 311 E. Park Ave.

Phone 850-224-5081

Tallahassee FL 32301  
City State Zip

Email areilly@smithbryanandmyers.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing National Council of State Boards of Nursing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1-30-18

Meeting Date

1594

Bill Number (if applicable)

Topic Nursing

Amendment Barcode (if applicable)

Name ALLISON CARVAJAL (CAR-VA-HALL)

Job Title Consultant

Address 120 N. MONROE  
Street

Phone 727-7087

TLH. FL. 32301  
City State Zip

Email allisonperambacconsulting.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Nurse Practitioner Network

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18  
Meeting Date

1594  
Bill Number (if applicable)

Topic Nursing

Amendment Barcode (if applicable)

Name Chris Floyd

Job Title Consultant

Address 101 E. College Ave., Ste. 302  
Street

Phone 813-624-5117

Tallahassee FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL Assoc. of Nurse Practitioners

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

1594

Bill Number (if applicable)

Topic Nursing

Amendment Barcode (if applicable)

Name MARTHA DeCASTRO

Job Title VP for Nursing & CLINICAL CARE Policy

Address 306 E College Ave

Phone 850 222 9800

Street

Tallahassee

City

FL

State

32317

Zip

Email martha@fln.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Hospital Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

1594

Bill Number (if applicable)

Topic Nursing

Amendment Barcode (if applicable)

Name Chris Lyon

Job Title Legislative Counsel

Address 315 S. Calhoun St., Ste. 830

Phone 850/222-5702

Street

Tallahassee

City

FL

State

32301

Zip

Email clyon@lw-law.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Association of Nurse Anesthetists

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: CS/SB 1850

INTRODUCER: Health Policy Committee and Senator Stewart

SUBJECT: Public Records/Photograph, Video, Audio Recording of an Autopsy Held by a Medical Examiner

DATE: January 31, 2018

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	<b>Fav/CS</b>
2.	_____	_____	GO	_____
3.	_____	_____	RC	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

**I. Summary:**

CS/SB 1850 expands the public records exemption for photographs and video or audio recordings of an autopsy held by a medical examiner to make autopsy reports and related written records that personally identify a deceased, confidential and exempt from the public records law for ten days following the medical examiners completion of the report. The records may be released during this ten-day period to the surviving spouse, or other authorized person if there is no surviving spouse.

The bill provides that a legal guardian may have access to a photograph or video or audio recording of an autopsy under specific circumstances.

The bill provides a statement of public necessity supporting the exemption and establishes an Open Government Sunset Review Act repeal date of October 2, 2023, unless saved from repeal by the Legislature.

This bill requires a two-thirds vote of each chamber for passage because it expands a public records exemption.

The provisions of the bill take effect upon becoming law.

## II. Present Situation:

### Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.<sup>3</sup> Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>4</sup> The Public Records Act states that:

...it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>5</sup>

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may create an exemption to public records requirements.<sup>9</sup> An exemption must pass by a two-thirds vote of the House and the Senate.<sup>10</sup> In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>11</sup> A statutory

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<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> *Id.*

<sup>3</sup> The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

<sup>5</sup> Section 119.01(1), F.S.

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST., art. I, s. 24(c).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*



exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.<sup>12</sup>

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”<sup>13</sup> Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as “exempt” are not required to be made available for public inspection, but may be released at the discretion of the records custodian under certain circumstances.<sup>14</sup>

### **Open Government Sunset Review Act**

The Open Government Sunset Review Act (referred to hereafter as the “OGSR”) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.<sup>15</sup> The OGSR provides that an exemption automatically repeals on October second of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.<sup>16</sup>

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>17</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>18</sup>
- Releasing sensitive personal information would be defamatory or would jeopardize an individual’s safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>19</sup> or
- It protects trade or business secrets.<sup>20</sup>

The OGSR also requires specified questions to be considered during the review process.<sup>21</sup> In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

<sup>12</sup> *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). See also *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004).

<sup>13</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

<sup>14</sup> *Williams v. City of Minneola*, 575 So. 2d 687 (Fla. 5th DCA 1991).

<sup>15</sup> Section 119.15, F.S. Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

<sup>16</sup> Section 119.15(3), F.S.

<sup>17</sup> Section 119.15(6)(b), F.S.

<sup>18</sup> Section 119.15(6)(b)1., F.S.

<sup>19</sup> Section 119.15(6)(b)2., F.S.

<sup>20</sup> Section 119.15(6)(b)3., F.S.

<sup>21</sup> Section 119.15(6)(a), F.S. The specified questions are:

1. What specific records or meetings are affected by the exemption?
2. Whom does the exemption uniquely affect, as opposed to the general public?

If, in reenacting an exemption, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>22</sup> If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.<sup>23</sup>

### Medical Examiners Act

Part I of ch 406, F.S., the “Medical Examiners Act (Act),”<sup>24</sup> creates the Medical Examiners Commission (MEC) within the Florida Department of Law Enforcement (FDLE).<sup>25</sup> The MEC is authorized to establish medical examiner districts; and adopt rules to ensure minimum and uniform standards for statewide medical examiner services. District medical examiners are required to determine the cause of death of a decedent who died or was found dead in their district:

- If the person died:
  - Of criminal violence;
  - By accident;
  - By suicide;
  - Suddenly, when in apparent good health;
  - Unattended by a practicing physician or other recognized practitioner;
  - In any prison or penal institution;
  - In police custody;
  - In any suspicious or unusual circumstance;
  - By criminal abortion;
  - By poison;
  - By disease constituting a threat to public health; or
  - By disease, injury, or toxic agent resulting from employment.
- When a dead body is brought into the state without proper medical certification; or
- When a dead body is to be cremated, dissected, or buried at sea.<sup>26</sup>

The medical examiner is authorized to make or have performed any examinations, investigations, and autopsies that he or she deems necessary, or that are requested by the state attorney, for the purpose of determining the cause of death.<sup>27</sup>

- 
3. What is the identifiable public purpose or goal of the exemption?
  4. Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
  5. Is the record or meeting protected by another exemption?
  6. Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>22</sup> FLA. CONST. art. I, s. 24(c).

<sup>23</sup> Section 119.15(7), F.S.

<sup>24</sup> Section 406.01, F.S.

<sup>25</sup> Section 406.02, F.S.

<sup>26</sup> Section 406.11, F.S.

<sup>27</sup> *Id.*

Section 406.135(2), F.S., makes confidential and exempt from s. 119.07(1), F.S., and Art. I, s. 24(a), of the State Constitution, any photograph or video or audio recording of an autopsy held by a medical examiner; and defines a “medical examiner” to include a:

- District medical examiner;
- Associate medical examiner;
- Substitute medical examiner;
- Any employee, deputy, or agent of a medical examiner; or
- Any other person who may obtain possession of a photograph or audio recording or video recording of an autopsy in the course of assisting a medical examiner in the performance of his or her official duties.<sup>28</sup>

However, a surviving spouse may view and copy a photograph or video recording, or listen to or copy an audio recording, of the deceased spouse’s autopsy. If there is no surviving spouse, then the surviving parents may have access to such records. If there is no surviving spouse or parent, then an adult child may have access to such records.<sup>29</sup>

The deceased’s surviving relative, as identified above, may designate in writing an agent to obtain the records.<sup>30</sup> A local governmental entity, or a state or federal agency, in furtherance of its official duties, upon written request, may also have access; and unless otherwise required in the performance of their duties, the identity of the deceased must remain confidential and exempt.<sup>31</sup>

Any other person desiring to copy or view confidential and exempt autopsy photographs, or video or audio recordings, must obtained a court order, based on a showing of good cause; and subject to any restrictions or stipulations the court deems appropriate.<sup>32</sup>

A surviving spouse must be given reasonable notice, and a copy, of any petition filed to review or copy a photograph, video recording, or audio recording of an autopsy. If there is no surviving spouse, then notice must be given to the parents of the deceased; and if the deceased has no living parent, then notice is given to the adult children of the deceased.<sup>33</sup>

In all cases, the viewing, copying, listening to, or other handling of a photograph or video or audio recording of an autopsy, must be under the direct supervision of the custodian of the record or his or her designee.<sup>34</sup>

Any person who willfully and knowingly violates these provisions commits a felony of the third degree.<sup>35</sup>

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<sup>28</sup> Section 406.135(1), F.S.

<sup>29</sup> Section 406.135(2), F.S.

<sup>30</sup> Section 406.135(3), F.S.

<sup>31</sup> *Id.*

<sup>32</sup> Section 406.135(4), F.S.

<sup>33</sup> Section 406.235(5), F.S.

<sup>34</sup> Section 406.135(4)(c), F.S.

<sup>35</sup> Section 406.135(6), F.S.

**Effect of Proposed Changes:**

The bill expands the public records exemption for photographs and video or audio recordings of an autopsy held by a medical examiner to make autopsy reports and related written records that personally identify a deceased, confidential and exempt from the public records law for ten days following the completion of the report. The records may be released during the ten day confidential and exempt period:

- To a surviving spouse; or
- If there is no surviving spouse, to the surviving parents or legal guardians.

The bill expands the definition of a medical examiner to include a person obtaining possession of an autopsy report or related written record that personally identifies the deceased.” This expanded definition enlarges the group of persons required to keep confidential and exempt the autopsy reports, and related written records, which identify a deceased, to anyone who comes in contact with them in the course of assisting a medical examiner in performing his or her official duties.

The bill allows legal guardians access to photographs or video or audio recording of an autopsy if there is no surviving spouse.

The bill provides a statement of public necessity supporting the exemption and establishes an Open Government Sunset Review Act repeal date of October 2, 2023, unless reviewed and saved from repeal by the Legislature.

The statement of public necessity provides that a deceased’s family may unexpectedly encounter new information obtained from an autopsy report or related written record regarding the death of a loved one which is published or conveyed by word of mouth, causing the family to experience trauma, sorrow, humiliation, or emotional injury.

The bill provides for the retroactive application of the expanded public records exception.<sup>36</sup>

This bill requires a two-thirds vote of each chamber for passage because it reenacts and expands the public records exemption.

The provisions of the bill take effect upon becoming law.

**III. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

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<sup>36</sup> The Supreme Court of Florida ruled that a public record exemption is not to be applied retroactively unless the legislature clearly expresses intent that such exemption is to be applied as such. Access to public records is a substantive right. Thus, a statute affecting that right is presumptively prospective and there must be a clear legislative intent for the statute to apply retroactively. See *Memorial Hospital-West Volusia, Inc. v. New-Journal Corporation*, 784 So. 2n 438, 441 (Fla. 2001).

**B. Public Records/Open Meetings Issues:****Voting Requirement**

Article I, Section 24(c) of the Florida Constitution requires a two-thirds vote of each chamber for public records exemptions to pass.

**Public Necessity Statement**

Article I, Section 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public-records exemption. The Florida Constitution provides that an exemption must state with specificity the public necessity of the exemption. The public necessity statement provides that autopsy reports and related written records that personally identify the deceased, be confidential and exempt from the public records law for a period of 10 days after completion to protect a deceased's family from any unexpected encounters with new information obtained from an autopsy report or related written record regarding the death of a loved one which could cause the family to experience trauma, sorrow, humiliation, or emotional injury. The Legislature further finds that, although access delayed is access denied, the deceased's family should be given a reasonable time to be notified before any highly sensitive autopsy report or related written record that personally identifies the deceased is released to the public.

**Breadth of Exemption**

Article I, Section 24(c) of the Florida Constitution requires a newly created public records exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates an exemption for autopsy reports, and related written record(s), that personally identify the deceased for ten days after the medical examiner has completed the report; and includes exceptions for the surviving spouse, or other authorized persons if there is no surviving spouse, to view and copy those records during the ten-day exempt period.

The bill appears to be no broader than necessary to accomplish the public necessity for this public records exemption.

**C. Trust Funds Restrictions:**

None.

**IV. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

C. Government Sector Impact:

None.

V. Technical Deficiencies:

None.

VI. Related Issues:

None.

VII. Statutes Affected:

This bill substantially amends section 406.135 of the Florida Statutes.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Health Policy on January 30, 2018:**

Makes the autopsy report and related written records confidential and exempt from public records law for the ten days after the medical examiner has completed the report, with exceptions for the surviving spouse, or other authorized person if there is no surviving spouse, to view and copy those records during the ten day period.

B. Amendments:

None.



856288

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
	.	
	.	
	.	

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The Committee on Health Policy (Stewart) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 66 - 94  
and insert:  
24(a), Art. I of the State Constitution for 10 days after the  
medical examiner has completed the report, except that a  
surviving spouse may view and copy the records. If there is no  
surviving spouse, the surviving parents or legal guardians shall  
have access to such records. If there is no surviving spouse,  
parent, or legal guardian, an adult child shall have access to



856288

such records.

(b) The exemption in paragraph (a) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

(7) (a) ~~(6) (a)~~ Any custodian of an autopsy report or a related written record that personally identifies the deceased, or a photograph or video or audio recording of an autopsy, who willfully and knowingly violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who willfully and knowingly violates a court order issued pursuant to this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) ~~(8)~~ This exemption applies to records held before, on, or after the effective date of this act ~~shall be given retroactive application.~~

Section 2. The Legislature finds that it is a public necessity that autopsy reports and related written records that personally identify the deceased be made confidential and exempt from the requirements of s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution for 10 days after the medical examiner has completed the report. The Legislature finds that the deceased's family

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

And the title is amended as follows:

Delete lines 14 - 17





856288

40 and insert:  
41       the medical examiner has completed the autopsy report;  
42       providing for future

By Senator Stewart

13-01538C-18

20181850\_\_

1 A bill to be entitled  
2 An act relating to public records; amending s.  
3 406.135, F.S.; revising the definition of the term  
4 "medical examiner"; providing that a legal guardian  
5 shall have access, under certain circumstances, to a  
6 photograph or video or audio recording of an autopsy  
7 held by a medical examiner; providing that a legal  
8 guardian shall be given reasonable notice of, a copy  
9 of, and reasonable notice of an opportunity to be  
10 present and heard at any hearing on a petition to view  
11 or make a copy of such photograph or recording under  
12 certain circumstances; providing an exemption from  
13 public records requirements for a specified time after  
14 the date of death or after a certain notification  
15 occurs for an autopsy report or a related written  
16 record held by a medical examiner which personally  
17 identifies the deceased; providing for future  
18 legislative review and repeal of the exemption;  
19 providing criminal penalties for any custodian of an  
20 autopsy report or a certain record who willfully and  
21 knowingly violates specified provisions; providing  
22 retroactive applicability; providing a statement of  
23 public necessity; providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Subsections (1), (2), and (5) of section  
28 406.135, Florida Statutes, are amended, present subsections (6)  
29 through (8) of that section are redesignated as (7) through (9),

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respectively, present subsections (6) and (8) are amended, and a new subsection (6) is added to that section, to read:

406.135 Autopsies; confidentiality of reports, related written records, photographs, and video and audio recordings; exemption.—

(1) For the purpose of this section, the term “medical examiner” means any district medical examiner, associate medical examiner, or substitute medical examiner acting pursuant to this chapter, as well as any employee, deputy, or agent of a medical examiner or any other person who may obtain possession of an autopsy report or a related written record that personally identifies the deceased, or a photograph or audio or video recording of an autopsy, in the course of assisting a medical examiner in the performance of his or her official duties.

(2) A photograph or video or audio recording of an autopsy held by a medical examiner is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, except that a surviving spouse may view and copy a photograph or video recording or listen to or copy an audio recording of the deceased spouse’s autopsy. If there is no surviving spouse, ~~then~~ the surviving parents or legal guardians shall have access to such records. If there is no surviving spouse, ~~or~~ parent, or legal guardian, ~~then~~ an adult child shall have access to such records.

(5) A surviving spouse shall be given reasonable notice of a petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording, a copy of such petition, and reasonable notice of the opportunity to be present and heard at any hearing

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on the matter. If there is no surviving spouse, ~~then~~ such notice must be given to the parents or legal guardians of the deceased, and if the deceased has no surviving living parent or legal guardian, ~~then~~ to the adult children of the deceased.

(6) (a) An autopsy report or a related written record that personally identifies the deceased and that is held by a medical examiner is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for the earlier of 10 days after the date of death or immediately after law enforcement notifies a surviving spouse, parent, legal guardian, or adult child of the deceased of any request to obtain the autopsy report, written record, or name of the deceased person.

(b) The exemption in paragraph (a) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2023, unless reviewed and saved from repeal through reenactment by the Legislature.

(7) (a) ~~(6) (a)~~ Any custodian of an autopsy report or a related written record that personally identifies the deceased, or a photograph or video or audio recording of an autopsy, who willfully and knowingly violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who willfully and knowingly violates a court order issued pursuant to this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) ~~(8)~~ This exemption applies to records held before, on, or after the effective date of this act ~~shall be given retroactive application.~~

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88       Section 2. The Legislature finds that it is a public  
89 necessity that autopsy reports and related written records that  
90 personally identify the deceased be made confidential and exempt  
91 from the requirements of s. 119.07(1), Florida Statutes, and s.  
92 24(a), Article I of the State Constitution for 10 days after the  
93 date of death or until the family has been notified by law  
94 enforcement. The Legislature finds that the deceased's family  
95 may unexpectedly encounter new information obtained from an  
96 autopsy report or related written record regarding the death of  
97 a loved one which is published or conveyed by word of mouth,  
98 causing the family to experience trauma, sorrow, humiliation, or  
99 emotional injury. The Legislature finds that, although access  
100 delayed is access denied, the deceased's family should be given  
101 a reasonable time to be notified before any highly sensitive  
102 autopsy report or related written record that personally  
103 identifies the deceased is released to the public. The  
104 Legislature further finds that the exemption provided in this  
105 act should be given retroactive application because it is  
106 remedial in nature.

107       Section 3. This act shall take effect upon becoming a law.



The Florida Senate

## Committee Agenda Request

**To:** Senator Dana D. Young, Chair  
Committee on Health Policy

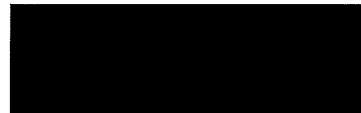
**Subject:** Committee Agenda Request

**Date:** January 16, 2018

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I respectfully request that **Senate Bill #1850**, relating to Public Records Exemption for Autopsies Held by a Medical Examiner, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.



---

Senator Linda Stewart  
Florida Senate, District 13

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

1850

Bill Number (if applicable)

Topic RECORDS/PHOTOGRAPH VIDEO AUDIO RECORDING OF AN AUTOPSY  
HELD BY AN MEDICAL EXAMINER

Amendment Barcode (if applicable)

Name DAPHNEE SAINVIL

Job Title POLICY ADVISOR

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Street

FT. LAUDERDALE

City

FL

State

33301

Zip

Phone 954-253-7320

Email dsainvil@broward.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing BROWARD COUNTY GOVT

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: SB 1862

INTRODUCER: Senator Broxson

SUBJECT: Physician Fee Sharing

DATE: January 29, 2018

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Looke	Stovall	HP	<b>Favorable</b>
2. _____	_____	JU	_____
3. _____	_____	RC	_____

---

**I. Summary:**

SB 1862 provides exceptions from the prohibition against allopathic<sup>1</sup> and osteopathic<sup>2</sup> physicians entering into fee-splitting arrangements or receiving any commission, bonus, kickback, or rebate for patients referred for health care goods and services. The exceptions created by the bill:

- Allow an allopathic or osteopathic physician to enter into an alternative payment arrangement that otherwise complies with state and federal law; and
- If the physician is an employee or independent contractor of the entity compensating the physician, allows the physician to receive a share of certain profits of the entity that are based on the services provided by the physician or under the physician's supervision and are not based on the volume or value of referrals, as long as the forms of payment or compensation comply with state and federal law.

**II. Present Situation:**

**The Patient Self-Referral Act of 1992**

Section 456.053, F.S., entitled the "Patient Self-Referral Act of 1992" was enacted by the Legislature to safeguard the people of Florida from unnecessary and costly health care expenditures while providing guidance to health care providers on prohibited patient referrals.<sup>3</sup>

The Act applies to any physician licensed under ch. 458, 459, 460, or 461, F.S., or any health care provider licensed under ch. 463 or 466, F.S.<sup>4</sup>

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<sup>1</sup> Licensed under ch. 458, F.S.

<sup>2</sup> Licensed under ch. 459, F.S.

<sup>3</sup> Section 456.053(2), F.S.

<sup>4</sup> Allopathic, osteopathic, chiropractic, and podiatric physicians, certified optometrists, and dentists are health care providers under the Act.



The Act has differing limitations and prohibitions on patient referrals depending on the type of health care service to be provided as follows:

- A health care provider may not refer a patient for the provision of designated health services<sup>5</sup> to an entity in which the health care provider is an investor<sup>6</sup> or has an investment interest.<sup>7,8</sup>
- A health care provider may not refer a patient for the provision of any other health care services or items (non-designated health services) to an entity in which the health care provider is an investor unless:<sup>9</sup>
  - For entities whose shares are publicly traded:
    - The provider's investment interest is in registered securities purchased over a national exchange or over-the-counter market; and
    - The entity's total assets at the end of the last fiscal quarter exceed \$50 million;
  - For entities whose shares are not publicly traded:
    - No more than 50 percent of the value of the investment interests are held by investors in a position to make referrals to the entity;
    - The terms of an investment interest offered to an investor are the same regardless of whether the investor is in a position to make referrals;
    - The terms offered to an investor are not related to the previous or expected volume of referrals; and
    - There is no requirement that an investor refer patients to the entity as a condition for becoming or remaining an investor.
- Entities accepting outside referrals for diagnostic imaging must meet additional conditions including conditions for the physician make-up of the solo or group practice as well as physician performance of diagnostic imaging services, conditions on billing practices, restrictions on contracting with outside providers, and conditions on reporting accepted outside referrals to the Agency for Health Care Administration (AHCA).<sup>10</sup>

A health care provider who refers a patient to an entity that the health care provider has an investment interest in must disclose such interest to the patient on a written form that details the

<sup>5</sup> Section 456.053(3)(c), F.S., defines "designated health services" as clinical laboratory services, physical therapy services, comprehensive rehabilitative services, diagnostic-imaging services, and radiation therapy services.<sup>6</sup> Section 456.053(3)(l), F.S., defines "investor" as a person or entity owning a legal or beneficial ownership or investment interest, directly or indirectly, including, without limitation, through an immediate family member, trust, or another entity related to the investor within the meaning of 42 C.F.R. s. 413.17, in an entity.

<sup>6</sup> Section 456.053(3)(l), F.S., defines "investor" as a person or entity owning a legal or beneficial ownership or investment interest, directly or indirectly, including, without limitation, through an immediate family member, trust, or another entity related to the investor within the meaning of 42 C.F.R. s. 413.17, in an entity.

<sup>7</sup> Section 456.053(3)(k), F.S., defines "investment interest" to include an equity or debt security issued by an entity, including, without limitation, shares of stock in a corporation, units or other interests in a partnership, bonds, debentures, notes, or other equity interests or debt instrument. Certain investment interests are excepted from the definition including an investment interest in a sole provider of health care services in a rural area; an investment interest in the form of certain notes, bonds, debentures, or other debt instruments that matured prior to Oct. 1, 1996; an investment interest in real property resulting in a landlord-tenant relationship between the entity and the referring healthcare provider unless the rent is determined by the volume of referrals; and an investment interest in an entity which owns or leases and operates a hospital or nursing home.

<sup>8</sup> Section 456.053(5)(a), F.S. Offices providing radiation therapy services are exempt from these requirements if they were in business before April 1, 1991. (See s. 456.053(5)(i), F.S.).

<sup>9</sup> Section 456.053(5)(b), F.S.

<sup>10</sup> Section 456.053(4), F.S.

patient's right to obtain the services elsewhere along with at least two alternative sources from which the patient could receive the services.<sup>11</sup>

A health care provider found to have violated the Act could be subject to one or more disciplinary actions or penalties including:

- A penalty of up to \$100,000 for each arrangement if a health care provider or other entity enters into an arrangement that has the principal purpose of assuring referrals between the provider and the entity.<sup>12</sup>
- Discipline by his or her appropriate board and hospitals are subject to penalties imposed by the AHCA.<sup>13</sup>
- Being charged with a first degree misdemeanor and subject to additional penalties and disciplinary action by his or her respective board if a health care provider fails to comply with the notice provisions of the Act and s. 456.052, F.S.<sup>14</sup>

A claim for payment for a service provided pursuant to a referral prohibited by the Act may not be made and any such payments received must be refunded. Additionally, any person who knows or should know that such a claim is prohibited and who presents or causes to be presented such a claim, is subject to a fine of up to \$15,000 per service to be imposed and collected by that person's regulatory board.<sup>15</sup>

### **The Federal Stark Law**

Generally similar to the Act, the federal Stark Law<sup>16</sup> (Stark) prohibits physicians from referring patients to receive designated health services that are payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship, unless an exception applies.<sup>17</sup> Under Stark, designated health services include:

- Clinical laboratory services;
- Physical therapy, occupational therapy, and outpatient speech-language pathology services;
- Radiology and certain other imaging services;
- Radiation therapy services and supplies;
- Durable medical equipment and supplies;
- Parenteral and enteral nutrients, equipment, and supplies;
- Prosthetics, orthotics, and prosthetic devices and supplies;
- Home health services;
- Outpatient prescription drugs; and
- Inpatient and outpatient hospital services.<sup>18</sup>

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<sup>11</sup> Sections 456.053(5)(j) and 456.052, F.S.

<sup>12</sup> Section 456.053(5)(f), F.S.

<sup>13</sup> Section 456.053(5)(g), F.S.

<sup>14</sup> Section 456.052(3), F.S.

<sup>15</sup> Section 456.053(5)(c)-(e), F.S.

<sup>16</sup> 42 U.S.C. s. 1395nn.

<sup>17</sup> U.S. Dept. of Health & Human Services, Office of the Inspector General: *A Roadmap for New Physicians: Fraud and Abuse Laws*, available at <http://oig.hhs.gov/compliance/physician-education/01laws.asp>, (last visited Jan. 24, 2018).

<sup>18</sup> 42 U.S.C. s. 1395nn(h)(6). When compared to Florida law, it can be seen that the list of designated health services under Stark includes the services listed as designated health services under the Act but also includes additional services not included in Florida law.

The Stark law is a strict liability statute, which means proof of specific intent to violate the law is not required. Stark prohibits the submission, or causing the submission, of claims in violation of the law's restrictions on referrals. Penalties for physicians who violate Stark include fines as well as exclusion from participation in the Federal health care programs.<sup>19</sup>

Exceptions to the Stark's self-referral prohibitions include:

- Exceptions for certain services including:
  - Most referrals of a patient for physician's services and in-office ancillary services provided by the same physician or another physician in the same group practice; and
  - Referrals for services furnished by an organization that has a contract with an health maintenance organization or a prepaid health plan.<sup>20</sup>
- Exceptions related to ownership or investment interests including:
  - Ownership of investment securities that are publically traded and held in a corporation with equity exceeding \$75 million on average during the previous three fiscal years and which were purchased on terms generally available to the public; and
  - Ownership of shares in an investment company if the company has total assets exceeding \$75 million on average during the previous three fiscal years.<sup>21</sup>
  - Ownership of certain hospitals including hospitals in Puerto Rico, in rural areas, and certain hospitals in which the referring physician is authorized to perform services.<sup>22</sup>
- Exceptions related to other compensation arrangements including:
  - The rental of office space or equipment with terms that are consistent with fair market value and without consideration of any past or future referrals made between the parties;
  - Bona fide employment relationships with remuneration that does not take into account the volume or value of referrals by the referring physician;
  - Personal services arrangements with terms that do not exceed fair market value and do not take into account the volume or value of any referrals or other business generated between the parties;
  - Physician incentive plans if no specific payment is made to reduce or limit medically necessary services provided with respect to a specific individual enrolled with the entity;
  - Remuneration provided by a hospital to a physician that is unrelated to designated health services;
  - Physician recruitment bonuses paid by a hospital that do not take into account the volume or value of referrals;
  - Certain isolated transactions;
  - Certain group practice arrangements made with hospitals that began before December 19, 1989; and
  - Payments made by a physician for laboratory services or other items or services if paid at fair market value.<sup>23</sup>

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<sup>19</sup> See supra note 15.

<sup>20</sup> 42 U.S.C. s. 1395nn(b).

<sup>21</sup> 42 U.S.C. s. 1395nn(c).

<sup>22</sup> 42 U.S.C. s. 1395nn(d).

<sup>23</sup> 42 U.S.C. s. 1395nn(e).

## **Additional Restrictions on Agreements between Referring Health Care Providers and Providers of Health Care Services**

### ***Federal and State Anti-Kickback Statutes***

Both Florida and Federal law include a prohibition on providing any sort of kickback for the referral of patients from a health care provider to a licensed facility. Section 395.0185, F.S., prohibits any person from paying a commission, bonus, kickback, or rebate or engaging in any form of split-fee arrangement with a physician, surgeon, organization, or person for patients referred to a licensed facility. The AHCA is required to enforce the provisions of the law and, if the violator is not licensed by the AHCA, the law authorizes the AHCA to impose a fine of up to \$1,000 nonetheless, and to recommend disciplinary action to the appropriate licensing board. Section 456.054, F.S., prohibits a health care provider or provider of health care services to offer, pay, solicit, or receive a kickback, directly or indirectly, overtly or covertly, in cash or in kind, for referring or soliciting patients.<sup>24</sup>

Federal law also prohibits such payments for the referral of an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made under a Federal health care program.<sup>25</sup> Violating the federal anti-kickback statute makes the violator guilty of a felony which is punishable by a fine of up to \$25,000 or up to five years in prison. However, there are several exceptions to the federal statute including, but not limited to:

- Discounts properly disclosed and appropriately reflected in the costs claimed and charges made by the provider or entity;
- Payments between employers and employees for employment in the provision of covered items or services;
- Certain amounts paid to vendors;
- Waivers of co-insurance; and
- The waiver of any cost-sharing provisions by a pharmacy.

### ***Anti-Trust Laws***

Additionally, both Florida and Federal law prohibit price-fixing and unfair trade practices which may be applicable to certain relationships between referring health care providers and providers of health care services. The Florida Deceptive and Unfair Trade Practices Act<sup>26</sup> generally prohibits unfair methods of competition, as well as deceptive acts or practices, in the conduct of trade or commerce. Also, Federal anti-trust laws, including the Sherman Act, generally prohibit unreasonable restraints on fair trade created by contract, combination, or conspiracy.<sup>27</sup>

### ***Sections 458.331(1)(i) and 459.015(1)(j), F.S.***

In addition to the prohibitions detailed above, the practice acts for both allopathic and osteopathic physicians include a restriction against referring patients for compensation. These

<sup>24</sup> Violations of this section are considered patient brokering and are punishable as provided in s. 817.505, F.S., which can include criminal penalties (felony of the third degree) and other civil, administrative, or criminal penalties.

<sup>25</sup> 42 U.S.C. s. 1320a-7b(b)(2)(A).

<sup>26</sup> Section 501.204, F.S.

<sup>27</sup> Federal Trade Commission, *The Antitrust Laws*, available at: <https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws>, (last visited Jan. 24, 2018).

sections restrict a physician from paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies.<sup>28</sup>

These sections have been interpreted by the courts to prohibit an employer from sharing profits with a physician employee. In *Crow v. the Agency for Health Care Administration*, the Florida Fifth District Court of Appeal found that “[t]o the extent that the arrangement proposed by Petitioner would provide for either a salary or a year-end bonus based upon total revenues generated by Petitioner for [the employer], such an arrangement would be in violation of the prohibition set forth in Subsection 458.331(1)(i), Florida Statutes.”<sup>29</sup> This interpretation is narrower than other state and federal laws (detailed above) that provide exceptions in certain situations, such as for health care practitioners in a group practice.

### III. Effect of Proposed Changes:

SB 1862 provides two exceptions from the prohibition against allopathic<sup>30</sup> and osteopathic physicians entering into fee-splitting arrangements or receiving any commission, bonus, kickback, or rebate for patients referred for health care goods and services. The exceptions created by the bill:

- Allow an allopathic and osteopathic physician to enter into an alternative payment arrangement that otherwise complies with state and federal law; and
- If the compensation payments comply with federal law, allow a physician who is an employee or independent contractor of the entity compensating the physician to receive a share of:
  - Profits, collections, or revenues based on the professional services provided by the physician, or directly supervised by the physician, which are provided on behalf of the entity compensating the physician; or
  - Overall profit or revenue of the entity compensating the physician as long as the share is not determined in a manner that directly takes into account the volume or value of services ordered by the physician but not performed by the physician or under the supervision of the physician;

The effective date of the bill is July 1, 2018.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>28</sup> Section 817.505, F.S., has a similar prohibition related to patient brokering.

<sup>29</sup> See *Crow v. Agency for Health Care Administration*, 669 So. 2d 1160.

<sup>30</sup> Licensed under ch. 458, F.S.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Physicians and employers may see an indeterminate fiscal impact from being authorized to enter into compensation arrangements allowed by the bill.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 458.331 and 459.015.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

By Senator Broxson

1-00805A-18

20181862\_\_

A bill to be entitled

An act relating to physician fee sharing; amending ss. 458.331 and 459.015, F.S.; revising an exemption relating to grounds for disciplinary action by the Boards of Medicine and Osteopathic Medicine and the Department of Health to authorize specified forms of payment to a physician or osteopathic physician, respectively; providing an effective date.

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

Section 1. Paragraph (i) of subsection (1) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(i) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. ~~The provisions of~~ This paragraph may shall not be construed to preclude a physician from entering into an alternative payment arrangement that otherwise complies with federal and state law or to preclude prevent a physician from receiving one or more of the following forms of payment or compensation, as long as the forms

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of payment or compensation comply with federal and state law:

1. A fee for professional consultation services; or

2. If the physician is an employee or independent contractor of the entity compensating the physician, a share of:

a. Profits, collections, or revenues based on the professional services provided by the physician, or on his or her direct supervision of the provision of such professional services, which are provided on behalf of the entity compensating the physician; or

b. Overall profit or revenue of the entity compensating the physician, provided that such share is not determined in a manner that directly takes into account the volume or value of services ordered by, but not performed by, or performed under the direct supervision of, the physician.

Section 2. Paragraph (j) of subsection (1) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(j) Paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, person, partnership, firm, corporation, or other business entity, for patients referred to providers of health care goods and services, including, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies. ~~The provisions of~~ This paragraph may ~~shall~~ not be construed to preclude an osteopathic physician from entering



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59 into an alternative payment arrangement that otherwise complies  
60 with federal and state law or to preclude ~~prevent~~ an osteopathic  
61 physician from receiving one or more of the following forms of  
62 payment or compensation, as long as the forms of payment or  
63 compensation comply with federal and state law:

64 1. A fee for professional consultation services; or

65 2. If the osteopathic physician is an employee or  
66 independent contractor of the entity compensating the  
67 osteopathic physician, a share of:

68 a. Profits, collections, or revenues based on the  
69 professional services provided by the osteopathic physician, or  
70 on his or her direct supervision of the provision of such  
71 professional services, which are provided on behalf of the  
72 entity compensating the osteopathic physician; or

73 b. Overall profit or revenue of the entity compensating the  
74 osteopathic physician, provided that such share is not  
75 determined in a manner that directly takes into account the  
76 volume or value of services ordered by, but not performed by, or  
77 performed under the direct supervision of, the osteopathic  
78 physician.

79 Section 3. This act shall take effect July 1, 2018.



The Florida Senate

## Committee Agenda Request

**To:** Senator Dana D. Young, Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** January 16, 2018

---

I respectfully request that **1862**, relating to Physician Fee Sharing, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in cursive script, appearing to read "Doug Broxson".

---

Senator Doug Broxson  
Florida Senate, District 1

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

1862

Bill Number (if applicable)

Topic Fee-splitting

Amendment Barcode (if applicable)

Name Lester Perlberg

Job Title Attorney - Broad and Cassel

Address 1 Financial Plaza Suite 2700

Phone 954-745-5261

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City

State

Zip

Email lperlberg@broadandcassel.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Adventist Health & Florida Hospital

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

1862

Bill Number (if applicable)

Topic Free Spl. Hing

Amendment Barcode (if applicable)

Name David Christian

Job Title Director - Government Relations

Address 900 Hope Way

Street

Longwood

City

FL

State

32714

Zip

Phone 407/357-2453

Email david.christian@chss.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Adventist Health / Florida Hospitals

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18

Meeting Date

1862

Bill Number (if applicable)

Topic Physician Fee Sharing

Amendment Barcode (if applicable)

Name Stephen R. Winn

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State

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Zip

Email winnsr@earthlink.net

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Osteopathic Medical Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/17

Meeting Date

SB-1862

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Jeff Scott

Job Title \_\_\_\_\_

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Street

Phone 850 224-6496

Tallahassee

City

FL

State

32308

Zip

Email jscott@flmedical.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Medical Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

**This form is part of the public record for this meeting.**

S-001 (10/14/14)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Health Policy

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BILL: CS/SB 1874

INTRODUCER: Health Policy Committee; and Senators Passidomo and Stargel

SUBJECT: Emergency Power for Nursing Home and Assisted Living Facilities

DATE: January 30, 2018

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Looke	Stovall	HP	<b>Fav/CS</b>
2. _____	_____	AHS	_____
3. _____	_____	AP	_____
4. _____	_____	RC	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1874 amends two sections of law regulating nursing homes and assisted living facilities (ALF) to require, by June 1, 2018, that each facility have an operational emergency power source and fuel to sustain an air temperature set in rule<sup>1</sup> for at least 96 hours. The bill requires that each facility have a plan to monitor residents to ensure that they do not suffer from complications from heat exposure and a plan to safely transport residents to an appropriate facility if the facility's management knows it will be unable to sustain safe temperatures. The bill also requires all ALFs to have an operational carbon monoxide alarm that is approved by the Florida Building Commission and meets certain requirements.

The bill's provisions take effect upon becoming law.

**II. Present Situation:**

**Hurricane Irma**

Between September 10 and September 16, 2017, Hurricane Irma swept across Florida causing heavy damage and widespread loss of power. In the aftermath of the hurricane, the nursing home Rehabilitation Center at Hollywood Hills (Center) was left without power and air conditioning

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<sup>1</sup> By the Agency for Health Care Administration for nursing homes and by the Department of Elder Affairs for ALFs.

for multiple days. As a consequence of the uncontrolled heat in the Center and because the Center's staff neglected to evacuate its residents, 12 Center residents died from heat exposure.<sup>2</sup>

On September 16, 2017, (after eight of the 12 resident deaths had occurred) Governor Scott issued a press release announcing emergency action for nursing homes and ALFs. In the press release, the Governor stated that “[a]ssisted living facilities and nursing homes serve our elderly and Florida’s most vulnerable residents, and so many families rely on the health care professionals at these facilities to care for their loved ones... During emergencies, health care facilities must be fully prepared to ensure the health, safety and wellbeing of those in their care and there is absolutely no excuse not to protect life. The inability for this nursing home in Broward County to protect life has shined the light on the need for emergency action.”<sup>3</sup>

### **Emergency Rules for Nursing Home and ALF Generators**

Complying with the Governor’s order, the AHCA and the DOEA published emergency rules requiring that all nursing homes<sup>4</sup> and ALFs<sup>5</sup> install emergency generators. These emergency rules took effect on September 18, 2017; were renewed on December 15, 2017;<sup>6</sup> and established:

- The requirement that each facility provide a detailed plan within 45 days of the effective date of the rule for the acquisition and installation of an emergency generator and sufficient fuel to power the generator for 96 hours. The generator must be sufficiently large to cool the facility to 80 degrees Fahrenheit or below for the required time period;
- The requirement that each facility implement its plan within 60 days of the effective date of the rule; and
- Penalties for violating the emergency rule including possible license revocation and monetary penalties of up to \$1,000 per day for continuing violations.

Both emergency rules were challenged at the Division of Administrative Hearings (DOAH) and were ruled invalid on October 27, 2017. The DOAH judge ruled that there was no emergency that required the rules and that the rules were invalid exercises of delegated legislative authority. The judge ruled that the rules:

- Were arbitrary and capricious in that complying with the rules in the timeframes allowed was impossible;
- Vested unbridled discretion in the AHCA and the DOEA in that the rules were so vague as to require agency discretion to implement them; and

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<sup>2</sup> Eight residents died before the Center evacuated the facility and six more died in the following weeks. Two of the 14 deaths were found not to be related to heat exposure. See The Associated Press, *12 of 14 Nursing Home Deaths After Irma Ruled Homicides*, WUSF NEWS, Nov. 27, 2017 available at <http://wusfnews.wusf.usf.edu/post/12-14-nursing-home-deaths-after-irma-ruled-homicides>, (last visited on Jan. 26, 2018).

<sup>3</sup> See <https://www.flgov.com/2017/09/16/gov-scott-i-am-aggressively-fighting-to-keep-vulnerable-floridians-safe-during-emergencies/>, (last visited on Jan. 26, 2018).

<sup>4</sup> Rule 59AER17-1, F.A.R.

<sup>5</sup> Rule 58AER17-1, F.A.R.

<sup>6</sup> Generally, emergency rules expire after 90 days and are not renewable. See s. 120.54(c), F.S. However, s. 120.54(4)(c)2., F.S., allows an agency to extend the period of time that emergency rules are effective if the agency has initiated the rulemaking process on the same subject and the proposed rules are awaiting legislative ratification. Currently, the AHCA and the DOEA have initiated rulemaking to adopt rules on the same subject (see section below) and the agencies’ have submitted the proposed rules to the Legislature for ratification.



- Contravened the implementing statute in that the penalties made no effect to classify noncompliance in a manner consistent with statute.<sup>7</sup>

These cases have been appealed to the Florida First District Court of Appeal<sup>8</sup> (DCA). The DCA denied a motion to stay the effect of the rules on November 11, 2017, and consequently, both emergency rules continue to be in effect pending appeal.

### **Permanent Rules for Nursing Home and ALF Generators**

Concurrently with the emergency rules, the AHCA and the DOEA have also begun the process for adopting permanent rules related to nursing home and ALF generators.<sup>9</sup> The AHCA and the DOEA initiated the rulemaking process on October 11, 2017, with rules published on November 14, 2017. The AHCA issued a notice of change published on January 10, 2018, and the DOEA issued a notice of change on January 19, 2018. Leading Age Florida challenged the validity of the AHCA's proposed rules for nursing homes and the Florida Senior Living Association challenged the DOEA's proposed rules for ALFs, but the challenges were withdrawn on January 26, 2018.

The proposed permanent rules would require each nursing home and ALF to have a plan to acquire an alternative power source to ensure that ambient air temperatures are maintained at or below 81 degrees Fahrenheit for at least 96 hours during an emergency. ALFs are also required to plan for the acquisition and maintenance of a carbon monoxide alarm. The rules allow each facility to plan to cool a portion of the facility with sufficient space to accommodate the facility's residents.<sup>10</sup> Facilities are also required to plan for the storage or availability of sufficient fuel to power the generator for 96 hours.<sup>11</sup> Each facility's plan must be submitted within 30 days of the rule taking effect and will be reviewed by the AHCA and the local emergency management agency in the facility's area. Approved plans must be implemented no later than June 1, 2018, but the AHCA<sup>12</sup> may grant an extension up to January 1, 2019, if the facility's plan implementation is delayed due to necessary construction, delivery of equipment, or zoning or other regulatory approval processes.

The rules also require each facility to implement policies and procedures to ensure that it can effectively and immediately activate, operate, and maintain the emergency power source. The policies and procedures must be resident-focused and ensure that the residents do not suffer

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<sup>7</sup> *Florida Association of Homes and Services for the Aging, Inc., d/b/a, Leadingage Florida v. the Agency for Health Care Administration*, case no. 17-5388RE, and *Florida Assisted Living Association, Inc., a Florida not for Profit Corporation v. the Florida Department of Elder Affairs*, case no. 17-5409RE

<sup>8</sup> Case no. 1D17-4534.

<sup>9</sup> Rule 59A-4.1265, F.A.R., for nursing homes and Rule 58A-5.036, F.A.R., for ALFs.

<sup>10</sup> Nursing homes are required to cool 30 square feet per resident and ALFs are required to cool 20 square feet per resident and may use 80 percent of its bed count to determine the total square footage.

<sup>11</sup> Sixteen bed or less ALFs must store 48 hours of fuel onsite and 17 or more bed ALFs and nursing homes must store 72 hours of fuel onsite. Facilities must also have a plan to obtain the remaining 24 or 48 hours of fuel at least 24 hours prior to the depletion of its fuel stores and may use portable fuel containers for the remainder during an emergency. Using piped natural gas as a fuel source is allowed.

<sup>12</sup> Under the provisions of ch. 429, F.S., the DOEA has responsibility for rulemaking for ALFs, but the AHCA is responsible for inspections and licensure activities.

complications from heat exposure. The policies and procedures must be available for inspection by residents, their representatives, and any other parties authorized in law.

The rules specify that the AHCA may seek any statutory remedy for noncompliance including, but not limited to, license revocation, license suspension, and administrative fines.

### **Federal Regulations for Nursing Home Emergency Power**

Federal regulations currently in effect require nursing homes<sup>13</sup> to obtain emergency power in a similar manner to the permanent rules in development by the AHCA. The regulations in 42 CFR 483.73 require each long term care facility, including nursing homes, to develop and implement emergency preparedness policies and procedures that must include alternative sources of energy to maintain safe air temperatures for residents. Based on the facility's policies and procedures, each facility must implement emergency and standby power systems and maintain on onsite fuel source and a plan to keep the power systems operational, unless the facility evacuates. These regulations took effect on November 16, 2017, and are a requirement for the nursing home to participate in the Medicare or Medicaid programs.

### **Carbon Monoxide Alarms**

Section 553.885, F.S., requires certain new buildings and additions to existing buildings<sup>14</sup> to have a carbon monoxide alarm if the building has certain features such as a fossil fuel burning heater or fireplace. The section defines "carbon monoxide alarm" as a device that is meant for the purpose of detecting carbon monoxide, that produces a distinct audible alarm, and that meets the requirements of and is approved by the Florida Building Commission. The section also provides that a stand-alone carbon monoxide alarm or a combination smoke and carbon monoxide alarm meets the requirements of the section and the alarms may be hard-wired or battery operated.

## **III. Effect of Proposed Changes:**

CS/SB 1874 amends ss. 400.23 and 429.41, F.S., regulating nursing homes and ALFs, respectively, to require, by June 1, 2018, that each facility have an operational emergency power source and fuel to sustain an air temperature set in rule<sup>15</sup> for at least 96 hours. The bill requires that each facility have a plan to monitor residents to ensure that they do not suffer from complications from heat exposure and a plan to safely transport residents to an appropriate facility if the facility's management knows it will be unable to sustain safe temperatures. The bill also requires that each ALF to have an operational carbon monoxide alarm installed that is approved by the Florida Building Commission and meets the requirements of s. 553.885, F.S.

The bill's provisions take effect upon becoming law

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<sup>13</sup> While nursing homes are federally regulated, the regulation of ALFs is delegated to the states.

<sup>14</sup> Hospitals, nursing homes, and hospice facilities that are constructed after July 1, 2008, are required to have carbon monoxide alarms in every area with a specified feature and the alarm must be connected to the fire alarm system of the facility.

<sup>15</sup> Supra note 1.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

CS/SB 1874 may have an indeterminate negative fiscal impact on nursing homes and ALFs that are required to acquire or upgrade emergency power systems to comply with the requirements in the bill.

**C. Government Sector Impact:**

The bill may have an indeterminate fiscal impact on the AHCA related to enforcing the provisions of the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 400.23 and 429.41.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Health Policy on January 30, 2018:**

The CS adds the requirement that each ALF have an operational carbon monoxide alarm

installed that is approved by the Florida Building Commission and meets the requirements of s. 553.885, F.S.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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512420

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2018	.	
	.	
	.	
	.	

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The Committee on Health Policy (Passidomo) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 155 and 156  
insert:

5. Carbon monoxide alarm required.—All facilities, regardless of date of construction, must have an operational carbon monoxide alarm installed which is approved by the Florida Building Commission and which meets the requirements of s. 553.885.



512420

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

12 And the title is amended as follows:

13 Delete lines 19 - 20

14 and insert:

15 to maintain an emergency power source and a supply of  
16 fuel which meet certain criteria by a specified date  
17 and requiring facilities to have a certain carbon  
18 monoxide alarm installed which meets certain  
19 requirements;

By Senator Passidomo

28-01306-18

20181874\_\_

A bill to be entitled

An act relating to emergency power for nursing home and assisted living facilities; amending s. 400.23, F.S.; requiring the Agency for Health Care Administration, in consultation with the Department of Health and the Department of Elderly Affairs, to adopt and enforce rules requiring each facility to have an emergency power source and a supply of fuel which meet certain criteria by a specified date; requiring the agency to adopt rules establishing minimum criteria for a comprehensive emergency management plan that includes a plan to monitor residents and a plan to transport them in certain situations to avoid complications from heat exposure; amending s. 429.41, F.S.; requiring the Department of Elderly Affairs, in consultation with the agency, the Department of Children and Families, and the Department of Health, to adopt and enforce rules requiring each facility maintain an emergency power source and a supply of fuel which meet certain criteria by a specified date; requiring the Department of Elderly Affairs to establish minimum criteria for a comprehensive emergency management plan that includes a plan to monitor residents and transport them in certain situations to avoid complications from heat exposure; providing an effective date.

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

28-01306-18

20181874\_\_

Section 1. Paragraphs (d) and (g) of subsection (2) of section 400.23, Florida Statutes, are amended to read:

400.23 Rules; evaluation and deficiencies; licensure status.—

(2) Pursuant to the intention of the Legislature, the agency, in consultation with the Department of Health and the Department of Elderly Affairs, shall adopt and enforce rules to implement this part and part II of chapter 408, which shall include reasonable and fair criteria in relation to:

(d) The equipment essential to the health and welfare of ~~the residents,~~ including an operational emergency power source and a supply of fuel sufficient to sustain the emergency power source for at least 96 hours during a power outage. The emergency power source must provide enough electricity to consistently maintain an air temperature described in rule. Each facility must be in compliance with this paragraph by no later than June 1, 2018.

(g) The preparation and annual update of a comprehensive emergency management plan, which must include provisions for emergency power equipment. The agency shall adopt rules establishing minimum criteria for the plan after consultation with the Division of Emergency Management. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; a plan to monitor residents to ensure they do not experience complications from heat exposure during a



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59 power outage; a plan to safely transport residents to an  
60 appropriate facility if a facility's management knows it will be  
61 unable to maintain the residents in a safe temperature range;  
62 and responding to family inquiries. The comprehensive emergency  
63 management plan is subject to review and approval by the local  
64 emergency management agency. During its review, the local  
65 emergency management agency shall ensure that the following  
66 agencies, at a minimum, are given the opportunity to review the  
67 plan: the Department of Elderly Affairs, the Department of  
68 Health, the Agency for Health Care Administration, and the  
69 Division of Emergency Management. Also, appropriate volunteer  
70 organizations must be given the opportunity to review the plan.  
71 The local emergency management agency shall complete its review  
72 within 60 days and either approve the plan or advise the  
73 facility of necessary revisions.

74 Section 2. Paragraphs (a) and (b) of subsection (1) of  
75 section 429.41, Florida Statutes, are amended to read:

76 429.41 Rules establishing standards.—

77 (1) It is the intent of the Legislature that rules  
78 published and enforced pursuant to this section shall include  
79 criteria by which a reasonable and consistent quality of  
80 resident care and quality of life may be ensured and the results  
81 of such resident care may be demonstrated. Such rules shall also  
82 ensure a safe and sanitary environment that is residential and  
83 noninstitutional in design or nature. It is further intended  
84 that reasonable efforts be made to accommodate the needs and  
85 preferences of residents to enhance the quality of life in a  
86 facility. Uniform firesafety standards for assisted living  
87 facilities shall be established by the State Fire Marshal

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20181874\_\_

pursuant to s. 633.206. The agency, in consultation with the department, may adopt rules to administer the requirements of part II of chapter 408. In order to provide safe and sanitary facilities and the highest quality of resident care accommodating the needs and preferences of residents, the department, in consultation with the agency, the Department of Children and Families, and the Department of Health, shall adopt rules, policies, and procedures to administer this part, which must include reasonable and fair minimum standards in relation to:

(a) The requirements for and maintenance of facilities, not in conflict with chapter 553, relating to plumbing, heating, cooling, lighting, ventilation, living space, and other housing conditions, which will ensure the health, safety, and comfort of residents suitable to the size of the structure.

1. Firesafety evacuation capability determination.—An evacuation capability evaluation for initial licensure shall be conducted within 6 months after the date of licensure.

2. Firesafety requirements.—

a. The National Fire Protection Association, Life Safety Code, NFPA 101 and 101A, current editions, shall be used in determining the uniform firesafety code adopted by the State Fire Marshal for assisted living facilities, pursuant to s. 633.206.

b. A local government or a utility may charge fees only in an amount not to exceed the actual expenses incurred by the local government or the utility relating to the installation and maintenance of an automatic fire sprinkler system in a licensed assisted living facility structure.

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117 c. All licensed facilities must have an annual fire  
118 inspection conducted by the local fire marshal or authority  
119 having jurisdiction.

120 d. An assisted living facility that is issued a building  
121 permit or certificate of occupancy before July 1, 2016, may at  
122 its option and after notifying the authority having  
123 jurisdiction, remain under the provisions of the 1994 and 1995  
124 editions of the National Fire Protection Association, Life  
125 Safety Code, NFPA 101, and NFPA 101A. The facility opting to  
126 remain under such provisions may make repairs, modernizations,  
127 renovations, or additions to, or rehabilitate, the facility in  
128 compliance with NFPA 101, 1994 edition, and may use ~~utilize~~ the  
129 alternative approaches to life safety in compliance with NFPA  
130 101A, 1995 edition. However, a facility for which a building  
131 permit or certificate of occupancy is issued before July 1,  
132 2016, that undergoes Level III building alteration or  
133 rehabilitation, as defined in the Florida Building Code, or  
134 seeks to use ~~utilize~~ features not authorized under the 1994 or  
135 1995 editions of the Life Safety Code must thereafter comply  
136 with all aspects of the uniform firesafety standards established  
137 under s. 633.206, and the Florida Fire Prevention Code, in  
138 effect for assisted living facilities as adopted by the State  
139 Fire Marshal.

140 3. Resident elopement requirements.—Facilities are required  
141 to conduct a minimum of two resident elopement prevention and  
142 response drills per year. All administrators and direct care  
143 staff must participate in the drills which shall include a  
144 review of procedures to address resident elopement. Facilities  
145 must document the implementation of the drills and ensure that

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20181874\_\_

the drills are conducted in a manner consistent with the facility's resident elopement policies and procedures.

4. Emergency power sources for use during power outages.—  
Facilities are required to maintain an operational emergency power source and a supply of fuel sufficient to sustain the emergency power source for at least 96 hours during a power outage. The emergency power source must provide enough electricity to consistently maintain an air temperature described in rule. Each facility must be in compliance with this subparagraph by no later than June 1, 2018.

(b) The preparation and annual update of a comprehensive emergency management plan. Such standards must be included in the rules adopted by the department after consultation with the Division of Emergency Management. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including provision of emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; a plan to monitor residents to ensure they do not experience complications from heat exposure during a power outage; a plan to safely transport residents to an appropriate facility if a facility's management knows it will be unable to maintain the residents in a safe temperature range; communication with families; and responses to family inquiries. The comprehensive emergency management plan is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the following agencies, at a minimum, are given the

28-01306-18

20181874\_\_

175 opportunity to review the plan: the Department of Elderly  
176 Affairs, the Department of Health, the Agency for Health Care  
177 Administration, and the Division of Emergency Management. Also,  
178 appropriate volunteer organizations must be given the  
179 opportunity to review the plan. The local emergency management  
180 agency shall complete its review within 60 days and either  
181 approve the plan or advise the facility of necessary revisions.

182       Section 3. This act shall take effect upon becoming a law.



The Florida Senate

## Committee Agenda Request

**To:** Senator Dana Young, Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** January 16, 2018

---

I respectfully request that **Senate Bill #1874**, relating to Emergency Power for Nursing Home and Assisted Living Facilities, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in black ink, appearing to read "K. Passidomo", with a long horizontal stroke extending to the right.

---

Senator Kathleen Passidomo  
Florida Senate, District 28

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1/30/18  
Meeting Date

SB 1874  
Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Bob Asztalos

Job Title Chief Lobbyist

Address 307 W Park Ave  
Street

Phone 850-224-3907

Tallahassee FL 32301  
City State Zip

Email basztalos@fhca.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Health Care Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
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Meeting Date \_\_\_\_\_

1874  
Bill Number (if applicable)

Topic EMERGENCY POWER NH'S & ALF'S

Amendment Barcode (if applicable)

Name JACK M<sup>C</sup>RAY

Job Title \_\_\_\_\_

Address 200 W. COLLEGE ST, #304  
Street

Phone 250-577-5127

TLH FL 32301  
City State Zip

Email jmcray@aa-p.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing NARP

Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.*

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S-001 (10/14/14)



# CourtSmart Tag Report

**Room:** KN 412

**Caption:** Senate Health Policy Committee

**Case No.:**

**Judge:**

**Type:**

**Started:** 1/30/2018 10:16:46 AM

**Ends:** 1/30/2018 11:19:43 AM

**Length:** 01:02:58

10:16:48 AM Call to order  
10:16:51 AM Roll Call  
10:17:06 AM Quorum present  
10:17:36 AM Tab 3 CS/SB 562  
10:17:39 AM Sen Mayfield  
10:18:50 AM Mark Ryan, City of Indian Harbor Beach speaks in support  
10:19:01 AM Rivers H Buford, waives in support  
10:19:10 AM Aneshi Smith, WIS  
10:19:17 AM Melissa Young, WIS  
10:19:22 AM Joe McCan WIS  
10:19:27 AM Holly Parker Curry, speaks in support  
10:20:13 AM Brian Graham, QuitDoc Foundation, WIS  
10:20:23 AM Laura Boehmer, WIS  
10:20:30 AM Matt Jordan, WIS  
10:20:38 AM Mayfield waives close  
10:20:42 AM Roll Call  
10:21:02 AM CS/SB 562 Recorded Favorably  
10:21:12 AM Tab 4 SB 492  
10:21:15 AM Sen Garcia  
10:22:25 AM Michael Jackson, WIS  
10:22:34 AM Towon Friaser ,WIS  
10:22:43 AM Cynthia Henderson, WIS  
10:22:49 AM Sen Garcia closes  
10:23:15 AM Roll Call  
10:23:30 AM SB 492 Recorded Favorably  
10:23:56 AM Tab 1 CS/SB 280  
10:23:58 AM Sen Bean  
10:25:24 AM Linda Renn, FL Health Info Management Assoc., WIS  
10:25:30 AM Labrena Coleman, Barry University, WIS  
10:26:15 AM Fabio Naranjo, Barry University, speaks in support  
10:26:34 AM Natalie Royal, USF Social Work, WIS  
10:26:38 AM Lee Vitaliano , Barry University, WIS  
10:26:41 AM Lisa Still, Social Work Student, WIS  
10:26:52 AM Alicia Marie Cuttita, Student, WIS  
10:27:02 AM Dshena Hall, Student, WIS  
10:27:08 AM Layne Smith, Mayo, WIS  
10:27:13 AM Jack McRay, AARP, WIS  
10:27:37 AM Oliver Oyama, USF Medicine, Speaks in support  
10:30:31 AM Rivers Buford III, WIS  
10:30:38 AM Paul Lambert Florida Chiropractic Assoc., WIS  
10:30:43 AM Chris Chaney, Associated Industries of FL WIS  
10:30:48 AM Mia Diaz, FL Tax Watch, WIS  
10:30:54 AM Tiffany Hodgson, WIS  
10:31:01 AM Dr Natalia Shtomoel, NASW, WIS  
10:31:07 AM Larry Gonzalez, FI Society of Health System Pharm, WIS  
10:31:19 AM Brittney Hunt, FL chamber of commerce, WIS  
10:31:25 AM Shanese Brown, Barry University, WIS  
10:31:29 AM Marti Coley Eubanks. Nemours Childrens, WIS  
10:31:35 AM Ron Watson, Florida Renal Coalition, WIS  
10:31:40 AM Joe Anne Hart, FL Dental Assoc, WIS  
10:32:03 AM Roll Call  
10:32:20 AM CS/SB 280 Recorded Favorably

10:32:35 AM Tab 5 SB 1184  
10:32:46 AM Sen Gibson explains  
10:33:48 AM Powell, question  
10:34:57 AM Gibson  
10:36:04 AM Gloria Enstein, WIS  
10:36:17 AM Gibson waives close  
10:36:22 AM Roll Call  
10:36:36 AM SB 1184 Recorded Favorably  
10:36:51 AM Tab 8 SB 1850  
10:37:00 AM Sen Stewart explains  
10:37:31 AM AM 856288  
10:37:37 AM Sen Stewart explains AM  
10:38:12 AM AM 856288 Adopted  
10:38:36 AM Daphnee Sainvill, Broward County, WIS  
10:38:43 AM Sen Stewart waives close  
10:38:45 AM Roll Call  
10:39:01 AM SB 1850 Recorded Favorably  
10:39:20 AM Tab 9 SB 1862  
10:39:25 AM Sen Broxson explains  
10:41:59 AM Lester Perling, Adventist Health & FL Hospital, Speaks in support  
10:43:33 AM David Christian, FL Hospital, WIS  
10:43:40 AM Steven Winn, FL Osteopathic Medical Assoc., WIS  
10:43:46 AM Jeff Scott, FL Medical Assoc., WIS  
10:43:56 AM Hukill Question  
10:44:39 AM Broxson replies  
10:45:36 AM Broxson waives close  
10:45:39 AM Roll Call  
10:45:53 AM SB 1862 Recorded Favorably  
10:46:04 AM Tab 4 SB 1128  
10:46:11 AM Sen Stargell Explains  
10:46:38 AM LF AM 446160  
10:46:47 AM Stargel Explains Amendment  
10:47:45 AM Sen Powell Question  
10:47:59 AM Sen Stargel Replies  
10:48:50 AM AM 446160 Adopted  
10:49:10 AM Heather Fuller, FL Society of Health Systems Pharmacists, speaks in support  
10:49:26 AM Sen Stargel waives close  
10:49:29 AM Roll Call  
10:49:45 AM SB 1128 Recorded Favorably  
10:50:02 AM Tab 10 SB 1874  
10:50:07 AM Sen Passidomo Explains  
10:51:33 AM AM 512420  
10:51:39 AM Sen Passidomo explains AM  
10:52:00 AM AM 512420 Adopted  
10:52:25 AM Sen Passidomo question for self from Book  
10:52:57 AM Jack McCray, AARP, WIS  
10:53:09 AM Bob Asztabs, WIS  
10:53:16 AM Sen Passidomo waives close  
10:53:20 AM Roll Call  
10:53:39 AM CS/SB 1874 Recorded Favorably  
10:54:45 AM Series of Motions  
10:54:53 AM Tab 7 SB 1594  
10:55:00 AM Sen Brandes Explains  
10:55:53 AM AM 200842  
10:55:58 AM Sen Brandes Explains AM  
10:57:06 AM AM AM 709366  
10:57:13 AM Sen Brandes Explains AM to AM  
10:57:56 AM AM 709366 Adopted  
10:58:01 AM Sen Passidomo Question  
10:58:35 AM Sen Hukill Question  
10:58:59 AM Sen Brandes responds  
10:59:43 AM Sen Hukill Question

11:00:07 AM Sen Brades Responds  
11:00:14 AM Sen Hukill Question  
11:00:20 AM Sen Brandes Respond  
11:00:40 AM Chair Young clarification  
11:01:15 AM Sen Brandes explains  
11:01:44 AM Sen Powell Question  
11:02:11 AM Sen Brandes Respond  
11:02:27 AM Chair Young  
11:02:32 AM Sen Brandes  
11:03:01 AM Sen Brandes waives close  
11:03:09 AM AM 709366 adopted  
11:03:25 AM Chris Lyon, FL Association of Nurse Anesthetists, WIS  
11:03:34 AM Martha DeCastro, FL Hospital Assoc, WIS  
11:03:42 AM Chris Floyd, FL Assoc of Nurse Practitioners, WIS  
11:03:49 AM Alison Carvajal, FL Nurse Practitioner Network, WIS  
11:04:00 AM Andrea Reilly, National Council of State Boards of Nursing, WIS  
11:04:12 AM Chris Spencer, FL Nurse Assoc, WIS  
11:04:18 AM Sen Brandes Waives close  
11:04:20 AM Roll Call  
11:04:38 AM CS SB 1590 Recorded Favorably  
11:04:44 AM Tab 6 SB 1486  
11:04:50 AM Sen Grimsley  
11:05:35 AM AM 276508  
11:05:44 AM Sen Grimsley explains  
11:09:53 AM AM 686290  
11:10:02 AM Sen Grimsley explains AM  
11:10:12 AM AM Adopted  
11:10:20 AM AM 470560  
11:10:25 AM Sen Grimsley Explains  
11:10:46 AM David Ramba ,FL Optometric Assoc, WIS  
11:10:53 AM AM Adopted  
11:11:02 AM AM 116652  
11:11:05 AM Sen Grimsley Explains  
11:11:35 AM Corinne Mixon, FL Mental Health Counselors Assoc, WIS  
11:11:48 AM AM 116652 Adopted  
11:11:59 AM AM 971228  
11:12:07 AM Sen Grimsley Explains  
11:12:15 AM AM 971228 Adopted  
11:12:50 AM Hukill Question  
11:14:16 AM Grimsley Responds  
11:14:20 AM Hukill Question  
11:14:58 AM Paul Runk, Dept of Health, answers Hukill question  
11:15:27 AM Paul Runk, Dept of Health, WIS  
11:15:35 AM David Christian , Adventist Health Florida Hospital, WIS  
11:15:47 AM Cynthia Henderson, Luxotica, WIS  
11:15:54 AM Sen Grimsley closes  
11:16:05 AM Roll Call  
11:16:22 AM SB 1486 Recorded Favorably  
11:16:36 AM Adjourned  
11:17:08 AM Recording Paused