#### The Florida Senate

## **COMMITTEE MEETING EXPANDED AGENDA**

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

	MEETING DATE: TIME: PLACE:	Tuesday, January 30, 2018 10:00 a.m.—12:00 noon <i>Pat Thomas Committee Room,</i> 412 Knott Building			
	MEMBERS:	Senator Young, Chair; Senator Passidomo, Vice Chair; Senators Benacquisto, Book, Hukill, Hut Montford, and Powell		nacquisto, Book, Hukill, Hutson,	
TAB	BILL NO. and INTR	ODUCER		BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 280</b> Banking and Insurance (Similar H 793)	e / Bean	telehea provide require physica through	alth; Establishing the standard of care for alth providers; providing that telehealth ers, under certain circumstances, are not d to research a patient's history or conduct al examinations before providing services in telehealth; providing recordkeeping ments for telehealth providers, etc. 01/16/2018 Fav/CS 01/30/2018 Favorable	Favorable Yeas 8 Nays 0
2	<b>SB 492</b> Garcia (Similar CS/H 289)		certain mainte subscri exclusi treatme certain specifie	on of Pharmaceutical Services; Prohibiting health insurance policies and health nance contracts from requiring insureds and ibers to obtain certain prescription drugs vely from mail order pharmacies for the ent of specified chronic illnesses; requiring health maintenance organizations to include ed disclosures in their outlines of coverage ng such prescription drugs, etc. 01/16/2018 Favorable 01/30/2018 Favorable	Favorable Yeas 8 Nays 0
3	<b>CS/SB 562</b> Community Affairs / Ma (Similar H 627)	ayfield	countie	tion of Smoking; Authorizing municipalities and is to further restrict smoking within the aries of certain public parks and designated s, etc. 01/16/2018 Fav/CS 01/30/2018 Favorable	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Health Policy

Tuesday, January 30, 2018, 10:00 a.m.-12:00 noon

ТАВ	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION	
4	<b>SB 1128</b> Stargel (Similar H 675)	<ul> <li>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.</li> <li>HP 01/30/2018 Fav/CS AP RC</li> </ul>	Fav/CS Yeas 8 Nays 0	
5	SB 1184	Closing the Gap Grant Program; Requiring a Closing	Favorable	
	Gibson (Identical H 1009)	the Gap grant proposal to address racial and ethnic disparities in morbidity and mortality rates relating to Lupus, etc.	Yeas 8 Nays 0	
		HP 01/30/2018 Favorable AHS AP		
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.	Fav/CS Yeas 8 Nays 0	
		HP 01/30/2018 Fav/CS AP RC		

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Health Policy

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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

#### COMMITTEE MEETING EXPANDED AGENDA

#### Health Policy

Tuesday, January 30, 2018, 10:00 a.m.-12:00 noon

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

Other Related Meeting Documents

# 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.)

	Prepai	red By: The Professional S	tait of the Committe	e on Health Pol	icy
BILL:	CS/SB 280				
INTRODUCER: Banking and Insurance Committee and Senator Bean					
SUBJECT: Telehealth					
DATE:	January 29,	, 2018 REVISED:			
DATE:	•	, 2018 REVISED: STAFF DIRECTOR	REFERENCE		ACTION
	•		REFERENCE BI	Fav/CS	ACTION
ANAL	•	STAFF DIRECTOR		Fav/CS Favorable	ACTION
ANAL	•	STAFF DIRECTOR Knudson	BI		ACTION

# 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 storeand-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,

<sup>4</sup> Id.

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

<sup>&</sup>lt;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; <u>https://ersrs.hrsa.gov/ReportServer?/HGDW\_Reports/BCD\_HPSA/BCD\_HPSA\_SCR50\_Qtr\_Smry\_HTML&rc:Toolbar=fals</u> <u>e</u>. (last viewed Jan.25, 2018).

<sup>&</sup>lt;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 <u>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).</u>

<sup>&</sup>lt;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 (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 devises, 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 December 31, 2016.

# 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

<sup>&</sup>lt;sup>6</sup> Department of Health and Human Services, Centers for Medicare and Medicaid Services, *Telemedicine*, available at <u>https://www.medicaid.gov/medicaid/benefits/telemed/index.html</u> (last viewed Jan. 5, 2018).
<sup>7</sup> Id.

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

<sup>&</sup>lt;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>&</sup>lt;sup>10</sup> See Telehealth Advisory Council website available at <u>http://www.ahca.myflorida.com/SCHS/telehealth/</u> (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

%202017%20PASSWORD.pdf, (last visited Jan. 25, 2018).

<sup>&</sup>lt;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

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

**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>

indicate very little reimbursement for telehealth services no matter the plan type.

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

<sup>&</sup>lt;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 technologyrelated 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:

<sup>&</sup>lt;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.

<sup>19</sup> Vol. 41/244, Fla. Admin. Weekly, Dec. 18, 2015, available at

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

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

https://www.flrules.org/BigDoc/View\_Section.asp?Issue=2011&Section=1 (last visited Jan. 14,2018).

<sup>&</sup>lt;sup>20</sup> Florida Board of Medicine, Latest News, Feb. 23, 2016, available at <u>http://flboardofmedicine.gov/latest-news/board-revises-floridas-telemedicine-practice-rule/</u> (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 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.

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

<sup>&</sup>lt;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>&</sup>lt;sup>24</sup> Agency for Health Care Administration, 2012-2015 Medicaid Health Plan Model Agreement Attachment II - Exhibit II-A, p. 63-64 <u>http://ahca.myflorida.com/medicaid/statewide\_mc/pdf/mma/Attachment\_II\_Exhibit\_II-A\_MMA\_Model\_2014-01-</u>

<sup>&</sup>lt;u>31.pdf</u>, (last visited Jan. 11, 2018).

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

<sup>&</sup>lt;sup>26</sup> *Id*.

<sup>&</sup>lt;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.

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

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

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

<sup>&</sup>lt;sup>31</sup> Section 641.495, F.S.

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

<sup>&</sup>lt;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

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

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

<sup>&</sup>lt;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>&</sup>lt;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*, <u>https://www.hrsa.gov/rural-health/about-us/definition/index.html</u>, (last visited Jan. 25, 2018).

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

MLN/MLNMattersArticles/Downloads/MM9034.pdf (last visited Jan. 7, 2018).

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

<sup>&</sup>lt;sup>40</sup> Department of Health and Human Services, Centers for Medicare and Medicaid Services, *MLN Matters* (Dec. 24, 2014), <u>http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-</u>

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

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

<sup>&</sup>lt;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>

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

<sup>&</sup>lt;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.

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

CS for SB 280

By the Committee on Banking and Insurance; and Senator Bean

	597-02153-18 2018280c1
1	A bill to be entitled
2	An act relating to telehealth; creating s. 456.4501,
3	F.S.; defining terms; establishing the standard of
4	care for telehealth providers; authorizing telehealth
5	providers to use telehealth to perform patient
6	evaluations; providing that telehealth providers,
7	under certain circumstances, are not required to
8	research a patient's history or conduct physical
9	examinations before providing services through
10	telehealth; providing that a nonphysician telehealth
11	provider using telehealth and acting within her or her
12	relevant scope of practice is not deemed to be
13	practicing medicine without a license; authorizing
14	certain telehealth providers to use telehealth to
15	prescribe specified controlled substances; providing
16	for construction; requiring the Department of Health
17	to develop and disseminate certain educational
18	materials to specified licensees by a specified date;
19	providing recordkeeping requirements for telehealth
20	providers; providing requirements for patient consent
21	for telehealth treatment; providing an effective date.
22	
23	Be It Enacted by the Legislature of the State of Florida:
24	
25	Section 1. Section 456.4501, Florida Statutes, is created
26	to read:
27	456.4501 Use of telehealth to provide services
28	(1) DEFINITIONSAs used in this section, the term:
29	(a) "Information and telecommunications technologies" means
I	

#### Page 1 of 4

	597-02153-18 2018280c1
30	those secure electronic applications used by health care
31	practitioners and health care providers to provide health care
32	services, evaluate health care information or data, provide
33	remote patient monitoring, or promote healthy behavior through
34	interactions that include, but are not limited to, live video
35	interactions, text messages, or store and forward transmissions.
36	(b) "Store and forward" means the type of telehealth
37	encounter which uses still images of patient data for rendering
38	a medical opinion or patient diagnosis. The term includes the
39	asynchronous transmission of clinical data from one site to
40	another site.
41	(c) "Synchronous" means live or two-way interactions using
42	a telecommunications system between a provider and a person who
43	is a patient, caregiver, or provider.
44	(d) "Telecommunications system" means the transfer of
45	health care data through advanced information technology using
46	compressed digital interactive video, audio, or other data
47	transmission; clinical data transmission using computer image
48	capture; and other technology that facilitates access to health
49	care services or medical specialty expertise.
50	(e) "Telehealth" means the mode of providing health care
51	services and public health services by a Florida licensed
52	practitioner, within the scope of his or her practice, through
53	synchronous and asynchronous information and telecommunications
54	technologies where the practitioner is located at a site other
55	than the site where the recipient, whether a patient or another
56	licensed practitioner, is located.
57	(f) "Telehealth provider" means a person who provides
58	health care services and related services through telehealth and

# Page 2 of 4

CS for SB 280

	597-02153-18 2018280c1
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

# Page 3 of 4

CS for SB 280

	597-02153-18 2018280c1
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) RECORDSA 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) CONSENTPatients 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.

# Page 4 of 4



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.

 $\boxtimes$ 

next committee agenda.

on Bean

Senator Aaron Bean Florida Senate, District 4

		IDA OLNAIL	
	APPEARAN	CE RECORD	
1/30/0018	(Deliver BOTH copies of this form to the Senator of	or Senate Professional Staff conducting the mee	eting) 280
Meeting Date			Bill Number (if applicable)
Topic ELEH	EALTH	LINDA RENN AN	nendment Barcode (if applicable)
Name Florint	HEACH INFORMATION MA	WAGEMENT ASSOCIATION	N-LINDS RENN
Job Title	PRESIDENT		
Address <u>3407 h</u>	VINDNA AVERLIE	Phone <u>(35</u>	52)787-9590
<u>LÉEGOU</u> City	RG FL 34748 State	Email //nd	la.rennofhina.org
Speaking: For	Against Information	Waive Speaking: In (The Chair will read this infe	
Representing	COMPA HEALTH INFOR	EMITAN MANAGEMENT	Associa TION
Appearing at request c	of Chair: Yes No	Lobbyist registered with Legis	slature: 🦳 Yes 📃 No

THE ELODIDA SENATE

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.

Тне	EFLORIDA SENATE
APPEAR	RANCE RECORD
/ 36/18	Senator or Senate Professional Staff conducting the meeting) $SB280$
Meeting Date	Bill Number (if applicable)
Topic _ SPB Tele Health	Amendment Barcode (if applicable)
Name Labrena Coleman	
Job Title Teacher (Student at	Barry University)
Address 718 Flordig AVE	Phone $(561) 449 - 1342$
Clewiston Fl	33440 Email breng2011@yahoo.com
City State Speaking: For Against Information	Zip Waive Speaking: In Support Against (The Chair will read this information into the record.)
Representing <u>Myself</u> (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.

The Florida Senate	
APPEARANCE RECORD Deliver BOTH copies of this form to the Senator or Senate Professional Staff co Meeting/Date	
Topic TELEHEALTH	Amendment Barcode (if applicable)
Name FABÍO A. NARAND	
Job Title _ INSTRUCTOR/BARRY UNIVERS	FTY N
	hone $(305)899-3939$
Street MIAMÍ SNORES, FL 33/6/ City State Zip	mail <u>fabioanaranzoe</u>
Speaking: For Against Information Waive Spea	aking: In Support Against ill read this information into the record.)
Representing <u>SELP</u>	
Appearing at request of Chair: Yes No Lobbyist registere	d with Legislature: Yes No
Nhile it is a Senate tradition to encourage public testimony, time may not permit all per	rsons 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.

(Deliver BOTH copies of this form to the Senator or Senate Professional Senator Date	
Topic Telehealth	Amendment Barcode (if applicable)
Name Natalie Royal	
Job Title Master of Social Work Student	-
Address 6008 Laketree Lane Unit C	Phone 479 857 6621
<u>Temple Terrace FL 33617</u> City State Zip	Email Nroyal Pmas 1. ust. edu
Speaking: For Against Information Waive Sp (The Chai	beaking: In Support Against ir will read this information into the record.)
Representing University of South Fla	erida
Appearing at request of Chair: Yes Yes No Lobbyist register	ered with Legislature: 🗌 Yes 🕅 No

**THE FLORIDA SENATE** 

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.

	da Senate CE RECORD	
1 4	Senate Professional Staff conducting the meeting)	280 er (if applicable)
Topic teleheaith	Amendment Barco	ode (if applicable)
Name Lee Vitaliano		
Job Title MSW Student (Barry U	11versity)	
Address 10424 White Pinto Ct.	Phone <u></u> Stal-434-5	5186
Street Lake Worth FL City State	33449 Email Ice. Vitaliance	Mymail. bary
Speaking: For Against Information	Waive Speaking: In Support (The Chair will read this information into the context of the conte	Against
Representing		
Appearing at request of Chair: Yes Yo	Lobbyist registered with Legislature:	Yes 🔄 No
While it is a Senate tradition to encourage public testimony time	ney not permit all persons wishing to speak to be	hoard at this

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.

THE FLORIDA SENATE APPEARANCE RECORD (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 20-18 Bill Number (if applicable) Meeting Date SB 280 Topic Amendment Barcode (if applicable) Name 1 150 Oster Social Wolk Job Title Case MMAR 6M Phone 772-349-88 Address 349 Email Lise, Sti Zip State For Against Information Waive Speaking: Speaking: HIT Support Against (The Chair will read this information into the record.) Representing Appearing at request of Chair: Yes Lobbyist registered with Legislature: No 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.

	RIDA SENATE
(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)	
Meeting Date	$\frac{33}{8} \times \frac{3}{8}$ Bill Number (if applicable)
Topic <u>telehealth</u>	Amendment Barcode (if applicable)
Name Alicia Maeie Cuttita	
Job Title Bulling managee / MS	sw student
Address 1830 Embassy DR	Phone <u>561-667-3040</u>
WPBFLCityState	zip Email <u>acuttita 143@gmail</u>
Speaking: For Against Information	Waive Speaking: In Support Against (The Chair will read this information into the record.)
Representing <u>Self</u>	
Appearing at request of Chair: Yes No	Lobbyist registered with Legislature:YesNo

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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	RIDA SENATE	
<b>APPEARANCE RECORD</b> (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)		
Meeting Date	Bill Number (if applicable)	
Topic Telehealth	Amendment Barcode (if applicable)	
Name Oshena Hall		
Job Title Student and Mental Health	Group Facilitator	
Address 693 Aubern Ave Apt310	Phone <u>501-255-5538</u>	
Delray Beach FL City State	<u>Zip</u> Email <u>msshence 14@gmail.com</u>	
Speaking: For Against Information	Waive Speaking: In Support Against (The Chair will read this information into the record.)	
Representing <u>Self</u>		
Appearing at request of Chair: Yes No	Lobbyist registered with Legislature: Yes No	

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The Florida Senate	
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/ Meeting Date	Bill Number (if applicable)
Topic Telehealth	Amendment Barcode (if applicable)
Name LAYNE SMITH	
Job Title DIRECTOR, STRITE Gov. Relplions	
Address 4500 SAN Pablo Rd	Phone <u>904-953-733</u> Y
Street Jacksonville FC 32224 City State Zip	Email Smith. layne Mayo.edu
Speaking: For Against Information Waive S	peaking: In Support Against ir will read this information into the record.)
Representing Mayo CLINIC	, 
Appearing at request of Chair: Yes No Lobbyist register	ered with Legislature: 🛛 Yes 🔲 No
While it is a Senate tradition to encourage public testimony, time may not permit all meeting. Those who do speak may be asked to limit their remarks so that as many	

THE FLORIDA SENATE	
APPEARANCE RECO	RD
(Deliver BOTH copies of this form to the Senator or Senate Professional S $\frac{1}{3} \circ 1 \otimes 3$ Meeting Date	Staff conducting the meeting) 
Topic <u>TELEHEALTH</u>	Amendment Barcode (if applicable)
Name JACK MERAY	-
Job Title	-
Address 200 W. COLLEGE ST. # 30 Y	Phone <u>£50-577-5127</u>
TheFL32301CityStateZip	Email incray@aarp.orp
	peaking: In Support Against
Representing	
Appearing at request of Chair: Yes No Lobbyist regist	ered with Legislature: 4 Yes No
While it is a Senate tradition to encourage public testimony, time may not permit all meeting. Those who do speak may be asked to limit their remarks so that as many	

THE FLORIDA SENATE	
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Meeting Date Bill Number (if applicable)	
Topic <i>Amendment Barcode (if applicable)</i>	
Name Dr. Oliver Orama	
Job Title <u>Associate Divictor</u> , <u>University of South Florida</u> , Family Address Phone Midiune Residence	
City State Zip	
Speaking:       For       Against       Information       Waive Speaking:       In Support       Against         (The Chair will read this information into the record.)       In Support       In Support       In Support	
Representing University of Florida, Family Medicine Residency/Morton Plant	
Appearing at request of Chair: Yes No Lobbyist registered with Legislature:	
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.	

THE FLORIDA SENATE	RD
(Deliver BOTH copies of this form to the Senator or Senate Professional Meeting Date	
Topic TELE HEALTH	Amendment Barcode (if applicable)
Name KIUCRS A BUTARA TIP	_
Address 2851 Rameton C.	Phone
Street FL L City State Zip	Email Rivers. Butaro @ purkt. ORO
	Speaking: In Support Against Against air will read this information into the record.)
Representing	
Appearing at request of Chair: Yes No Lobbyist regist While it is a Senate tradition to encourage public testimony, time may not permit al	tered with Legislature: Yes No
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THE FLORIDA SENATE	
LANDER CONTRACTOR CONT	
Meeting Date	Bill Number (if applicable)
Topic <u>Telehealth</u>	Amendment Barcode (if applicable)
Name Paul LAMBERT	
Job Title	596-2696
Address 263 Rose hill Drive North	Phone 850 8545
Job Title Address 263 Rose hill Drive North F Street TAILA hAssee FL 32312 P City State Zip	IAMBERT @ PAUllAmbertlaw. Email
(The Chair v	aking: In Support Against will read this information into the record.)
Representing Florida Chiropractic	- ASSOCIATION
Appearing at request of Chair: Yes No Lobbyist registere	ed with Legislature: Yes 🗌 No

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The Florida Senate	
APPEARANCE RECO	RD
(Deliver BOTH copies of this form to the Senator or Senate Professional S	
Meeting Date	Bill Number (if applicable)
Topic <u>Telehealth</u>	Amendment Barcode (if applicable)
Name Chris Chamey	_
Job Title Lobby st	_
Address 204 South Monroe Street	Phone 222-8900
Tallahassee, FL 32301 City State Zip	Email CC @ Cardenasportners.
Speaking: For Against Information Waive S	Speaking: In Support Against Against air will read this information into the record.)
Representing Associated Industries of Flor	ndan
Appearing at request of Chair: Yes No Lobbyist regist	tered with Legislature: 🖄Yes 🗌No
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(Deliver BOTH copies of this form to the Senator Meeting Date	or Senate Professional St	Bill Number (if applicable)
Topic Telebealth ISB 280		Amendment Barcode (if applicable)
Name Mia Diaz		
Job Title Executive Assistant B OFF	ice Manaq	er
Address 4537 Louvinia ct.	L/	Phone $(186) 443 - 8643$
Talahassee Monda City State	32.311 Zip	Email MDIAZ @ FLOMODICAX Warch-Oro
Speaking: 🕵 For 🗌 Against 📄 Information	Waive Sp (The Chai	eaking: 🕅 In Support 🔲 Against r will read this information into the record.)
Representing Floricka Tax Watch		
Appearing at request of Chair: 🗌 Yes 💢 No	Lobbyist registe	ered with Legislature: 🗌 Yes 🙀 No

**THE FLORIDA SENATE** 

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THE FLOR	RIDA SENATE
	ICE RECORD or Senate Professional Staff conducting the meeting) Bill Number (if applicable)
Topic Telebegtth	Amendment Barcode (if applicable)
Name <u>IT Frank Mongson</u>	
Job Title Jocial Worth Student	
Address	Phone <u>954-856-5231</u>
MAMI R City State	Email tiftany.hodgsn@ 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:
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THE FLORIDA SENATE	
APPEARANCE RECORD (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meetir	ng) 280
Meeting Date	Bill Number (if applicable)
Topic Teleheatth Ame	endment Barcode (if applicable)
Name Natalia Shtombel	
Job Title Protessoz, Barry University	
Address 11300 NE 2nd St. Mian Should Phone 305	- 8-99 3928
Street # 33/6/ Email # 34	5 ushtomed p
City     State     Zip       Speaking:     For     Against     Information     Waive Speaking:     Information       (The Chair will read this information     Information     Information     Information	Support Against mation into the record.)
Representing	
Appearing at request of Chair: Yes 🔀 No Lobbyist registered with Legisla	ature: Yes No
While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible	

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THE FLORIDA SEN	ATE
Deliver BOTH copies of this form to the Senator or Senate Pr Meeting Date	rofessional Staff conducting the meeting) $\underline{SB280}$
Topic Telehealth	Bill Number (if applicable) Amendment Barcode (if applicable)
Name Larry Gonzalez	
Job Title General Counsel	
Address 223 S. Gadsden St	Phone 850-570-6307
Street Ichagalo FL 323 City State Zip	01 Email / and good 20 conthink met
	Naive Speaking: 📝 In Support 🔄 Against (The Chair will read this information into the record.)
Representing Florida Society of Healt.	B-Systen Pharmacists
Appearing at request of Chair: Yes No Lobbyis	st registered with Legislature: Ves No

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THE FLORI	DA SENATE
APPEARANO	CE RECORD
-30-18 (Deliver BOTH copies of this form to the Senator or	Senate Professional Staff conducting the meeting) $230$
Meeting Date	Bill Number (if applicable)
Topic Telehealth	Amendment Barcode (if applicable)
Name Brithey Hunt	
Job Title Policy Director - Fr Cha	mber
Address 136 S. Bronough St.	Phone <u>850-521-1200</u>
Tullahassee Fi	32301 Email bhuntafichamber.
City State	Zip Con
Speaking: 🗹 For 🗌 Against 🗌 Information	Waive Speaking: In Support Against (The Chair will read this information into the record.)
Representing FC Chamber of (	ennerce
0 Appearing at request of Chair: Yes 📝 No I	obbyist registered with Legislature: 📝 Yes 🗌 No

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THE FLORIDA SENATE		
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Topic Telehealth	Amendment Barcode (if applicable)	
Name Shanese Brown	-	
Job Title	_	
Address <u>518 Sou Cullege Park Rd.</u>	Phone <u>M2-224-4657</u>	
Port St. War FL 34953 City State Zip	Email	
	peaking: In Support Against ir will read this information into the record.)	
Representing Barry University Social L	ulork	
	ered with Legislature: 🗹 Yes 🗌 No	

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	RECORD
$\frac{1-30-18}{Meeting Date}$ (Deliver BOTH copies of this form to the Senator or Senate P	Professional Staff conducting the meeting) $\frac{CSSB220}{Bill Number (if applicable)}$
Topic Téléhealth	Amendment Barcode (if applicable)
Name Marti Coley Eubanks	
Job Title Director Gov + Relations	
Address JAA	Phone
	Email
City State Zi	p
	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 Lobbyi	st registered with Legislature:  Yes  No

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(Deliver BOTH copies of this form to the Senator or Senate I	
Meeting Date	Bill Number (if applicable)
Topic Telebealth	Amendment Barcode (if applicable)
Name Ron Wortson	
Job Title Lobby ist	
Address 37 38 Mindon Way	Phone
Street Tallahasser FC 3	2309 Email Watan Sturkey - 20 Compati
City     State     Z       Speaking:     For     Against     Information	Waive Speaking: In Support Against (The Chair will read this information into the record.)
Representing Florida Renal Coalit	
Appearing at request of Chair: Yes No Lobby	rist registered with Legislature: Yes No
While it is a Senate tradition to encourage public testimony, time may no meeting. Those who do speak may be asked to limit their remarks so that	
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(Deliver BOTH copies of this form to the Senator or Senate Professional St	aff conducting the meeting)	SBZFU
Meeting Date		Bill Number (if applicable)
Topic Telebelt	Ameno	dment Barcode (if applicable)
NameUee thre that		
Job Title hego officer		•
Address IIS E. Jefters St	Phone (88)	) 224.1082
Street Sul FL 30211	Email	
City     State     Zip       Speaking:     For     Against     Information     Waive Speaking		upport Against ation into the record.)
Representing Florida Derth ASSM		
Appearing at request of Chair: Yes No Lobbyist registe	ered with Legislat	ure: XYes No
While it is a Senate tradition to encourage public testimony, time may not permit all meeting. Those who do speak may be asked to limit their remarks so that as many	persons wishing to s persons as possible	peak to be heard at this can be heard.

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THE FLORIDA SENATE	
APPEARANCE RECO         U3015         Meeting Date	
Topic Telebealth	Amendment Barcode (if applicable)
Name Yolooda Louis	-
Job Title <u>DCM</u>	-
Address 1837 NE 2Nd St	Phone 863-603-6389
OVERCHOBER FC 34972 City State Zip	Email yuloud louiszegnil.con
	peaking: In Support Against ir will read this information into the record.)
Representing Barry University	
Appearing at request of Chair: Yes No Lobbyist regist	ered with Legislature: Yes No

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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.)

	Prepar	ed By: Th	e Professional S	Staff of the Committe	e on Health Poli	су		
BILL:	SB 492							
INTRODUCER:	Senator Garcia							
SUBJECT:	Provision of	f Pharma	ceutical Servi	ces				
DATE:	January 25,	2018	REVISED:	1/30/18				
ANAL	YST	STAF	F DIRECTOR	REFERENCE		ACTION		
. Johnson		Knudson		BI	Favorable			
. Lloyd		Stovall		HP	Favorable			
				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>&</sup>lt;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.9

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

<sup>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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>&</sup>lt;sup>9</sup> See https://www.cms.gov/cciio/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.

<sup>&</sup>lt;sup>10</sup> 45 CFR s. 156.122.

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

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

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

<sup>&</sup>lt;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

<sup>17</sup> Id.

<sup>&</sup>lt;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: <u>http://www.accessdata.fda.gov/scripts/cder/rems/index.cfm</u> (last viewed Jan. 10, 2018).

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

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

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

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

<sup>&</sup>lt;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	\$50	\$100		
Brand				

## 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>&</sup>lt;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),* <u>http://edr.state.fl.us/Content/conferences/medicaid/execsummary.pdf</u>, (Last visited Jan. 25, 2018).

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

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

<sup>&</sup>lt;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 feefor 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

https://ahca.myflorida.com/medicaid/recent presentations/SMMC Pharmacy Network Senate Health Policy 2016-02-16.pdf, (last visited Jan. 25, 2018).

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

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

<sup>&</sup>lt;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,

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

<sup>&</sup>lt;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, (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.34

<sup>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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.

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

<sup>&</sup>lt;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:**

## Committee Substitute – Statement of Changes: (Summarizing differences between the Committee Substitute and the prior version of the bill.) Α.

None.

#### Β. Amendments:

None.

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

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.
27	
28	Be It Enacted by the Legislature of the State of Florida:
29	
I	

## Page 1 of 6

	36-00104-18 2018492									
30	Section 1. Section 627.6442, Florida Statutes, is created									
31	to read:									
32	627.6442 Access to prescription drugs									
33	(1) As used in this section, the term:									
34	(a) "Chronic illness" means human immunodeficiency virus									
35	infection, epilepsy, hypertension, or diabetes.									
36	(b) "Excluded drug" means a drug subject to restricted									
37	distribution by the United States Food and Drug Administration									
38	or a drug that requires special handling, provider coordination,									
39	or patient education and cannot be provided by a retail									
40	pharmacy.									
41	(2) A health insurance policy issued, delivered, or renewed									
42	in this state which provides major medical coverage and									
43	prescription drug coverage may not require an insured to obtain									
44	a prescription drug for the treatment of a chronic illness									
45	exclusively from a mail order pharmacy unless the prescription									
46	drug is an excluded drug.									
47	(3) An insured who elects not to use a mail order pharmacy									
48	to obtain a prescription drug, other than an excluded drug,									
49	prescribed for the treatment of a chronic illness may not be									
50	required to pay a copayment or satisfy other conditions that are									
51	not imposed on an insured who uses a mail order pharmacy if the									
52	retail pharmacy used by the insured:									
53	(a) Agrees to the same terms and conditions, including									
54	credentialing, applicable to a mail order pharmacy; and									
55	(b) Accepts payment or reimbursement from the insurer which									
56	is no more than the amount that would be paid to a mail order									
57	pharmacy for the same prescription drugs for the treatment of a									
58	chronic illness.									

## Page 2 of 6

	36-00104-18 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,

## Page 3 of 6

	36-00104-18 2018492
88	prescribed for the treatment of a chronic illness may not be
89	required to pay a copayment or satisfy other conditions that are
90	not imposed on an insured who uses a mail order pharmacy if the
91	retail pharmacy used by the insured:
92	(a) Agrees to the same terms and conditions, including
93	credentialing, applicable to a mail order pharmacy; and
94	(b) Accepts payment or reimbursement from the insurer which
95	is no more than the amount that would be paid to a mail order
96	pharmacy for the same prescription drugs for the treatment of a
97	chronic illness.
98	(4) A health insurer that issues a major medical policy
99	providing coverage for prescription drugs through a mail order
100	pharmacy shall disclose in the outline of coverage that an
101	insured may obtain prescription drugs for the treatment of a
102	chronic illness from a retail pharmacy and that the exclusive
103	use of a mail order pharmacy is not required unless the drug is
104	an excluded drug.
105	(5) This section does not apply to grandfathered plans as
106	defined in s. 627.402 or to benefits set forth in s.
107	627.6562(3)(b), (c), (d), and (e).
108	Section 3. Subsection (44) is added to section 641.31,
109	Florida Statutes, to read:
110	641.31 Health maintenance contracts
111	(44)(a) As used in this section, the term:
112	1. "Chronic illness" means human immunodeficiency virus
113	infection, epilepsy, hypertension, or diabetes.
114	2. "Excluded drug" means a drug subject to restricted
115	distribution by the United States Food and Drug Administration
116	or a drug that requires special handling, provider coordination,

## Page 4 of 6

36-00104-18 2018492 117 or patient education and cannot be provided by a retail 118 pharmacy. 119 (b) A health maintenance contract issued, delivered, or 120 renewed in this state which provides major medical coverage and 121 prescription drug coverage may not require a subscriber to 122 obtain a prescription drug for the treatment of a chronic 123 illness exclusively from a mail order pharmacy unless the 124 prescription drug is an excluded drug. 125 (c) A subscriber who elects not to use a mail order pharmacy to obtain a prescription drug, other than an excluded 126 127 drug, prescribed for the treatment of a chronic illness may not 128 be required to pay a copayment or satisfy other conditions that 129 are not imposed on a subscriber who uses a mail order pharmacy 130 if the retail pharmacy used by the subscriber: 131 1. Agrees to the same terms and conditions, including 132 credentialing, applicable to a mail order pharmacy; and 133 2. Accepts payment or reimbursement from the health maintenance organization which is no more than the amount that 134 135 would be paid to a mail order pharmacy for the same prescription 136 drugs for the treatment of a chronic illness. 137 (d) A health maintenance organization that issues a health 138 maintenance contract providing coverage for prescription drugs 139 through a mail order pharmacy shall disclose in the outline of 140 coverage that a subscriber may obtain prescription drugs for the treatment of a chronic illness from a retail pharmacy and that 141 142 the exclusive use of a mail order pharmacy is not required 143 unless the drug is an excluded drug. 144 (e) This section does not apply to grandfathered health plans as defined in s. 641.313(1)(c) or to benefits set forth in 145

### Page 5 of 6

	36	-00	104-	18									201849	2
146	s.	62	7.65	62 (3	3) (k	c), (c	c),	(d), a:	nd (e)	•				
147											January	1,	2019.	
											1	•		
	1													

## Page 6 of 6



# The Florida Senate

State Senator René García <sup>36th</sup> District Please reply to:

**District Office:** 

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

January 17th, 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,

State Senator René García District 36

CC: Sandra Stovall Celia Georgiades

**Committees:** Children, Families, and Elder Affairs, Chair, Appropriations Subcommittee on Finance and Tax, Vice Chair, Appropriations Subcommittee on the Environment and Natural Resources, Appropriations Subcommittee on General Government, Banking and Insurance, Judiciary, Joint Administrative Procedures Committee.

The Florida Senate	
APPEARANCE RECO 1302018 (Deliver BOTH copies of this form to the Senator or Senate Professional S Meeting Date	
TOPIC PROVISION OF PHARMACEUTICAL SERVICES	Amendment Barcode (if applicable)
Name MICHAEL JALKSON	
Job Title EXECUTIVE VICE PREJIAENT & CED	
Address 610 N. ADAMS STREET	Phone 850 222-2400
TAUAHANEE FL 32301 City State Zip	Email MJACKSON@ PHARMVIEW. COM
Speaking: For Against Information Waive S	peaking: In Support Against ir will read this information into the record.)
Representing FLONION PHANMACT ASSOCIATION	
Appearing at request of Chair: Yes No Lobbyist register While it is a Senate tradition to encourage public testimony, time may not permit all meeting. Those who do speak may be asked to limit their remarks so that as many	ered with Legislature: Xes No persons wishing to speak to be heard at this persons as possible can be heard.

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

THE FLORIDA SENATE
I 30/18       (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)       492         Meeting Date       Bill Number (if applicable)
Topic Mail adar Phar macies Amendment Barcode (if applicable)
Name Towson Fraser
Job Title President, Fraser Solutions
Address 115 E Park Ave, Stel Phone 850-443-1444
Street TG//ahassee FL 32301 Email Tourson EFLL obby Kom
City     State     Zip       Speaking:     For     Against     Information       Waive Speaking:     In Support     Against       (The Chair will read this information into the record.)     In Support
Representing AIDS Healthcare Foundation
Appearing at request of Chair: Yes XNo 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.

THE FLOR APPEARAN 1/30/18 (Deliver BOTH copies of this form to the Senator Meeting Date			H92 Bill Number (if applicable)
Topic Prov. of Pharm. Serv	<u>ices</u>	Amendi	ment Barcode (if applicable)
Job Title	807		
Address 108 E leffer Son St Street	37301	Phone <u>SS</u> Email Och	559 0855
<i>City State State State</i>	Zip Waive Spe	NO NO	port Against
Representing		will read this informa	
Appearing at request of Chair: Yes No	Lobbyist registe	ered with Legislatu	ıre: Yes 🗌 No

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

## 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 CS/SB 562 BILL: Community Affairs Committee and Senator Mayfield INTRODUCER: **Regulation of Smoking** SUBJECT: January 29, 2018 DATE: **REVISED:** ANALYST STAFF DIRECTOR REFERENCE ACTION Fav/CS 1. Cochran Yeatman CA 2. Looke Stovall HP Favorable 3. RC

## Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

## 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>

<sup>&</sup>lt;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>&</sup>lt;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.

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

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

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

<sup>&</sup>lt;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.

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

<sup>&</sup>lt;sup>10</sup> Supra note 1

<sup>&</sup>lt;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.

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

CS for SB 562

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 stateThis 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 <del>by persons</del> on school
20	district property.
21	Section 2. This act shall take effect July 1, 2018.

### Page 1 of 1

CODING: Words stricken are deletions; words underlined are additions.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

#### SENATOR DEBBIE MAYFIELD 17th District

January 17 , 2018

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

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,

Jeani Magfeld

Senator Debbie Mayfield District 17

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

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

JOE NEGRON President of the Senate ANITERE FLORES President Pro Tempore

THE FLORIDA SENATE
(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
$\frac{13018}{\text{Meeting Date}}$
Topic Smoking in Public Parks Amendment Barcode (if applicable)
Name MARIKIK RYAN
Job Title City MANAGER
Address 2055 S. Potrick Dr. Phone 321 773 - 3181
Liver And Ambour Brach FL 32937 Email MRWANE indian hanbour. org
Speaking:       Against       Information         Waive Speaking:       In Support       Against         (The Chair will read this information into the record.)       In Support
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.

THE FLORIDA SENATE
APPEARANCE RECORD
Image:
Topic <u>Smulm (Tubaa</u> Amendment Barcode (if applicable)
Name Rivers H. Bufwed III
Job Title Dir. of Gov't Relation
Address 2851 Remington Grein Civil Phone 850.566-9119
TUT 32308 Email R.V. Bubud of Henter
City State Zip
Speaking: For Against Information Waive Speaking: In Support Against
(The Chair will read this information into the record.) Representing Amnican Heart 1350 and in
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 neeting. 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.

The Florida Senate	
(Deliver BOTH copies of this form to the Senator or Senate Professional	
Meeting Date	Bill Number (if applicable)
Topic Smoking in Parks	Amendment Barcode (if applicable)
Name Aneshai Smith	_
Job Title Student at University of Cer	HralfL,
Address <u>4976 Castle St Unst</u>	_ Phone _ 707 458704
City State Zip	_ Email
Speaking: Against Information Waive S	Speaking: In Support Against air will read this information into the record.)
Representing	
Appearing at request of Chair: Yes No Lobbyist regis	tered with Legislature: Yes No
While it is a Senate tradition to encourage public testimony, time may not permit a	ll 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.

THE FLORIDA SENATE
APPEARANCE RECORD
$\frac{13018}{502}$ (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) $502$
Meeting Date Bill Number (if applicable)
Topic <u>SMOKING IN DOIKS</u> Amendment Barcode (if applicable)
Name Melissa Young
Job Title BSW, UCF
Address 1726 Malabar Lakes DINE Phone 914-906-0091
Street Street BAY FI 32905 Email
City State Zip
Speaking: For Against Information Waive Speaking: In Support Against ( <i>The Chair will read this information into the record.</i> )
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.

THE FLORIDA SENATE		
APPEARANCE RECO	RD	
$\frac{1/30/18}{1/30/18}$ (Deliver BOTH copies of this form to the Senator or Senate Professional St	aff conducting the meeting)	562
Meeting Date		Bill Number (if applicable)
Topic Regulation of Smoking	, Amend	ment Barcode (if applicable)
Name Joc MCCann		
Job Title		
Address 1028 EAST Park Avenue	Phone	
City State Zip	Email <u>Joe@</u>	Pittman-law. Com
Speaking: For Against Information Waive Sp	eaking: In Sup	oport 🔄 Against
Representing City of PORT ORange		
Appearing at request of Chair: Yes No Lobbyist registe	ered with Legislatu	ıre: VYes 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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THE FLORIDA SENATE APPEARANCE RECORD

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

	SDDOA
Meeting Date	Bill Number (if applicable)
Topic Regulation of Smoking	Amendment Barcode (if applicable)
Name Holly Parker Curry	
Job Title FL Regional Manager	
Address 1229 Mitchell Are. Phone_	850.567.3393
Tallahasser, FL 32303 Email	nparkere
City State Zip	Surricles.
Speaking: For Against Information Waive Speaking: ( <i>The Chair will read th</i>	In Support Against Against information into the record.)
Representing Surfrider Foundation	
Appearing at request of Chair: Yes No Lobbyist registered with L	egislature: Yes No
While it is a Senate tradition to encourage public testimony, time may not permit all persons wis	hing 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.

The Florida Senate	
APPEARANCE RECO	RD
(Deliver BOTH copies of this form to the Senator or Senate Professional St	aff conducting the meeting) $\underline{SBSB2}$
Meeting Date	Bill Number (if applicable)
Topic Smoking's Parts/ 562	Amendment Barcode (if applicable)
Name Brian Graham	
Job Title Directo- of Development, QnitDoc Four	ndetion
Address PU Dov 7630	Phone <u>904.371.5288</u>
Street Flening FSland PL 32006	Email Kinchen anit Durin
City Zip	
Speaking: For Against Information Waive Speaking:	
(The Chai	r will read this information into the record.)
Representing Quitflee Foundation	
Appearing at request of Chair: Yes No Lobbyist registe	ered with Legislature: Yes Yo
While it is a Senate tradition to encourage public testimony, time may not permit all meeting. Those who do speak may be asked to limit their remarks so that as many	

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

THE FLORIDA SENATE	
APPEARANCE RECORD	
(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)	562
Meeting Date	Bill Number (if applicable)
Topic Regulation of Smoking Amena	dment Barcode (if applicable)
Name Laura Bochmer	
Job Title Lobbyist	
Address 201 E, Kennedy Avenue Phone 727	686-0924
Tampa FC 33602 Email boehn City State Zip	er e sostrutegy-ca
Speaking: For Against Information Waive Speaking: In Su (The Chair will read this inform	
Representing Sarasot County	
Appearing at request of Chair: Yes No Lobbyist registered with Legislat	ure: 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)

r

THE FLORIDA SENATE	
<b>APPEARANCE RECO</b> 1 - 30 - 12 (Deliver BOTH copies of this form to the Senator or Senate Professional S	
Meeting Date	Bill Number (if applicable)
Topic Regulation of Smoking	Amendment Barcode (if applicable)
Name Matt Jordan	
Job Title <u>GRD</u>	_
Address 1922 Dellwood Dr	Phone 850-514-2801
Street Tallahassee Fl 32303 City State Zip	Email Matt jordang career,
	beaking: In Support Against ir will read this information into the record.)
Representing American Cancer Society Cana	er Action Network
Appearing at request of Chair: Yes No Lobbyist regist	ered 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.

### 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.)

	Prepa	red By: The Professional S	staff of the Committe	e on Health Po	licy
BILL:	CS/SB 112	8			
INTRODUCER:	Health Poli	cy Committee and Sena	ator Stargel		
SUBJECT:	Pharmacy				
DATE:	January 31,	2018 REVISED:		<u> </u>	
ANALYST		STAFF DIRECTOR	REFERENCE		ACTION
1. Rossitto-Van Winkle		Stovall	HP	Fav/CS	
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>&</sup>lt;sup>1</sup> Section 465.003(13), F.S.

<sup>&</sup>lt;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>&</sup>lt;sup>3</sup> Section 465.004, F.S.

<sup>&</sup>lt;sup>4</sup> Supra note 1.

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

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

<sup>&</sup>lt;sup>8</sup> Section 499.028, F.S.

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

<sup>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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

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

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

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

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

<sup>&</sup>lt;sup>20</sup> Section 465.0125, F.S.

<sup>&</sup>lt;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>&</sup>lt;sup>22</sup> Section 465.019, F.S.

<sup>&</sup>lt;sup>23</sup> See part II, ch. 400, 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 onsite 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,

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

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

<sup>&</sup>lt;sup>27</sup> Id.

<sup>&</sup>lt;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>

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

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

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

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

<sup>&</sup>lt;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 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.

 $<sup>^{34}</sup>$  Id.

<sup>&</sup>lt;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>&</sup>lt;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

<sup>&</sup>lt;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>&</sup>lt;sup>40</sup> 42 U.S.C. s. 256(b); See also 340B Health, Overview of the 340B Drug Pricing Program
 <u>https://www.340bhealth.org/340b-resources/340b-program/overview/</u> (last visited Jan. 24, 2018).
 <sup>41</sup> Id.

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

<sup>&</sup>lt;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>&</sup>lt;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* <u>https://www.hrsa.gov/opa/eligibility-and-registration/health-centers/fqhc/index.html</u> (last visited Jan. 24, 2018).

<sup>&</sup>lt;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* <u>https://www.hrsa.gov/opa/eligibility-and-registration/health-centers/fqhc-look-alikes/index.html</u> (last visited Jan. 24, 2018).

<sup>&</sup>lt;sup>46</sup> See *supra* note 45.

<sup>&</sup>lt;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 prepackaging 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.

<sup>&</sup>lt;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.

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

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

House



LEGISLATIVE ACTION

Senate Comm: RCS 01/30/2018

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:

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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



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.

(13) "Practice of the profession of pharmacy" includes 15 compounding, dispensing, and consulting concerning contents, 16 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 includes review of the patient's drug therapy and communication 25 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, the practice of medicine, or the practice of osteopathic 34 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 employing the science or art of any branch of the pharmaceutical 39

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40	profession, study, or training, and shall expressly permit a
41	pharmacist to transmit information from persons authorized to
42	prescribe medicinal drugs to their patients. The practice of the
43	profession of pharmacy also includes the administration of
44	vaccines to adults pursuant to s. 465.189 and the preparation of
45	prepackaged drug products in facilities holding Class III
46	institutional pharmacy permits.
47	(21) "Central distribution facility" means a facility under
48	common control with a hospital holding a Class III institutional
49	pharmacy permit that may dispense, distribute, compound, or fill
50	prescriptions for medicinal drugs; prepare prepackaged drug
51	products; and conduct other pharmaceutical services.
52	(22) "Common control" means the power to direct or cause
53	the direction of the management and policies of a person or an
54	organization, whether by ownership of stock, voting rights,
55	contract, or otherwise.
56	Section 2. Subsection (2) of section 465.004, Florida
57	Statutes, is amended to read:
58	465.004 Board of Pharmacy
59	(2) Seven members of the board must be licensed pharmacists
60	who are residents of this state and who have been engaged in the
61	practice of the profession of pharmacy in this state for at
62	least 4 years and, to the extent practicable, represent the
63	various pharmacy practice settings. Of the pharmacist members,
64	two must be currently engaged in the practice of pharmacy in a
65	community pharmacy, two must be currently engaged in the
66	practice of pharmacy in a Class II <u>,</u> institutional pharmacy or a
67	Modified Class II <u>, or Class III</u> institutional pharmacy, and
68	three must be pharmacists licensed in this state irrespective of

COMMITTEE AMENDMENT

Florida Senate - 2018 Bill No. SB 1128



69	practice setting. The remaining two members must be residents of
70	the state who have never been licensed as pharmacists and who
71	are in no way connected with the practice of the profession of
72	pharmacy. No person may be appointed as a consumer member who is
73	in any way connected with a drug manufacturer or wholesaler. At
74	least one member of the board must be 60 years of age or older.
75	The Governor shall appoint members to the board in accordance
76	with this subsection as members' terms expire or as a vacancy
77	occurs until the composition of the board complies with the
78	requirements of this subsection.
79	Section 3. Subsections (4) and (6) of section 465.019,
80	Florida Statutes, are amended, and paragraph (d) is added to
81	subsection (2) of that section, to read:
82	465.019 Institutional pharmacies; permits
83	(2) The following classes of institutional pharmacies are
84	established:
85	(d)1. "Class III institutional pharmacies" are those
86	institutional pharmacies, including central distribution
87	facilities, affiliated with a hospital that provide the same
88	services that are authorized by a Class II institutional
89	pharmacy permit. Class III institutional pharmacies may also:
90	a. Dispense, distribute, compound, and fill prescriptions
91	for medicinal drugs.
92	b. Prepare prepackaged drug products.
93	c. Conduct other pharmaceutical services for the affiliated
94	hospital and for entities under common control that are each
95	permitted under this chapter to possess medicinal drugs.
96	d. Provide the services in sub-subparagraphs ac. to an
97	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 <u>or Class III</u> 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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127 procedures of the hospital. For any such patient for whom a 128 medicinal drug is warranted for a period to exceed 24 hours, an 129 individual licensed to prescribe such drug must dispense a 24-130 hour supply of such drug to the patient and must provide the 131 patient with a prescription for such drug for use after the 132 initial 24-hour period. The board may adopt rules necessary to 133 carry out the provisions of this subsection.

134 (6) In a Class II or Class III institutional pharmacy, an 135 institutional formulary system may be adopted with approval of 136 the medical staff for the purpose of identifying those medicinal 137 drugs, proprietary preparations, biologics, biosimilars, and 138 biosimilar interchangeables that may be dispensed by the 139 pharmacists employed in such institution. A facility with a 140 Class II or Class III institutional pharmacy permit which is 141 operating under the formulary system shall establish policies and procedures for the development of the system in accordance 142 143 with the joint standards of the American Hospital Association 144 and American Society of Hospital Pharmacists for the utilization 145 of a hospital formulary system, which formulary shall be 146 approved by the medical staff.

147 Section 4. Subsection (3) of section 465.0252, Florida148 Statutes, is amended to read:

149 465.0252 Substitution of interchangeable biosimilar 150 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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156 Section 5. Subsection (39) of section 499.003, Florida 157 Statutes, is amended, and paragraphs (w) and (x) are added to 158 subsection (48) of that section, to read: 159 499.003 Definitions of terms used in this part.-As used in 160 this part, the term: 161 (39) "Prepackaged drug product" means a drug that originally was in finished packaged form sealed by a 162 163 manufacturer and that is placed in a properly labeled container 164 by a pharmacy or practitioner authorized to dispense pursuant to 165 chapter 465 for the purpose of dispensing or by a facility 166 holding a Class III institutional pharmacy permit in the 167 establishment in which the prepackaging occurred. 168 (48) "Wholesale distribution" means the distribution of a 169 prescription drug to a person other than a consumer or patient, 170 or the receipt of a prescription drug by a person other than the 171 consumer or patient, but does not include: 172 (w) A hospital covered by s. 340B of the Public Health 173 Service Act, 42 U.S.C. s. 256b, that arranges for a prescription 174 drug wholesale distributor to distribute prescription drugs 175 covered under that act directly to a contract pharmacy. Such 176 hospital is exempt from obtaining a restricted prescription drug distributor permit under s. 499.01(2)(h). 177 178 (x) The dispensing or distribution of a medicinal drug by a 179 Class III institutional pharmacy pursuant to s. 465.019. 180 Section 6. Paragraphs (b) and (h) of subsection (2) and 181 subsection (5) of section 499.01, Florida Statutes, are amended 182 to read:

499.01 Permits.-

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(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.

188 1. A person that operates an establishment permitted as a 189 prescription drug repackager may engage in distribution of 190 prescription drugs repackaged at that establishment and must 191 comply with all of the provisions of this part and the rules 192 adopted under this part that apply to a prescription drug 193 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).

209 b. Any person located in this state who engages in the 210 receipt or distribution of a prescription drug in this state for 211 the purpose of processing its return or its destruction if such 212 person is not the person initiating the return, the prescription 213 drug wholesale supplier of the person initiating the return, or



214 the manufacturer of the drug.

c. A blood establishment located in this state which 215 216 collects blood and blood components only from volunteer donors 217 as defined in s. 381.06014 or pursuant to an authorized 218 practitioner's order for medical treatment or therapy and 219 engages in the wholesale distribution of a prescription drug not 220 described in s. 499.003(48)(j) to a health care entity. A mobile 221 blood unit operated by a blood establishment permitted under 2.2.2 this sub-subparagraph is not required to be separately 223 permitted. The health care entity receiving a prescription drug 224 distributed under this sub-subparagraph must be licensed as a 225 closed pharmacy or provide health care services at that 226 establishment. The blood establishment must operate in 227 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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243 any reaction of a volunteer blood donor or a patient undergoing 244 a therapeutic procedure performed under the direction and 245 supervision of a licensed physician,

247 as long as all of the health care services provided by the blood 248 establishment are related to its activities as a registered 249 blood establishment or the health care services consist of 250 collecting, processing, storing, or administering human 251 hematopoietic stem cells or progenitor cells or performing 252 diagnostic testing of specimens if such specimens are tested 253 together with specimens undergoing routine donor testing. The 254 blood establishment may purchase and possess the drugs described 255 in this sub-subparagraph without a health care clinic 256 establishment permit.

257 2. Storage, handling, and recordkeeping of these 258 distributions by a person required to be permitted as a 259 restricted prescription drug distributor must be in accordance 260 with the requirements for wholesale distributors under s. 499.0121. 261

3. A person who applies for a permit as a restricted 263 prescription drug distributor, or for the renewal of such a permit, must provide to the department the information required under s. 499.012. 265

266 4. The department may adopt rules regarding the 267 distribution of prescription drugs by hospitals, health care 268 entities, charitable organizations, other persons not involved 269 in wholesale distribution, and blood establishments, which rules 270 are necessary for the protection of the public health, safety, 271 and welfare.

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272 5. A restricted prescription drug distributor permit is not 273 required for distributions between pharmacies that each hold an active permit under chapter 465, have a common ownership, and 274 275 are operating in a freestanding end-stage renal dialysis clinic, if such distributions are made to meet the immediate emergency 276 277 medical needs of specifically identified patients and do not 278 occur with such frequency as to amount to the regular and 279 systematic supplying of that drug between the pharmacies. The department shall adopt rules establishing when the distribution 280 281 of a prescription drug under this subparagraph amounts to the 282 regular and systematic supplying of that drug.

<u>6. A restricted prescription drug distributor permit is not</u> 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.

291 (5) A prescription drug repackager permit issued under this 292 part is not required for a restricted prescription drug 293 distributor permitholder that is a health care entity to 294 repackage prescription drugs in this state for its own use or 295 for distribution to hospitals or other health care entities in 296 the state for their own use, pursuant to s. 499.003(48)(a)3., 297 if:

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

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301	repackaging of prescription drugs at the permitted
302	establishment;
303	(b) The prescription drug distributor is under common
304	control with the hospitals or other health care entities to
305	which the prescription drug distributor is distributing
306	prescription drugs. As used in this paragraph, "common control"
307	means the power to direct or cause the direction of the
308	management and policies of a person or an organization, whether
309	by ownership of stock, voting rights, contract, or otherwise;
310	(c) The prescription drug distributor repackages the
311	prescription drugs in accordance with current state and federal
312	good manufacturing practices; and
313	(d) The prescription drug distributor labels the
314	prescription drug it repackages in accordance with state and
315	federal laws and rules.
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317	The prescription drug distributor is exempt from the product
318	registration requirements of s. 499.015 with regard to the
319	prescription drugs that it repackages and distributes under this
320	subsection. A prescription drug distributor that repackages and
321	distributes prescription drugs under this subsection to a not-
322	for-profit rural hospital, as defined in s. 395.602, is not
323	required to comply with paragraph (c) or paragraph (d), but must
324	provide to each health care entity for which it repackages, for
325	each prescription drug that is repackaged and distributed, the
326	information required by department rule for labeling
327	prescription drugs. The department shall adopt rules to ensure
328	the safety and integrity of prescription drugs repackaged and
329	distributed under this subsection, including rules regarding
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330	prescription drug manufacturing and labeling requirements.
331	Section 7. This act shall take effect July 1, 2018.
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333	=========== T I T L E A M E N D M E N T =================================
334	And the title is amended as follows:
335	Delete everything before the enacting clause
336	and insert:
337	A bill to be entitled
338	An act relating to pharmacies; amending s. 465.003,
339	F.S.; revising and providing definitions; amending s.
340	465.004, F.S.; revising the membership of the Board of
341	Pharmacy; amending s. 465.019, F.S.; establishing
342	Class III institutional pharmacies; providing
343	requirements for such pharmacies; conforming
344	provisions to changes made by the act; amending s.
345	465.0252, F.S.; revising notice requirements to
346	conform to changes made by the act; amending s.
347	499.003, F.S.; providing and revising definitions;
348	amending s. 499.01, F.S.; authorizing the distribution
349	of medicinal drugs and prepackaged drug products
350	without a specified permit under certain conditions;
351	deleting a provision exempting certain drug
352	repackagers from specified permit requirements;
353	providing an effective date.

By Senator Stargel

	22-00467E-18 20181128_
1	A bill to be entitled
2	An act relating to pharmacy; amending s. 465.003,
3	F.S.; defining and redefining terms; amending s.
4	465.004, F.S.; revising the membership of the Board of
5	Pharmacy; amending s. 465.019, F.S.; establishing
6	Class III institutional pharmacies; authorizing such
7	pharmacies to dispense, compound, and fill
8	prescriptions, prepare prepackaged drug products, and
9	conduct other pharmaceutical services between certain
10	entities under common control; defining the term
11	"common control"; providing that the lawful dispensing
12	and distribution of medicinal drugs by Class III
13	institutional pharmacies is not considered wholesale
14	distribution; requiring such pharmacies to maintain
15	certain policies and procedures; conforming provisions
16	to changes made by the act; amending s. 465.0252,
17	F.S.; conforming a provision to changes made by the
18	act; amending s. 499.003, F.S.; revising the
19	definition of the term "prepackaged drug product";
20	amending s. 499.01, F.S.; providing that a
21	prescription drug repackager permit and a restricted
22	prescription drug distributor permit are not required
23	for the distribution of medicinal drugs or prepackaged
24	drug products between entities under common control
25	under certain circumstances; providing that a certain
26	hospital is not required to hold a restricted
27	prescription drug distributor permit under certain
28	circumstances; deleting a provision exempting certain
29	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 DefinitionsAs 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 <u>that</u> <del>which</del> in the					
41	medical staff's clinical judgment are most useful in patient					
42	care, and <u>that</u> <del>which</del> are available for dispensing by a					
43	practicing pharmacist in a Class II <u>or Class III</u> 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 <u>conducting</u> 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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22-00467E-18 20181128 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, the practice of medicine, or the practice of osteopathic 64 65 medicine, unless otherwise permitted by law. "Practice of the profession of pharmacy" also includes any other act, service, 66 operation, research, or transaction incidental to, or forming a 67 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 products; and conduct other pharmaceutical services. 81

82 Section 2. Subsection (2) of section 465.004, Florida83 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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22-00467E-18 20181128 88 least 4 years and, to the extent practicable, represent the 89 various pharmacy practice settings. Of the pharmacist members, 90 two must be currently engaged in the practice of pharmacy in a 91 community pharmacy, two must be currently engaged in the 92 practice of pharmacy in a Class II, institutional pharmacy or a 93 modified Class II, or Class III institutional pharmacy, and 94 three must be pharmacists licensed in this state irrespective of 95 practice setting. The remaining two members must be residents of the state who have never been licensed as pharmacists and who 96 97 are in no way connected with the practice of the profession of 98 pharmacy. No person may be appointed as a consumer member who is 99 in any way connected with a drug manufacturer or wholesaler. At 100 least one member of the board must be 60 years of age or older. The Governor shall appoint members to the board in accordance 101 102 with this subsection as members' terms expire or as a vacancy 103 occurs until the composition of the board complies with the 104 requirements of this subsection. 105 Section 3. Subsections (4) and (6) of section 465.019, 106 Florida Statutes, are amended, and paragraph (d) is added to 107 subsection (2) of that section, to read: 465.019 Institutional pharmacies; permits.-108 109 (2) The following classes of institutional pharmacies are established: 110 (d)1. "Class III institutional pharmacies" are those 111 institutional pharmacies, including central distribution 112 113 facilities, which are affiliated with a hospital and provide the 114 same services as those authorized for Class II institutional pharmacies in subsection (6). Class III institutional pharmacies 115

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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 individual licensed to prescribe medicinal drugs in this state 151 152 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 Class II or Class III institutional pharmacy, provided that the 154 155 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 carry out the provisions of this subsection. 166

167 (6) In a Class II or Class III institutional pharmacy, an institutional formulary system may be adopted with approval of 168 169 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 pharmacists employed in such institution. A facility with a 172 Class II or Class III institutional pharmacy permit which is 173 operating under the formulary system shall establish policies 174

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175	and procedures for the development of the system in accordance
176	with the joint standards of the American Hospital Association
177	and American Society of Hospital Pharmacists for the utilization
178	of a hospital formulary system, which formulary shall be
179	approved by the medical staff.
180	Section 4. Subsection (3) of section 465.0252, Florida
181	Statutes, is amended to read:
182	465.0252 Substitution of interchangeable biosimilar
183	products
184	(3) A pharmacist who practices in a Class II, or modified
185	Class II, or Class III institutional pharmacy shall comply with
186	the notification provisions of paragraph (2)(c) by entering the
187	substitution in the institution's written medical record system
188	or electronic medical record system.
189	Section 5. Subsection (39) of section 499.003, Florida
190	Statutes, is amended to read:
191	499.003 Definitions of terms used in this part.—As used in
192	this part, the term:
193	(39) "Prepackaged drug product" means a drug that
194	originally was in finished packaged form sealed by a
195	manufacturer and that is placed in a properly labeled container
196	by a pharmacy or practitioner authorized to dispense pursuant to
197	chapter 465 <del>for the purpose of dispensing in the establishment</del>
198	in which the prepackaging occurred.
199	Section 6. Paragraphs (b) and (h) of subsection (2) and
200	subsection (5) of section 499.01, Florida Statutes, are amended
201	to read:
202	499.01 Permits
203	(2) The following permits are established:
I	

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22-00467E-18 20181128 204 (b) Prescription drug repackager permit.-A prescription 205 drug repackager permit is required for any person that 206 repackages a prescription drug in this state. 207 1. A person that operates an establishment permitted as a 208 prescription drug repackager may engage in distribution of 209 prescription drugs repackaged at that establishment and must 210 comply with all of the provisions of this part and the rules 211 adopted under this part that apply to a prescription drug manufacturer. 212 213 2. A prescription drug repackager must comply with all 214 appropriate state and federal good manufacturing practices. 215 3. A prescription drug repackager permit is not required 216 for the distribution of medicinal drugs or prepackaged drug 217 products between entities under common control if each entity holds an active Class III institutional pharmacy permit under 218 219 chapter 465 or an active health care clinic establishment permit 220 under paragraph (r). For purposes of this subparagraph, the term 221 "common control" means the same as in s. 465.019(2). 222 (h) Restricted prescription drug distributor permit.-223 1. A restricted prescription drug distributor permit is 224 required for: 225 a. Any person located in this state who engages in the 226 distribution of a prescription drug, which distribution is not 227 considered "wholesale distribution" under s. 499.003(48)(a). 228 b. Any person located in this state who engages in the 229 receipt or distribution of a prescription drug in this state for 230 the purpose of processing its return or its destruction if such

231 person is not the person initiating the return, the prescription 232 drug wholesale supplier of the person initiating the return, or

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233 the manufacturer of the drug.

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c. A blood establishment located in this state which 234 235 collects blood and blood components only from volunteer donors 236 as defined in s. 381.06014 or pursuant to an authorized 237 practitioner's order for medical treatment or therapy and 238 engages in the wholesale distribution of a prescription drug not 239 described in s. 499.003(48)(j) to a health care entity. A mobile 240 blood unit operated by a blood establishment permitted under this sub-subparagraph is not required to be separately 241 permitted. The health care entity receiving a prescription drug 242 243 distributed under this sub-subparagraph must be licensed as a 244 closed pharmacy or provide health care services at that 245 establishment. The blood establishment must operate in 246 accordance with s. 381.06014 and may distribute only:

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

249 (II) Blood-collection containers approved under s. 505 of 250 the federal act;

251 (III) Drugs that are blood derivatives, or a recombinant or 252 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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22-00467E-18 20181128 262 any reaction of a volunteer blood donor or a patient undergoing 263 a therapeutic procedure performed under the direction and 264 supervision of a licensed physician, 265 266 as long as all of the health care services provided by the blood 267 establishment are related to its activities as a registered 268 blood establishment or the health care services consist of collecting, processing, storing, or administering human 269 270 hematopoietic stem cells or progenitor cells or performing 271 diagnostic testing of specimens if such specimens are tested 272 together with specimens undergoing routine donor testing. The 273 blood establishment may purchase and possess the drugs described 274 in this sub-subparagraph without a health care clinic 275 establishment permit. 276 2. Storage, handling, and recordkeeping of these 277 distributions by a person required to be permitted as a 278 restricted prescription drug distributor must be in accordance 279 with the requirements for wholesale distributors under s. 280 499.0121. 281 3. A person who applies for a permit as a restricted 282 prescription drug distributor, or for the renewal of such a 283 permit, must provide to the department the information required 284 under s. 499.012. 285 4. The department may adopt rules regarding the 286 distribution of prescription drugs by hospitals, health care 287 entities, charitable organizations, other persons not involved 288 in wholesale distribution, and blood establishments, which rules 289 are necessary for the protection of the public health, safety, 290 and welfare.

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22-00467E-18 20181128 5. A restricted prescription drug distributor permit is not 291 292 required for distributions between pharmacies that each hold an active permit under chapter 465, have a common ownership, and 293 294 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, the term "common control" means the same as in s. 465.019(2). 308 309 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. (5) A prescription drug repackager permit issued under this 315 316 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 for distribution to hospitals or other health care entities in 319

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320	the state for their own use, pursuant to s. 499.003(48)(a)3.,
321	if:
322	(a) The prescription drug distributor notifies the
323	department, in writing, of its intention to engage in
324	repackaging under this exemption, 30 days before engaging in the
325	repackaging of prescription drugs at the permitted
326	establishment;
327	(b) The prescription drug distributor is under common
328	control with the hospitals or other health care entities to
329	which the prescription drug distributor is distributing
330	prescription drugs. As used in this paragraph, "common control"
331	means the power to direct or cause the direction of the
332	management and policies of a person or an organization, whether
333	by ownership of stock, voting rights, contract, or otherwise;
334	(c) The prescription drug distributor repackages the
335	prescription drugs in accordance with current state and federal
336	good manufacturing practices; and
337	(d) The prescription drug distributor labels the
338	prescription drug it repackages in accordance with state and
339	federal laws and rules.
340	
341	The prescription drug distributor is exempt from the product
342	registration requirements of s. 499.015 with regard to the
343	prescription drugs that it repackages and distributes under this
344	subsection. A prescription drug distributor that repackages and
345	distributes prescription drugs under this subsection to a not-
346	for-profit rural hospital, as defined in s. 395.602, is not
347	required to comply with paragraph (c) or paragraph (d), but must
348	provide to each health care entity for which it repackages, for
Į	

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349	each prescription drug that is repackaged and distributed, the
350	information required by department rule for labeling
351	prescription drugs. The department shall adopt rules to ensure
352	the safety and integrity of prescription drugs repackaged and
353	distributed under this subsection, including rules regarding
354	prescription drug manufacturing and labeling requirements.
355	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 Cniuren, Families, and Elder Arrairs 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,

Kelli Starge

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

JOE NEGRON President of the Senate

ANITERE FLORES **President Pro Tempore** 

THE FLORIDA SENATE	
(Deliver BOTH copies of this form to the Senator or Senate Profession)	
Meeting Date	Bill Number (if applicable)
Topic Pharmacy	Amendment Barcode (if applicable)
Name HEATHER FULLER	
Job Title DIVISION DIRECTOR	
Address 402 EPALMERAVE	Phone <u>38( 405 1968</u>
TALLABOSSEE FL 32301 City State Zip	Email HEATHER @DANCELEXIL.O
	e Speaking: In Support Against Chair will read this information into the record.)
Representing FLORIDA SOCIETY OF HEA	ACTH SYSTEMS MARMACISTS
Appearing at request of Chair: 🗌 Yes 🔀 No 🛛 Lobbyist re	gistered 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.)

	Prepa	ared By: The	e Professional S	taff of the Committe	e on Health Poli	су
BILL:	SB 1184					
INTRODUCER:	Senator Gibson					
SUBJECT: Closing the		e Gap Gra	nt Program			
DATE:	January 29	, 2018	REVISED:			
ANAL	YST	STAFI	- DIRECTOR	REFERENCE		ACTION
1. Lloyd		Stoval	l	HP	Favorable	
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>&</sup>lt;sup>1</sup> Chapter 2000-256, ss. 31-32, Laws of Fla. (2000).

<sup>&</sup>lt;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, interagency agreements, or other forms of supports;
- Show high levels of participation by the heath 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>

<sup>&</sup>lt;sup>3</sup> See s. 381.7355(2), F.S.

<sup>&</sup>lt;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.

<sup>&</sup>lt;sup>5</sup> Section 381.7352, F.S.

<sup>&</sup>lt;sup>6</sup> Section 381.7356(4), F.S.

<sup>&</sup>lt;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,* <u>http://www.floridahealth.gov/programs-and-services/minority-health/closing-the-gap.html</u>, (last visited Jan. 24, 2018). <sup>8</sup> *Id.* 

<sup>&</sup>lt;sup>9</sup> Id at 13.

<sup>&</sup>lt;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.

Table 1.           Closing the Gap Matching Funds Contribution Combinations <sup>13</sup>		
Grantee Type	Matching Funds Requirements	
County Population greater than	One dollar for every 3 dollar grant payment	
50,000	- 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	Up to 100 percent may be in-kind services	
less	(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>&</sup>lt;sup>11</sup> Department of Health, *Closing the Gap Contract Spreadsheet FY 2016-17*, (on file with the Senate Committee on Health Policy).

<sup>&</sup>lt;sup>12</sup> Section 381.7356, F.S.

<sup>&</sup>lt;sup>13</sup> *Id*.

<sup>&</sup>lt;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>&</sup>lt;sup>15</sup> United States Department of Health and Human Services, *Healthy People 2020 – Framework*, <u>https://www.healthypeople.gov/sites/default/files/HP2020Framework.pdf</u>, (last visited Jan. 24, 2018).

		Table 2.				
Ν	Minority Health Profiles – Select Indicators for 2016 <sup>17</sup>					
Indicator	White	Black	Hispanic <sup>18</sup>	Non-Hispanic <sup>19</sup>		
(per 100,000, unless noted)						
Fetal Deaths	5.3	12.2	5.4	7.2		
(per 1,000 deliveries)						
Infant Deaths	4.4	11.3	5.1	6.4		
(per 1,000 births)						
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	96.9	100	87.4	98.7		
Disease death rate						
Stroke death rate	34.6	53.6	35.8	37.0		

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.

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.20

### 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>&</sup>lt;sup>16</sup> Id.

<sup>&</sup>lt;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>&</sup>lt;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>&</sup>lt;sup>19</sup> Id.

<sup>&</sup>lt;sup>20</sup> Department of Health, FLHealthCHARTS.com Statistical Brief, *Gap Between Black and White Death Rate Narrows*, <u>http://www.flhealthcharts.com/Charts/documents/StatisticalBriefs/GapNarrows.pdf</u>, (last visited Jan. 24, 2018).

<sup>&</sup>lt;sup>21</sup> Mayo Clinic, *Lupus - Overview*, <u>https://www.mayoclinic.org/diseases-conditions/lupus/symptoms-causes/syc-20365789</u>, (last visited Jan. 24, 2018).

 $<sup>^{22}</sup>$  Id.

<sup>&</sup>lt;sup>23</sup> Centers for Disease Control and Prevention, *Lupus Basic Fact Sheet*, <u>https://www.cdc.gov/lupus/basics/index.html</u>, (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>31</sup> Supra note 31.

<sup>&</sup>lt;sup>24</sup> The National Resource Center on Lupus, *What is Lupus*, <u>https://resources.lupus.org/entry/what-is-lupus?utm\_source=lupusorg&utm\_medium=answersFAQ</u>, (last visited Jan. 24, 2018).

<sup>&</sup>lt;sup>25</sup> Id.

<sup>&</sup>lt;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>&</sup>lt;sup>27</sup> Id.

<sup>&</sup>lt;sup>28</sup> The National Resource Center on Lupus, *Common symptoms of lupus*, <u>https://resources.lupus.org/entry/common-symptoms</u>, (last visited Jan. 24, 2018).

<sup>&</sup>lt;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>&</sup>lt;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.

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.

<sup>&</sup>lt;sup>32</sup> Id.

<sup>&</sup>lt;sup>33</sup> *Supra* note 25.

<sup>&</sup>lt;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>&</sup>lt;sup>35</sup> *Id.* 

<sup>&</sup>lt;sup>36</sup> *Id.* 

<sup>&</sup>lt;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.

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

<sup>&</sup>lt;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.

# Page 1 of 2

	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.								

# Page 2 of 2



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

#### 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

SENATOR AUDREY GIBSON 6th District

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,

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

ANITERE FLORES President Pro Tempore

THE FLORIDA SENATE APPEARANCE RECO	RD
1/30 (Beliver BOTH copies of this form to the Senator or Senate Professional St	
Meeting Date	Bill Number (if applicable)
Topic <u>Closing The Gap</u>	Amendment Barcode (if applicable)
Name Gloria A. Erhetein	
Job Title	
Address Braemen Divice	Phone <u>904 386 3636</u>
Street	Phone <u>904 386 3636</u> gmail. Email <u>Gloriacinstei &amp; com</u>
City State Zip	
	peaking: In Support Against ir will read this information into the record.)
Representing	
Appearing at request of Chair: Yes 📈 No Lobbyist registe	ered with Legislature: Yes 🕅 No
While it is a Senate tradition to encourage public testimony, time may not permit all meeting. Those who do speak may be asked to limit their remarks so that as many	

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.)

	Prepa	red By: The	Professional S	taff of the Committe	e on Health P	olicy		
BILL: CS/SB 1486								
INTRODUCER:	Health Poli	Health Policy Committee and Senator Grimsley						
SUBJECT:	Departmen	t of Healt	h					
DATE:	February 1,	2018	REVISED:					
ANAL		STAF	DIRECTOR	REFERENCE		ACTION		
. Rossitto-Va Winkle	an	Stovall		HP	Fav/CS			
				AP				
				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-1Visa exchange visitor program under s. 214(1), 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 <u>after</u> 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

<sup>&</sup>lt;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>&</sup>lt;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

<sup>&</sup>lt;sup>4</sup> *Id*.

<sup>&</sup>lt;sup>5</sup> Section 456,024(3)(a), F.S.

<sup>&</sup>lt;sup>6</sup> See supra note 1.

<sup>&</sup>lt;sup>7</sup> See ch. 466, F.S.

<sup>&</sup>lt;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

<sup>15</sup> Section 464.013, F.S.

<sup>&</sup>lt;sup>9</sup> Section 460. 403(9), F.S.

<sup>&</sup>lt;sup>10</sup> Section 460.4166, F.S.

<sup>&</sup>lt;sup>11</sup> Supra note 1.

<sup>&</sup>lt;sup>12</sup> Section 464.008, F.S.

<sup>&</sup>lt;sup>13</sup> Section 464.0115, F.S.

<sup>&</sup>lt;sup>14</sup> Section 464.012, F.S.

<sup>&</sup>lt;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>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.

<sup>&</sup>lt;sup>17</sup> Section 464.018(5), F.S.

 <sup>&</sup>lt;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>&</sup>lt;sup>20</sup> Section 461.003, F.S.

<sup>&</sup>lt;sup>21</sup> Sections 465.003(13), and 465.0155, F.S.

<sup>&</sup>lt;sup>22</sup> Section 490.003((4), F.S.

<sup>&</sup>lt;sup>23</sup> Section 491.003, 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>

<sup>&</sup>lt;sup>27</sup> Section 464.201, F.S.

<sup>&</sup>lt;sup>28</sup> Section 464.203, F.S.

<sup>&</sup>lt;sup>29</sup> Id.

<sup>&</sup>lt;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>&</sup>lt;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

<sup>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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, 64B1632.009, 64B16-32.011,64B16-32.013, and 64B16-32.015, F.A.C., governing nonresident sterile compounding pharmacies and outsourcing facilities.

<sup>&</sup>lt;sup>38</sup> See supra note 64.

<sup>&</sup>lt;sup>39</sup> Section 465.017, F.S.

<sup>&</sup>lt;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>

<sup>&</sup>lt;sup>41</sup> *Supra* note 1.

<sup>&</sup>lt;sup>42</sup> Sections 458.351 and 459.026, F.S.

<sup>&</sup>lt;sup>43</sup> Rule 64B5-14.006, F.A.C.,

<sup>&</sup>lt;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:

<sup>&</sup>lt;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 has the only accredited certification for 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>

<sup>&</sup>lt;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* <a href="http://www.bocatc.org/about-us#what-is-the-boc">http://www.bocatc.org/about-us#what-is-the-boc</a> (last visited Jan. 25, 2018).

<sup>&</sup>lt;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>&</sup>lt;sup>49</sup> Section 468.713, F.S.

<sup>&</sup>lt;sup>50</sup> Section 468.705, F.S.

<sup>&</sup>lt;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, 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, 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, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of a prosthesis.<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 in not authorized.

## Massage Therapy

Section 480.035, F.S., establishes the Board of Message Therapy within the DOH to license and regulate the practice of message 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:
  - o 300 hours of Physiology;

<sup>&</sup>lt;sup>52</sup> Section 468.80(9), F.S.

<sup>&</sup>lt;sup>53</sup> Section 468.80(15), F.S.

<sup>&</sup>lt;sup>54</sup> Section 468.80(12), F.S.

<sup>&</sup>lt;sup>55</sup> Section 468.803, F.S.

<sup>&</sup>lt;sup>56</sup> Id.

- 300 hours of Anatomy;
- o 20 hours of Theory and History of Massage;
- o 50 hours of Theory and Practice of Hydro-Therapy;
- 5 hours of Hygiene;
- o 25 hours of Statutes and Rules of Massage Practice;
- o 50 hours of Introduction to Allied Modalities;
- o 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,

<sup>58</sup> Section 480.041, F.S.

<sup>&</sup>lt;sup>57</sup> Rule 64B7-29.003, F.A.C.

<sup>&</sup>lt;sup>59</sup> Id.

<sup>&</sup>lt;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>&</sup>lt;sup>61</sup> Rule 64B7-29.007, F.A.C.

<sup>&</sup>lt;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 interpretsonal behavioral health and mental or psychological heath.<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

<sup>&</sup>lt;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.

<sup>&</sup>lt;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 and 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;

<sup>&</sup>lt;sup>66</sup> Supra note 1.

<sup>&</sup>lt;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.

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

House



LEGISLATIVE ACTION

Senate Comm: RCS 01/30/2018

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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11 and nongovernmental stakeholders and resources in order to 12 develop a state strategic plan and assess the implementation of 13 such strategic plan. In developing the state strategic plan, the 14 department shall:

(f) Develop strategies to maximize federal and state 15 16 programs that provide for the use of incentives to attract 17 physicians to this state or retain physicians within the state. 18 Such strategies should explore and maximize federal-state 19 partnerships that provide incentives for physicians to practice 20 in federally designated shortage areas. Strategies shall also 21 consider the use of state programs, such as the Medical 22 Education Reimbursement and Loan Repayment Program pursuant to 23 s. 1009.65, which provide for education loan repayment or loan 24 forgiveness and provide monetary incentives for physicians to 25 relocate to underserved areas of the state. To further encourage 26 qualified physicians to relocate to and practice in underserved 27 areas, the department, following federal requirements, shall 28 adopt any rules necessary for the implementation of the Conrad 29 30 Waiver Program established under s. 214(1) of the Immigration 30 and Nationality Act.

Section 2. Paragraph (a) of subsection (1) of section 456.013, Florida Statutes, is amended to read:

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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



40 submitted applications beginning July 1, 2001. The application shall require the social security number and date of birth of 41 42 the applicant, except as provided in paragraphs (b) and (c). The 43 form shall be supplemented as needed to reflect any material change in any circumstance or condition stated in the 44 45 application which takes place between the initial filing of the 46 application and the final grant or denial of the license and 47 which might affect the decision of the department. If an 48 application is submitted electronically, the department may 49 require supplemental materials, including an original signature 50 of the applicant and verification of credentials, to be 51 submitted in a nonelectronic format. An incomplete application 52 shall expire 1 year after initial filing. In order to further 53 the economic development goals of the state, and notwithstanding 54 any law to the contrary, the department may enter into an 55 agreement with the county tax collector for the purpose of 56 appointing the county tax collector as the department's agent to 57 accept applications for licenses and applications for renewals 58 of licenses. The agreement must specify the time within which 59 the tax collector must forward any applications and accompanying 60 application fees to the department.

61 Section 3. Paragraphs (a) and (b) of subsection (3) and 62 paragraph (j) of subsection (4) of section 456.024, Florida 63 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:

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1. Serves or has served as a health care practitioner in

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69 the United States Armed Forces, the United States Reserve 70 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.

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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;

b. Is a military health care practitioner in a profession 101 for which licensure in a state or jurisdiction is not required to practice in the United States Armed Forces, if he or she 103 submits to the department evidence of military training or 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 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 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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127	6. Submits a set of fingerprints for a background screening
128	pursuant to s. 456.0135, if required for the profession for
129	which he or she is applying.
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131	The department shall verify information submitted by the
132	applicant under this subsection using the National Practitioner
133	Data Bank.
134	(4)
135	(j) An applicant who is issued a temporary professional
136	license to practice as a dentist pursuant to this section must
137	practice under the indirect supervision, as defined in s.
138	466.003, of a dentist licensed pursuant to chapter 466.
139	Section 4. Subsection (3) of section 458.309, Florida
140	Statutes, is amended to read:
141	458.309 Rulemaking authority
142	(3) A physician who performs liposuction procedures in
143	which more than 1,000 cubic centimeters of supernatant fat is
144	removed, level 2 procedures lasting more than 5 minutes, and all
145	level 3 surgical procedures in an office setting must register
146	the office with the department unless that office is licensed as
147	a facility under chapter 395. The department shall inspect the
148	physician's office annually unless the office is accredited by a
149	nationally recognized accrediting agency or an accrediting
150	organization subsequently approved by the Board of Medicine. The
151	actual costs for registration and inspection or accreditation
152	shall be paid by the person seeking to register and operate the
153	office setting in which office surgery is performed.
154	Section 5. Section 458.3312, Florida Statutes, is amended
155	to read:

COMMITTEE AMENDMENT

Florida Senate - 2018 Bill No. SB 1486



156 458.3312 Specialties.-A physician licensed under this 157 chapter may not hold himself or herself out as a board-certified 158 specialist unless the physician has received formal recognition 159 as a specialist from a specialty board of the American Board of 160 Medical Specialties or other recognizing agency that has been 161 approved by the board. However, a physician may indicate the 162 services offered and may state that his or her practice is 163 limited to one or more types of services when this accurately 164 reflects the scope of practice of the physician. A physician may 165 not hold himself or herself out as a board-certified specialist 166 in dermatology unless the recognizing agency, whether authorized 167 in statute or by rule, is triennially reviewed and reauthorized 168 by the Board of Medicine. 169 Section 6. Paragraph (d) of subsection (7) of section 170 458.347, Florida Statutes, is amended to read: 171 458.347 Physician assistants.-(7) PHYSICIAN ASSISTANT LICENSURE.-172 (d)1. Upon employment as a physician assistant, a licensed 173 physician assistant must notify the department in writing within 174 175 30 days after such employment and provide or after any 176 subsequent changes in the supervising physician. The 177 notification must include the full name, Florida medical license 178 number, specialty, and address of a designated the supervising 179 physician. Any subsequent changes to this information must be 180 reported to the department within 30 days after the change. 181 Assignment of a designated supervising physician does not 182 preclude a physician assistant from practicing under the 183 supervision of physicians other than the designated supervising 184 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) <u>1.</u> 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 <u>a designated</u> 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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214	practice where physician assistants are supervised by multiple
215	supervising physicians. The designated supervising physician
216	shall maintain a list of all approved supervising physicians at
217	the practice or facility which includes the name of each
218	supervising physician and his or her area of practice. The list
219	must be kept current and must be provided to the department in a
220	timely manner upon written request.
221	Section 8. Subsection (1) of section 460.408, Florida
222	Statutes, is amended to read:
223	460.408 Continuing chiropractic education
224	(1) The board shall require licensees to periodically
225	demonstrate their professional competence as a condition of
226	renewal of a license by completing up to 40 contact classroom
227	hours of continuing education. For purposes of this subsection,
228	term "contact classroom hour" means a presentation in which the
229	persons presenting and the persons attending the course are
230	present on site. Up to 10 general credit continuing education
231	hours may be completed online in place of contact classroom
232	hours, as determined by board rule. Online continuing education
233	courses must be competency based and must use the Sharable
234	Content Objective Reference Model standard or more stringent
235	standards, as determined by the board.
236	(a) Continuing education courses sponsored by chiropractic
237	colleges whose graduates are eligible for examination under any
238	provision of this chapter may be approved upon review by the
239	board if all other requirements of board rules setting forth
240	criteria for course approval are met.

(b) The board shall approve those courses that build uponthe basic courses required for the practice of chiropractic

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243	medicine, and the board may also approve courses in adjunctive
244	modalities. Courses that consist of instruction in the use,
245	application, prescription, recommendation, or administration of
246	a specific company's brand of products or services are not
247	eligible for approval.
248	Section 9. Section 460.4166, Florida Statutes, is repealed.
249	Section 10. Section 463.006, Florida Statutes, is amended
250	to read:
251	463.006 Licensure and certification by examination
252	(1) Any person desiring to be a licensed practitioner
253	pursuant to this chapter shall apply to the department <del>to take</del>
254	the licensure and certification examinations. The department
255	shall <u>license</u> examine each applicant who the board determines
256	has:
257	(a) Completed the application forms as required by the
258	board, remitted an application fee for certification not to
259	exceed \$250, remitted an examination fee for certification not
260	to exceed \$250, and remitted <u>a</u> an examination fee for licensure
261	not to exceed \$325, all as set by the board.
262	(b) Submitted proof satisfactory to the department that she
263	or he:
264	1. Is at least 18 years of age.
265	2. Has graduated from an accredited school or college of
266	optometry approved by rule of the board.
267	3. Is of good moral character.
268	<u>3.</u> 4. Has successfully completed at least 110 hours of
269	transcript-quality coursework and clinical training in general
270	and ocular pharmacology as determined by the board, at an
271	institution that:

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a. Has facilities for both didactic and clinicalinstructions 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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301	(1) Any person desiring to be a licensed practitioner
302	pursuant to this chapter shall apply to the department. The
303	department shall issue a license by endorsement to any applicant
304	who, upon applying to the department on forms furnished by the
305	department and remitting a nonrefundable application fee set by
306	the board not to exceed \$250 and a licensure fee not to exceed
307	\$325, the board certifies:
308	(a) Has graduated from an accredited school or college of
309	optometry accredited by a regional or professional accrediting
310	organization that is recognized and approved by the Commission
311	on Recognition of Postsecondary Accreditation or the United
312	States Department of Education.
313	(b) Has obtained an overall passing score, as established
314	by rule of the board, on the licensure examination of the
315	National Board of Examiners in Optometry or a similar nationally
316	recognized examination approved by the board.
317	(c) Has submitted evidence of an active, licensed practice
318	of optometry in another jurisdiction, for at least 5 of the
319	immediately preceding 7 years, or evidence of successful
320	completion of a board-approved clinical competency examination
321	within the year preceding the filing of an application for
322	licensure. For purposes of this paragraph, "active licensed
323	practice of optometry" means the practice of optometry by
324	optometrists, including those employed by any federal or state
325	governmental entity in community or public health.
326	(d) Has successfully completed the clinical skills portion
327	of the examination developed by the National Board of Examiners
328	in Optometry. In addition to an overall passing score on the
329	clinical skills portion, an applicant must obtain a score of 75

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330	percent or better on each of the biomicroscopy, binocular
331	indirect ophthalmoscopy, and dilated biomicroscopy and
332	noncontact fundus lens evaluation skills individually.
333	(e) Has successfully completed a written examination on
334	applicable general laws and rules governing the practice of
335	optometry.
336	(f) Has obtained a passing score on either the Treatment
337	and Management of Ocular Disease examination in the Patient
338	Assessment and Management portion of the examination developed
339	by the National Board of Examiners in Optometry or the stand-
340	alone Treatment and Management of Ocular Disease examination
341	developed by the National Board of Examiners in Optometry.
342	(2) The applicant shall submit evidence of completing a
343	total of at least 30 hours of board-approved continuing
344	education for the 2 calendar years immediately preceding
345	application.
346	(3) The department may not issue a license by endorsement
347	to any applicant who is under investigation in any jurisdiction
348	for an act or offense which would constitute a violation of this
349	chapter until such time as the investigation is complete, at
350	which time the provisions of s. 463.016 shall apply.
351	Furthermore, the department may not issue an unrestricted
352	license to any individual who has committed any act or offense
353	in any jurisdiction constituting the basis for disciplining an
354	optometrist pursuant to s. 463.016. If the board finds that an
355	individual has committed an act or offense constituting the
356	basis for disciplining an optometrist pursuant to s. 463.016,
357	the board may enter an order imposing one or more of the terms
358	set forth in subsection (4).
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359	(4) If the board determines that an applicant for licensure
360	by endorsement has failed to satisfy the appropriate
361	requirements in this section, it may enter an order that
362	requires one or more of the following actions:
363	(a) A refusal to certify to the department an application
364	for licensure or certification;
365	(b) A certification to the department of an application for
366	licensure or certification with restrictions on the scope of
367	practice of the licensee; or
368	(c) A certification to the department of an application for
369	licensure or certification with a probationary period subject to
370	conditions specified by the board, including, but not limited
371	to, requiring the optometrist to submit to treatment, attend
372	continuing education courses, submit to reexamination, or work
373	under the supervision of another licensed optometrist.
374	Section 12. Section 464.006, Florida Statutes, is amended
375	to read:
376	464.006 Rulemaking authority.—The board <u>may</u> <del>has authority</del>
377	to adopt rules pursuant to ss. $120.536(1)$ and $120.54$ to
378	implement the provisions of this part conferring duties upon it
379	and establish standards of care.
380	Section 13. Section 464.202, Florida Statutes, is amended
381	to read:
382	464.202 Duties and powers of the board.—The board shall
383	maintain, or contract with or approve another entity to
384	maintain, a state registry of certified nursing assistants. The
385	registry must consist of the name of each certified nursing
386	assistant in this state; other identifying information defined
387	by board rule; certification status; the effective date of

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388 certification; other information required by state or federal 389 law; information regarding any crime or any abuse, neglect, or 390 exploitation as provided under chapter 435; and any disciplinary 391 action taken against the certified nursing assistant. The 392 registry shall be accessible to the public, the 393 certificateholder, employers, and other state agencies. The 394 board shall adopt by rule testing procedures for use in 395 certifying nursing assistants and shall adopt rules regulating the practice of certified nursing assistants, including 396 397 discipline and establishing standards of care, and specifying 398 the scope of practice authorized and the level of supervision 399 required for the practice of certified nursing assistants. The 400 board may contract with or approve another entity or 401 organization to provide the examination services, including the 402 development and administration of examinations. The board shall 403 require that the contract provider offer certified nursing 404 assistant applications via the Internet, and may require the 405 contract provider to accept certified nursing assistant 406 applications for processing via the Internet. The board shall 407 require the contract provider to provide the preliminary results 408 of the certified nursing examination on the date the test is 409 administered. The provider shall pay all reasonable costs and 410 expenses incurred by the board in evaluating the provider's application and performance during the delivery of services, 411 412 including examination services and procedures for maintaining 413 the certified nursing assistant registry. 414

Section 14. Paragraph (c) of subsection (1) of section 415 464.203, Florida Statutes, is amended to read: 416

464.203 Certified nursing assistants; certification



417 requirement.-

(1) The board shall issue a certificate to practice as a 418 419 certified nursing assistant to any person who demonstrates a 420 minimum competency to read and write and successfully passes the 421 required background screening pursuant to s. 400.215. If the 422 person has successfully passed the required background screening 423 pursuant to s. 400.215 or s. 408.809 within 90 days before 424 applying for a certificate to practice and the person's 42.5 background screening results are not retained in the 426 clearinghouse created under s. 435.12, the board shall waive the 427 requirement that the applicant successfully pass an additional 428 background screening pursuant to s. 400.215. The person must 429 also meet one of the following requirements:

(c) Is currently certified in another state <u>or territory or</u> <u>the District of Columbia</u>; 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.-

438 (1) The following acts constitute grounds for which the 439 board may impose disciplinary sanctions as specified in 440 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.

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(b) Intentionally Violating any provision of this chapter,

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446	chapter 456, or the rules adopted by the board.
447	Section 16. Subsection (7) is added to section 465.019,
448	Florida Statutes, to read:
449	465.019 Institutional pharmacies; permits
450	(7) An institutional pharmacy must pass an onsite
451	inspection by the department as a prerequisite to the issuance
452	of an initial permit or a permit for a change of location. The
453	inspection must be completed within 90 days before the issuance
454	of the permit.
455	Section 17. Section 465.0193, Florida Statutes, is amended
456	to read:
457	465.0193 Nuclear pharmacy permits.—Any person desiring a
458	permit to operate a nuclear pharmacy shall apply to the
459	department. If the board certifies that the application complies
460	with applicable law, the department shall issue the permit. No
461	permit shall be issued unless a duly licensed and qualified
462	nuclear pharmacist is designated as being responsible for
463	activities described in s. 465.0126. <u>A nuclear pharmacy must</u>
464	pass an onsite inspection by the department as a prerequisite to
465	the issuance of an initial permit or a permit for a change of
466	location. The inspection must be completed within 90 days before
467	the issuance of the permit. The permittee shall notify the
468	department within 10 days of any change of the licensed
469	pharmacist responsible for the compounding and dispensing of
470	nuclear pharmaceuticals.
471	Section 18. Section 465.0195, Florida Statutes, is created
472	to read:
473	465.0195 Pharmacy or outsourcing facility; sterile
474	compounding permitBefore a pharmacy or outsourcing facility

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located in this state dispenses, creates, delivers, ships, or 475 476 mails, in any manner, a compounded sterile product, the pharmacy or outsourcing facility must hold a sterile compounding permit. 477 478 (1) An application for a sterile compounding permit shall 479 be submitted on a form furnished by the board. The board may 480 require such information as it deems reasonably necessary to carry out the purposes of this section. 481 482 (2) If the board certifies that the application complies 483 with applicable laws and rules of the board governing 484 pharmacies, the department shall issue the permit. 485 (3) A pharmacy or outsourcing facility must pass an onsite 486 inspection by the department as a prerequisite to the issuance 487 of an initial permit or a permit for a change of location. The 488 inspection must be completed within 90 days before the issuance 489 of the permit. The board may adopt by rule standards for 490 conducting an onsite inspection for issuance of a sterile 491 compounding permit. 492 (4) A permit may not be issued unless a licensed pharmacist 493 is designated to undertake the professional supervision of the 494 compounding and dispensing of all drugs dispensed by the 495 permittee. 496 (5) A permittee must notify the department within 10 days 497 after any change of the licensed pharmacist under subsection 498 (4). Each permittee that employs or otherwise uses registered 499 pharmacy technicians shall have a written policy and procedures 500 manual specifying those duties, tasks, and functions that a 501 registered pharmacy technician is authorized to perform. 502 (6) The board may adopt by rule standards of practice for 503 sterile compounding. In adopting such rules, the board shall

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504	give due consideration to the standards and requirements
505	provided in chapter 797 of the United States Pharmacopeia, or
506	other professionally accepted standards deemed authoritative by
507	the board. In adopting such rules for an outsourcing facility,
508	the board shall consider the standards and requirements of
509	current good manufacturing practices as set forth by federal law
510	and any other professionally accepted standards deemed
511	authoritative by the board.
512	(7) All provisions relating to pharmacy permits found in
513	ss. 465.022 and 465.023 apply to permits issued pursuant to this
514	section.
515	Section 19. Section 465.0196, Florida Statutes, is amended
516	to read:
517	465.0196 Special pharmacy permits.—Any person desiring a
518	permit to operate a special pharmacy shall apply to the
519	department for a special pharmacy permit. If the board certifies
520	that the application complies with the applicable laws and rules
521	of the board governing the practice of the profession of
522	pharmacy, the department shall issue the permit. <u>A special</u>
523	pharmacy must pass an onsite inspection by the department as a
524	prerequisite to the issuance of an initial permit or a permit
525	for a change of location. The inspection must be completed
526	within 90 days before the issuance of the permit. A permit may
527	not be issued unless a licensed pharmacist is designated to
528	undertake the professional supervision of the compounding and
529	dispensing of all drugs dispensed by the pharmacy. The licensed
530	pharmacist shall be responsible for maintaining all drug records
531	and for providing for the security of the area in the facility
532	in which the compounding, storing, and dispensing of medicinal
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533	drugs occurs. The permittee shall notify the department within
534	10 days after any change of the licensed pharmacist responsible
535	for such duties. Each permittee that employs or otherwise uses
536	registered pharmacy technicians shall have a written policy and
537	procedures manual specifying those duties, tasks, and functions
538	that a registered pharmacy technician is allowed to perform.
539	Section 20. Subsection (2) of section 465.0197, Florida
540	Statutes, is amended to read:
541	465.0197 Internet pharmacy permits
542	(2) An Internet pharmacy must obtain a permit under this
543	section to sell medicinal drugs to persons in this state. <u>An</u>
544	Internet pharmacy must pass an onsite inspection by the
545	department as a prerequisite to the issuance of an initial
546	permit or a permit for a change of location. The inspection must
547	be completed within 90 days before the issuance of the permit.
548	Section 21. Subsection (4) of section 466.006, Florida
549	Statutes, is amended to read:
550	466.006 Examination of dentists
551	(4) Notwithstanding any other provision of law in chapter
552	456 pertaining to the clinical dental licensure examination or
553	national examinations, to be licensed as a dentist in this
554	state, an applicant must successfully complete the following:
555	(a) A written examination on the laws and rules of the
556	state regulating the practice of dentistry;
557	(b)1. A practical or clinical examination, which shall be
558	the American Dental Licensing Examination produced by the
559	American Board of Dental Examiners, Inc., or its successor
560	entity, if any, that is administered in this state and graded by
561	dentists licensed in this state and employed by the department
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562 for just such purpose, provided that the board has attained, and 563 continues to maintain thereafter, representation on the board of directors of the American Board of Dental Examiners, the 564 565 examination development committee of the American Board of 566 Dental Examiners, and such other committees of the American 567 Board of Dental Examiners as the board deems appropriate by rule 568 to assure that the standards established herein are maintained 569 organizationally. A passing score on the American Dental 570 Licensing Examination administered in this state and graded by dentists who are licensed in this state is valid for 365 days 571 572 after the date the official examination results are published.

573 2.a. As an alternative to the requirements of subparagraph 574 1., an applicant may submit scores from an American Dental 575 Licensing Examination previously administered in a jurisdiction 576 other than this state after October 1, 2011, and such 577 examination results shall be recognized as valid for the purpose 578 of licensure in this state. A passing score on the American 579 Dental Licensing Examination administered out-of-state shall be 580 the same as the passing score for the American Dental Licensing 581 Examination administered in this state and graded by dentists 582 who are licensed in this state. The examination results are 583 valid for 365 days after the date the official examination 584 results are published. The applicant must have completed the examination after October 1, 2011. 585

586 b. This subparagraph may not be given retroactive 587 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



591 subparagraph 2. is older than 365 days, then such scores shall 592 nevertheless be recognized as valid for the purpose of licensure 593 in this state, but only if the applicant demonstrates that all 594 of the following additional standards have been met:

595 a.(I) The applicant completed the American Dental Licensing596 Examination after October 1, 2011.

597 (II) This sub-subparagraph may not be given retroactive 598 application;

599 b. The applicant graduated from a dental school accredited 600 by the American Dental Association Commission on Dental 601 Accreditation or its successor entity, if any, or any other 602 dental accrediting organization recognized by the United States 603 Department of Education. Provided, however, if the applicant did 604 not graduate from such a dental school, the applicant may submit 605 proof of having successfully completed a full-time supplemental 606 general dentistry program accredited by the American Dental 607 Association Commission on Dental Accreditation of at least 2 608 consecutive academic years at such accredited sponsoring 609 institution. Such program must provide didactic and clinical 610 education at the level of a D.D.S. or D.M.D. program accredited 611 by the American Dental Association Commission on Dental 612 Accreditation;

613 c. The applicant currently possesses a valid and active 614 dental license in good standing, with no restriction, which has 615 never been revoked, suspended, restricted, or otherwise 616 disciplined, from another state or territory of the United 617 States, the District of Columbia, or the Commonwealth of Puerto 618 Rico;

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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 subsubparagraph does not apply if the applicant successfully appealed to have his or her name removed from the data banks of these agencies;

626 e.(I) In the 5 years immediately preceding the date of 627 application for licensure in this state, the applicant must 628 submit proof of having been consecutively engaged in the full-629 time practice of dentistry in another state or territory of the 630 United States, the District of Columbia, or the Commonwealth of 631 Puerto Rico, or, if the applicant has been licensed in another 632 state or territory of the United States, the District of 633 Columbia, or the Commonwealth of Puerto Rico for less than 5 634 years, the applicant must submit proof of having been engaged in 635 the full-time practice of dentistry since the date of his or her 636 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:

642 (A) Active clinical practice of dentistry providing direct643 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



649 dental education program approved by the board or accredited by
650 the American Dental Association Commission on Dental
651 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:

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(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;

673 f. The applicant must submit documentation that he or she 674 has completed, or will complete, prior to licensure in this 675 state, continuing education equivalent to this state's 676 requirements for the last full reporting biennium;

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g. The applicant must prove that he or she has never been

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678 convicted of, or pled nolo contendere to, regardless of 679 adjudication, any felony or misdemeanor related to the practice 680 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 computerbased 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:

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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:

695 (b) A practical or clinical examination approved by the 696 board. The examination shall be the Dental Hygiene Examination 697 produced by the American Board of Dental Examiners, Inc. (ADEX) 698 or its successor entity, if any, if the board finds that the 699 successor entity's clinical examination meets or exceeds the 700 provisions of this section. The board shall approve the ADEX 701 Dental Hygiene Examination if the board has attained and 702 continues to maintain representation on the ADEX House of 703 Representatives, the ADEX Dental Hygiene Examination Development 704 Committee, and such other ADEX Dental Hygiene committees as the 705 board deems appropriate through rulemaking to ensure that the 706 standards established in this section are maintained

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707 organizationally. The ADEX Dental Hygiene Examination or the 708 examination produced by its successor entity is a comprehensive 709 examination in which an applicant must demonstrate skills within 710 the dental hygiene scope of practice on a live patient and any 711 other components that the board deems necessary for the 712 applicant to successfully demonstrate competency for the purpose 713 of licensure. The ADEX Dental Hygiene Examination or the 714 examination by the successor entity administered in this state 715 shall be graded by dentists and dental hygienists licensed in 716 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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736 (11) For purposes of notification to the department pursuant to this section, the term "adverse incident" means any 737 738 mortality that occurs during or as the result of a dental 739 procedure, or an incident that results in a temporary or 740 permanent physical or mental injury that requires 741 hospitalization or emergency room treatment of a dental patient 742 which occurred during or as a direct result of the use of 743 anesthesia, deep sedation, moderate sedation, pediatric moderate 744 sedation, oral sedation, minimal sedation(anxiolysis), nitrous 745 oxide, or local anesthesia. 746 (12) Any certified registered dental hygienist 747 administering local anesthesia must notify the board, in writing 748 by registered mail within 48 hours of any adverse incident that 749 was related to or the result of the administration of local 750 anesthesia. A complete written report must be filed with the 751 board within 30 days after the mortality or other adverse 752 incident. 753 (13) A failure by the dentist or dental hygienist to timely 754 and completely comply with all the reporting requirements in 755 this section is the basis for disciplinary action by the board 756 pursuant to s. 466.028(1). 757 (14) The department shall review each incident and 758 determine whether it involved conduct by a health care 759 professional subject to disciplinary action, in which case s. 760 456.073 applies. Disciplinary action, if any, shall be taken by 761 the board under which the health care professional is licensed. 762 (15) The board may adopt rules to administer this section. 763 Section 24. Subsection (1) of section 466.031, Florida 764 Statutes, is amended to read:

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466.031 "Dental laboratory" defined.—The term "dental laboratory" as used in this chapter:

767 (1) Includes any person, firm, or corporation who performs 768 for a fee of any kind, gratuitously, or otherwise, directly or 769 through an agent or employee, by any means or method, or who in 770 any way supplies or manufactures artificial substitutes for the 771 natural teeth, or who furnishes, supplies, constructs, or 772 reproduces or repairs any prosthetic denture, bridge, or appliance to be worn in the human mouth, or who provides onsite 773 774 consultation during dental procedures, or who in any way holds 775 itself out as a dental laboratory.

Section 25. Section 466.036, Florida Statutes, is amended to read:

778 466.036 Information; periodic inspections; equipment and 779 supplies.-The department may require from the applicant for a 780 registration certificate to operate a dental laboratory any 781 information necessary to carry out the purpose of this chapter, 782 including proof that the applicant has the equipment and 783 supplies necessary to operate as determined by rule of the 784 department, and shall require periodic inspection of all dental 785 laboratories operating in this state at least once each biennial 786 registration period. Such inspections shall include, but not be 787 limited to, inspection of sanitary conditions, equipment, 788 supplies, and facilities on the premises. The department shall 789 specify dental equipment and supplies that are not permitted in 790 a registered dental laboratory.

791 Section 26. Subsection (1) of section 468.701, Florida792 Statutes, is amended to read:

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468.701 Definitions.-As used in this part, the term:

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794 (1) "Athletic trainer" means a person licensed under this 795 part who has met the requirements under this part, including education requirements as set forth by the Commission on 796 797 Accreditation of Athletic Training Education or its successor 798 and necessary credentials from the Board of Certification. An 799 athletic trainer must work within his or her scope of practice 800 as established in the rules adopted by the board under s. 801 468.705. An individual who is licensed as an athletic trainer 802 may not otherwise provide, offer to provide, or represent that 803 he or she is qualified to provide any care or services beyond 804 his or her scope of practice, or that he or she lacks the 805 education, training, or experience to provide, or that he or she 806 is otherwise prohibited by law from providing. 807 Section 27. Section 468.707, Florida Statutes, is amended 808 to read: 809 468.707 Licensure requirements.-Any person desiring to be 810 licensed as an athletic trainer shall apply to the department on 811 a form approved by the department. An applicant shall also provide records or other evidence, as determined by the board, 812

813 to prove he or she has met the requirements of this section. The 814 department shall license each applicant who:

815 (1) Has completed the application form and remitted the 816 required fees.

817 (2) For a person who applies on or after July 1, 2016, Has
818 submitted to background screening pursuant to s. 456.0135. The
819 board may require a background screening for an applicant whose
820 license has expired or who is undergoing disciplinary action.

821 (3) (a) Has obtained a baccalaureate or higher degree from a
 822 college or university professional athletic training degree



823	program accredited by the Commission on Accreditation of
824	Athletic Training Education or its successor recognized and
825	approved by the United States Department of Education or the
826	Commission on Recognition of Postsecondary Accreditation,
827	approved by the board, or recognized by the Board of
828	Certification, and has passed the national examination to be
829	certified by the Board of Certification; or-
830	(b) (4) Has obtained, at a minimum, a bachelor's degree and
831	has completed the Board of Certification internship requirements
832	and If graduated before 2004, has a current certification from
833	the Board of Certification.
834	(4)-(5) Has current certification in both cardiopulmonary
835	resuscitation and the use of an automated external defibrillator
836	set forth in the continuing education requirements as determined
837	by the board pursuant to s. 468.711.
838	(5) (6) Has completed any other requirements as determined
839	by the department and approved by the board.
840	Section 28. Subsection (3) of section 468.711, Florida
841	Statutes, is amended to read:
842	468.711 Renewal of license; continuing education
843	(3) If initially licensed after January 1, 1998, the
844	licensee must be currently certified by the Board of
845	Certification or its successor agency and maintain that
846	certification in good standing without lapse.
847	Section 29. Subsection (2) of section 468.723, Florida
848	Statutes, is amended to read:
849	468.723 ExemptionsThis part does not prevent or restrict:
850	(2) An athletic training student acting under the direct
851	supervision of a licensed athletic trainer. For purposes of this
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852 subsection, "direct supervision" means the physical presence of 853 an athletic trainer so that the athletic trainer is immediately 854 available to the athletic training student and able to intervene 855 on behalf of the athletic training student. The supervision must 856 <u>be</u> in accordance with <u>rules adopted by the board the standards</u> 857 set forth by the Commission on Accreditation of Athletic 858 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.-

863 (1) The department shall issue a license to practice 864 orthotics, prosthetics, or pedorthics, or a registration for a 865 resident to practice orthotics or prosthetics, to qualified 866 applicants. Licenses shall be granted independently in 867 orthotics, prosthetics, or pedorthics, but a person may be 868 licensed in more than one such discipline, and a prosthetist-869 orthotist license may be granted to persons meeting the 870 requirements for both a prosthetist and an orthotist license. 871 Registrations shall be granted independently in orthotics or 872 prosthetics, and a person may be registered in both fields at 873 the same time or jointly in orthotics and prosthetics as a dual 874 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, <u>for</u>
<u>independent registrations</u>, the board shall not approve a second
registration until at least 1 year after the issuance of the

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881 first registration. Notwithstanding subsection (2), an applicant 882 for independent registrations who has been approved by the board and registered by the department in one practice field may apply 883 884 for registration in the second practice field without an 885 additional state or national criminal history check during the 886 period in which the first registration is valid. Each 887 independent registration or dual registration is valid for 2 888 years from the date of issuance unless otherwise revoked by the 889 department upon recommendation of the board. The board shall set 890 a registration fee not to exceed \$500 to be paid by the 891 applicant. A registration may be renewed once by the department 892 upon recommendation of the board for a period no longer than 1 893 year, as such renewal is defined by the board by rule. The 894 registration renewal fee shall not exceed one-half the current 895 registration fee. To be considered by the board for approval of 896 registration as a resident, the applicant must have:

897 (a) A Bachelor of Science or higher-level postgraduate 898 degree in Orthotics and Prosthetics from a regionally accredited 899 college or university recognized by the Commission on 900 Accreditation of Allied Health Education Programs or, at a 901 minimum, a bachelor's degree from a regionally accredited 902 college or university and a certificate in orthotics from a 903 program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by 904 905 the board; or

906 (b) A Bachelor of Science or higher-level postgraduate
907 degree in Orthotics and Prosthetics from a regionally accredited
908 college or university recognized by the Commission on
909 Accreditation of Allied Health Education Programs or, at a

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910 minimum, a bachelor's degree from a regionally accredited 911 college or university and a certificate in prosthetics from a 912 program recognized by the Commission on Accreditation of Allied 913 Health Education Programs, or its equivalent, as determined by 914 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.

924 (4) The department may develop and administer a state 925 examination for an orthotist or a prosthetist license, or the 926 board may approve the existing examination of a national 927 standards organization. The examination must be predicated on a 928 minimum of a baccalaureate-level education and formalized 929 specialized training in the appropriate field. Each examination 930 must demonstrate a minimum level of competence in basic 931 scientific knowledge, written problem solving, and practical 932 clinical patient management. The board shall require an 933 examination fee not to exceed the actual cost to the board in 934 developing, administering, and approving the examination, which 935 fee must be paid by the applicant. To be considered by the board 936 for examination, the applicant must have:

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(a) For an examination in orthotics:

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1. A Bachelor of Science or higher-level postgraduate

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939 degree in Orthotics and Prosthetics from a regionally accredited 940 college or university recognized by the Commission on Accreditation of Allied Health Education Programs or, at a 941 942 minimum, a bachelor's degree from a regionally accredited 943 college or university and a certificate in orthotics from a 944 program recognized by the Commission on Accreditation of Allied 945 Health Education Programs, or its equivalent, as determined by 946 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.

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(b) For an examination in prosthetics:

1. A Bachelor of Science or higher-level postgraduate degree in Orthotics and Prosthetics from a regionally accredited 953 college or university recognized by the Commission on 954 Accreditation of Allied Health Education Programs or, at a 955 minimum, a bachelor's degree from a regionally accredited 956 college or university and a certificate in prosthetics from a 957 program recognized by the Commission on Accreditation of Allied 958 Health Education Programs, or its equivalent, as determined by 959 the board; and

960 2. An approved prosthetics internship of 1 year of 961 qualified experience, as determined by the board, or a 962 prosthetic residency program or dual residency program recognized by the board. 963

964 Section 31. Subsection (5) of section 480.033, Florida 965 Statutes, is amended to read:

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480.033 Definitions.-As used in this act:

(5) "Apprentice" means a person approved by the board to



968 study colonic irrigation massage under the instruction of a licensed massage therapist practicing colonic irrigation. 969 Section 32. Subsections (1) and (2) of section 480.041, 970 971 Florida Statutes, are amended, and subsection (8) is added to 972 that section, to read: 973 480.041 Massage therapists; gualifications; licensure; 974 endorsement.-975 (1) Any person is qualified for licensure as a massage 976 therapist under this act who: 977 (a) Is at least 18 years of age or has received a high 978 school diploma or high school equivalency diploma; 979 (b) Has completed a course of study at a board-approved 980 massage school or has completed an apprenticeship program that 981 meets standards adopted by the board; and 982 (c) Has received a passing grade on a national an 983 examination designated administered by the board department. 984 (2) Every person desiring to be examined for licensure as a 985 massage therapist shall apply to the department in writing upon 986 forms prepared and furnished by the department. Such applicants 987 shall be subject to the provisions of s. 480.046(1). Applicants 988 may take an examination administered by the department only upon meeting the requirements of this section as determined by the 989 990 board. 991 (8) A person issued a license as a massage apprentice 992 before July 1, 2018, may continue that apprenticeship and 993 perform massage therapy as authorized under that license until 994 its expiration. Upon completion of the apprenticeship, before 995 July 1, 2021, a massage apprentice may apply to the board for 996 full licensure and be granted a license if all other applicable

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997	licensure requirements are met.
998	Section 33. Section 480.042, Florida Statutes, is repealed.
999	Section 34. Subsection (3) of section 480.046, Florida
1000	Statutes, is amended, and subsection (5) is added to that
1001	section, to read:
1002	480.046 Grounds for disciplinary action by the board
1003	(3) The board <u>may</u> <del>shall have the power to</del> revoke or suspend
1004	the license of a massage establishment licensed under this act,
1005	or to deny subsequent licensure of such an establishment, if the
1006	establishment is owned by an individual or entity who has had a
1007	prior establishment license revoked, in any either of the
1008	following cases:
1009	(a) Upon proof that a license has been obtained by fraud or
1010	misrepresentation.
1011	(b) Upon proof that the holder of a license is guilty of
1012	fraud or deceit or of gross negligence, incompetency, or
1013	misconduct in the operation of the establishment so licensed.
1014	(c) Upon proof that the owner of the massage establishment
1015	or any individual or individuals providing massage therapy
1016	services within the establishment, in the aggregate or
1017	individually, have had three convictions of, or pleas of guilty
1018	or nolo contendere to, or dismissals of a criminal action after
1019	a successful completion of a pretrial intervention, diversion,
1020	or substance abuse program for any misdemeanor or felony,
1021	regardless of adjudication, a crime in any jurisdiction related
1022	to prostitution and related acts as defined in s. 796.07, which
1023	occurred at or within the establishment.
1024	(5) An establishment may not apply for relicensure if
1025	disciplined under this section unless there is a change in
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1026	ownership.
1027	Section 35. Subsection (3) of section 490.003, Florida
1028	Statutes, is amended to read:
1029	490.003 Definitions.—As used in this chapter:
1030	(3) (a) Prior to July 1, 1999, "doctoral-level psychological
1031	education" and "doctoral degree in psychology" mean a Psy.D., an
1032	Ed.D. in psychology, or a Ph.D. in psychology from:
1033	1. An educational institution which, at the time the
1034	applicant was enrolled and graduated, had institutional
1035	accreditation from an agency recognized and approved by the
1036	United States Department of Education or was recognized as a
1037	member in good standing with the Association of Universities and
1038	Colleges of Canada; and
1039	2. A psychology program within that educational institution
1040	which, at the time the applicant was enrolled and graduated, had
1041	programmatic accreditation from an accrediting agency recognized
1042	and approved by the United States Department of Education or was
1043	comparable to such programs.
1044	<del>(b)</del> Effective July 1, 1999, "doctoral-level psychological
1045	education" and "doctoral degree in psychology" mean a Psy.D., an
1046	Ed.D. in psychology, or a Ph.D. in psychology from:
1047	<u>(a)</u> 1. An educational institution that which, at the time
1048	the applicant was enrolled and graduated, had institutional
1049	accreditation from an agency recognized and approved by the
1050	United States Department of Education or was recognized as a
1051	member in good standing with the Association of Universities and
1052	Colleges of Canada; and
1053	(b) <del>2.</del> A psychology program within that educational
1054	institution which, at the time the applicant was enrolled and

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1055 graduated, had programmatic accreditation from <u>the American</u> 1056 <u>Psychological Association</u> an agency recognized and approved by 1057 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:

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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

1070 2. Received the equivalent of a doctoral-level psychological education, as defined in s. 490.003(3), from a 1071 1072 program at a school or university located outside the United 1073 States of America and Canada, which was officially recognized by 1074 the government of the country in which it is located as an 1075 institution or program to train students to practice professional psychology. The burden of establishing that the 1076 1077 requirements of this provision have been met shall be upon the 1078 applicant;

1079 3. Received and submitted to the board, prior to July 1, 1080 1999, certification of an augmented doctoral-level psychological 1081 education from the program director of a doctoral-level 1082 psychology program accredited by a programmatic agency 1083 recognized and approved by the United States Department of



1084 Education; or

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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 <u>Council for</u> <u>Higher Education Accreditation, its successor, Commission on</u> <u>Recognition of Postsecondary Accreditation</u> 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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1113 psychology, 2 years of which must be supervised by an individual 1114 who is a licensed school psychologist or who has otherwise 1115 qualified as a school psychologist supervisor, by education and 1116 experience, as set forth by rule of the department. A doctoral 1117 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:

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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 1138 1139 described in s. 490.003 and has at least 10 <del>20</del> years of experience as a licensed psychologist in any jurisdiction or 1140 territory of the United States within 25 years preceding the 1141



1142 date of application.

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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 <u>from a program</u> accredited by the Commission on Accreditation for Marriage and

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1171 Family Therapy Education or from a Florida university program 1172 accredited by the Council for Accreditation of Counseling and 1173 Related Educational Programs, or a closely related field, and 1174 has completed graduate courses approved by the Board of Clinical 1175 Social Work, Marriage and Family Therapy, and Mental Health 1176 Counseling. has completed all of the following requirements: 1177 a. Thirty-six semester hours or 48 quarter hours of 1178 graduate coursework, which must include a minimum of 3 semester 1179 hours or 4 quarter hours of graduate-level course credits in 1180 each of the following nine areas: dynamics of marriage and family systems; marriage therapy and counseling theory and 1181 1182 techniques; family therapy and counseling theory and techniques; 1183 individual human development theories throughout the life cycle; 1184 personality theory or general counseling theory and techniques; 1185 psychopathology; human sexuality theory and counseling 1186 techniques; psychosocial theory; and substance abuse theory and 1187 counseling techniques. Courses in research, evaluation, 1188 appraisal, assessment, or testing theories and procedures; 1189 thesis or dissertation work; or practicums, internships, or 1190 fieldwork may not be applied toward this requirement. 1191 b. A minimum of one graduate-level course of 3 semester 1192 hours or 4 quarter hours in legal, ethical, and professional 1193 standards issues in the practice of marriage and family therapy

or a course determined by the board to be equivalent.

c. 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-quarterhour graduate-level course in behavioral research which focuses

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1200 on the interpretation and application of research data as it 1201 applies to clinical practice. Credit for thesis or dissertation 1202 work, practicums, internships, or fieldwork may not be applied 1203 toward this requirement.

1204 d. A minimum of one supervised clinical practicum, internship, or field experience in a marriage and family 1205 counseling setting, during which the student provided 180 direct 1206 1207 client contact hours of marriage and family therapy services 1208 under the supervision of an individual who met the requirements 1209 for supervision under paragraph (c). This requirement may be met 1210 by a supervised practice experience which took place outside the 1211 academic arena, but which is certified as equivalent to a 1212 graduate-level practicum or internship program which required a 1213 minimum of 180 direct client contact hours of marriage and 1214 family therapy services currently offered within an academic 1215 program of a college or university accredited by an accrediting 1216 agency approved by the United States Department of Education, or 1217 an institution which is publicly recognized as a member in good 1218 standing with the Association of Universities and Colleges of 1219 Canada or a training institution accredited by the Commission on 1220 Accreditation for Marriage and Family Therapy Education 1221 recognized by the United States Department of Education. Certification shall be required from an official of such 1222 college, university, or training institution. 1223

1224 2. If the course title which appears on the applicant's 1225 transcript does not clearly identify the content of the 1226 coursework, the applicant shall be required to provide 1227 additional documentation, including, but not limited to, a 1228 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 institution of higher education which at the time the applicant 1231 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 accredited by the Commission on Accreditation for Marriage and 1257



1258 Family Therapy Education recognized by the United States1259 Department of Education.

(c) Has had at least 2 years of clinical experience during 1260 1261 which 50 percent of the applicant's clients were receiving 1262 marriage and family therapy services, which must be at the post-1263 master's level under the supervision of a licensed marriage and 1264 family therapist with at least 5 years of experience, or the 1265 equivalent, who is a qualified supervisor as determined by the 1266 board. An individual who intends to practice in Florida to 1267 satisfy the clinical experience requirements must register 1268 pursuant to s. 491.0045 before commencing practice. If a 1269 graduate has a master's degree with a major emphasis in marriage 1270 and family therapy or a closely related field that did not 1271 include all the coursework required under subparagraph (b)1. 1272 sub-subparagraphs (b)1.a.-c., credit for the post-master's level 1273 clinical experience shall not commence until the applicant has 1274 completed a minimum of 10 of the courses required under 1275 subparagraph (b)1. sub-subparagraphs (b)1.a.-c., as determined 1276 by the board, and at least 6 semester hours or 9 quarter hours 1277 of the course credits must have been completed in the area of 1278 marriage and family systems, theories, or techniques. Within the 1279 2 3 years of required experience, the applicant shall provide 1280 direct individual, group, or family therapy and counseling, to 1281 include the following categories of cases: unmarried dyads, 1282 married couples, separating and divorcing couples, and family 1283 groups including children. A doctoral internship may be applied 1284 toward the clinical experience requirement. A licensed mental 1285 health professional must be on the premises when clinical services are provided by a registered intern in a private 1286



1287 practice setting.

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(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.

1298 (4) MENTAL HEALTH COUNSELING.-Upon verification of 1299 documentation and payment of a fee not to exceed \$200, as set by 1300 board rule, plus the actual per applicant cost to the department 1301 for purchase of the examination from the National Board for 1302 Certified Counselors or its successor Professional Examination 1303 Service for the National Academy of Certified Clinical Mental 1304 Health Counselors or a similar national organization, the 1305 department shall issue a license as a mental health counselor to 1306 an applicant who the board certifies:

1307 (a) Has submitted an application and paid the appropriate1308 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



1316 mental health counseling that is not accredited by the Council 1317 for the Accreditation of Counseling and Related Educational 1318 Programs, then the coursework and practicum, internship, or 1319 fieldwork must consist of at least 60 semester hours or 80 1320 quarter hours and meet the following requirements:

1321 a. Thirty-three semester hours or 44 quarter hours of 1322 graduate coursework, which must include a minimum of 3 semester 1323 hours or 4 quarter hours of graduate-level coursework in each of 1324 the following 11 content areas: counseling theories and 1325 practice; human growth and development; diagnosis and treatment 1326 of psychopathology; human sexuality; group theories and 1327 practice; individual evaluation and assessment; career and 1328 lifestyle assessment; research and program evaluation; social 1329 and cultural foundations; counseling in community settings; and 1330 substance abuse; and legal, ethical, and professional standards 1331 issues in the practice of mental health counseling. Courses in 1332 research, thesis or dissertation work, practicums, internships, 1333 or fieldwork may not be applied toward this requirement.

1334 b. A minimum of 3 semester hours or 4 quarter hours of 1335 graduate-level coursework addressing diagnostic processes, 1336 including differential diagnosis and the use of the current diagnostic tools, such as the current edition of the American 1337 1338 Psychiatric Association's Diagnostic and Statistical Manual of 1339 Mental Disorders. The graduate program must have emphasized the 1340 common core curricular experience in legal, ethical, and 1341 professional standards issues in the practice of mental health 1342 counseling, which includes goals, objectives, and practices of professional counseling organizations, codes of ethics, legal 1343 considerations, standards of preparation, certifications and 1344

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1345 licensing, and the role identity and professional obligations of 1346 mental health counselors. Courses in research, thesis or 1347 dissertation work, practicums, internships, or fieldwork may not 1348 be applied toward this requirement.

c. The equivalent, as determined by the board, of at least 1349 1350 700 1,000 hours of university-sponsored supervised clinical practicum, internship, or field experience that includes at 1351 1352 least 280 hours of direct client services, as required in the 1353 accrediting standards of the Council for Accreditation of 1354 Counseling and Related Educational Programs for mental health 1355 counseling programs. This experience may not be used to satisfy 1356 the post-master's clinical experience requirement.

1357 2. If the course title which appears on the applicant's 1358 transcript does not clearly identify the content of the 1359 coursework, the applicant shall be required to provide 1360 additional documentation, including, but not limited to, a 1361 syllabus or catalog description published for the course.

1363 Education and training in mental health counseling must have 1364 been received in an institution of higher education which at the 1365 time the applicant graduated was: fully accredited by a regional 1366 accrediting body recognized by the Council for Higher Education 1367 or its successor Commission on Recognition of Postsecondary 1368 Accreditation; publicly recognized as a member in good standing 1369 with the Association of Universities and Colleges of Canada; or 1370 an institution of higher education located outside the United 1371 States and Canada, which at the time the applicant was enrolled and at the time the applicant graduated maintained a standard of 1372 1373 training substantially equivalent to the standards of training

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1374 of those institutions in the United States which are accredited 1375 by a regional accrediting body recognized by the Council for 1376 Higher Education or its successor Commission on Recognition of 1377 Postsecondary Accreditation. Such foreign education and training 1378 must have been received in an institution or program of higher 1379 education officially recognized by the government of the country 1380 in which it is located as an institution or program to train 1381 students to practice as mental health counselors. The burden of 1382 establishing that the requirements of this provision have been 1383 met shall be upon the applicant, and the board shall require 1384 documentation, such as, but not limited to, an evaluation by a 1385 foreign equivalency determination service, as evidence that the 1386 applicant's graduate degree program and education were 1387 equivalent to an accredited program in this country. Beginning 1388 July 1, 2024, an applicant must have a master's degree that is 1389 accredited by the Council for Accreditation of Counseling and 1390 Related Educational Programs which consists of at least 60 1391 semester hours or 80 quarter hours to apply for licensure under 1392 this paragraph.

1393 (c) Has had at least 2 years of clinical experience in 1394 mental health counseling, which must be at the post-master's 1395 level under the supervision of a licensed mental health 1396 counselor or the equivalent who is a qualified supervisor as 1397 determined by the board. An individual who intends to practice 1398 in Florida to satisfy the clinical experience requirements must 1399 register pursuant to s. 491.0045 before commencing practice. If 1400 a graduate has a master's degree with a major related to the practice of mental health counseling that did not include all 1401 the coursework required under sub-subparagraphs (b)1.a.-b., 1402



1403 credit for the post-master's level clinical experience shall not commence until the applicant has completed a minimum of seven of 1404 1405 the courses required under sub-subparagraphs (b)1.a.-b., as 1406 determined by the board, one of which must be a course in 1407 psychopathology or abnormal psychology. A doctoral internship 1408 may be applied toward the clinical experience requirement. A 1409 licensed mental health professional must be on the premises when 1410 clinical services are provided by a registered intern in a 1411 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.

14292. Meets the education requirements of this chapter for the1430profession for which licensure is applied.

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2.3. Has passed a substantially equivalent licensing



1432 examination in another state or has passed the licensure 1433 examination in this state in the profession for which the 1434 applicant seeks licensure.

1435 <u>3.4.</u> Holds a license in good standing, is not under 1436 investigation for an act that would constitute a violation of 1437 this chapter, and has not been found to have committed any act 1438 that would constitute a violation of this chapter. The fees paid 1439 by any applicant for certification as a master social worker 1440 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.-

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1459 1460 (2) The <u>board</u> department, or, in the case of <u>certified</u> <u>master social workers</u> psychologists, the <u>department</u> 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).

1457 Section 43. Subsection (3) of section 463.0057, Florida 1458 Statutes, is amended to read:

463.0057 Optometric faculty certificate.-

(3) The holder of a faculty certificate may engage in the



1461 practice of optometry as permitted by this section but may not 1462 administer or prescribe topical ocular pharmaceutical agents 1463 unless the certificateholder has satisfied the requirements of 1464 s. 463.006(1)(b)3. and 4. <del>s. 463.006(1)(b)4. and 5.</del> If a 1465 certificateholder wishes to administer or prescribe oral ocular 1466 pharmaceutical agents, the certificateholder must also satisfy the requirements of s. 463.0055(1)(b). 1467 1468 Section 44. Paragraph (c) of subsection (2) of section 1469 491.0046, Florida Statutes, is amended to read: 1470 491.0046 Provisional license; requirements.-1471 (2) The department shall issue a provisional clinical 1472 social worker license, provisional marriage and family therapist 1473 license, or provisional mental health counselor license to each 1474 applicant who the board certifies has: 1475 (c) Has met the following minimum coursework requirements: 1476 1. For clinical social work, a minimum of 15 semester hours 1477 or 22 quarter hours of the coursework required by s. 1478 491.005(1)(b)2.b. 1479 2. For marriage and family therapy, 10 of the courses 1480 required by s. 491.005(3)(b)1. s. 491.005(3)(b)1.a.-c., as 1481 determined by the board, and at least 6 semester hours or 9 1482 quarter hours of the course credits must have been completed in 1483 the area of marriage and family systems, theories, or techniques. 1484 1485 3. For mental health counseling, a minimum of seven of the courses required under s. 491.005(4)(b)1.a.-c. 1486 1487 Section 45. Subsection (11) of section 945.42, Florida 1488 Statutes, is amended to read: 945.42 Definitions; ss. 945.40-945.49.-As used in ss. 1489 Page 52 of 57

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1490	945.40-945.49, the following terms shall have the meanings
1491	ascribed to them, unless the context shall clearly indicate
1492	otherwise:
1493	(11) "Psychological professional" means a behavioral
1494	practitioner who has an approved doctoral degree in psychology
1495	as defined in <u>s. 490.003(3)</u> s. $490.003(3)(b)$ and is employed by
1496	the department or who is licensed as a psychologist pursuant to
1497	chapter 490.
1498	Section 46. This act shall take effect July 1, 2018.
1499	
1500	=========== T I T L E A M E N D M E N T =================================
1501	And the title is amended as follows:
1502	Delete everything before the enacting clause
1503	and insert:
1504	A bill to be entitled
1505	An act relating to the Department of Health; amending
1506	s. 381.4018, F.S.; requiring the department to adopt
1507	any rules necessary to implement a specified federal
1508	program to further encourage qualified physicians to
1509	relocate to and practice in underserved areas;
1510	amending s. 456.013, F.S.; revising health care
1511	practitioner licensure application requirements;
1512	amending s. 456.024, F.S.; revising health care
1513	practitioner licensure eligibility for certain members
1514	of the armed forces and their spouses to include
1515	licensed dentists; removing a provision requiring a
1516	certain applicant issued a temporary professional
1517	license to practice as a dentist to practice under
1518	supervision; amending s. 458.309, F.S.; deleting a
	1 I I I I I I I I I I I I I I I I I I I

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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 in dermatology unless the recognizing agency is 1524 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 care; amending s. 464.202, F.S.; requiring the board 1543 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 assistants; amending s. 464.204, F.S.; revising 1547

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COMMITTEE AMENDMENT

Florida Senate - 2018 Bill No. SB 1486



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 requirements for examinations of dental hygienists; 1576

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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, F.S.; revising orthotic, prosthetic, and pedorthic 1593 licensure, registration, and examination requirements; 1594 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 instances under which disciplinary action may be taken 1605



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 162.3 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.



LEGISLATIVE ACTION

Senate Comm: RCS 01/30/2018 House

The Committee on Health Policy (Grimsley) recommended the following:

Senate Amendment to Amendment (276508) (with title amendment)

Delete lines 139 - 153.

supervision; amending s. 458.3312, F.S.; removing

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LEGISLATIVE ACTION .

Senate Comm: RCS 01/30/2018 House

The Committee on Health Policy (Grimsley) recommended the following:

Senate Amendment to Amendment (276508) (with title amendment)

Delete lines 169 - 220.

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LEGISLATIVE ACTION

Senate Comm: RCS 01/30/2018 House

The Committee on Health Policy (Grimsley) recommended the following:

Senate Amendment to Amendment (276508) (with title amendment)

Delete lines 249 - 373.

assistants; amending s. 464.006, F.S.; authorizing the

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LEGISLATIVE ACTION

Senate House • Comm: RCS 01/30/2018 The Committee on Health Policy (Grimsley) recommended the following: Senate Amendment to Amendment (276508) (with title amendment) Delete lines 1457 - 1467. And the title is amended as follows: Delete line 1630 and insert: amending ss. 491.0046 and 945.42, F.S.;

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By Senator Grimsley

	26-00949-18 20181486
1	A bill to be entitled
2	An act relating to the Department of Health; amending
3	s. 381.4018, F.S.; requiring the Department of Health
4	to adopt rules to implement a federal program to
5	further encourage qualified physicians to relocate to
6	and practice in underserved areas; amending s.
7	456.013, F.S.; revising health care practitioner
8	licensure application requirements; amending s.
9	456.024, F.S.; revising health care practitioner
10	licensure eligibility requirements for certain members
11	of the armed forces and their spouses; amending s.
12	458.309, F.S.; deleting a provision requiring certain
13	physicians to register an office with the department;
14	removing departmental responsibilities; creating s.
15	458.3266, F.S.; defining terms; requiring office
16	surgery centers to register with the department under
17	certain circumstances; providing registration
18	requirements; providing responsibilities for office
19	surgery center physicians; requiring the department to
20	inspect office surgery centers; providing an
21	exception; requiring the Board of Medicine to adopt
22	rules; providing penalties; amending s. 459.005, F.S.;
23	deleting a provision requiring certain physicians to
24	register an office with the department; removing
25	departmental responsibilities; creating s. 459.0138,
26	F.S.; defining terms; requiring office surgery centers
27	to register with the department under certain
28	circumstances; providing registration requirements;
29	providing responsibilities for office surgery center

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	26-00949-18 20181486
30	physicians; requiring the department to inspect office
31	surgery centers; providing an exception; requiring the
32	Board of Osteopathic Medicine to adopt rules;
33	providing penalties; repealing s. 460.4166, F.S.,
34	relating to registered chiropractic assistants;
35	amending s. 463.006, F.S.; revising examination
36	requirements for the licensure and certification of
37	optometrists; creating s. 463.0061, F.S.; authorizing
38	licensure of optometrists by endorsement and providing
39	requirements therefor; defining the term "active
40	licensed practice of optometry"; amending s. 464.006,
41	F.S.; authorizing the Board of Nursing to establish
42	certain standards of care; amending s. 464.202, F.S.;
43	requiring the board to adopt by rule discipline and
44	standards of care for certified nursing assistants;
45	amending s. 464.203, F.S.; revising certification
46	requirements for nursing assistants; amending s.
47	464.204, F.S.; revising grounds for board-imposed
48	disciplinary sanctions; amending s. 465.019, F.S.;
49	requiring an institutional pharmacy to pass an onsite
50	inspection by the department within a specified time
51	before the issuance of an initial permit or a permit
52	for change of location; amending s. 465.0193, F.S.;
53	requiring a nuclear pharmacy to pass an onsite
54	inspection by the department within a specified time
55	before issuance of an initial permit or a permit for
56	change of location; creating s. 465.0195, F.S.;
57	requiring certain pharmacies and outsourcing
58	facilities located in this state to obtain a permit in

# Page 2 of 72

	26-00949-18 20181486
59	order to create, ship, mail, deliver, or dispense
60	compounded sterile products; providing application
61	requirements; providing inspection requirements;
62	providing permit requirements; authorizing the Board
63	of Pharmacy to adopt certain rules; providing
64	applicability; amending s. 465.0196, F.S.; requiring a
65	special pharmacy to pass an onsite inspection by the
66	department within a specified time before the issuance
67	of an initial permit or a permit for change of
68	location; amending s. 465.0197, F.S.; requiring an
69	Internet pharmacy to pass an onsite inspection by the
70	department within a specified time before the issuance
71	of an initial permit or a permit for change of
72	location; amending s. 466.006, F.S.; revising certain
73	requirements for examinations to be completed by
74	applicants seeking dental licensure; amending s.
75	466.007, F.S.; revising requirements for examinations
76	of dental hygienists; amending s. 466.017, F.S.;
77	providing adverse incident reporting requirements;
78	defining the term "adverse incident"; providing for
79	disciplinary action by the Board of Dentistry;
80	authorizing the board to adopt rules; repealing s.
81	466.032, F.S., relating to registration; repealing s.
82	466.033, F.S., relating to registration certificates;
83	repealing s. 466.034, F.S., relating to change of
84	ownership or address; repealing s. 466.035, F.S.,
85	relating to advertising; repealing s. 466.036, F.S.,
86	relating to information, periodic inspections, and
87	equipment and supplies; repealing s. 466.037, F.S.,

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1	26-00949-18 20181486
88	relating to suspension and revocation and
89	administrative fines; repealing s. 466.038, F.S.,
90	relating to rules; repealing s. 466.039, F.S.,
91	relating to violations; amending s. 468.701, F.S.;
92	revising a definition; amending s. 468.707, F.S.;
93	revising athletic trainer licensure requirements;
94	amending s. 468.711, F.S.; revising requirements for
95	the renewal of a license relating to continuing
96	education; amending s. 468.723, F.S.; revising a
97	definition; amending s. 468.803, F.S.; revising
98	orthotic, prosthetic, and pedorthic licensure,
99	registration, and examination requirements; amending
100	s. 480.033, F.S.; revising a definition; amending s.
101	480.041, F.S.; revising qualifications for licensure
102	as a massage therapist; repealing s. 480.042, F.S.,
103	relating to examinations; amending s. 480.046, F.S.;
104	revising instances under which disciplinary action may
105	be taken against massage establishments; prohibiting a
106	certain disciplined massage establishment from
107	applying for relicensure; providing an exception;
108	amending s. 483.824, F.S.; revising qualification
109	requirements for a clinical laboratory director;
110	amending s. 490.003, F.S.; revising definitions;
111	amending s. 490.005, F.S.; revising examination
112	requirements for licensure of a psychologist; amending
113	s. 490.006, F.S.; revising requirements for licensure
114	by endorsement of certain psychologists; amending s.
115	491.0045, F.S.; providing an exemption for intern
116	registration requirements under certain circumstances;

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CODING: Words stricken are deletions; words underlined are additions.

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	26-00949-18 20181486
117	amending s. 491.005, F.S.; revising education
118	requirements for the licensure of marriage and family
119	therapists; revising examination requirements for the
120	licensure of mental health counselors; amending s.
121	491.006, F.S.; revising requirements for licensure or
122	certification by endorsement for certain professions;
123	amending s. 491.007, F.S.; removing a biennial intern
124	registration fee; amending s. 491.009, F.S.;
125	authorizing the Board of Clinical Social Work,
126	Marriage and Family Therapy, and Mental Health
127	Counseling, or the department under certain
128	circumstances, to enter an order denying licensure or
129	imposing penalties against an applicant for licensure
130	under certain circumstances; providing penalties;
131	amending ss. 463.0057, 491.0046, and 945.42, F.S.;
132	conforming provisions to changes made by the act;
133	providing an effective date.
134	
135	Be It Enacted by the Legislature of the State of Florida:
136	
137	Section 1. Paragraph (f) of subsection (3) of section
138	381.4018, Florida Statutes, is amended to read:
139	381.4018 Physician workforce assessment and development
140	(3) GENERAL FUNCTIONSThe department shall maximize the
141	use of existing programs under the jurisdiction of the
142	department and other state agencies and coordinate governmental
143	and nongovernmental stakeholders and resources in order to
144	develop a state strategic plan and assess the implementation of
145	such strategic plan. In developing the state strategic plan, the

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146
     department shall:
147
           (f) Develop strategies to maximize federal and state
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     programs that provide for the use of incentives to attract
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     physicians to this state or retain physicians within the state.
150
     Such strategies should explore and maximize federal-state
151
     partnerships that provide incentives for physicians to practice
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     in federally designated shortage areas. Strategies shall also
153
     consider the use of state programs, such as the Medical
154
     Education Reimbursement and Loan Repayment Program pursuant to
155
     s. 1009.65, which provide for education loan repayment or loan
156
     forgiveness and provide monetary incentives for physicians to
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relocate to underserved areas of the state. <u>To further encourage</u> <u>qualified physicians to relocate to and practice in underserved</u> <u>areas, the department, following federal requirements, shall</u> <u>adopt any rules necessary for the implementation of the Conrad</u> <u>30 Waiver Program established under s. 214(1) of the Immigration</u> and Nationality Act.

163Section 2. Paragraph (a) of subsection (1) of section164456.013, Florida Statutes, is amended to read:

165

456.013 Department; general licensing provisions.-

166 (1) (a) Any person desiring to be licensed in a profession 167 within the jurisdiction of the department shall apply to the 168 department in writing to take the licensure examination. The 169 application shall be made on a form prepared and furnished by 170 the department. The application form must be available on the 171 World Wide Web and the department may accept electronically 172 submitted applications beginning July 1, 2001. The application 173 shall require the social security number and date of birth of the applicant, except as provided in paragraphs (b) and (c). The 174

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26-00949-18 20181486 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 of the applicant and verification of credentials, to be 182 183 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

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;

practitioner in this state if he or she:

203

199

2. Serves or has served on active duty with the United

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204	States Armed Forces as a health care practitioner in the United
205	States Public Health Service; or
206	3. Is a health care practitioner <del>, other than a dentist,</del> in
207	another state, the District of Columbia, or a possession or
208	territory of the United States and is the spouse of a person
209	serving on active duty with the United States Armed Forces.
210	
211	The department shall develop an application form, and each
212	board, or the department if there is no board, shall waive the
213	application fee, licensure fee, and unlicensed activity fee for
214	such applicants. For purposes of this subsection, "health care
215	practitioner" means a health care practitioner as defined in s.
216	456.001 and a person licensed under part III of chapter 401 or
217	part IV of chapter 468.
218	(b) The board, or the department if there is no board,
219	shall issue a license to practice in this state to a person who:
220	1. Submits a complete application.
221	2. If he or she is a member of the United States Armed
222	Forces, the United States Reserve Forces, or the National Guard,
223	submits proof that he or she has received an honorable discharge
224	within 6 months before, or will receive an honorable discharge
225	within 6 months after, the date of submission of the
226	application.
227	3.a. Holds an active, unencumbered license issued by
228	another state, the District of Columbia, or a possession or
229	territory of the United States and who has not had disciplinary
230	action taken against him or her in the 5 years preceding the
231	date of submission of the application;
232	b. Is a military health care practitioner in a profession

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I	26-00949-18 20181486
233	for which licensure in a state or jurisdiction is not required
234	to practice in the United States Armed Forces, if he or she
235	submits to the department evidence of military training or
236	experience substantially equivalent to the requirements for
237	licensure in this state in that profession and evidence that he
238	or she has obtained a passing score on the appropriate
239	examination of a national or regional standards organization if
240	required for licensure in this state; or
241	c. Is the spouse of a person serving on active duty in the
242	United States Armed Forces and is a health care practitioner in
243	a profession <del>, excluding dentistry,</del> for which licensure in
244	another state or jurisdiction is not required, if he or she
245	submits to the department evidence of training or experience
246	substantially equivalent to the requirements for licensure in
247	this state in that profession and evidence that he or she has
248	obtained a passing score on the appropriate examination of a
249	national or regional standards organization if required for
250	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.

259 6. Submits a set of fingerprints for a background screening
260 pursuant to s. 456.0135, if required for the profession for
261 which he or she is applying.

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	26-00949-18 20181486
262	
263	The department shall verify information submitted by the
264	applicant under this subsection using the National Practitioner
265	Data Bank.
266	(4)
267	(j) An applicant who is issued a temporary professional
268	license to practice as a dentist pursuant to this section must
269	practice under the indirect supervision, as defined in s.
270	466.003, of a dentist licensed pursuant to chapter 466.
271	Section 4. Subsection (3) of section 458.309, Florida
272	Statutes, is amended to read:
273	458.309 Rulemaking authority
274	(3) A physician who performs liposuction procedures in
275	which more than 1,000 cubic centimeters of supernatant fat is
276	removed, level 2 procedures lasting more than 5 minutes, and all
277	level 3 surgical procedures in an office setting must register
278	the office with the department unless that office is licensed as
279	a facility under chapter 395. The department shall inspect the
280	physician's office annually unless the office is accredited by a
281	nationally recognized accrediting agency or an accrediting
282	organization subsequently approved by the Board of Medicine. The
283	actual costs for registration and inspection or accreditation
284	shall be paid by the person seeking to register and operate the
285	office setting in which office surgery is performed.
286	Section 5. Section 458.3266, Florida Statutes, is created
287	to read:
288	458.3266 Office surgery centers
289	(1) DEFINITIONSAs used in this section, the term:
290	(a) "Designated physician" means a physician licensed under
I	

#### Page 10 of 72

	26-00949-18 20181486
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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320	practicing at the location of the registered center may result
321	in the suspension of the center's certificate of registration,
322	as described in s. 456.073(8), or agency action under s.
323	120.60(6).
324	(d) The department shall deny registration to an office
325	surgery center that is:
326	1. Not fully owned by a physician licensed under this
327	chapter or chapter 459 or a group of physicians licensed under
328	this chapter or chapter 459;
329	2. Not a health care center licensed under part X of
330	chapter 400; or
331	3. Owned by or in any contractual or employment
332	relationship with a physician licensed under this chapter or
333	chapter 459 who:
334	a. Had hospital privileges revoked in the last 5 years;
335	b. Does not have a clear and active license with the
336	department; or
337	c. Had a license disciplined by the department or another
338	jurisdiction in the last 5 years for an offense related to
339	standard of care.
340	(e) If the department finds that an office surgery center
341	does not meet the requirements of paragraph (c) or is owned,
342	directly or indirectly, by a person meeting criteria listed in
343	paragraph (d), the department shall revoke the certificate of
344	registration previously issued by the department.
345	(f) The department may revoke an office surgery center's
346	certificate of registration and prohibit all physicians
347	associated with the center from practicing at that location
348	based upon an annual inspection and evaluation of the factors

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349	described in subsection (4).
350	(g) If the certificate of registration is revoked or
351	suspended, the designated physician of the center, the owner or
352	lessor of the center property, the manager, and the proprietor
353	shall:
354	1. Cease to operate the facility as an office surgery
355	center as of the effective date of the suspension or revocation.
356	2. Remove any signs and symbols identifying the premises as
357	an office surgery center.
358	(h) Upon the effective date of the suspension or
359	revocation, the designated physician of the office surgery
360	center shall advise the department of the disposition of the
361	medicinal drugs located on the premises. Such disposition is
362	subject to the supervision and approval of the department.
363	Medicinal drugs that are purchased or held by a center that is
364	not registered may be deemed adulterated pursuant to s. 499.006.
365	(i) If the office surgery center's registration is revoked,
366	any person named in the registration documents of the center,
367	including persons owning or operating the center, may not, as an
368	individual or as a part of a group, apply to operate an office
369	surgery center for 5 years after the date the registration is
370	revoked.
371	(j) The period of suspension for the registration of an
372	office surgery center shall be prescribed by the department, but
373	may not exceed 2 years.
374	(k) A change of ownership of a registered office surgery
375	center requires submission of a new registration application. An
376	office surgery registration may not be transferred.
377	(3) PHYSICIAN RESPONSIBILITIES These responsibilities
I	

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378 <u>ap</u>	ply to any physician who provides professional services in an
379 <u>of</u>	fice surgery center that is required to register with the
380 <u>de</u>	partment in subsection (2).
381	(a)1. A physician may not practice medicine in an office
382 <u>su</u>	rgery center, as described in subsection (5), if the office
383 <u>su</u>	rgery center is not registered with the department as required
384 <u>by</u>	this section. A physician who violates this paragraph is
385 <u>su</u>	bject to disciplinary action by his or her appropriate medical
386 <u>re</u>	gulatory board.
387	2. Surgical procedures performed in an office surgery
388 <u>ce</u>	nter may not include any procedure that may result in blood
389 <u>lo</u>	ss of more than 10 percent of estimated blood volume in a
390 <u>pa</u>	tient with a normal hemoglobin level; require major or
391 <u>pr</u>	olonged intracranial, intrathoracic, abdominal, or major joint
392 <u>re</u>	placement procedures, except for laparoscopic procedures;
393 <u>in</u>	volve major blood vessels when such procedure is performed
394 <u>wi</u>	th direct visualization by open exposure of the major vessel,
395 <u>ex</u>	cept for percutaneous endovascular intervention; or are
396 <u>ge</u>	nerally emergent or life-threatening in nature.
397	(b) The designated physician of an office surgery center
398 <u>sh</u>	all notify the applicable board in writing of the date of
399 <u>te</u>	rmination of employment within 10 days after terminating his
400 <u>or</u>	her employment with a center registered under subsection (2).
401 <u>Ea</u>	ch physician practicing in an office surgery center shall
402 <u>no</u>	tify the board, in writing, within 10 calendar days after
403 <u>be</u>	ginning or ending his or her practice at an office surgery
404 <u>ce</u>	nter.
405	(c) Each physician practicing in an office surgery center
406 <u>is</u>	responsible for ensuring compliance with the following:

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1. Facility and physical operations requirements,
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.

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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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494	related to health care licensure.
495	(4) INSPECTION
496	(a) The department shall inspect each office surgery center
497	annually, including a review of the patient records, to ensure
498	that it complies with this section and the rules of the board
499	adopted pursuant to subsection (5) unless the center is
500	accredited by a nationally recognized accrediting agency or an
501	accrediting organization approved by the board.
502	(b) The actual costs for inspection or accreditation shall
503	be paid by the person seeking to register and operate the office
504	center in which office surgery is performed.
505	(c) During an onsite inspection, the department shall make
506	a reasonable attempt to discuss each violation with the owner or
507	designated physician of the office surgery center before issuing
508	a formal written notification.
509	(d) Any action taken to correct a violation shall be
510	documented in writing by the owner or designated physician of
511	the office surgery center and verified by follow-up inspections
512	by department personnel.
513	(5) RULEMAKINGThe board shall adopt rules:
514	(a) Necessary to administer the registration and inspection
515	of office surgery centers which establish the specific
516	requirements, procedures, forms, and fees.
517	(b) Setting forth training requirements for all facility
518	health care practitioners who are not regulated by another
519	board.
520	(6) PENALTIES; ENFORCEMENT
521	(a) The department may impose an administrative fine on an
522	office surgery center of up to \$5,000 per violation for

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523	violating the requirements of this section; chapter 499, the
524	Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the
525	Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq.,
526	the Comprehensive Drug Abuse Prevention and Control Act; chapter
527	893, the Florida Comprehensive Drug Abuse Prevention and Control
528	Act; or the rules of the department.
529	(b) In determining whether a penalty is to be imposed upon
530	a center, and in determining the amount of the fine, the
531	department shall consider the following factors:
532	1. The gravity of the violation, including the probability
533	that death or serious physical or emotional harm to a patient
534	has resulted, or could have resulted, from the center's actions
535	or the actions of the physician; the severity of the action or
536	potential harm; and the extent to which the applicable laws or
537	rules were violated.
538	2. What actions, if any, the owner or designated physician
539	took to correct the violation.
540	3. Whether there were any previous violations at the
541	center.
542	4. The financial benefits that the center derived from
543	committing or continuing to commit the violation.
544	(c) Each day a violation continues after the date fixed for
545	termination of the violation as ordered by the department
546	constitutes an additional, separate, and distinct violation.
547	(d) The department may impose a fine and, in the case of an
548	owner-operated office surgery center, revoke or deny a center's
549	registration if the center's designated physician knowingly and
550	intentionally misrepresents actions taken to correct a
551	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) DEFINITIONSAs 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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610	in the suspension of the center's certificate of registration,
611	as described in s. 456.073(8) or agency action under s.
612	120.60(6).
613	(d) The department shall deny registration to an office
614	surgery center that is:
615	1. Not fully owned by a physician licensed under this
616	chapter or chapter 458 or a group of physicians licensed under
617	this chapter or chapter 458;
618	2. Not a health care center licensed under part X of
619	chapter 400; or
620	3. Owned by or in any contractual or employment
621	relationship with a physician licensed under this chapter or
622	chapter 458 who:
623	a. Had hospital privileges revoked in the last 5 years.
624	b. Does not have a clear and active license with the
625	department; or
626	c. Had a license disciplined by the department or another
627	jurisdiction in the last 5 years for an offense related to
628	standard of care.
629	(e) If the department finds that an office surgery center
630	does not meet the requirements of paragraph (c) or is owned,
631	directly or indirectly, by a person meeting criteria listed in
632	paragraph (d), the department shall revoke the certificate of
633	registration previously issued by the department.
634	(f) The department may revoke an office surgery center's
635	certificate of registration and prohibit all physicians
636	associated with the center from practicing at that location
637	based upon an annual inspection and evaluation of the factors
638	described in subsection (4).

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CODING: Words stricken are deletions; words underlined are additions.

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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 RESPONSIBILITIESThese responsibilities
667	apply to any physician who provides professional services in an

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668	office surgery center that is required to register with the
669	department in subsection (2).
670	(a)1. A physician may not practice medicine in an office
671	surgery center, as described in subsection (5), if the office
672	surgery center is not registered with the department as required
673	by this section. A physician who violates this paragraph is
674	subject to disciplinary action by his or her appropriate medical
675	regulatory board.
676	2. Surgical procedures performed in an office surgery
677	center may not include any procedure that may result in blood
678	loss of more than 10 percent of estimated blood volume in a
679	patient with a normal hemoglobin level; require major or
680	prolonged intracranial, intrathoracic, abdominal, or major joint
681	replacement procedures, except for laparoscopic procedures;
682	involve major blood vessels when such procedure is performed
683	with direct visualization by open exposure of the major vessel,
684	except for percutaneous endovascular intervention; or are
685	generally emergent or life-threatening in nature.
686	(b) The designated physician of an office surgery center
687	shall notify the applicable board in writing of the date of
688	termination of employment within 10 days after terminating his
689	or her employment with a center registered under subsection (2).
690	Each physician practicing in an office surgery center shall
691	notify the board, in writing, within 10 calendar days after
692	beginning or ending his or her practice at an office surgery
693	center.
694	(c) Each physician practicing in an office surgery center
695	is responsible for ensuring compliance with the following:
696	1. Facility and physical operations requirements,

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697	including:
698	a. An office surgery center that is located and operated at
699	a publicly accessible, fixed location.
700	b. The public display of a visible printed sign that
701	clearly identifies the name, hours of operations, and street
702	address of the center.
703	c. Maintaining a publicly listed telephone number and other
704	methods of communication available to the public.
705	d. Emergency lighting and communications.
706	e. A reception and waiting area.
707	f. A restroom.
708	g. An administrative area, including room for storage of
709	medical records, supplies, and equipment.
710	h. Private patient examination rooms.
711	i. Treatment rooms, if treatment is being provided to the
712	patients.
713	j. The public display of a visible printed sign located in
714	a conspicuous place in the waiting room with the name and
715	contact information of the center's designated physician and the
716	names of all physicians practicing in the center.
717	k. Compliance with ss. 499.0121 and 893.07, if the center
718	stores and dispenses prescription drugs.
719	2. Infection control requirements, including:
720	a. The maintenance of equipment and supplies to support
721	infection prevention and control.
722	b. The identification of infection risks that shall be
723	based on the following:
724	(I) Geographic location, community, and population served.
725	(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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755	program that objectively and systematically monitors and
756	evaluates the quality and appropriateness of patient care,
757	evaluates methods to improve patient care, identifies and
758	corrects deficiencies within the facility, alerts the designated
759	physician to identify and resolve recurring problems, and
760	provides for opportunities to improve the facility's performance
761	and to enhance and improve the quality of care provided to the
762	public.
763	2. The designated physician shall establish a quality
764	assurance program that includes the following components:
765	a. Identification, investigation, and analysis of the
766	frequency and causes of adverse incidents.
767	b. Identification of trends or patterns of adverse
768	incidents.
769	c. Development of measures to correct, reduce, minimize, or
770	eliminate the risk of adverse incidents to patients.
771	d. Documentation of the functions provided in this
772	subparagraph and periodic review no less than quarterly of such
773	information by the designated physician.
774	(e) The designated physician for each office surgery center
775	shall report all adverse incidents to the department as set
776	forth in s. 458.351.
777	
778	This section does not excuse a physician from providing any
779	treatment or performing any medical duty without the proper
780	equipment and materials as required by the standard of care or
781	rules adopted by the board. This section does not supersede the
782	level of care, skill, and treatment recognized in general law
783	related to health care licensure.

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784	(4) INSPECTION
785	(a) The department shall inspect each office surgery center
786	annually, including a review of the patient records, to ensure
787	that it complies with this section and the rules of the board
788	adopted pursuant to subsection (5) unless the center is
789	accredited by a nationally recognized accrediting agency or an
790	accrediting organization approved by the board.
791	(b) The actual costs for inspection or accreditation shall
792	be paid by the person seeking to register and operate the office
793	center in which office surgery is performed.
794	(c) During an onsite inspection, the department shall make
795	a reasonable attempt to discuss each violation with the owner or
796	designated physician of the office surgery center before issuing
797	a formal written notification.
798	(d) Any action taken to correct a violation shall be
799	documented in writing by the owner or designated physician of
800	the office surgery center and verified by follow-up inspections
801	by department personnel.
802	(5) RULEMAKINGThe board shall adopt rules:
803	(a) Necessary to administer the registration and inspection
804	of office surgery centers which establish the specific
805	requirements, procedures, forms, and fees.
806	(b) Setting forth training requirements for all facility
807	health care practitioners who are not regulated by another
808	board.
809	(6) PENALTIES; ENFORCEMENT.—
810	(a) The department may impose an administrative fine on an
811	office surgery center of up to \$5,000 per violation for
812	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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842	center who concurrently operates an unregistered center is
843	subject to an administrative fine of \$5,000 per day.
844	(f) If the new owner of an office surgery center that
845	requires registration fails to apply to register the center upon
846	a change of ownership and operates the center under the new
847	ownership, the new owner is subject to a fine of \$10,000.
848	Section 8. Section 460.4166, Florida Statutes, is repealed.
849	Section 9. Section 463.006, Florida Statutes, is amended to
850	read:
851	463.006 Licensure and certification by examination
852	(1) Any person desiring to be a licensed practitioner
853	pursuant to this chapter shall apply to the department <del>to take</del>
854	the licensure and certification examinations. The department
855	shall <u>license</u> examine each applicant who the board determines
856	has:
857	(a) Completed the application forms as required by the
858	board, remitted an application fee for certification not to
859	exceed \$250, remitted an examination fee for certification not
860	to exceed \$250, and remitted <u>a</u> an examination fee for licensure
861	not to exceed \$325, all as set by the board.
862	(b) Submitted proof satisfactory to the department that she
863	or he:
864	1. Is at least 18 years of age.
865	2. Has graduated from an accredited school or college of
866	optometry approved by rule of the board.
867	3. Is of good moral character.
868	3.4. Has successfully completed at least 110 hours of
869	transcript-quality coursework and clinical training in general
870	and ocular pharmacology as determined by the board, at an
•	

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871	institution that:
872	a. Has facilities for both didactic and clinical
873	instructions in pharmacology; and
874	b. Is accredited by a regional or professional accrediting
875	organization that is recognized and approved by the Commission
876	on Recognition of Postsecondary Accreditation or the United
877	States Department of Education.
878	4.5. Has completed at least 1 year of supervised experience
879	in differential diagnosis of eye disease or disorders as part of
880	the optometric training or in a clinical setting as part of the
881	optometric experience.
882	5. Has obtained a passing score, as established by rule of
883	the board, on the licensure examination of the National Board of
884	Examiners in Optometry or a similar nationally recognized
885	examination approved by the board.
886	(2) The examination shall consist of the appropriate
887	subjects, including applicable state laws and rules and general
888	and ocular pharmacology with emphasis on the use and side
889	effects of ocular pharmaceutical agents. The board may by rule
890	substitute a national examination as part or all of the
891	examination and may by rule offer a practical examination in
892	addition to the written examination.
893	(2)(3) Each applicant who successfully passes the
894	examination and otherwise meets the requirements of this chapter
895	is entitled to be licensed as a practitioner and to be certified
896	to administer and prescribe ocular pharmaceutical agents in the
897	diagnosis and treatment of ocular conditions.
898	Section 10. Section 463.0061, Florida Statutes, is created
899	to read:

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CODING: Words stricken are deletions; words underlined are additions.

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900	463.0061 Licensure by endorsement; requirements; fees
901	(1) Any person desiring to be a licensed practitioner
902	pursuant to this chapter shall apply to the department. The
903	department shall issue a license by endorsement to any applicant
904	who, upon applying to the department on forms furnished by the
905	department and remitting a nonrefundable application fee set by
906	the board not to exceed \$250 and a licensure fee not to exceed
907	\$325, the board certifies:
908	(a) Has graduated from an accredited school or college of
909	optometry accredited by a regional or professional accrediting
910	organization that is recognized and approved by the Commission
911	on Recognition of Postsecondary Accreditation or the United
912	States Department of Education.
913	(b) Has obtained an overall passing score, as established
914	by rule of the board, on the licensure examination of the
915	National Board of Examiners in Optometry or a similar nationally
916	recognized examination approved by the board.
917	(c) Has submitted evidence of an active, licensed practice
918	of optometry in another jurisdiction, for at least 5 of the
919	immediately preceding 7 years, or evidence of successful
920	completion of a board-approved clinical competency examination
921	within the year preceding the filing of an application for
922	licensure. For purposes of this paragraph, "active licensed
923	practice of optometry" means the practice of optometry by
924	optometrists, including those employed by any federal or state
925	governmental entity in community or public health.
926	(d) Has successfully completed the clinical skills portion
927	of the examination developed by the National Board of Examiners
928	in Optometry. In addition to an overall passing score on the

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929	clinical skills portion, an applicant must obtain a score of 75
930	percent or better on each of the biomicroscopy, binocular
931	indirect ophthalmoscopy, and dilated biomicroscopy and
932	noncontact fundus lens evaluation skills individually.
933	(e) Has successfully completed a written examination on
934	applicable general laws and rules governing the practice of
935	optometry.
936	(f) Has obtained a passing score on either the Treatment
937	and Management of Ocular Disease examination in the Patient
938	Assessment and Management portion of the examination developed
939	by the National Board of Examiners in Optometry or the stand-
940	alone Treatment and Management of Ocular Disease examination
941	developed by the National Board of Examiners in Optometry.
942	(2) The applicant shall submit evidence of completing a
943	total of at least 30 hours of board-approved continuing
944	education for the 2 calendar years immediately preceding
945	application.
946	(3) The department shall not issue a license by endorsement
947	to any applicant who is under investigation in any jurisdiction
948	for an act or offense which would constitute a violation of this
949	chapter until such time as the investigation is complete, at
950	which time the provisions of s. 463.016 shall apply.
951	Furthermore, the department may not issue an unrestricted
952	license to any individual who has committed any act or offense
953	in any jurisdiction constituting the basis for disciplining an
954	optometrist pursuant to s. 463.016. If the board finds that an
955	individual has committed an act or offense constituting the
956	basis for disciplining an optometrist pursuant to s. 463.016,
957	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 <u>may</u> <del>has authority</del>
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 boardThe 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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26-00949-18 20181486 987 by board rule; certification status; the effective date of 988 certification; other information required by state or federal 989 law; information regarding any crime or any abuse, neglect, or 990 exploitation as provided under chapter 435; and any disciplinary 991 action taken against the certified nursing assistant. The 992 registry shall be accessible to the public, the 993 certificateholder, employers, and other state agencies. The 994 board shall adopt by rule testing procedures for use in 995 certifying nursing assistants and shall adopt rules regulating 996 the practice of certified nursing assistants, including 997 discipline and establishing standards of care, and specifying 998 the scope of practice authorized and the level of supervision 999 required for the practice of certified nursing assistants. The 1000 board may contract with or approve another entity or 1001 organization to provide the examination services, including the 1002 development and administration of examinations. The board shall 1003 require that the contract provider offer certified nursing 1004 assistant applications via the Internet, and may require the 1005 contract provider to accept certified nursing assistant 1006 applications for processing via the Internet. The board shall 1007 require the contract provider to provide the preliminary results 1008 of the certified nursing examination on the date the test is 1009 administered. The provider shall pay all reasonable costs and 1010 expenses incurred by the board in evaluating the provider's application and performance during the delivery of services, 1011 1012 including examination services and procedures for maintaining 1013 the certified nursing assistant registry. 1014 Section 13. Paragraph (c) of subsection (1) of section

1015 464.203, Florida Statutes, is amended to read:

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1016
           464.203 Certified nursing assistants; certification
1017
      requirement.-
            (1) The board shall issue a certificate to practice as a
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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
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      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
      background screening pursuant to s. 400.215. The person must
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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
      subsection (2):
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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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1045	(b) <del>Intentionally</del> Violating any provision of this chapter,
1046	chapter 456, or the rules adopted by the board.
1047	Section 15. Subsection (7) is added to section 465.019,
1048	Florida Statutes, to read:
1049	465.019 Institutional pharmacies; permits
1050	(7) An institutional pharmacy must pass an onsite
1051	inspection by the department as a prerequisite to the issuance
1052	of an initial permit or a permit for a change of location. The
1053	inspection must be completed within 90 days before the issuance
1054	of the permit.
1055	Section 16. Section 465.0193, Florida Statutes, is amended
1056	to read:
1057	465.0193 Nuclear pharmacy permits.—Any person desiring a
1058	permit to operate a nuclear pharmacy shall apply to the
1059	department. If the board certifies that the application complies
1060	with applicable law, the department shall issue the permit. No
1061	permit shall be issued unless a duly licensed and qualified
1062	nuclear pharmacist is designated as being responsible for
1063	activities described in s. 465.0126. <u>A nuclear pharmacy must</u>
1064	pass an onsite inspection by the department as a prerequisite to
1065	the issuance of an initial permit or a permit for a change of
1066	location. The inspection must be completed within 90 days before
1067	the issuance of the permit. The permittee shall notify the
1068	department within 10 days of any change of the licensed
1069	pharmacist responsible for the compounding and dispensing of
1070	nuclear pharmaceuticals.
1071	Section 17. Section 465.0195, Florida Statutes, is created
1072	to read:
1073	465.0195 Pharmacy or outsourcing facility; sterile

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1074	compounding permitBefore 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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1103	sterile compounding. In adopting such rules, the board shall
1104	give due consideration to the standards and requirements
1105	provided in chapter 797 of the United States Pharmacopeia, or
1106	other professionally accepted standards deemed authoritative by
1107	the board. In adopting such rules for an outsourcing facility,
1108	the board shall consider the standards and requirements of
1109	current good manufacturing practices as set forth by federal law
1110	and any other professionally accepted standards deemed
1111	authoritative by the board.
1112	(7) All provisions relating to pharmacy permits found in
1113	ss. 465.022 and 465.023 apply to permits issued pursuant to this
1114	section.
1115	Section 18. Section 465.0196, Florida Statutes, is amended
1116	to read:
1117	465.0196 Special pharmacy permits.—Any person desiring a
1118	permit to operate a special pharmacy shall apply to the
1119	department for a special pharmacy permit. If the board certifies
1120	that the application complies with the applicable laws and rules
1121	of the board governing the practice of the profession of
1122	pharmacy, the department shall issue the permit. <u>A special</u>
1123	pharmacy must pass an onsite inspection by the department as a
1124	prerequisite to the issuance of an initial permit or a permit
1125	for a change of location. The inspection must be completed
1126	within 90 days before the issuance of the permit. A permit may
1127	not be issued unless a licensed pharmacist is designated to
1128	undertake the professional supervision of the compounding and
1129	dispensing of all drugs dispensed by the pharmacy. The licensed
1130	pharmacist shall be responsible for maintaining all drug records
1131	and for providing for the security of the area in the facility

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1132	in which the compounding, storing, and dispensing of medicinal
1133	drugs occurs. The permittee shall notify the department within
1134	10 days after any change of the licensed pharmacist responsible
1135	for such duties. Each permittee that employs or otherwise uses
1136	registered pharmacy technicians shall have a written policy and
1137	procedures manual specifying those duties, tasks, and functions
1138	that a registered pharmacy technician is allowed to perform.
1139	Section 19. Subsection (2) of section 465.0197, Florida
1140	Statutes, is amended to read:
1141	465.0197 Internet pharmacy permits
1142	(2) An Internet pharmacy must obtain a permit under this
1143	section to sell medicinal drugs to persons in this state. <u>An</u>
1144	Internet pharmacy must pass an onsite inspection by the
1145	department as a prerequisite to the issuance of an initial
1146	permit or a permit for a change of location. The inspection must
1147	be completed within 90 days before the issuance of the permit.
1148	Section 20. Subsection (4) of section 466.006, Florida
1149	Statutes, is amended to read:
1150	466.006 Examination of dentists
1151	(4) Notwithstanding any other provision of law in chapter
1152	456 pertaining to the clinical dental licensure examination or
1153	national examinations, to be licensed as a dentist in this
1154	state, an applicant must successfully complete the following:
1155	(a) A written examination on the laws and rules of the
1156	state regulating the practice of dentistry;
1157	(b)1. A practical or clinical examination, which shall be
1158	the American Dental Licensing Examination produced by the
1159	American Board of Dental Examiners, Inc., or its successor
1160	entity, if any, that is administered in this state <del>and graded by</del>

# entity, if any, that is administered in this state $\frac{1}{2}$ and $\frac{1}{2}$ graded by

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1176

1185

26-00949-18 20181486 1161 dentists licensed in this state and employed by the department 1162 for just such purpose, provided that the board has attained, and 1163 continues to maintain thereafter, representation on the board of directors of the American Board of Dental Examiners, the 1164 1165 examination development committee of the American Board of 1166 Dental Examiners, and such other committees of the American 1167 Board of Dental Examiners as the board deems appropriate by rule to assure that the standards established herein are maintained 1168 1169 organizationally. A passing score on the American Dental 1170 Licensing Examination administered in this state and graded by 1171 dentists who are licensed in this state is valid for 365 days 1172 after the date the official examination results are published. 1173 2.a. As an alternative to the requirements of subparagraph 1174 1., an applicant may submit scores from an American Dental 1175 Licensing Examination previously administered in a jurisdiction

1177 examination results shall be recognized as valid for the purpose 1178 of licensure in this state. A passing score on the American 1179 Dental Licensing Examination administered out-of-state shall be 1180 the same as the passing score for the American Dental Licensing 1181 Examination administered in this state and graded by dentists 1182 who are licensed in this state. The examination results are 1183 valid for 365 days after the date the official examination results are published. The applicant must have completed the 1184

other than this state after October 1, 2011, and such

1186 b. This subparagraph may not be given retroactive 1187 application.

examination after October 1, 2011.

1188 3. If the date of an applicant's passing American Dental 1189 Licensing Examination scores from an examination previously

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1190	administered in a jurisdiction other than this state under
1191	subparagraph 2. is older than 365 days, then such scores shall
1192	nevertheless be recognized as valid for the purpose of licensure
1193	in this state, but only if the applicant demonstrates that all
1194	of the following additional standards have been met:
1195	a.(I) The applicant completed the American Dental Licensing
1196	Examination after October 1, 2011.
1197	(II) This sub-subparagraph may not be given retroactive
1198	application;
1199	b. The applicant graduated from a dental school accredited
1200	by the American Dental Association Commission on Dental
1201	Accreditation or its successor entity, if any, or any other
1202	dental accrediting organization recognized by the United States
1203	Department of Education. Provided, however, if the applicant did
1204	not graduate from such a dental school, the applicant may submit
1205	proof of having successfully completed a full-time supplemental
1206	general dentistry program accredited by the American Dental
1207	Association Commission on Dental Accreditation of at least 2
1208	consecutive academic years at such accredited sponsoring
1209	institution. Such program must provide didactic and clinical
1210	education at the level of a D.D.S. or D.M.D. program accredited
1211	by the American Dental Association Commission on Dental
1212	Accreditation;
1213	c. The applicant currently possesses a valid and active
1214	dental license in good standing, with no restriction, which has
1215	never been revoked, suspended, restricted, or otherwise
1010	

1216 disciplined, from another state or territory of the United 1217 States, the District of Columbia, or the Commonwealth of Puerto 1218 Rico;

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1241

of the following:

26-00949-18 20181486 1219 d. The applicant submits proof that he or she has never 1220 been reported to the National Practitioner Data Bank, the 1221 Healthcare Integrity and Protection Data Bank, or the American 1222 Association of Dental Boards Clearinghouse. This sub-1223 subparagraph does not apply if the applicant successfully 1224 appealed to have his or her name removed from the data banks of 1225 these agencies; 1226 e.(I) In the 5 years immediately preceding the date of 1227 application for licensure in this state, the applicant must 1228 submit proof of having been consecutively engaged in the full-1229 time practice of dentistry in another state or territory of the 1230 United States, the District of Columbia, or the Commonwealth of 1231 Puerto Rico, or, if the applicant has been licensed in another 1232 state or territory of the United States, the District of 1233 Columbia, or the Commonwealth of Puerto Rico for less than 5 1234 years, the applicant must submit proof of having been engaged in 1235 the full-time practice of dentistry since the date of his or her 1236 initial licensure. 1237 (II) As used in this section, "full-time practice" is 1238 defined as a minimum of 1,200 hours per year for each and every 1239 year in the consecutive 5-year period or, where applicable, the 1240 period since initial licensure, and must include any combination

1242 (A) Active clinical practice of dentistry providing direct 1243 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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CODING: Words stricken are deletions; words underlined are additions.

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1248
            (C) Full-time practice as a student at a postgraduate
1249
      dental education program approved by the board or accredited by
1250
      the American Dental Association Commission on Dental
1251
      Accreditation.
1252
            (III) The board shall develop rules to determine what type
1253
      of proof of full-time practice is required and to recoup the
1254
      cost to the board of verifying full-time practice under this
1255
      section. Such proof must, at a minimum, be:
1256
            (A) Admissible as evidence in an administrative proceeding;
1257
            (B) Submitted in writing;
1258
            (C) Submitted by the applicant under oath with penalties of
1259
      perjury attached;
1260
            (D) Further documented by an affidavit of someone unrelated
1261
      to the applicant who is familiar with the applicant's practice
1262
      and testifies with particularity that the applicant has been
1263
      engaged in full-time practice; and
1264
            (E) Specifically found by the board to be both credible and
1265
      admissible.
1266
            (IV) An affidavit of only the applicant is not acceptable
1267
      proof of full-time practice unless it is further attested to by
1268
      someone unrelated to the applicant who has personal knowledge of
1269
      the applicant's practice. If the board deems it necessary to
1270
      assess credibility or accuracy, the board may require the
1271
      applicant or the applicant's witnesses to appear before the
1272
      board and give oral testimony under oath;
1273
           f. The applicant must submit documentation that he or she
1274
      has completed, or will complete, prior to licensure in this
1275
      state, continuing education equivalent to this state's
1276
      requirements for the last full reporting biennium;
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1277	g. The applicant must prove that he or she has never been
1278	convicted of, or pled nolo contendere to, regardless of
1279	adjudication, any felony or misdemeanor related to the practice
1280	of a health care profession in any jurisdiction;
1281	h. The applicant must successfully pass a written
1282	examination on the laws and rules of this state regulating the
1283	practice of dentistry and must successfully pass the computer-
1284	based diagnostic skills examination; and
1285	i. The applicant must submit documentation that he or she
1286	has successfully completed the National Board of Dental
1287	Examiners dental examination.
1288	Section 21. Paragraph (b) of subsection (4) and paragraph
1289	(a) of subsection (6) of section 466.007, Florida Statutes, are
1290	amended to read:
1291	466.007 Examination of dental hygienists
1292	(4) Effective July 1, 2012, to be licensed as a dental
1293	hygienist in this state, an applicant must successfully complete
1294	the following:
1295	(b) A practical or clinical examination approved by the
1296	board. The examination shall be the Dental Hygiene Examination
1297	produced by the American Board of Dental Examiners, Inc. (ADEX)
1298	or its successor entity, if any, if the board finds that the
1299	successor entity's clinical examination meets or exceeds the
1300	provisions of this section. The board shall approve the ADEX
1301	Dental Hygiene Examination if the board has attained and
1302	continues to maintain representation on the ADEX House of
1303	Representatives, the ADEX Dental Hygiene Examination Development
1304	Committee, and such other ADEX Dental Hygiene committees as the
1305	board deems appropriate through rulemaking to ensure that the

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1306	standards established in this section are maintained
1307	organizationally. The ADEX Dental Hygiene Examination or the
1308	examination produced by its successor entity is a comprehensive
1309	examination in which an applicant must demonstrate skills within
1310	the dental hygiene scope of practice on a live patient and any
1311	other components that the board deems necessary for the
1312	applicant to successfully demonstrate competency for the purpose
1313	of licensure. The ADEX Dental Hygiene Examination or the
1314	examination by the successor entity administered in this state
1315	shall be graded by dentists and dental hygienists licensed in
1316	this state who are employed by the department for this purpose.
1317	(6)(a) A passing score on the ADEX Dental Hygiene
1318	Examination administered out of state shall be considered the
1319	same as a passing score for the ADEX Dental Hygiene Examination
1320	administered in this state and graded by licensed dentists and
1321	dental hygienists.
1322	Section 22. Subsections (9) through (15) are added to
1323	section 466.017, Florida Statutes, to read:
1324	466.017 Prescription of drugs; anesthesia
1325	(9) Any adverse incident that occurs in an office
1326	maintained by a dentist must be reported to the department. The
1327	required notification to the department must be submitted in
1328	writing by certified mail and postmarked within 48 hours after
1329	the incident occurs.
1330	(10) A dentist practicing in this state must notify the
1331	board in writing by certified mail within 48 hours of any
1332	mortality or other adverse incident that occurs in the dentist's
1333	outpatient facility. A complete written report must be filed
1334	with the board within 30 days after the mortality or other

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1335	adverse incident.
1336	(11) For purposes of notification to the department
1337	pursuant to this section, the term "adverse incident" means any
1338	mortality that occurs during or as the result of a dental
1339	procedure, or an incident that results in a temporary or
1340	permanent physical or mental injury that requires
1341	hospitalization or emergency room treatment of a dental patient
1342	which occurred during or as a direct result of the use of
1343	general anesthesia, deep sedation, conscious sedation, pediatric
1344	conscious sedation, oral sedation, minimal sedation
1345	(anxiolysis), nitrous oxide, or local anesthesia.
1346	(12) Any certified registered dental hygienist
1347	administering local anesthesia must notify the board, in writing
1348	by registered mail within 48 hours of any adverse incident that
1349	was related to or the result of the administration of local
1350	anesthesia. A complete written report must be filed with the
1351	board within 30 days after the mortality or other adverse
1352	incident.
1353	(13) A failure by the dentist or dental hygienist to timely
1354	and completely comply with all the reporting requirements in
1355	this section is the basis for disciplinary action by the board
1356	pursuant to s. 466.028(1).
1357	(14) The department shall review each incident and
1358	determine whether it involved conduct by a health care
1359	professional subject to disciplinary action, in which case s.
1360	456.073 applies. Disciplinary action, if any, shall be taken by
1361	the board under which the health care professional is licensed.
1362	(15) The board may adopt rules to administer this section.
1363	Section 23. <u>Sections 466.032, 466.033, 466.034, 466.035,</u>

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26-00949-18 20181486 1364 466.036, 466.037, 466.038, and 466.039, Florida Statutes, are 1365 repealed. Section 24. Subsection (1) of section 468.701, Florida 1366 1367 Statutes, is amended to read: 1368 468.701 Definitions.-As used in this part, the term: (1) "Athletic trainer" means a person licensed under this 1369 1370 part who has met the requirements under this part, including 1371 education requirements as set forth by the Commission on Accreditation of Athletic Training Education or its successor 1372 1373 and necessary credentials from the Board of Certification. An 1374 athletic trainer must work within his or her scope of practice 1375 as established in the rules adopted by the board under s. 468.705. An individual who is licensed as an athletic trainer 1376 1377 may not otherwise provide, offer to provide, or represent that 1378 he or she is qualified to provide any care or services beyond 1379 his or her scope of practice, or that he or she lacks the 1380 education, training, or experience to provide, or that he or she 1381 is otherwise prohibited by law from providing. 1382 Section 25. Section 468.707, Florida Statutes, is amended 1383 to read:

1384 468.707 Licensure requirements.—Any person desiring to be 1385 licensed as an athletic trainer shall apply to the department on 1386 a form approved by the department. An applicant shall also 1387 provide records or other evidence, as determined by the board, 1388 to prove he or she has met the requirements of this section. The 1389 department shall license each applicant who:

1390 (1) Has completed the application form and remitted the 1391 required fees.

1392

(2) For a person who applies on or after July 1, 2016, Has

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26-00949-18 20181486 1393 submitted to background screening pursuant to s. 456.0135. The 1394 board may require a background screening for an applicant whose 1395 license has expired or who is undergoing disciplinary action. 1396 (3) (a) Has obtained a baccalaureate or higher degree from a 1397 college or university professional athletic training degree 1398 program accredited by the Commission on Accreditation of 1399 Athletic Training Education or its successor recognized and 1400 approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, 1401 1402 approved by the board, or recognized by the Board of 1403 Certification, and has passed the national examination to be 1404 certified by the Board of Certification; or-(b) (4) Has obtained, at a minimum, a bachelor's degree and 1405 1406 has completed the Board of Certification internship requirements 1407 and If graduated before 2004, has a current certification from 1408 the Board of Certification. 1409 (4) (5) Has current certification in both cardiopulmonary 1410 resuscitation and the use of an automated external defibrillator 1411 set forth in the continuing education requirements as determined 1412 by the board pursuant to s. 468.711. (5) (6) Has completed any other requirements as determined 1413 1414 by the department and approved by the board. Section 26. Subsection (3) of section 468.711, Florida 1415 1416 Statutes, is amended to read: 468.711 Renewal of license; continuing education.-1417 1418 (3) If initially licensed after January 1, 1998, the licensee must be currently certified by the Board of 1419 1420 Certification or its successor agency and maintain that 1421 certification in good standing without lapse.

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26-00949-18 20181486 1422 Section 27. Subsection (2) of section 468.723, Florida 1423 Statutes, is amended to read: 1424 468.723 Exemptions.-This part does not prevent or restrict: 1425 (2) An athletic training student acting under the direct 1426 supervision of a licensed athletic trainer. For purposes of this 1427 subsection, "direct supervision" means the physical presence of 1428 an athletic trainer so that the athletic trainer is immediately 1429 available to the athletic training student and able to intervene on behalf of the athletic training student. The supervision must 1430 1431 be in accordance with rules adopted by the board the standards 1432 set forth by the Commission on Accreditation of Athletic 1433 Training Education or its successor. 1434 Section 28. Subsections (1), (3), and (4) of section 1435 468.803, Florida Statutes, are amended to read: 1436 468.803 License, registration, and examination 1437 requirements.-1438 (1) The department shall issue a license to practice 1439 orthotics, prosthetics, or pedorthics, or a registration for a 1440 resident to practice orthotics or prosthetics, to qualified 1441 applicants. Licenses shall be granted independently in orthotics, prosthetics, or pedorthics, but a person may be 1442 1443 licensed in more than one such discipline, and a prosthetist-1444 orthotist license may be granted to persons meeting the 1445 requirements for both a prosthetist and an orthotist license. 1446 Registrations shall be granted independently in orthotics or prosthetics, and a person may be registered in both fields at 1447 1448 the same time or jointly in orthotics and prosthetics as a dual 1449 registration.

1450

(3) A person seeking to attain the required orthotics or

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1451	
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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1

1507 clinical patient management. The board shall require an 1508 examination fee not to exceed the actual cost to the board in

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1509	developing, administering, and approving the examination, which
1510	fee must be paid by the applicant. To be considered by the board
1511	for examination, the applicant must have:
1512	(a) For an examination in orthotics:
1513	1. A Bachelor of Science or higher-level postgraduate
1514	degree in Orthotics and Prosthetics from a regionally accredited
1515	college or university recognized by the Commission on
1516	Accreditation of Allied Health Education Programs or, at a
1517	minimum, a bachelor's degree from a regionally accredited
1518	college or university and a certificate in orthotics from a
1519	program recognized by the Commission on Accreditation of Allied
1520	Health Education Programs, or its equivalent, as determined by
1521	the board; and
1522	2. An approved orthotics internship of 1 year of qualified
1523	experience, as determined by the board, or an orthotic residency
1524	program or a dual residency program recognized by the board.
1525	(b) For an examination in prosthetics:
1526	1. A Bachelor of Science or higher-level postgraduate
1527	degree in Orthotics and Prosthetics from a regionally accredited
1528	college or university recognized by the Commission on
1529	Accreditation of Allied Health Education Programs or, at a
1530	minimum, a bachelor's degree from a regionally accredited
1531	college or university and a certificate in prosthetics from a
1532	program recognized by the Commission on Accreditation of Allied
1533	Health Education Programs, or its equivalent, as determined by
1534	the board; and
1535	2 An approved prosthetics internship of 1 year of

1535 2. An approved prosthetics internship of 1 year of 1536 qualified experience, as determined by the board, or a 1537 prosthetic residency program <u>or dual residency program</u>

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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 DefinitionsAs used in this act:
1542	(5) "Apprentice" means a person approved by the board to
1543	study <u>colonic irrigation</u> 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 <del>or has completed an apprenticeship program</del> that
1556	meets standards adopted by the board; and
1557	(c) Has received a passing grade on <u>a national</u> <del>an</del>
1558	examination <u>designated</u> administered by the <u>board</u> <del>department</del> .
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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1567	before July 1, 2018, may continue that apprenticeship and
1568	perform massage therapy as permitted under that license until it
1569	expires. Upon completion of the apprenticeship, before July 1,
1570	2021, a massage apprentice may apply to the board for full
1571	licensure and be granted a license if all other applicable
1572	licensure requirements are met.
1573	Section 31. Section 480.042, Florida Statutes, is repealed.
1574	Section 32. Subsection (3) of section 480.046, Florida
1575	Statutes, is amended, and subsection (5) is added to that
1576	section, to read:
1577	480.046 Grounds for disciplinary action by the board
1578	(3) The board <u>may</u> <del>shall have the power to</del> revoke or suspend
1579	the license of a massage establishment licensed under this act,
1580	or <del>to</del> deny subsequent licensure of such an establishment, if the
1581	establishment is owned by an individual or entity who has had a
1582	prior establishment license revoked, in either of the following
1583	cases:
1584	(a) Upon proof that a license has been obtained by fraud or
1585	misrepresentation.
1586	(b) Upon proof that the holder of a license is guilty of
1587	fraud or deceit or of gross negligence, incompetency, or
1588	misconduct in the operation of the establishment so licensed.
1589	(c) Upon proof that the owner of the massage establishment
1590	or any individual or individuals providing massage therapy
1591	services within the establishment, in the aggregate or
1592	individually, have had three convictions of, or pleas of guilty
1593	or nolo contendere to, or dismissals of a criminal action after
1594	a successful completion of a pretrial intervention, diversion,
1595	or substance abuse program for any misdemeanor or felony,

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1596	regardless of adjudication, a crime in any jurisdiction related
1597	to prostitution and related acts as defined in s. 796.07, which
1598	occurred at or within the establishment.
1599	(5) An establishment may not apply for relicensure if
1600	disciplined under this section unless there is a change in
1601	ownership.
1602	Section 33. Section 483.824, Florida Statutes, is amended
1603	to read:
1604	483.824 Qualifications of clinical laboratory directorA
1605	clinical laboratory director must <u>qualify as a clinical</u>
1606	laboratory director according to 42 C.F.R. part 493, must be a
1607	currently licensed laboratory director, have 4 years of clinical
1608	laboratory experience with 2 years of experience in the
1609	specialty to be directed or be nationally board certified in the
1610	specialty to be directed, and must meet one of the following
1611	requirements:
1612	(1) Be a physician licensed under chapter 458 or chapter
1613	459;
1614	(2) Hold an earned doctoral degree in a chemical, physical,
1615	or biological science from a regionally accredited institution
1616	and maintain national certification requirements equal to those
1617	required by the federal Centers for Medicare and Medicaid
1618	Services or the federal Health Care Financing Administration; or
1619	(3) For the subspecialty of oral pathology, be a physician
1620	licensed under chapter 458 or chapter 459 or a dentist licensed
1621	under chapter 466. The laboratory director, if qualified, may
1622	perform the duties of the technical supervisor, clinical
1623	consultant, general supervisor, and testing personnel, or
1624	delegate these responsibilities to personnel meeting the
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1625	qualifications under 42 C.F.R. ss. 493.1447, 493.1453, 493.1459,
1626	and 493.1487.
1627	Section 34. Subsection (3) of section 490.003, Florida
1628	Statutes, is amended to read:
1629	490.003 Definitions.—As used in this chapter:
1630	(3) <del>(a) Prior to July 1, 1999, "doctoral-level psychological</del>
1631	education" and "doctoral degree in psychology" mean a Psy.D., an
1632	Ed.D. in psychology, or a Ph.D. in psychology from:
1633	1. An educational institution which, at the time the
1634	applicant was enrolled and graduated, had institutional
1635	accreditation from an agency recognized and approved by the
1636	United States Department of Education or was recognized as a
1637	member in good standing with the Association of Universities and
1638	Colleges of Canada; and
1639	2. A psychology program within that educational institution
1640	which, at the time the applicant was enrolled and graduated, had
1641	programmatic accreditation from an accrediting agency recognized
1642	and approved by the United States Department of Education or was
1643	comparable to such programs.
1644	(b) Effective July 1, 1999, "doctoral-level psychological
1645	education" and "doctoral degree in psychology" mean a Psy.D., an
1646	Ed.D. in psychology, or a Ph.D. in psychology from:
1647	(a) 1. An educational institution that which, at the time
1648	the applicant was enrolled and graduated, had institutional
1649	accreditation from an agency recognized and approved by the
1650	United States Department of Education or was recognized as a
1651	member in good standing with the Association of Universities and
1652	Colleges of Canada; and
1653	(b) <del>2.</del> A psychology program within that educational

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1654	institution which, at the time the applicant was enrolled and
1655	graduated, had programmatic accreditation from the American
1656	Psychological Association an agency recognized and approved by
1657	the United States Department of Education.
1658	Section 35. Paragraph (b) of subsection (1) and paragraph
1659	(b) of subsection (2) of section 490.005, Florida Statutes, are
1660	amended to read:
1661	490.005 Licensure by examination
1662	(1) Any person desiring to be licensed as a psychologist
1663	shall apply to the department to take the licensure examination.
1664	The department shall license each applicant who the board
1665	certifies has:
1666	(b) Submitted proof satisfactory to the board that the
1667	applicant has:
1668	1. Received doctoral-level psychological education, as
1669	defined in s. 490.003(3); <u>or</u>
1670	2. Received the equivalent of a doctoral-level
1671	psychological education, as defined in s. 490.003(3), from a
1672	program at a school or university located outside the United
1673	States of America and Canada, which was officially recognized by
1674	the government of the country in which it is located as an
1675	institution or program to train students to practice
1676	professional psychology. The burden of establishing that the
1677	requirements of this provision have been met shall be upon the
1678	applicant <del>;</del>
1679	3. Received and submitted to the board, prior to July 1,
1680	1999, certification of an augmented doctoral-level psychological
1681	education from the program director of a doctoral-level
1682	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.

(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:

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 the Association of Universities and Colleges of Canada. 1711

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1712	2. Has had a minimum of 3 years of experience in school
1713	psychology, 2 years of which must be supervised by an individual
1714	who is a licensed school psychologist or who has otherwise
1715	qualified as a school psychologist supervisor, by education and
1716	experience, as set forth by rule of the department. A doctoral
1717	internship may be applied toward the supervision requirement.
1718	3. Has passed an examination provided by the department.
1719	Section 36. Subsection (1) of section 490.006, Florida
1720	Statutes, is amended to read:
1721	490.006 Licensure by endorsement
1722	(1) The department shall license a person as a psychologist
1723	or school psychologist who, upon applying to the department and
1724	remitting the appropriate fee, demonstrates to the department
1725	or, in the case of psychologists, to the board that the
1726	applicant:
1727	(a) Holds a valid license or certificate in another state
1728	to practice psychology or school psychology, as applicable,
1729	provided that, when the applicant secured such license or
1730	certificate, the requirements were substantially equivalent to
1731	or more stringent than those set forth in this chapter at that
1732	time; and, if no Florida law existed at that time, then the
1733	requirements in the other state must have been substantially
1734	equivalent to or more stringent than those set forth in this
1735	chapter at the present time;
1736	<u>(a)</u> Is a diplomate in good standing with the American
1737	Board of Professional Psychology, Inc.; or
1738	<u>(b)<del>(</del>c)</u> Possesses a doctoral degree in psychology <del>as</del>
1739	<del>described in s. 490.003</del> and has at least <u>10</u> <del>20</del> years of
1740	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 THERAPYUpon verification of
documentation and payment of a fee not to exceed \$200, as set by
board rule, plus the actual cost <del>to the department</del> 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	26-00949-18 20181486
1771	accredited by the Commission on Accreditation for Marriage and
	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	<u>Counseling.</u> 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

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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      syllabus or catalog description published for the course.
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1830
      The required master's degree must have been received in an
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      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
      government of the country in which it is located as an
1845
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
      board shall require documentation, such as, but not limited to,
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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
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      country. An applicant with a master's degree from a program
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      which did not emphasize marriage and family therapy may complete
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      the coursework requirement in a training institution fully
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26-00949-18 20181486 1857 accredited by the Commission on Accreditation for Marriage and 1858 Family Therapy Education recognized by the United States 1859 Department of Education. (c) Has had at least 2 years of clinical experience during 1860 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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26-00949-18 20181486 1886 services are provided by a registered intern in a private 1887 practice setting. 1888 (d) Has passed a theory and practice examination provided 1889 by the department for this purpose. 1890 (e) Has demonstrated, in a manner designated by rule of the 1891 board, knowledge of the laws and rules governing the practice of 1892 clinical social work, marriage and family therapy, and mental 1893 health counseling. 1894 (f) For the purposes of dual licensure, the department 1895 shall license as a marriage and family therapist any person who 1896 meets the requirements of s. 491.0057. Fees for dual licensure 1897 shall not exceed those stated in this subsection. 1898 (4) MENTAL HEALTH COUNSELING.-Upon verification of 1899 documentation and payment of a fee not to exceed \$200, as set by 1900 board rule, plus the actual per applicant cost to the department for purchase of the examination from the National Board for 1901 1902 Certified Counselors or its successor Professional Examination 1903 Service for the National Academy of Certified Clinical Mental 1904 Health Counselors or a similar national organization, the 1905 department shall issue a license as a mental health counselor to 1906 an applicant who the board certifies: 1907 (a) Has submitted an application and paid the appropriate 1908 fee. 1909 (b)1. Has a minimum of an earned master's degree from a 1910 mental health counseling program accredited by the Council for the Accreditation of Counseling and Related Educational Programs 1911 1912 that consists of at least 60 semester hours or 80 quarter hours 1913 of clinical and didactic instruction, including a course in 1914 human sexuality and a course in substance abuse. If the master's

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CODING: Words stricken are deletions; words underlined are additions.

26-00949-18 20181486 1915 degree is earned from a program related to the practice of 1916 mental health counseling that is not accredited by the Council 1917 for the Accreditation of Counseling and Related Educational 1918 Programs, then the coursework and practicum, internship, or 1919 fieldwork must consist of at least 60 semester hours or 80 1920 quarter hours and meet the following requirements: 1921 a. Thirty-three semester hours or 44 quarter hours of 1922 graduate coursework, which must include a minimum of 3 semester 1923 hours or 4 quarter hours of graduate-level coursework in each of 1924 the following 11 content areas: counseling theories and practice; human growth and development; diagnosis and treatment 1925 1926 of psychopathology; human sexuality; group theories and 1927 practice; individual evaluation and assessment; career and 1928 lifestyle assessment; research and program evaluation; social 1929 and cultural foundations; counseling in community settings; and 1930 substance abuse. Courses in research, thesis or dissertation 1931 work, practicums, internships, or fieldwork may not be applied 1932 toward this requirement. 1933 b. A minimum of 3 semester hours or 4 quarter hours of 1934 graduate-level coursework in legal, ethical, and professional 1935 standards issues in the practice of mental health counseling, 1936 which includes goals, objectives, and practices of professional

1935 standards issues in the practice of mental health counseling, 1936 which includes goals, objectives, and practices of professional 1937 counseling organizations, codes of ethics, legal considerations, 1938 standards of preparation, certifications and licensing, and the 1939 role identity and professional obligations of mental health 1940 counselors. Courses in research, thesis or dissertation work, 1941 practicums, internships, or fieldwork may not be applied toward 1942 this requirement.

1943

c. The equivalent, as determined by the board, of at least

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26-00949-18 20181486 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 the post-master's clinical experience requirement. 1949 1950 2. If the course title which appears on the applicant's 1951 transcript does not clearly identify the content of the coursework, the applicant shall be required to provide 1952 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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SB 1486

26-00949-18 20181486 1973 health counselors. The burden of establishing that the 1974 requirements of this provision have been met shall be upon the 1975 applicant, and the board shall require documentation, such as, 1976 but not limited to, an evaluation by a foreign equivalency 1977 determination service, as evidence that the applicant's graduate 1978 degree program and education were equivalent to an accredited 1979 program in this country. 1980 (c) Has had at least 2 years of clinical experience in 1981 mental health counseling, which must be at the post-master's 1982 level under the supervision of a licensed mental health 1983 counselor or the equivalent who is a qualified supervisor as 1984 determined by the board. An individual who intends to practice 1985 in Florida to satisfy the clinical experience requirements must 1986 register pursuant to s. 491.0045 before commencing practice. If 1987 a graduate has a master's degree with a major related to the 1988 practice of mental health counseling that did not include all 1989 the coursework required under sub-subparagraphs (b)1.a.-b., 1990 credit for the post-master's level clinical experience shall not 1991 commence until the applicant has completed a minimum of seven of 1992 the courses required under sub-subparagraphs (b)1.a.-b., as 1993 determined by the board, one of which must be a course in 1994 psychopathology or abnormal psychology. A doctoral internship 1995 may be applied toward the clinical experience requirement. A 1996 licensed mental health professional must be on the premises when 1997 clinical services are provided by a registered intern in a 1998 private practice setting. 1999 (d) Has passed a theory and practice examination provided

2000 by the department for this purpose.

2001

(e) Has demonstrated, in a manner designated by rule of the

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	26-00949-18 20181486
2002	board, knowledge of the laws and rules governing the practice of
2003	clinical social work, marriage and family therapy, and mental
2004	health counseling.
2005	Section 39. Paragraph (b) of subsection (1) of section
2006	491.006, Florida Statutes, is amended to read:
2007	491.006 Licensure or certification by endorsement
2008	(1) The department shall license or grant a certificate to
2009	a person in a profession regulated by this chapter who, upon
2010	applying to the department and remitting the appropriate fee,
2011	demonstrates to the board that he or she:
2012	(b)1. Holds an active valid license to practice and has
2013	actively practiced the profession for which licensure is applied
2014	in another state for 3 of the last 5 years immediately preceding
2015	licensure.
2016	2. Meets the education requirements of this chapter for the
2017	profession for which licensure is applied.
2018	2.3. Has passed a substantially equivalent licensing
2019	examination in another state or has passed the licensure
2020	examination in this state in the profession for which the
2021	applicant seeks licensure.
2022	<u>3.</u> 4. Holds a license in good standing, is not under
2023	investigation for an act that would constitute a violation of
2024	this chapter, and has not been found to have committed any act
2025	that would constitute a violation of this chapter. The fees paid
2026	by any applicant for certification as a master social worker
2027	under this section are nonrefundable.
2028	Section 40. Subsection (3) of section 491.007, Florida
2029	Statutes, is amended to read:

491.007 Renewal of license, registration, or certificate.-

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	26-00949-18 20181486
2031	(3) The board or department shall prescribe by rule a
2032	method for the biennial renewal of an intern registration at a
2033	fee set by rule, not to exceed \$100.
2034	Section 41. Subsection (2) of section 491.009, Florida
2035	Statutes, is amended to read:
2036	491.009 Discipline
2037	(2) The <u>board</u> <del>department</del> , or, in the case of <u>certified</u>
2038	master social workers psychologists, the <u>department</u> board, may
2039	enter an order denying licensure or imposing any of the
2040	penalties in s. 456.072(2) against any applicant for licensure
2041	or licensee who is found guilty of violating any provision of
2042	subsection (1) of this section or who is found guilty of
2043	violating any provision of s. 456.072(1).
2044	Section 42. Subsection (3) of section 463.0057, Florida
2045	Statutes, is amended to read:
2046	463.0057 Optometric faculty certificate
2047	(3) The holder of a faculty certificate may engage in the
2048	practice of optometry as permitted by this section but may not
2049	administer or prescribe topical ocular pharmaceutical agents
2050	unless the certificateholder has satisfied the requirements of
2051	<u>s. 463.006(1)(b)3. and 4.</u> <del>s. 463.006(1)(b)4. and 5.</del> If a
2052	certificateholder wishes to administer or prescribe oral ocular
2053	pharmaceutical agents, the certificateholder must also satisfy
2054	the requirements of s. 463.0055(1)(b).
2055	Section 43. Paragraph (c) of subsection (2) of section
2056	491.0046, Florida Statutes, is amended to read:
2057	491.0046 Provisional license; requirements
2058	(2) The department shall issue a provisional clinical
2059	social worker license, provisional marriage and family therapist
	Page 71 of 72

	26-00949-18 20181486	
2060	license, or provisional mental health counselor license to each	
2061	applicant who the board certifies has:	
2062	(c) Has met the following minimum coursework requirements:	
2063	1. For clinical social work, a minimum of 15 semester hours	
2064	or 22 quarter hours of the coursework required by s.	
2065	491.005(1)(b)2.b.	
2066	2. For marriage and family therapy, 10 of the courses	
2067	required by <u>s. 491.005(3)(b)1.</u> <del>s. 491.005(3)(b)1.ac.</del> , as	
2068	determined by the board, and at least 6 semester hours or 9	
2069	quarter hours of the course credits must have been completed in	
2070	the area of marriage and family systems, theories, or	
2071	techniques.	
2072	3. For mental health counseling, a minimum of seven of the	
2073	courses required under s. 491.005(4)(b)1.ac.	
2074	Section 44. Subsection (11) of section 945.42, Florida	
2075	Statutes, is amended to read:	
2076	945.42 Definitions; ss. 945.40-945.49As used in ss.	
2077	945.40-945.49, the following terms shall have the meanings	
2078	ascribed to them, unless the context shall clearly indicate	
2079	otherwise:	
2080	(11) "Psychological professional" means a behavioral	
2081	practitioner who has an approved doctoral degree in psychology	
2082	as defined in <u>s. 490.003(3)</u> <del>s. 490.003(3)(b)</del> and is employed by	
2083	the department or who is licensed as a psychologist pursuant to	
2084	chapter 490.	
2085	Section 45. This act shall take effect July 1, 2018.	

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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.

 $\boxtimes$ 

next committee agenda.

Jeauxie Junsley

Senator Denise Grimsley Florida Senate, District 26

File signed original with committee office

	RIDA SENATE
	r or Senate Professional Staff conducting the meeting)
Topic Dolt	Amendment Barcode (if applicable)
Name Corinne Mixa	
Job Title <u>Government Con</u>	suttant
Address 1195. Monroe	Phone 766 - 5795
Street Tullahac FC City State	32301 Email Cotinnel rutlede
Speaking: For Against Information	Waive Speaking: In Support Against Com (The Chair will read this information into the record.)
Representing <u>Florida Mental</u>	Health Counselors Association
Appearing at request of Chair: 🗌 Yes 🕅 No	Lobbyist registered with Legislature: Yes 🗌 No

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

S-001 (10/14/14)

THE FLORIDA SENATE	
APPEARANCE RECO	RD
$\frac{1/3}{3}/2018$ (Deliver BOTH copies of this form to the Senator or Senate Professional S Meeting Date	Staff conducting the meeting) <u>1476</u> Bill Number (if applicable) 470566
Topic OPTOMETRY	Amendment Barcode (if applicable)
Name DAVID RAMBA	AMDT. ONCH
Job Title ATTORNEY	
Address 120 5. MONPOE ST.	_ Phone
Street TAWAHASSEE FL 32311 City State Zip	_ Email
Speaking: For Against Information Waive S	peaking: In Support Against hir will read this information into the record.)
Representing FLORIDA OPTOMETRIC ASSOCI	IATION
Appearing at request of Chair: Yes No Lobbyist regist	tered with Legislature: Yes No

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

THE FLORIDA SE	NATE
	RECORD
$\frac{1/30}{Meeting Date}$ (Deliver BOTH copies of this form to the Senator or Senate I	Professional Staff conducting the meeting)
Topic Dept of Health	Amendment Barcode (if applicable)
Name Cipilia Senderson	
Job Title	
Address 108 E fefferson St	Phone <u>850 559 0855</u>
Talahasse H 3	230/ Email <u>Cyliandersonano</u>
Speaking:	Waive Speaking: In Support Against -(The Chair will read this information into the record.)
Representing Luxottica	1
Appearing at request of Chair: Yes No Lobby	ist registered with Legislature: Yes 🗌 No

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

	THE FLORIDA SENATE
	APPEARANCE RECORD
	(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
	Meelting Date Bill Number (if applicable)
	Topic Amendment Barcode (if applicable)
	Name David Christian
	Job Title Director Gov 7 Relations
	Address <u>Goo Nope Werk</u> Phone <u>407/357-2453</u>
	Street Pitanonie Springs FL 32714 Emailday. J. Christian achos. of City State Zip
	Speaking:       For       Against       Information       Waive Speaking:       In Support       Against         (The Chair will read this information into the record.)
	Representing Adventist Necliful Florida / Lap. 72]
•.	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.

THE FLORIDA SENATE	
APPEARANCE RECO	RD
1 - 30 - 18 (Deliver BOTH copies of this form to the Senator or Senate Professional S	
Meeting Date	Bill Number (if applicable)
Topic Dept of Health	Amendment Barcode (if applicable)
Name Rev (Runk	
Job Title Legislative Attairs Director	
Address 1052 Bald Cypriss Wary	Phone 550-245-4444
Street Ialahassee FL 32399	Email
City State Zip	
Speaking: For Against Information Waive Sp	
Representing Dept.offeatth (The Chai	r will read this information into the record.)
Appearing at request of Chair: Yes No Lobbyist registe	ered with Legislature: Yes No

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

#### 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 CS/SB 1594 BILL: Health Policy Committee and Senator Brandes INTRODUCER: Nursing SUBJECT: January 31, 2018 DATE: **REVISED:** ANALYST STAFF DIRECTOR REFERENCE ACTION 1. Stovall Stovall HP Fav/CS AP 2. 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>&</sup>lt;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 speciality 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>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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>&</sup>lt;sup>6</sup> See ss. 464.003(3) and 464.012(1)(a), F.S.

<sup>&</sup>lt;sup>7</sup> Section 464.003(2), F.S.

<sup>&</sup>lt;sup>8</sup> Section 464.012(3) and (4), F.S.

<sup>&</sup>lt;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>

<sup>&</sup>lt;sup>10</sup> Section 464.012(1), F.S., as amended by Ch. 2017-134, Laws of Fla.

<sup>&</sup>lt;sup>11</sup> Department of Health, Division of Medical Quality Assurance *Annual Report & Long-Range Plan Fiscal Year 2016-2017* available at <u>http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/\_documents/annual-report-</u> <u>1617.pdf</u>, p. 12 (last visited Jan. 25, 2018)

<sup>&</sup>lt;sup>12</sup> Section 464.003(7), F.S.

<sup>&</sup>lt;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.

<sup>&</sup>lt;sup>14</sup> National Council of State Boards of Nursing, *APRN Title Map*, (last updated 9/27/2017), *available at* <u>https://ncsbn.org/5398.htm</u> (last visited Jan. 25, 2018).

<sup>&</sup>lt;sup>15</sup> National Council of State Boards of Nursing, *ARNP Campaign for Consensus: Moving Toward Uniformity in State Laws*, available at <a href="https://ncsbn.org/campaign-for-consensus.htm">https://ncsbn.org/campaign-for-consensus.htm</a> (last visited Jan. 25, 2018).

<sup>&</sup>lt;sup>16</sup> Section 456.048, F.S.

<sup>&</sup>lt;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:

39.303	Child protection teams and sexual abuse treatment programs; services;
39.303	eligible cases.
<u>39.304</u>	Photographs, medical examinations, X rays, and medical treatment of
<u>39.304</u>	abused, abandoned, or neglected child.
<u>90.503</u>	Psychotherapist-patient privilege.
<u>110.12315</u>	Prescription drug program.
<u>121.0515</u>	Special Risk Class.
252.515	Postdisaster Relief Assistance Act; immunity from civil liability.
<u>310.071</u>	Deputy pilot certification.
<u>310.073</u>	State pilot licensing.
310.081	Department to examine and license state pilots and certificate deputy
<u>510.081</u>	pilots; vacancies.
	Persons who have disabilities; issuance of disabled parking permits;
<u>320.0848</u>	temporary permits; permits for certain providers of transportation
	services to persons who have disabilities.
381.00315	Public health advisories; public health emergencies; isolation and
	quarantines.
<u>381.00593</u>	Public school volunteer health care practitioner program.
383.14	Screening for metabolic disorders, other hereditary and congenital
505.14	disorders, and environmental risk factors.
383.141	Prenatally diagnosed conditions; patient to be provided information;
	definitions; information clearinghouse; advisory council.
384.27	Physical examination and treatment.
<u>390.0111</u>	Termination of pregnancies.
<u>390.012</u>	Powers of agency; rules; disposal of fetal remains.
<u>394.455</u>	Definitions.
<u>395.0191</u>	Staff membership and clinical privileges.
<u>397.311</u>	Definitions.

397.4012	Exemptions from licensure.
<u>377.4012</u>	Medication-assisted treatment service providers; rehabilitation program;
207 427	needs assessment and provision of services; persons authorized to issue
<u>397.427</u>	takeout medication; unlawful operation; penalty.
207 670	Emergency admission; circumstances justifying.
<u>397.679</u>	
<u>397.6793</u>	Professional's certificate for emergency admission.
400.021	Definitions.
<u>400.462</u>	Definitions.
	Home health service agreements; physician's, physician assistant's, and
400.487	advanced registered nurse practitioner's treatment orders; patient
	assessment; establishment and review of plan of care; provision of
100 50 6	services; orders not to resuscitate.
400.506	Licensure of nurse registries; requirements; penalties.
<u>400.9973</u>	Client admission, transfer, and discharge.
<u>400.9974</u>	Client comprehensive treatment plans; client services.
<u>400.9976</u>	Administration of medication.
400.9979	Restraint and seclusion; client safety.
401.445	Emergency examination and treatment of incapacitated persons.
<u>409.905</u>	Mandatory Medicaid services.
409.908	Reimbursement of Medicaid providers.
<u>409.973</u>	Benefits.
429.918	Licensure designation as a specialized Alzheimer's services adult day
	care center. Advanced registered nurse practitioners; information required for
<u>456.0391</u>	certification.
456.0392	Prescription labeling.
456.041	Practitioner profile; creation.
	Financial responsibility requirements for certain health care
<u>456.048</u>	practitioners.
456.072	Grounds for discipline; penalties; enforcement.
456.44	Controlled substance prescribing.
458.3265	Pain-management clinics.
458.331	Grounds for disciplinary action; action by the board and department.
459.249	Formal supervisory relationships, standing orders, and established
<u>458.348</u>	protocols; notice; standards.
459.0137	Pain-management clinics.
459.015	Grounds for disciplinary action; action by the board and department.
459.025	Formal supervisory relationships, standing orders, and established
437.023	protocols; notice; standards.
<u>464.004</u>	Board of Nursing; membership; appointment; terms.
<u>464.013</u>	Renewal of license or certificate.
<u>464.015</u>	Titles and abbreviations; restrictions; penalty.
<u>464.016</u>	Violations and penalties.
<u>464.018</u>	Disciplinary actions.
464.0205	Retired volunteer nurse certificate.
467.003	Definitions.

400.0475	
480.0475	Massage establishments; prohibited practices.
<u>483.041</u>	Definitions.
<u>483.801</u>	Exemptions.
<u>486.021</u>	Definitions.
<u>490.012</u>	Violations; penalties; injunction.
<u>491.0057</u>	Dual licensure as a marriage and family therapist.
<u>491.012</u>	Violations; penalty; injunction.
<u>493.6108</u>	Investigation of applicants by Department of Agriculture and Consumer Services.
<u>627.357</u>	Medical malpractice self-insurance.
<u>627.6471</u>	Contracts for reduced rates of payment; limitations; coinsurance and deductibles.
<u>627.6472</u>	Exclusive provider organizations.
<u>627.736</u>	Required personal injury protection benefits; exclusions; priority; claims.
633.412	Firefighters; qualifications for certification.
641.3923	Discrimination against providers prohibited.
766.103	Florida Medical Consent Law.
766.1115	Health care providers; creation of agency relationship with governmental contractors.
766.1116	Health care practitioner; waiver of license renewal fees and continuing education requirements.
766.118	Determination of noneconomic damages
794.08	Female genital mutilation.
893.02	Definitions.
893.05	Practitioners and persons administering controlled substances in their absence.
<u>943.13</u>	Officers' minimum qualifications for employment or appointment.
948.03	Terms and conditions of probation.
1002.20	K-12 student and parent rights.
1002.42	Private schools.
1006.062	Administration of medication and provision of medical services by district school board personnel.
1009.65	Medical Education Reimbursement and Loan Repayment Program.
1009.66	Nursing Student Loan Forgiveness Program.
1009.67	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.

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



LEGISLATIVE ACTION

Senate Comm: RCS 01/30/2018 House

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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11	registered nurse practitioner" means any person licensed in this
12	state to practice professional nursing and who is licensed
13	certified in an advanced or specialized nursing practice,
14	including certified nurse midwives, certified nurse
15	practitioners, certified registered nurse anesthetists, clinical
16	nurse specialists certified nurse midwives, and psychiatric
17	nurses nurse practitioners.
18	(6) "Clinical nurse specialist" means any person licensed
19	in this state to practice professional nursing and certified in
20	clinical nurse specialist practice.
21	(7) "Clinical nurse specialist practice" means the delivery
22	and management of advanced practice nursing care to individuals
23	or groups, including the ability to:
24	(a) Assess the health status of individuals and families
25	using methods appropriate to the population and area of
26	practice.
27	(b) Diagnose human responses to actual or potential health
28	problems.
29	(c) Plan for health promotion, disease prevention, and
30	therapeutic intervention in collaboration with the patient or
31	<del>client.</del>
32	(d) Implement therapeutic interventions based on the nurse
33	specialist's area of expertise and within the scope of advanced
34	nursing practice, including, but not limited to, direct nursing
35	care, counseling, teaching, and collaboration with other
36	licensed health care providers.
37	(c) Coordinate health care as necessary and appropriate and
38	evaluate with the patient or client the effectiveness of care.
39	Section 2. Section 464.0115, Florida Statutes, is repealed.

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40 Section 3. Section 464.012, Florida Statutes, as amended by section 3 of chapter 2017-134, Laws of Florida, is amended to 41 42 read: 43 464.012 Licensure Certification of advanced practice 44 registered nurses advanced registered nurse practitioners; fees; 45 controlled substance prescribing.-46 (1) Any nurse desiring to be licensed <del>certified</del> as an 47 advanced practice registered nurse must advanced registered nurse practitioner shall apply to the department and submit 48 49 proof that he or she holds a current license to practice 50 professional nursing or holds an active multistate license to 51 practice professional nursing pursuant to s. 464.0095 and that 52 he or she meets one or more of the following requirements as 53 determined by the board:

54 (a) Certification by an appropriate specialty board. Such certification is shall be required for initial state licensure 55 56 certification and any licensure renewal recertification as a certified nurse midwife, certified nurse practitioner, certified 57 58 registered nurse anesthetist, clinical nurse specialist, or 59 psychiatric nurse, or nurse midwife. The board may by rule 60 provide for provisional state licensure certification of 61 graduate certified registered nurse anesthetists, clinical nurse 62 specialists, certified nurse practitioners, psychiatric nurses, 63 and certified nurse midwives for a period of time determined to 64 be appropriate for preparing for and passing the national certification examination. 65

(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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69 after October 1, 1998, graduation from a master's degree program 70 is shall be required for initial licensure certification as a certified nurse practitioner under paragraph (4) (a) (4) (c). 71

1. For applicants graduating on or after October 1, 2001, 73 graduation from a master's degree program is shall be required 74 for initial licensure <del>certification</del> as a certified registered 75 nurse anesthetist who may perform the acts listed in under 76 paragraph (4) (b)  $\frac{(4)(a)}{(a)}$ .

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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COMMITTEE AMENDMENT

Florida Senate - 2018 Bill No. SB 1594



98 practices. In the case of multiple supervising physicians in the 99 same group, an advanced practice registered nurse advanced registered nurse practitioner must enter into a supervisory 100 101 protocol with at least one physician within the physician group 102 practice. A practitioner currently licensed under chapter 458, 103 chapter 459, or chapter 466 shall maintain supervision for 104 directing the specific course of medical treatment. Within the 105 established framework, an advanced practice registered nurse 106 advanced registered nurse practitioner may:

107 (a) Prescribe, dispense, administer, or order any drug; 108 however, an advanced practice registered nurse advanced 109 registered nurse practitioner may prescribe or dispense a 110 controlled substance as defined in s. 893.03 only if the 111 advanced practice registered nurse advanced registered nurse 112 practitioner has graduated from a program leading to a master's 113 or doctoral degree in a clinical nursing specialty area with 114 training in specialized practitioner skills.

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(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.

123 (4) In addition to the general functions specified in 124 subsection (3), an <u>advanced practice registered nurse</u> <del>advanced</del> 125 <del>registered nurse practitioner</del> may perform the following acts 126 within his or her specialty:

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127 (a) The certified nurse practitioner may perform any or all 128 of the following acts within the framework of established 129 protocol: 130 1. Manage selected medical problems. 131 2. Order physical and occupational therapy. 132 3. Initiate, monitor, or alter therapies for certain 133 uncomplicated acute illnesses. 134 4. Monitor and manage patients with stable chronic 135 diseases. 136 5. Establish behavioral problems and diagnosis and make 137 treatment recommendations. 138 (b) (a) The certified registered nurse anesthetist may, to 139 the extent authorized by established protocol approved by the 140 medical staff of the facility in which the anesthetic service is 141 performed, perform any or all of the following: 142 1. Determine the health status of the patient as it relates 143 to the risk factors and to the anesthetic management of the 144 patient through the performance of the general functions. 145 2. Based on history, physical assessment, and supplemental 146 laboratory results, determine, with the consent of the 147 responsible physician, the appropriate type of anesthesia within the framework of the protocol. 148 149 3. Order under the protocol preanesthetic medication. 150 4. Perform under the protocol procedures commonly used to 151 render the patient insensible to pain during the performance of 152 surgical, obstetrical, therapeutic, or diagnostic clinical 153 procedures. These procedures include ordering and administering 154 regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of 155



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157 5. Order or perform monitoring procedures indicated as
158 pertinent to the anesthetic health care management of the
159 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:

180 181 1. Perform superficial minor surgical procedures.

181 2. Manage the patient during labor and delivery to include182 amniotomy, episiotomy, and repair.

183 3. Order, initiate, and perform appropriate anesthetic184 procedures.

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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214 licensed health care providers.

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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 219 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 <del>certificate</del> 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.

229 (6) (7) (a) The board shall establish a committee to 230 recommend a formulary of controlled substances that an advanced 231 practice registered nurse advanced registered nurse practitioner 232 may not prescribe or may prescribe only for specific uses or in 233 limited quantities. The committee must consist of three advanced 234 practice registered nurses advanced registered nurse 235 practitioners licensed under this section, recommended by the 236 board; three physicians licensed under chapter 458 or chapter 237 459 who have work experience with advanced practice registered 238 nurses advanced registered nurse practitioners, recommended by 239 the Board of Medicine; and a pharmacist licensed under chapter 240 465 who is a doctor of pharmacy, recommended by the Board of 241 Pharmacy. The committee may recommend an evidence-based formulary applicable to all advanced practice registered nurses 242

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243 advanced registered nurse practitioners which is limited by 244 specialty certification, is limited to approved uses of 245 controlled substances, or is subject to other similar 246 restrictions the committee finds are necessary to protect the 247 health, safety, and welfare of the public. The formulary must 248 restrict the prescribing of psychiatric mental health controlled substances for children younger than 18 years of age to advanced 249 250 practice registered nurses advanced registered nurse practitioners who also are psychiatric nurses as defined in s. 2.51 252 394.455. The formulary must also limit the prescribing of 253 Schedule II controlled substances as listed in s. 893.03 to a 7-254 day supply, except that such restriction does not apply to 255 controlled substances that are psychiatric medications 256 prescribed by psychiatric nurses as defined in s. 394.455. 257 (b) The board shall adopt by rule the recommended formulary 258 and any revision to the formulary which it finds is supported by 259 evidence-based clinical findings presented by the Board of 260 Medicine, the Board of Osteopathic Medicine, or the Board of

261 Dentistry.

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(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 <u>subparagraph (4) (b) 3.</u>, <u>subparagraph</u> (4) (b) 4., or <u>subparagraph (4) (b) 9</u> <u>subparagraph (4) (a) 3.</u>, <u>subparagraph (4) (a) 4.</u>, or <u>subparagraph (4) (a) 9</u>.

(d) The board shall adopt the committee's initial recommendation no later than October 31, 2016.

270 <u>(7)(8)</u> This section shall be known as "The Barbara Lumpkin 271 Prescribing Act."

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272 Section 4. Subsection (2) of section 960.28, Florida 273 Statutes, is amended to read:

960.28 Payment for victims' initial forensic physical examinations.-

276 (2) The Crime Victims' Services Office of the department 277 shall pay for medical expenses connected with an initial 278 forensic physical examination of a victim of sexual battery as 279 defined in chapter 794 or a lewd or lascivious offense as 280 defined in chapter 800. Such payment shall be made regardless of 281 whether the victim is covered by health or disability insurance 282 and whether the victim participates in the criminal justice 283 system or cooperates with law enforcement. The payment shall be 284 made only out of moneys allocated to the Crime Victims' Services 285 Office for the purposes of this section, and the payment may not 286 exceed \$500 with respect to any violation. The department shall develop and maintain separate protocols for the initial forensic 287 288 physical examination of adults and children. Payment under this 289 section is limited to medical expenses connected with the 290 initial forensic physical examination, and payment may be made 291 to a medical provider using an examiner qualified under part I 292 of chapter 464, excluding s. 464.003(14) s. 464.003(16); chapter 293 458; or chapter 459. Payment made to the medical provider by the 294 department shall be considered by the provider as payment in full for the initial forensic physical examination associated 295 296 with the collection of evidence. The victim may not be required to pay, directly or indirectly, the cost of an initial forensic 297 298 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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301 amended to read:

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39.303 Child protection teams and sexual abuse treatment 302 303 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 307 purpose of determining whether a face-to-face medical evaluation by a child protection team is necessary, all cases transmitted 309 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:

317 (a) The child was examined for the alleged abuse or neglect 318 by a physician who is not a member of the child protection team, 319 and a consultation between the child protection team medical 320 director or a child protection team board-certified 321 pediatrician, advanced practice registered nurse advanced 322 registered nurse practitioner, physician assistant working under 323 the supervision of a child protection team medical director or a 324 child protection team board-certified pediatrician, or 325 registered nurse working under the direct supervision of a child 326 protection team medical director or a child protection team 327 board-certified pediatrician, and the examining physician 328 concludes that a further medical evaluation is unnecessary; 329

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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-toface medical evaluation is necessary.

334 Section 6. Paragraph (b) of subsection (1) of section335 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)

339 (b) If the areas of trauma visible on a child indicate a 340 need for a medical examination, or if the child verbally 341 complains or otherwise exhibits distress as a result of injury 342 through suspected child abuse, abandonment, or neglect, or is 343 alleged to have been sexually abused, the person required to 344 investigate may cause the child to be referred for diagnosis to 345 a licensed physician or an emergency department in a hospital 346 without the consent of the child's parents or legal custodian. 347 Such examination may be performed by any licensed physician or 348 an advanced practice registered nurse advanced registered nurse 349 practitioner licensed pursuant to part I of chapter 464. Any 350 licensed physician  $\tau$  or advanced practice registered nurse 351 advanced registered nurse practitioner licensed pursuant to part 352 I of chapter 464 $_{\tau}$  who has reasonable cause to suspect that an 353 injury was the result of child abuse, abandonment, or neglect 354 may authorize a radiological examination to be performed on the 355 child without the consent of the child's parent or legal 356 custodian.

357 Section 7. Paragraph (a) of subsection (1) of section358 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:

362 1. A person authorized to practice medicine in any state or 363 nation, or reasonably believed by the patient so to be, who is 364 engaged in the diagnosis or treatment of a mental or emotional 365 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, 369 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;

375 4. Treatment personnel of facilities licensed by the state 376 pursuant to chapter 394, chapter 395, or chapter 397, of 377 facilities designated by the Department of Children and Families pursuant to chapter 394 as treatment facilities, or of 379 facilities defined as community mental health centers pursuant 380 to s. 394.907(1), who are engaged primarily in the diagnosis or treatment of a mental or emotional condition, including 382 alcoholism and other drug addiction; or

383 5. An advanced practice registered nurse licensed advanced 384 registered nurse practitioner certified under s. 464.012, whose 385 primary scope of practice is the diagnosis or treatment of 386 mental or emotional conditions, including chemical abuse, and 387 limited only to actions performed in accordance with part I of



388 chapter 464.

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389 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 396 implementing legislation, subject to the following conditions:

(2) In providing for reimbursement of pharmacies for prescription drugs and supplies dispensed to members of the 399 state group health insurance plan and their dependents under the state employees' prescription drug program:

401 (d) The department shall establish the reimbursement 402 schedule for prescription drugs and supplies dispensed under the 403 program. Reimbursement rates for a prescription drug or supply 404 must be based on the cost of the generic equivalent drug or 405 supply if a generic equivalent exists, unless the physician, 406 advanced practice registered nurse advanced registered nurse 407 practitioner, or physician assistant prescribing the drug or 408 supply clearly states on the prescription that the brand name 409 drug or supply is medically necessary or that the drug or supply 410 is included on the formulary of drugs and supplies that may not 411 be interchanged as provided in chapter 465, in which case 412 reimbursement must be based on the cost of the brand name drug 413 or supply as specified in the reimbursement schedule adopted by 414 the department.

415 Section 9. Paragraph (f) of subsection (3) of section 416 121.0515, Florida Statutes, is amended to read:

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417	121.0515 Special Risk Class
418	(3) CRITERIAA member, to be designated as a special risk
419	member, must meet the following criteria:
420	(f) Effective January 1, 2001, the member must be employed
421	in one of the following classes and must spend at least 75
422	percent of his or her time performing duties which involve
423	contact with patients or inmates in a correctional or forensic
424	facility or institution:
425	1. Dietitian (class codes 5203 and 5204);
426	2. Public health nutrition consultant (class code 5224);
427	3. Psychological specialist (class codes 5230 and 5231);
428	4. Psychologist (class code 5234);
429	5. Senior psychologist (class codes 5237 and 5238);
430	6. Regional mental health consultant (class code 5240);
431	7. Psychological Services Director-DCF (class code 5242);
432	8. Pharmacist (class codes 5245 and 5246);
433	9. Senior pharmacist (class codes 5248 and 5249);
434	10. Dentist (class code 5266);
435	11. Senior dentist (class code 5269);
436	12. Registered nurse (class codes 5290 and 5291);
437	13. Senior registered nurse (class codes 5292 and 5293);
438	14. Registered nurse specialist (class codes 5294 and
439	5295);
440	15. Clinical associate (class codes 5298 and 5299);
441	16. Advanced practice registered nurse Advanced registered
442	nurse practitioner (class codes 5297 and 5300);
443	17. Advanced practice registered nurse Advanced registered
444	nurse practitioner specialist (class codes 5304 and 5305);
445	18. Registered nurse supervisor (class codes 5306 and

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446	5307);
447	19. Senior registered nurse supervisor (class codes 5308
448	and 5309);
449	20. Registered nursing consultant (class codes 5312 and
450	5313);
451	21. Quality management program supervisor (class code
452	5314);
453	22. Executive nursing director (class codes 5320 and 5321);
454	23. Speech and hearing therapist (class code 5406); or
455	24. Pharmacy manager (class code 5251);
456	Section 10. Paragraph (a) of subsection (3) of section
457	252.515, Florida Statutes, is amended to read:
458	252.515 Postdisaster Relief Assistance Act; immunity from
459	civil liability
460	(3) As used in this section, the term:
461	(a) "Emergency first responder" means:
462	1. A physician licensed under chapter 458.
463	2. An osteopathic physician licensed under chapter 459.
464	3. A chiropractic physician licensed under chapter 460.
465	4. A podiatric physician licensed under chapter 461.
466	5. A dentist licensed under chapter 466.
467	6. An <u>advanced practice registered nurse licensed</u> advanced
468	registered nurse practitioner certified under s. 464.012.
469	7. A physician assistant licensed under s. 458.347 or s.
470	459.022.
471	8. A worker employed by a public or private hospital in the
472	state.
473	9. A paramedic as defined in s. 401.23(17).
474	10. An emergency medical technician as defined in s.
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475 401.23(11).
476 11. A firefighter as defined in s. 633.102.
477 12. A law enforcement officer as defined in s. 943.10.
478 13. A member of the Florida National Guard.
479 14. Any other personnel designated as emergency personnel
480 by the Governor pursuant to a declared emergency.

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Section 11. Paragraph (c) of subsection (1) of section 310.071, Florida Statutes, is amended to read:

310.071 Deputy pilot certification.-

484 (1) In addition to meeting other requirements specified in 485 this chapter, each applicant for certification as a deputy pilot 486 must:

487 (c) Be in good physical and mental health, as evidenced by 488 documentary proof of having satisfactorily passed a complete 489 physical examination administered by a licensed physician within 490 the preceding 6 months. The board shall adopt rules to establish 491 requirements for passing the physical examination, which rules 492 shall establish minimum standards for the physical or mental 493 capabilities necessary to carry out the professional duties of a 494 certificated deputy pilot. Such standards shall include zero 495 tolerance for any controlled substance regulated under chapter 496 893 unless that individual is under the care of a physician, an 497 advanced practice registered nurse advanced registered nurse 498 practitioner, or a physician assistant and that controlled 499 substance was prescribed by that physician, advanced practice 500 registered nurse advanced registered nurse practitioner, or 501 physician assistant. To maintain eligibility as a certificated 502 deputy pilot, each certificated deputy pilot must annually 503 provide documentary proof of having satisfactorily passed a

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504 complete physical examination administered by a licensed 505 physician. The physician must know the minimum standards and 506 certify that the certificateholder satisfactorily meets the 507 standards. The standards for certificateholders shall include a 508 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:

514 (3) Be in good physical and mental health, as evidenced by 515 documentary proof of having satisfactorily passed a complete 516 physical examination administered by a licensed physician within 517 the preceding 6 months. The board shall adopt rules to establish 518 requirements for passing the physical examination, which rules 519 shall establish minimum standards for the physical or mental 520 capabilities necessary to carry out the professional duties of a 521 licensed state pilot. Such standards shall include zero 522 tolerance for any controlled substance regulated under chapter 523 893 unless that individual is under the care of a physician, an 524 advanced practice registered nurse advanced registered nurse 525 practitioner, or a physician assistant and that controlled 526 substance was prescribed by that physician, advanced practice 527 registered nurse advanced registered nurse practitioner, or 528 physician assistant. To maintain eligibility as a licensed state 529 pilot, each licensed state pilot must annually provide 530 documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The 531 physician must know the minimum standards and certify that the 532

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533 licensee satisfactorily meets the standards. The standards for 534 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:

541 (b) Are in good physical and mental health as evidenced by 542 documentary proof of having satisfactorily passed a physical 543 examination administered by a licensed physician or physician 544 assistant within each calendar year. The board shall adopt rules 545 to establish requirements for passing the physical examination, 546 which rules shall establish minimum standards for the physical 547 or mental capabilities necessary to carry out the professional 548 duties of a licensed state pilot or a certificated deputy pilot. 549 Such standards shall include zero tolerance for any controlled 550 substance regulated under chapter 893 unless that individual is 551 under the care of a physician, an advanced practice registered 552 nurse advanced registered nurse practitioner, or a physician 553 assistant and that controlled substance was prescribed by that 554 physician, advanced practice registered nurse advanced 555 registered nurse practitioner, or physician assistant. To 556 maintain eligibility as a certificated deputy pilot or licensed 557 state pilot, each certificated deputy pilot or licensed state 558 pilot must annually provide documentary proof of having 559 satisfactorily passed a complete physical examination 560 administered by a licensed physician. The physician must know 561 the minimum standards and certify that the certificateholder or

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562 licensee satisfactorily meets the standards. The standards for 563 certificateholders and for licensees shall include a drug test. 564 565 Upon resignation or in the case of disability permanently 566 affecting a pilot's ability to serve, the state license or 567 certificate issued under this chapter shall be revoked by the 568 department. 569 Section 14. Paragraph (b) of subsection (1) of section 320.0848, Florida Statutes, is amended to read: 570 571 320.0848 Persons who have disabilities; issuance of 572 disabled parking permits; temporary permits; permits for certain 573 providers of transportation services to persons who have 574 disabilities.-575 (1)576 (b)1. The person must be currently certified as being 577 legally blind or as having any of the following disabilities 578 that render him or her unable to walk 200 feet without stopping 579 to rest: 580 a. Inability to walk without the use of or assistance from 581 a brace, cane, crutch, prosthetic device, or other assistive 582 device, or without the assistance of another person. If the 583 assistive device significantly restores the person's ability to 584 walk to the extent that the person can walk without severe 585 limitation, the person is not eligible for the exemption parking 586 permit. 587 b. The need to permanently use a wheelchair. 588 c. Restriction by lung disease to the extent that the 589 person's forced (respiratory) expiratory volume for 1 second,

590 when measured by spirometry, is less than 1 liter, or the

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591 person's arterial oxygen is less than 60 mm/hg on room air at 592 rest.

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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.

600 2. The certification of disability which is required under 601 subparagraph 1. must be provided by a physician licensed under 602 chapter 458, chapter 459, or chapter 460, by a podiatric 603 physician licensed under chapter 461, by an optometrist licensed 604 under chapter 463, by an advanced practice registered nurse 605 advanced registered nurse practitioner licensed under chapter 464 under the protocol of a licensed physician as stated in this 606 607 subparagraph, by a physician assistant licensed under chapter 608 458 or chapter 459, or by a similarly licensed physician from 609 another state if the application is accompanied by documentation 610 of the physician's licensure in the other state and a form 611 signed by the out-of-state physician verifying his or her 612 knowledge of this state's eligibility guidelines.

613 Section 15. Paragraph (c) of subsection (1) of section 614 381.00315, 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.

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



620 (c) "Public health emergency" means any occurrence, or 621 threat thereof, whether natural or manmade, which results or may 622 result in substantial injury or harm to the public health from 623 infectious disease, chemical agents, nuclear agents, biological 624 toxins, or situations involving mass casualties or natural 625 disasters. Before declaring a public health emergency, the State 626 Health Officer shall, to the extent possible, consult with the 627 Governor and shall notify the Chief of Domestic Security. The 628 declaration of a public health emergency shall continue until 629 the State Health Officer finds that the threat or danger has 630 been dealt with to the extent that the emergency conditions no 631 longer exist and he or she terminates the declaration. However, 632 a declaration of a public health emergency may not continue for 633 longer than 60 days unless the Governor concurs in the renewal 634 of the declaration. The State Health Officer, upon declaration 635 of a public health emergency, may take actions that are 636 necessary to protect the public health. Such actions include, 637 but are not limited to:

638 1. Directing manufacturers of prescription drugs or over-639 the-counter drugs who are permitted under chapter 499 and 640 wholesalers of prescription drugs located in this state who are 641 permitted under chapter 499 to give priority to the shipping of 642 specified drugs to pharmacies and health care providers within geographic areas that have been identified by the State Health 643 644 Officer. The State Health Officer must identify the drugs to be 645 shipped. Manufacturers and wholesalers located in the state must 646 respond to the State Health Officer's priority shipping 647 directive before shipping the specified drugs.

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2. Notwithstanding chapters 465 and 499 and rules adopted



649 thereunder, directing pharmacists employed by the department to 650 compound bulk prescription drugs and provide these bulk 651 prescription drugs to physicians and nurses of county health 652 departments or any qualified person authorized by the State 653 Health Officer for administration to persons as part of a 654 prophylactic or treatment regimen.

655 3. Notwithstanding s. 456.036, temporarily reactivating the 656 inactive license of the following health care practitioners, 657 when such practitioners are needed to respond to the public 658 health emergency: physicians licensed under chapter 458 or 659 chapter 459; physician assistants licensed under chapter 458 or 660 chapter 459; licensed practical nurses, registered nurses, and 661 advanced practice registered nurses advanced registered nurse 662 practitioners licensed under part I of chapter 464; respiratory 663 therapists licensed under part V of chapter 468; and emergency 664 medical technicians and paramedics certified under part III of 665 chapter 401. Only those health care practitioners specified in 666 this paragraph who possess an unencumbered inactive license and 667 who request that such license be reactivated are eligible for 668 reactivation. An inactive license that is reactivated under this 669 paragraph shall return to inactive status when the public health 670 emergency ends or before the end of the public health emergency 671 if the State Health Officer determines that the health care 672 practitioner is no longer needed to provide services during the 673 public health emergency. Such licenses may only be reactivated 674 for a period not to exceed 90 days without meeting the 675 requirements of s. 456.036 or chapter 401, as applicable.

676 4. Ordering an individual to be examined, tested,677 vaccinated, treated, isolated, or quarantined for communicable

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678 diseases that have significant morbidity or mortality and 679 present a severe danger to public health. Individuals who are 680 unable or unwilling to be examined, tested, vaccinated, or 681 treated for reasons of health, religion, or conscience may be 682 subjected to isolation or quarantine.

683 a. Examination, testing, vaccination, or treatment may be 684 performed by any qualified person authorized by the State Health 685 Officer.

686 b. If the individual poses a danger to the public health, 687 the State Health Officer may subject the individual to isolation or quarantine. If there is no practical method to isolate or 688 689 quarantine the individual, the State Health Officer may use any 690 means necessary to vaccinate or treat the individual.

692 Any order of the State Health Officer given to effectuate this 693 paragraph shall be immediately enforceable by a law enforcement 694 officer under s. 381.0012.

Section 16. Subsection (3) of section 381.00593, Florida 696 Statutes, is amended to read:

381.00593 Public school volunteer health care practitioner program.-

699 (3) For purposes of this section, the term "health care 700 practitioner" means a physician licensed under chapter 458; an 701 osteopathic physician licensed under chapter 459; a chiropractic 702 physician licensed under chapter 460; a podiatric physician 703 licensed under chapter 461; an optometrist licensed under 704 chapter 463; an advanced practice registered nurse advanced 705 registered nurse practitioner, registered nurse, or licensed 706 practical nurse licensed under part I of chapter 464; a

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707 pharmacist licensed under chapter 465; a dentist or dental 708 hygienist licensed under chapter 466; a midwife licensed under 709 chapter 467; a speech-language pathologist or audiologist 710 licensed under part I of chapter 468; a dietitian/nutritionist 711 licensed under part X of chapter 468; or a physical therapist 712 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.-

717 (1) SCREENING REQUIREMENTS.-To help ensure access to the 718 maternal and child health care system, the Department of Health 719 shall promote the screening of all newborns born in Florida for 720 metabolic, hereditary, and congenital disorders known to result 721 in significant impairment of health or intellect, as screening 722 programs accepted by current medical practice become available 723 and practical in the judgment of the department. The department 724 shall also promote the identification and screening of all 725 newborns in this state and their families for environmental risk 726 factors such as low income, poor education, maternal and family 727 stress, emotional instability, substance abuse, and other highrisk conditions associated with increased risk of infant 728 729 mortality and morbidity to provide early intervention, 730 remediation, and prevention services, including, but not limited 731 to, parent support and training programs, home visitation, and 732 case management. Identification, perinatal screening, and 733 intervention efforts shall begin prior to and immediately 734 following the birth of the child by the attending health care 735 provider. Such efforts shall be conducted in hospitals,



736 perinatal centers, county health departments, school health 737 programs that provide prenatal care, and birthing centers, and 738 reported to the Office of Vital Statistics.

739 (c) Release of screening results.-Notwithstanding any law 740 to the contrary, the State Public Health Laboratory may release, 741 directly or through the Children's Medical Services program, the 742 results of a newborn's hearing and metabolic tests or screenings 743 to the newborn's health care practitioner, the newborn's parent or legal guardian, the newborn's personal representative, or a 744 person designated by the newborn's parent or legal guardian. As 745 746 used in this paragraph, the term "health care practitioner" 747 means a physician or physician assistant licensed under chapter 748 458; an osteopathic physician or physician assistant licensed 749 under chapter 459; an advanced practice registered nurse 750 advanced registered nurse practitioner, registered nurse, or 751 licensed practical nurse licensed under part I of chapter 464; a 752 midwife licensed under chapter 467; a speech-language 753 pathologist or audiologist licensed under part I of chapter 468; 754 or a dietician or nutritionist licensed under part X of chapter 755 468.

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.-

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(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 <u>advanced</u> practice registered nurse licensed <del>advanced registered nurse</del>

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765 practitioner certified under chapter 464. 766 Section 19. Paragraph (a) of subsection (7) of section 767 384.27, Florida Statutes, is amended to read: 768 384.27 Physical examination and treatment.-769 (7) (a) A health care practitioner licensed under chapter 770 458, or chapter 459, or certified under s. 464.012 may provide 771 expedited partner therapy if the following requirements are met: 772 1. The patient has a laboratory-confirmed or suspected 773 clinical diagnosis of a sexually transmissible disease. 774 2. The patient indicates that he or she has a partner with whom he or she engaged in sexual activity before the diagnosis 775 776 of the sexually transmissible disease. 777 3. The patient indicates that his or her partner is unable 778 or unlikely to seek clinical services in a timely manner. 779 Section 20. Paragraph (a) of subsection (3) of section 780 390.0111, Florida Statutes, is amended to read: 781 390.0111 Termination of pregnancies.-782 (3) CONSENTS REQUIRED.-A termination of pregnancy may not 783 be performed or induced except with the voluntary and informed 784 written consent of the pregnant woman or, in the case of a 785 mental incompetent, the voluntary and informed written consent 786 of her court-appointed guardian. (a) Except in the case of a medical emergency, consent to a 787 788 termination of pregnancy is voluntary and informed only if: 789 1. The physician who is to perform the procedure, or the 790 referring physician, has, at a minimum, orally, while physically 791 present in the same room, and at least 24 hours before the 792 procedure, informed the woman of: 793 a. The nature and risks of undergoing or not undergoing the

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794 proposed procedure that a reasonable patient would consider 795 material to making a knowing and willful decision of whether to 796 terminate a pregnancy.

797 b. The probable gestational age of the fetus, verified by
798 an ultrasound, at the time the termination of pregnancy is to be
799 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.

805 (II) The person performing the ultrasound must offer the 806 woman the opportunity to view the live ultrasound images and 807 hear an explanation of them. If the woman accepts the 808 opportunity to view the images and hear the explanation, a 809 physician or a registered nurse, licensed practical nurse, 810 advanced practice registered nurse advanced registered nurse 811 practitioner, or physician assistant working in conjunction with 812 the physician must contemporaneously review and explain the 813 images to the woman before the woman gives informed consent to 814 having an abortion procedure performed.

815 (III) The woman has a right to decline to view and hear the 816 explanation of the live ultrasound images after she is informed 817 of her right and offered an opportunity to view the images and 818 hear the explanation. If the woman declines, the woman shall 819 complete a form acknowledging that she was offered an 820 opportunity to view and hear the explanation of the images but 821 that she declined that opportunity. The form must also indicate 822 that the woman's decision was not based on any undue influence

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823 from any person to discourage her from viewing the images or 824 hearing the explanation and that she declined of her own free 825 will.

826 (IV) Unless requested by the woman, the person performing 827 the ultrasound may not offer the opportunity to view the images 828 and hear the explanation and the explanation may not be given 829 if, at the time the woman schedules or arrives for her 830 appointment to obtain an abortion, a copy of a restraining 831 order, police report, medical record, or other court order or 832 documentation is presented which provides evidence that the 833 woman is obtaining the abortion because the woman is a victim of 834 rape, incest, domestic violence, or human trafficking or that 835 the woman has been diagnosed as having a condition that, on the 836 basis of a physician's good faith clinical judgment, would 837 create a serious risk of substantial and irreversible impairment 838 of a major bodily function if the woman delayed terminating her 839 pregnancy.

840 c. The medical risks to the woman and fetus of carrying the 841 pregnancy to term.

843 The physician may provide the information required in this 844 subparagraph within 24 hours before the procedure if requested 845 by the woman at the time she schedules or arrives for her appointment to obtain an abortion and if she presents to the 846 847 physician a copy of a restraining order, police report, medical 848 record, or other court order or documentation evidencing that 849 she is obtaining the abortion because she is a victim of rape, 850 incest, domestic violence, or human trafficking.

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2. Printed materials prepared and provided by the

COMMITTEE AMENDMENT

Florida Senate - 2018 Bill No. SB 1594



852	department have been provided to the pregnant woman, if she
853	chooses to view these materials, including:
854	a. A description of the fetus, including a description of
855	the various stages of development.
856	b. A list of entities that offer alternatives to
857	terminating the pregnancy.
858	c. Detailed information on the availability of medical
859	assistance benefits for prenatal care, childbirth, and neonatal
860	care.
861	3. The woman acknowledges in writing, before the
862	termination of pregnancy, that the information required to be
863	provided under this subsection has been provided.
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865	Nothing in this paragraph is intended to prohibit a physician
866	from providing any additional information which the physician
867	deems material to the woman's informed decision to terminate her
868	pregnancy.
869	Section 21. Paragraphs (c), (e), and (f) of subsection (3)
870	of section 390.012, Florida Statutes, are amended to read:
871	390.012 Powers of agency; rules; disposal of fetal
872	remains
873	(3) For clinics that perform or claim to perform abortions
874	after the first trimester of pregnancy, the agency shall adopt
875	rules pursuant to ss. 120.536(1) and 120.54 to implement the
876	provisions of this chapter, including the following:
877	(c) Rules relating to abortion clinic personnel. At a
878	minimum, these rules shall require that:
879	1. The abortion clinic designate a medical director who is
880	licensed to practice medicine in this state, and all physicians

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881 who perform abortions in the clinic have admitting privileges at 882 a hospital within reasonable proximity to the clinic, unless the 883 clinic has a written patient transfer agreement with a hospital 884 within reasonable proximity to the clinic which includes the 885 transfer of the patient's medical records held by both the 886 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, <u>advanced practice registered nurse</u> <del>advanced registered</del> <del>nurse practitioner</del>, or physician assistant is available to all patients throughout the abortion procedure.

907 2. Standards for the safe conduct of abortion procedures
908 that conform to obstetric standards in keeping with established
909 standards of care regarding the estimation of fetal age as

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925 926 3. Appropriate use of general and local anesthesia, analgesia, and sedation if ordered by the physician.

913 4. Appropriate precautions, such as the establishment of
914 intravenous access at least for patients undergoing post-first
915 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:

 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.

927 3. A registered nurse, licensed practical nurse, <u>advanced</u> 928 <u>practice registered nurse</u> advanced registered nurse 929 <del>practitioner</del>, or physician assistant who is trained in the 930 management of the recovery area and is capable of providing 931 basic cardiopulmonary resuscitation and related emergency 932 procedures remain on the premises of the abortion clinic until 933 all patients are discharged.

934 4. A physician sign the discharge order and be readily
935 accessible and available until the last patient is discharged to
936 facilitate the transfer of emergency cases if hospitalization of
937 the patient or viable fetus is necessary.

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5. A physician discuss Rho(D) immune globulin with each



939 patient for whom it is indicated and ensure that it is offered 940 to the patient in the immediate postoperative period or will be 941 available to her within 72 hours after completion of the 942 abortion procedure. If the patient refuses the Rho(D) immune 943 globulin, she and a witness must sign a refusal form approved by 944 the agency which must be included in the medical record.

945 6. Written instructions with regard to postabortion coitus, 946 signs of possible problems, and general aftercare which are 947 specific to the patient be given to each patient. The 948 instructions must include information regarding access to 949 medical care for complications, including a telephone number for 950 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, <u>advanced practice</u> <u>registered nurse</u> 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.

960 9. Equipment and services be readily accessible to provide 961 appropriate emergency resuscitative and life support procedures 962 pending the transfer of the patient or viable fetus to the 963 hospital.

964 Section 22. Subsections (35) and (44) of section 394.455, 965 Florida Statutes, are amended to read:

394.455 Definitions.—As used in this part, the term: (35) "Psychiatric nurse" means an <u>advanced practice</u>

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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.

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.-

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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997 (b) An advanced practice registered nurse advanced 998 registered nurse practitioner who is certified as a registered nurse anesthetist licensed under part I of chapter 464 shall 999 administer anesthesia under the onsite medical direction of a 1000 1001 professional licensed under chapter 458, chapter 459, or chapter 1002 466, and in accordance with an established protocol approved by 1003 the medical staff. The medical direction shall specifically 1004 address the needs of the individual patient.

1005 (4) Nothing herein shall restrict in any way the authority 1006 of the medical staff of a licensed facility to review for 1007 approval or disapproval all applications for appointment and 1008 reappointment to all categories of staff and to make 1009 recommendations on each applicant to the governing board, 1010 including the delineation of privileges to be granted in each 1011 case. In making such recommendations and in the delineation of 1012 privileges, each applicant shall be considered individually 1013 pursuant to criteria for a doctor licensed under chapter 458, 1014 chapter 459, chapter 461, or chapter 466, or for an advanced 1015 practice registered nurse advanced registered nurse practitioner 1016 licensed and certified under part I of chapter 464, or for a 1017 psychologist licensed under chapter 490, as applicable. The 1018 applicant's eligibility for staff membership or clinical 1019 privileges shall be determined by the applicant's background, experience, health, training, and demonstrated competency; the 1020 1021 applicant's adherence to applicable professional ethics; the 1022 applicant's reputation; and the applicant's ability to work with 1023 others and by such other elements as determined by the governing 1024 board, consistent with this part.

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Section 24. Subsection (34) of section 397.311, Florida

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1026 Statutes, is amended to read:

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397.311 Definitions.—As used in this chapter, except part VIII, the term:

1029 (34) "Qualified professional" means a physician or a 1030 physician assistant licensed under chapter 458 or chapter 459; a 1031 professional licensed under chapter 490 or chapter 491; an 1032 advanced practice registered nurse advanced registered nurse 1033 practitioner licensed under part I of chapter 464; or a person 1034 who is certified through a department-recognized certification 1035 process for substance abuse treatment services and who holds, at 1036 a minimum, a bachelor's degree. A person who is certified in 1037 substance abuse treatment services by a state-recognized 1038 certification process in another state at the time of employment 1039 with a licensed substance abuse provider in this state may 1040 perform the functions of a qualified professional as defined in 1041 this chapter but must meet certification requirements contained 1042 in this subsection no later than 1 year after his or her date of 1043 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:

1048 (1) A hospital or hospital-based component licensed under 1049 chapter 395.

(2) A nursing home facility as defined in s. 400.021.

1051 (3) A substance abuse education program established1052 pursuant to s. 1003.42.

1053 (4) A facility or institution operated by the Federal 1054 Government.

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(5) A physician or physician assistant licensed underchapter 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.

2 The exemptions from licensure in this section do not apply to 3 any service provider that receives an appropriation, grant, or

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1084 contract from the state to operate as a service provider as 1085 defined in this chapter or to any substance abuse program regulated pursuant to s. 397.4014. Furthermore, this chapter may 1086 1087 not be construed to limit the practice of a physician or 1088 physician assistant licensed under chapter 458 or chapter 459, a 1089 psychologist licensed under chapter 490, a psychotherapist 1090 licensed under chapter 491, or an advanced practice registered 1091 nurse advanced registered nurse practitioner licensed under part 1092 I of chapter 464, who provides substance abuse treatment, so 1093 long as the physician, physician assistant, psychologist, 1094 psychotherapist, or advanced practice registered nurse advanced 1095 registered nurse practitioner does not represent to the public 1096 that he or she is a licensed service provider and does not 1097 provide services to individuals pursuant to part V of this 1098 chapter. Failure to comply with any requirement necessary to 1099 maintain an exempt status under this section is a misdemeanor of 1100 the first degree, punishable as provided in s. 775.082 or s. 1101 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 <u>advanced practice registered nurse</u> <del>advanced</del> <del>registered nurse practitioner</del>, 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:

(a) The medication-assisted treatment program for opiate addiction has an appropriate valid permit issued pursuant to 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, <u>advanced practice registered nurse</u> <del>advanced registered</del> nurse practitioner</del>, 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, <u>advanced practice</u> <u>registered nurse</u> <del>advanced registered nurse</del> practitioner, or licensed practical nurse. Such protocols shall be signed by the supervising physician and either the administering registered nurse, the <u>advanced practice registered nurse</u> <del>advanced</del> <del>registered nurse practitioner</del>, 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

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1142 accordance with the board. (7) A physician assistant, a registered nurse, an advanced 1143 1144 practice registered nurse advanced registered nurse 1145 practitioner, or a licensed practical nurse working for a 1146 licensed service provider may deliver medication as prescribed 1147 by rule if: (a) The service provider is authorized to provide 1148 1149 medication-assisted treatment; 1150 (b) The medication has been administered pursuant to a 1151 valid prescription written by the program's physician who is 1152 licensed under chapter 458 or chapter 459; and 1153 (c) The medication ordered appears on a formulary or meets 1154 federal requirements for medication-assisted treatment. 1155 (8) Each licensed service provider that provides 1156 medication-assisted treatment must adopt written protocols as 1157 specified by the department and in accordance with federally 1158 required rules, regulations, or procedures. The protocol shall 1159 provide for the supervision of the physician assistant, 1160 registered nurse, advanced practice registered nurse advanced 1161 registered nurse practitioner, or licensed practical nurse 1162 working under the supervision of a physician who is licensed 1163 under chapter 458 or chapter 459. The protocol must specify how 1164 the medication will be used in conjunction with counseling or 1165 psychosocial treatment and that the services provided will be 1166 included on the treatment plan. The protocol must specify the 1167 procedures by which medication-assisted treatment may be 1168 administered by the physician assistant, registered nurse, advanced practice registered nurse advanced registered nurse 1169 practitioner, or licensed practical nurse. These protocols shall 1170

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1171 be signed by the supervising physician and the administering 1172 physician assistant, registered nurse, <u>advanced practice</u> 1173 <u>registered nurse</u> <del>advanced registered nurse practitioner</del>, or 1174 licensed practical nurse.

1175 Section 27. Section 397.679, Florida Statutes, is amended 1176 to read:

1177 397.679 Emergency admission; circumstances justifying.-A 1178 person who meets the criteria for involuntary admission in s. 1179 397.675 may be admitted to a hospital or to a licensed 1180 detoxification facility or addictions receiving facility for 1181 emergency assessment and stabilization, or to a less intensive 1182 component of a licensed service provider for assessment only, 1183 upon receipt by the facility of a certificate by a physician, an 1184 advanced practice registered nurse advanced registered nurse 1185 practitioner, a psychiatric nurse, a clinical psychologist, a 1186 clinical social worker, a marriage and family therapist, a 1187 mental health counselor, a physician assistant working under the scope of practice of the supervising physician, or a master's-1188 1189 level-certified addictions professional for substance abuse 1190 services, if the certificate is specific to substance abuse 1191 impairment, and the completion of an application for emergency 1192 admission.

1193 Section 28. Subsection (1) of section 397.6793, Florida
1194 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 <u>advanced practice registered</u>

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1200 nurse advanced registered nurse practitioner, a mental health 1201 counselor, a marriage and family therapist, a master's-level-1202 certified addictions professional for substance abuse services, 1203 or a clinical social worker may execute a professional's 1204 certificate for emergency admission. The professional's 1205 certificate must include the name of the person to be admitted, 1206 the relationship between the person and the professional 1207 executing the certificate, the relationship between the 1208 applicant and the professional, any relationship between the 1209 professional and the licensed service provider, a statement that 1210 the person has been examined and assessed within the preceding 5 1211 days after the application date, and factual allegations with 1212 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

1218 (c)1. The reason for the belief that, without care or 1219 treatment, the person is likely to suffer from neglect or refuse 1220 to care for himself or herself; that such neglect or refusal 1221 poses a real and present threat of substantial harm to his or 1222 her well-being; and that it is not apparent that such harm may 1223 be avoided through the help of willing family members or friends 1224 or the provision of other services, or there is substantial 1225 likelihood that the person has inflicted or, unless admitted, is 1226 likely to inflict, physical harm on himself, herself, or 1227 another; or

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2. The reason for the belief that the person's refusal to

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1229	voluntarily receive care is based on judgment so impaired by
1230	reason of substance abuse that the person is incapable of
1231	appreciating his or her need for care and of making a rational
1232	decision regarding his or her need for care.
1233	Section 29. Subsection (8) of section 400.021, Florida
1234	Statutes, is amended to read:
1235	400.021 DefinitionsWhen used in this part, unless the
1236	context otherwise requires, the term:
1237	(8) "Geriatric outpatient clinic" means a site for
1238	providing outpatient health care to persons 60 years of age or
1239	older, which is staffed by a registered nurse, a physician
1240	assistant, or a licensed practical nurse under the direct
1241	supervision of a registered nurse, advanced practice registered
1242	nurse advanced registered nurse practitioner, physician
1243	assistant, or physician.
1244	Section 30. Subsection (3) of section 400.462, Florida
1245	Statutes, is amended to read:
1246	400.462 Definitions.—As used in this part, the term:
1247	(3) <u>"Advanced practice registered nurse"</u> "Advanced
1248	registered nurse practitioner" means a person licensed in this
1249	state to practice professional nursing and certified in advanced
1250	or specialized nursing practice, as defined in s. 464.003.
1251	Section 31. Section 400.487, Florida Statutes, is amended
1252	to read:
1253	400.487 Home health service agreements; physician's,
1254	physician assistant's, and <u>advanced practice registered nurse's</u>
1255	advanced registered nurse practitioner's treatment orders;
1256	patient assessment; establishment and review of plan of care;

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provision of services; orders not to resuscitate.-

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1258 (1) Services provided by a home health agency must be 1259 covered by an agreement between the home health agency and the patient or the patient's legal representative specifying the 1260 1261 home health services to be provided, the rates or charges for 1262 services paid with private funds, and the sources of payment, 1263 which may include Medicare, Medicaid, private insurance, personal funds, or a combination thereof. A home health agency 1264 1265 providing skilled care must make an assessment of the patient's 1266 needs within 48 hours after the start of services. 1267 (2) When required by the provisions of chapter 464; part I, 1268 part III, or part V of chapter 468; or chapter 486, the 1269 attending physician, physician assistant, or advanced practice 1270 registered nurse advanced registered nurse practitioner, acting 1271 within his or her respective scope of practice, shall establish 1272 treatment orders for a patient who is to receive skilled care. 1273 The treatment orders must be signed by the physician, physician 1274 assistant, or advanced practice registered nurse advanced 1275 registered nurse practitioner before a claim for payment for the 1276 skilled services is submitted by the home health agency. If the 1277 claim is submitted to a managed care organization, the treatment 1278 orders must be signed within the time allowed under the provider 1279 agreement. The treatment orders shall be reviewed, as frequently 1280 as the patient's illness requires, by the physician, physician 1281 assistant, or advanced practice registered nurse advanced 1282 registered nurse practitioner in consultation with the home 1283 health agency. 1284 (3) A home health agency shall arrange for supervisory

1284 (3) A nome health agency shall alrange for supervisory 1285 visits by a registered nurse to the home of a patient receiving 1286 home health aide services in accordance with the patient's



1287 direction, approval, and agreement to pay the charge for the 1288 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.

1294 (5) When nursing services are ordered, the home health 1295 agency to which a patient has been admitted for care must 1296 provide the initial admission visit, all service evaluation 1297 visits, and the discharge visit by a direct employee. Services 1298 provided by others under contractual arrangements to a home 1299 health agency must be monitored and managed by the admitting 1300 home health agency. The admitting home health agency is fully 1301 responsible for ensuring that all care provided through its employees or contract staff is delivered in accordance with this 1302 1303 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.

1307 (7) Home health agency personnel may withhold or withdraw 1308 cardiopulmonary resuscitation if presented with an order not to 1309 resuscitate executed pursuant to s. 401.45. The agency shall 1310 adopt rules providing for the implementation of such orders. 1311 Home health personnel and agencies shall not be subject to 1312 criminal prosecution or civil liability, nor be considered to 1313 have engaged in negligent or unprofessional conduct, for withholding or withdrawing cardiopulmonary resuscitation 1314 1315 pursuant to such an order and rules adopted by the agency.

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1316 Section 32. Paragraph (a) of subsection (13) of section1317 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:

1323 (a) When, in accordance with the privileges and 1324 restrictions imposed upon a nurse under part I of chapter 464, 1325 the delivery of care to a patient is under the direction or 1326 supervision of a physician or when a physician is responsible 1327 for the medical care of the patient, a medical plan of treatment 1328 must be established for each patient receiving care or treatment 1329 provided by a licensed nurse in the home. The original medical 1330 plan of treatment must be timely signed by the physician, 1331 physician assistant, or advanced practice registered nurse 1332 advanced registered nurse practitioner, acting within his or her 1333 respective scope of practice, and reviewed in consultation with 1334 the licensed nurse at least every 2 months. Any additional order 1335 or change in orders must be obtained from the physician, 1336 physician assistant, or advanced practice registered nurse 1337 advanced registered nurse practitioner and reduced to writing 1338 and timely signed by the physician, physician assistant, or 1339 advanced practice registered nurse advanced registered nurse 1340 practitioner. The delivery of care under a medical plan of 1341 treatment must be substantiated by the appropriate nursing notes 1342 or documentation made by the nurse in compliance with nursing practices established under part I of chapter 464. 1343 Section 33. Subsections (5) and (7) of section 400.9973, 1344

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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 <u>advanced practice registered nurse</u> <del>advanced registered nurse practitioner</del> and must remain under the care of a licensed physician, physician assistant, or <u>advanced</u> <u>practice registered nurse</u> <del>advanced registered nurse practitioner</del> 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, <u>advanced</u> <u>practice registered nurse</u>, or <u>advanced registered nurse</u> <u>practitioner</u> 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:

71 400.9974 Client comprehensive treatment plans; client 72 services.-

(1) A transitional living facility shall develop a

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1374 comprehensive treatment plan for each client as soon as 1375 practicable but no later than 30 days after the initial 1376 comprehensive treatment plan is developed. The comprehensive 1377 treatment plan must be developed by an interdisciplinary team 1378 consisting of the case manager, the program director, the advanced practice registered nurse advanced registered nurse 1379 1380 practitioner, and appropriate therapists. The client or, if 1381 appropriate, the client's representative must be included in 1382 developing the comprehensive treatment plan. The comprehensive 1383 treatment plan must be reviewed and updated if the client fails 1384 to meet projected improvements outlined in the plan or if a 1385 significant change in the client's condition occurs. The 1386 comprehensive treatment plan must be reviewed and updated at 1387 least once monthly.

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1401 1402 (2) The comprehensive treatment plan must include:

 (a) Orders obtained from the physician, physician
 assistant, or <u>advanced practice registered nurse</u> <del>advanced</del> registered nurse practitioner</del> 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 <u>advanced practice registered nurse</u> <del>advanced registered nurse</del> <del>practitioner</del>, which shall be completed when the client is admitted.

1399 Section 35. Section 400.9976, Florida Statutes, is amended 1400 to read:

400.9976 Administration of medication.-

(1) An individual medication administration record must be



1403 maintained for each client. A dose of medication, including a 1404 self-administered dose, shall be properly recorded in the client's record. A client who self-administers medication shall 1405 1406 be given a pill organizer. Medication must be placed in the pill 1407 organizer by a nurse. A nurse shall document the date and time 1408 that medication is placed into each client's pill organizer. All 1409 medications must be administered in compliance with orders of a 1410 physician, physician assistant, or advanced practice registered 1411 nurse advanced registered nurse practitioner.

1412 (2) If an interdisciplinary team determines that self-1413 administration of medication is an appropriate objective, and if 1414 the physician, physician assistant, or advanced practice 1415 registered nurse advanced registered nurse practitioner does not 1416 specify otherwise, the client must be instructed by the 1417 physician, physician assistant, or advanced practice registered 1418 nurse advanced registered nurse practitioner to self-administer 1419 his or her medication without the assistance of a staff person. 1420 All forms of self-administration of medication, including 1421 administration orally, by injection, and by suppository, shall 1422 be included in the training. The client's physician, physician 1423 assistant, or advanced practice registered nurse advanced 1424 registered nurse practitioner must be informed of the 1425 interdisciplinary team's decision that self-administration of 1426 medication is an objective for the client. A client may not 1427 self-administer medication until he or she demonstrates the 1428 competency to take the correct medication in the correct dosage 1429 at the correct time, to respond to missed doses, and to contact the appropriate person with questions. 1430

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(3) Medication administration discrepancies and adverse



1432 drug reactions must be recorded and reported immediately to a 1433 physician, physician assistant, or <u>advanced practice registered</u> 1434 <u>nurse</u> 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 <u>advanced</u> <u>practice registered nurse</u> <del>advanced registered nurse practitioner</del> 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 <u>advanced practice registered nurse</u> <del>advanced registered nurse practitioner</del> 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 <u>advanced practice registered nurse</u> <del>advanced</del>
<del>registered nurse practitioner</del>, 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 <u>advanced</u>
<u>practice registered nurse</u> <del>advanced registered nurse practitioner</del>
may issue an emergency treatment order to immediately administer



1461 rapid-response psychotropic medications or other chemical 1462 restraints. Each emergency treatment order must be documented 1463 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.

1471 (5) A client who is prescribed and receives a medication 1472 that can serve as a chemical restraint for a purpose other than 1473 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 1476 assess:

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(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 1484 1485 against any emergency medical technician, paramedic, or physician as defined in this chapter, any advanced practice 1486 1487 registered nurse licensed advanced registered nurse practitioner certified under s. 464.012, or any physician assistant licensed 1488 under s. 458.347 or s. 459.022, or any person acting under the 1489

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1490 direct medical supervision of a physician, in an action brought 1491 for examining or treating a patient without his or her informed 1492 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;

1497 (b) The patient at the time of examination or treatment is1498 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, <u>advanced practice registered nurse</u> 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.

1511 (2) In examining and treating a person who is apparently 1512 intoxicated, under the influence of drugs, or otherwise 1513 incapable of providing informed consent, the emergency medical 1514 technician, paramedic, physician, advanced practice registered 1515 nurse advanced registered nurse practitioner, or physician 1516 assistant, or any person acting under the direct medical supervision of a physician, shall proceed wherever possible with 1517 the consent of the person. If the person reasonably appears to 1518

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1519 be incapacitated and refuses his or her consent, the person may 1520 be examined, treated, or taken to a hospital or other appropriate treatment resource if he or she is in need of 1521 1522 emergency attention, without his or her consent, but 1523 unreasonable force shall not be used. 1524 Section 38. Subsection (1) of section 409.905, Florida 1525 Statutes, is amended to read: 1526 409.905 Mandatory Medicaid services.-The agency may make 1527 payments for the following services, which are required of the 1528 state by Title XIX of the Social Security Act, furnished by 1529 Medicaid providers to recipients who are determined to be 1530 eligible on the dates on which the services were provided. Any 1531 service under this section shall be provided only when medically 1532 necessary and in accordance with state and federal law. 1533 Mandatory services rendered by providers in mobile units to 1534 Medicaid recipients may be restricted by the agency. Nothing in 1535 this section shall be construed to prevent or limit the agency 1536 from adjusting fees, reimbursement rates, lengths of stay, 1537 number of visits, number of services, or any other adjustments 1538 necessary to comply with the availability of moneys and any 1539 limitations or directions provided for in the General 1540 Appropriations Act or chapter 216. 1541 (1) ADVANCED PRACTICE REGISTERED NURSE ADVANCED REGISTERED 1542 NURSE PRACTITIONER SERVICES. - The agency shall pay for services 1543 provided to a recipient by a licensed advanced practice 1544 registered nurse advanced registered nurse practitioner who has 1545 a valid collaboration agreement with a licensed physician on file with the Department of Health or who provides anesthesia 1546

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services in accordance with established protocol required by

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1548 state law and approved by the medical staff of the facility in 1549 which the anesthetic service is performed. Reimbursement for 1550 such services must be provided in an amount that equals not less 1551 than 80 percent of the reimbursement to a physician who provides 1552 the same services, unless otherwise provided for in the General 1553 Appropriations Act.

Section 39. Paragraph (a) of subsection (3) and subsection (7) of section 409.908, Florida Statutes, are amended to read:

1556 409.908 Reimbursement of Medicaid providers.-Subject to 1557 specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according 1558 1559 to methodologies set forth in the rules of the agency and in 1560 policy manuals and handbooks incorporated by reference therein. 1561 These methodologies may include fee schedules, reimbursement 1562 methods based on cost reporting, negotiated fees, competitive 1563 bidding pursuant to s. 287.057, and other mechanisms the agency 1564 considers efficient and effective for purchasing services or 1565 goods on behalf of recipients. If a provider is reimbursed based 1566 on cost reporting and submits a cost report late and that cost 1567 report would have been used to set a lower reimbursement rate 1568 for a rate semester, then the provider's rate for that semester 1569 shall be retroactively calculated using the new cost report, and 1570 full payment at the recalculated rate shall be effected 1571 retroactively. Medicare-granted extensions for filing cost 1572 reports, if applicable, shall also apply to Medicaid cost 1573 reports. Payment for Medicaid compensable services made on 1574 behalf of Medicaid eligible persons is subject to the 1575 availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. 1576

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1577 Further, nothing in this section shall be construed to prevent 1578 or limit the agency from adjusting fees, reimbursement rates, 1579 lengths of stay, number of visits, or number of services, or 1580 making any other adjustments necessary to comply with the 1581 availability of moneys and any limitations or directions 1582 provided for in the General Appropriations Act, provided the 1583 adjustment is consistent with legislative intent.

1584 (3) Subject to any limitations or directions provided for 1585 in the General Appropriations Act, the following Medicaid 1586 services and goods may be reimbursed on a fee-for-service basis. 1587 For each allowable service or goods furnished in accordance with 1588 Medicaid rules, policy manuals, handbooks, and state and federal 1589 law, the payment shall be the amount billed by the provider, the 1590 provider's usual and customary charge, or the maximum allowable 1591 fee established by the agency, whichever amount is less, with the exception of those services or goods for which the agency 1592 1593 makes payment using a methodology based on capitation rates, 1594 average costs, or negotiated fees.

(a) <u>Advanced practice registered nurse</u> 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 <u>advanced practice registered nurses</u> <del>advanced registered nurse</del> <del>practitioners</del>, 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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1606	minimum, the following services:
1607	(a) Advanced practice registered nurse Advanced registered
1608	nurse practitioner services.
1609	Section 41. Section 1 of chapter 2016-109, Laws of
1610	Florida, is amended to read:
1611	Section 1. Effective March 1, 2019, subsection (1) of
1612	section 409.973, Florida Statutes, is amended to read:
1613	409.973 Benefits
1614	(1) MINIMUM BENEFITSManaged care plans shall cover, at a
1615	minimum, the following services:
1616	(a) Advanced practice registered nurse Advanced registered
1617	nurse practitioner services.
1618	(b) Ambulatory surgical treatment center services.
1619	(c) Birthing center services.
1620	(d) Chiropractic services.
1621	(e) Early periodic screening diagnosis and treatment
1622	services for recipients under age 21.
1623	(f) Emergency services.
1624	(g) Family planning services and supplies. Pursuant to 42
1625	C.F.R. s. 438.102, plans may elect to not provide these services
1626	due to an objection on moral or religious grounds, and must
1627	notify the agency of that election when submitting a reply to an
1628	invitation to negotiate.
1629	(h) Healthy start services, except as provided in s.
1630	409.975(4).
1631	(i) Hearing services.
1632	(j) Home health agency services.
1633	(k) Hospice services.
1634	(1) Hospital inpatient services.

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1635	(m) Hospital outpatient services.
1636	(n) Laboratory and imaging services.
1637	(o) Medical supplies, equipment, prostheses, and orthoses.
1638	(p) Mental health services.
1639	(q) Nursing care.
1640	(r) Optical services and supplies.
1641	(s) Optometrist services.
1642	(t) Physical, occupational, respiratory, and speech therapy
1643	services.
1644	(u) Physician services, including physician assistant
1645	services.
1646	(v) Podiatric services.
1647	(w) Prescription drugs.
1648	(x) Renal dialysis services.
1649	(y) Respiratory equipment and supplies.
1650	(z) Rural health clinic services.
1651	(aa) Substance abuse treatment services.
1652	(bb) Transportation to access covered services.
1653	Section 42. Paragraph (a) of subsection (2) and paragraph
1654	(a) of subsection (7) of section 429.918, Florida Statutes, are
1655	amended to read:
1656	429.918 Licensure designation as a specialized Alzheimer's
1657	services adult day care center
1658	(2) As used in this section, the term:
1659	(a) "ADRD participant" means a participant who has a
1660	documented diagnosis of Alzheimer's disease or a dementia-
1661	related disorder (ADRD) from a licensed physician, licensed
1662	physician assistant, or a licensed advanced practice registered
1663	nurse advanced registered nurse practitioner.

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1664 (7) (a) An ADRD participant admitted to an adult day care 1665 center having a license designated under this section, or the 1666 caregiver when applicable, must: 1667 1. Require ongoing supervision to maintain the highest 1668 level of medical or custodial functioning and have a 1669 demonstrated need for a responsible party to oversee his or her 1670 care. 1671 2. Not actively demonstrate aggressive behavior that places 1672 himself, herself, or others at risk of harm. 1673 3. Provide the following medical documentation signed by a 1674 licensed physician, licensed physician assistant, or a licensed 1675 advanced practice registered nurse advanced registered nurse 1676 practitioner: 1677 a. Any physical, health, or emotional conditions that 1678 require medical care. b. A listing of the ADRD participant's current prescribed 1679 1680 and over-the-counter medications and dosages, diet restrictions, 1681 mobility restrictions, and other physical limitations. 1682 4. Provide documentation signed by a health care provider 1683 licensed in this state which indicates that the ADRD participant 1684 is free of the communicable form of tuberculosis and free of 1685 signs and symptoms of other communicable diseases. 1686 Section 43. Section 456.0391, Florida Statutes, is amended to read: 1687 1688 456.0391 Advanced practice registered nurses Advanced 1689 registered nurse practitioners; information required for

licensure certification.-

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1691 (1)(a) Each person who applies for initial <u>licensure</u> 1692 <del>certification</del> under s. 464.012 must, at the time of application,

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and each person <u>licensed</u> <del>certified</del> under s. 464.012 who applies for <u>licensure</u> <del>certification</del> renewal must, in conjunction with the renewal of such <u>licensure</u> <del>certification</del> 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:

1699 1. The name of each school or training program that the 1700 applicant has attended, with the months and years of attendance 1701 and the month and year of graduation, and a description of all 1702 graduate professional education completed by the applicant, 1703 excluding any coursework taken to satisfy continuing education 1704 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 <u>or licensure</u> 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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1722 7. A description of any criminal offense of which the 1723 applicant has been found quilty, regardless of whether 1724 adjudication of guilt was withheld, or to which the applicant 1725 has pled quilty or nolo contendere. A criminal offense committed 1726 in another jurisdiction which would have been a felony or 1727 misdemeanor if committed in this state must be reported. If the 1728 applicant indicates that a criminal offense is under appeal and 1729 submits a copy of the notice for appeal of that criminal 1730 offense, the department must state that the criminal offense is 1731 under appeal if the criminal offense is reported in the 1732 applicant's profile. If the applicant indicates to the 1733 department that a criminal offense is under appeal, the 1734 applicant must, within 15 days after the disposition of the 1735 appeal, submit to the department a copy of the final written 1736 order of disposition. 1737 8. A description of any final disciplinary action taken 1738 within the previous 10 years against the applicant by a 1739 licensing or regulatory body in any jurisdiction, by a specialty 1740 board that is recognized by the board or department, or by a 1741 licensed hospital, health maintenance organization, prepaid 1742 health clinic, ambulatory surgical center, or nursing home. 1743 Disciplinary action includes resignation from or nonrenewal of 1744 staff membership or the restriction of privileges at a licensed 1745 hospital, health maintenance organization, prepaid health 1746 clinic, ambulatory surgical center, or nursing home taken in 1747 lieu of or in settlement of a pending disciplinary case related 1748 to competence or character. If the applicant indicates that the disciplinary action is under appeal and submits a copy of the 1749 document initiating an appeal of the disciplinary action, the 1750

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1751 department must state that the disciplinary action is under 1752 appeal if the disciplinary action is reported in the applicant's 1753 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 1767 that information in writing by notifying the Department of Health within 45 days after the occurrence of an event or the 1769 attainment of a status that is required to be reported by subsection (1). Failure to comply with the requirements of this 1771 subsection to update and submit information constitutes a ground 1772 for disciplinary action under chapter 464 and s. 456.072(1)(k). 1773 For failure to comply with the requirements of this subsection to update and submit information, the department or board, as appropriate, may:

1776 (a) Refuse to issue a license certificate to any person 1777 applying for initial licensure certification who fails to submit and update the required information. 1778

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(b) Issue a citation to any certificateholder or licensee



1780 who fails to submit and update the required information and may 1781 fine the certificateholder or licensee up to \$50 for each day that the certificateholder or licensee is not in compliance with 1782 1783 this subsection. The citation must clearly state that the 1784 certificateholder or licensee may choose, in lieu of accepting 1785 the citation, to follow the procedure under s. 456.073. If the 1786 certificateholder or licensee disputes the matter in the 1787 citation, the procedures set forth in s. 456.073 must be 1788 followed. However, if the certificateholder or licensee does not 1789 dispute the matter in the citation with the department within 30 1790 days after the citation is served, the citation becomes a final 1791 order and constitutes discipline. Service of a citation may be 1792 made by personal service or certified mail, restricted delivery, 1793 to the subject at the certificateholder's or licensee's last 1794 known address.

(4) (a) An applicant for initial <u>licensure</u> 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.

1801 (b) An applicant for renewed licensure certification who 1802 has not previously submitted a set of fingerprints to the 1803 Department of Health for purposes of certification must submit a 1804 set of fingerprints to the department as a condition of the 1805 initial renewal of his or her certificate after the effective 1806 date of this section. The applicant must submit the fingerprints on a form and under procedures specified by the department, 1807 1808 along with payment in an amount equal to the costs incurred by



1809 the Department of Health for a national criminal history check. 1810 For subsequent renewals, the applicant for renewed <u>licensure</u> 1811 certification must only submit information necessary to conduct 1812 a statewide criminal history check, along with payment in an 1813 amount equal to the costs incurred by the Department of Health 1814 for a statewide criminal history check.

1815 (c)1. The Department of Health shall submit the
1816 fingerprints provided by an applicant for initial <u>licensure</u>
1817 certification to the Florida Department of Law Enforcement for a
1818 statewide criminal history check, and the Florida Department of
1819 Law Enforcement shall forward the fingerprints to the Federal
1820 Bureau of Investigation for a national criminal history check of
1821 the applicant.

2. The department shall submit the fingerprints provided by an applicant for the initial renewal of <u>licensure</u> 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.

1830 3. For any subsequent renewal of the applicant's 1831 certificate, the department shall submit the required 1832 information for a statewide criminal history check of the 1833 applicant to the Florida Department of Law Enforcement.

(d) Any applicant for initial <u>licensure</u> certification or
renewal of <u>licensure</u> certification as an <u>advanced practice</u>
<u>registered nurse</u> advanced registered nurse practitioner who
submits to the Department of Health a set of fingerprints and

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1838 information required for the criminal history check required 1839 under this section shall not be required to provide a subsequent 1840 set of fingerprints or other duplicate information required for 1841 a criminal history check to the Agency for Health Care 1842 Administration, the Department of Juvenile Justice, or the 1843 Department of Children and Families for employment or licensure with such agency or department, if the applicant has undergone a 1844 1845 criminal history check as a condition of initial licensure 1846 certification or renewal of licensure certification as an 1847 advanced practice registered nurse advanced registered nurse practitioner with the Department of Health, notwithstanding any 1848 1849 other provision of law to the contrary. In lieu of such 1850 duplicate submission, the Agency for Health Care Administration, 1851 the Department of Juvenile Justice, and the Department of 1852 Children and Families shall obtain criminal history information 1853 for employment or licensure of persons licensed certified under 1854 s. 464.012 by such agency or department from the Department of 1855 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:

1860 (a) Information regarding publications in peer-reviewed1861 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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1867 applicant primarily conducts his or her practice. 1868 (d) An indication of whether the person participates in the 1869 Medicaid program. 1870 Section 44. Subsection (2) of section 456.0392, Florida 1871 Statutes, is amended to read: 1872 456.0392 Prescription labeling.-1873 (2) A prescription for a drug that is not listed as a 1874 controlled substance in chapter 893 which is written by an 1875 advanced practice registered nurse licensed advanced registered 1876 nurse practitioner certified under s. 464.012 is presumed, 1877 subject to rebuttal, to be valid and within the parameters of 1878 the prescriptive authority delegated by a practitioner licensed 1879 under chapter 458, chapter 459, or chapter 466. 1880 Section 45. Paragraph (a) of subsection (1) and subsection 1881 (6) of section 456.041, Florida Statutes, are amended to read: 1882 456.041 Practitioner profile; creation.-1883 (1) (a) The Department of Health shall compile the 1884 information submitted pursuant to s. 456.039 into a practitioner 1885 profile of the applicant submitting the information, except that 1886 the Department of Health shall develop a format to compile 1887 uniformly any information submitted under s. 456.039(4)(b). 1888 Beginning July 1, 2001, the Department of Health may compile the 1889 information submitted pursuant to s. 456.0391 into a 1890 practitioner profile of the applicant submitting the 1891 information. The protocol submitted pursuant to s. 464.012(3) 1892 must be included in the practitioner profile of the advanced 1893 practice registered nurse advanced registered nurse 1894 practitioner.

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(6) The Department of Health shall provide in each

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1896 practitioner profile for every physician or <u>advanced practice</u> 1897 <u>registered nurse</u> <del>advanced registered nurse practitioner</del> 1898 terminated for cause from participating in the Medicaid program, 1899 pursuant to s. 409.913, or sanctioned by the Medicaid program a 1900 statement that the practitioner has been terminated from 1901 participating in the Florida Medicaid program or sanctioned by 1902 the Medicaid program.

Section 46. Subsection (1) of section 456.048, Florida Statutes, is amended to read:

1905 456.048 Financial responsibility requirements for certain 1906 health care practitioners.-

1907 (1) As a prerequisite for licensure or license renewal, the 1908 Board of Acupuncture, the Board of Chiropractic Medicine, the 1909 Board of Podiatric Medicine, and the Board of Dentistry shall, 1910 by rule, require that all health care practitioners licensed under the respective board, and the Board of Medicine and the 1911 1912 Board of Osteopathic Medicine shall, by rule, require that all 1913 anesthesiologist assistants licensed pursuant to s. 458.3475 or 1914 s. 459.023, and the Board of Nursing shall, by rule, require 1915 that advanced practice registered nurses licensed advanced 1916 registered nurse practitioners certified under s. 464.012, and 1917 the department shall, by rule, require that midwives maintain 1918 medical malpractice insurance or provide proof of financial 1919 responsibility in an amount and in a manner determined by the 1920 board or department to be sufficient to cover claims arising out 1921 of the rendering of or failure to render professional care and 1922 services in this state.

1923 Section 47. Subsection (7) of section 456.072, Florida
1924 Statutes, is amended to read:

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1925 456.072 Grounds for discipline; penalties; enforcement.-1926 (7) Notwithstanding subsection (2), upon a finding that a physician has prescribed or dispensed a controlled substance, or 1927 1928 caused a controlled substance to be prescribed or dispensed, in 1929 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) 1930 or (s), or s. 466.028(1)(p) or (x), or that an advanced practice 1931 1932 registered nurse advanced registered nurse practitioner has 1933 prescribed or dispensed a controlled substance, or caused a 1934 controlled substance to be prescribed or dispensed, in a manner 1935 that violates the standard of practice set forth in s. 1936 464.018(1)(n) or (p)6., the physician or advanced practice 1937 registered nurse advanced registered nurse practitioner shall be 1938 suspended for a period of not less than 6 months and pay a fine 1939 of not less than \$10,000 per count. Repeated violations shall 1940 result in increased penalties. 1941 Section 48. Paragraph (g) of subsection (1) and subsection (2) of section 456.44, Florida Statutes, are amended to read: 1942 1943 456.44 Controlled substance prescribing.-1944 (1) DEFINITIONS.-As used in this section, the term: 1945 (g) "Registrant" means a physician, a physician assistant, 1946 or an advanced practice registered nurse advanced registered 1947 nurse practitioner who meets the requirements of subsection (2). 1948 (2) REGISTRATION.-A physician licensed under chapter 458,

1949 chapter 459, chapter 461, or chapter 466, a physician assistant 1950 licensed under chapter 458 or chapter 459, or an <u>advanced</u> 1951 <u>practice registered nurse licensed</u> <del>advanced registered nurse</del> 1952 <del>practitioner certified</del> under part I of chapter 464 who 1953 prescribes any controlled substance, listed in Schedule II,

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1954 Schedule III, or Schedule IV as defined in s. 893.03, for the treatment of chronic nonmalignant pain, must: 1955 1956 (a) Designate himself or herself as a controlled substance 1957 prescribing practitioner on his or her practitioner profile. 1958 (b) Comply with the requirements of this section and 1959 applicable board rules. 1960 Section 49. Paragraph (c) of subsection (2) of section 1961 458.3265, Florida Statutes, is amended to read: 1962 458.3265 Pain-management clinics.-1963 (2) PHYSICIAN RESPONSIBILITIES.-These responsibilities apply to any physician who provides professional services in a 1964 1965 pain-management clinic that is required to be registered in 1966 subsection (1). 1967 (c) A physician, a physician assistant, or an advanced 1968 practice registered nurse advanced registered nurse practitioner 1969 must perform a physical examination of a patient on the same day 1970 that the physician prescribes a controlled substance to a 1971 patient at a pain-management clinic. If the physician prescribes more than a 72-hour dose of controlled substances for the 1972 1973 treatment of chronic nonmalignant pain, the physician must 1974 document in the patient's record the reason for prescribing that 1975 quantity. 1976 Section 50. Paragraph (dd) of subsection (1) of section 458.331, Florida Statutes, is amended to read: 1977 1978 458.331 Grounds for disciplinary action; action by the 1979 board and department.-

1980 (1) The following acts constitute grounds for denial of a
1981 license or disciplinary action, as specified in s. 456.072(2):
1982 (dd) Failing to supervise adequately the activities of

COMMITTEE AMENDMENT

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1983 those physician assistants, paramedics, emergency medical 1984 technicians, <u>advanced practice registered nurses</u> advanced 1985 <del>registered nurse practitioners</del>, or anesthesiologist assistants 1986 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.-

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(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 <u>advanced practice registered nurse</u> <del>advanced registered</del> <del>nurse practitioner</del>, 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)... <u>advanced practice</u> <u>registered nurse(s)</u> advanced registered nurse practitioner(s).

(3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.-A

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2012 physician who supervises an advanced practice registered nurse 2013 advanced registered nurse practitioner or physician assistant at 2014 a medical office other than the physician's primary practice 2015 location, where the advanced practice registered nurse advanced 2016 registered nurse practitioner or physician assistant is not 2017 under the onsite supervision of a supervising physician, must comply with the standards set forth in this subsection. For the 2018 2019 purpose of this subsection, a physician's "primary practice 2020 location" means the address reflected on the physician's profile 2021 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.

2031 (b) A physician who is engaged in providing specialty 2032 health care services may not supervise more than two offices in 2033 addition to the physician's primary practice location. For the 2034 purpose of this subsection, "specialty health care" means health 2035 care services that are commonly provided to patients with a 2036 referral from another practitioner and excludes practices 2037 providing primarily dermatologic and skin care services, which 2038 include aesthetic skin care services.

2039 (c) A physician who supervises an <u>advanced practice</u> 2040 <u>registered nurse</u> <del>advanced registered nurse practitioner</del> or

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2041 physician assistant at a medical office other than the 2042 physician's primary practice location, where the advanced 2043 practice registered nurse advanced registered nurse practitioner 2044 or physician assistant is not under the onsite supervision of a supervising physician and the services offered at the office are 2045 2046 primarily dermatologic or skin care services, which include 2047 aesthetic skin care services other than plastic surgery, must 2048 comply with the standards listed in subparagraphs 1.-4. 2049 Notwithstanding s. 458.347(4)(e)6., a physician supervising a 2050 physician assistant pursuant to this paragraph may not be 2051 required to review and cosign charts or medical records prepared 2052 by such physician assistant.

1. The physician shall submit to the board the addresses of all offices where he or she is supervising an <u>advanced practice</u> <u>registered nurse</u> <del>advanced registered nurse practitioner</del> 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.

2067 4. The physician may supervise only one office other than
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2070 other than the physician's primary place of practice if the 2071 addresses of the offices are submitted to the board before July 2072 1, 2006. Effective July 1, 2011, the physician may supervise 2073 only one office other than the physician's primary place of 2074 practice, regardless of when the addresses of the offices were 2075 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.

2082 (e) This subsection does not apply to health care services 2083 provided in facilities licensed under chapter 395 or in 2084 conjunction with a college of medicine, a college of nursing, an 2085 accredited graduate medical program, or a nursing education 2086 program; not-for-profit, family-planning clinics that are not 2087 licensed pursuant to chapter 390; rural and federally qualified 2088 health centers; health care services provided in a nursing home 2089 licensed under part II of chapter 400, an assisted living 2090 facility licensed under part I of chapter 429, a continuing care 2091 facility licensed under chapter 651, or a retirement community 2092 consisting of independent living units and a licensed nursing home or assisted living facility; anesthesia services provided 2093 2094 in accordance with law; health care services provided in a 2095 designated rural health clinic; health care services provided to 2096 persons enrolled in a program designed to maintain elderly 2097 persons and persons with disabilities in a home or communitybased setting; university primary care student health centers; 2098

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2099 school health clinics; or health care services provided in 2100 federal, state, or local government facilities. Subsection (2) 2101 and this subsection do not apply to offices at which the 2102 exclusive service being performed is laser hair removal by an 2103 advanced practice registered nurse advanced registered nurse 2104 practitioner or physician assistant. 2105 Section 52. Paragraph (c) of subsection (2) of section 2106 459.0137, Florida Statutes, is amended to read: 2107 459.0137 Pain-management clinics.-2108 (2) PHYSICIAN RESPONSIBILITIES.-These responsibilities 2109 apply to any osteopathic physician who provides professional 2110 services in a pain-management clinic that is required to be 2111 registered in subsection (1). 2112 (c) An osteopathic physician, a physician assistant, or an 2113 advanced practice registered nurse advanced registered nurse 2114 practitioner must perform a physical examination of a patient on 2115 the same day that the physician prescribes a controlled 2116 substance to a patient at a pain-management clinic. If the 2117 osteopathic physician prescribes more than a 72-hour dose of 2118 controlled substances for the treatment of chronic nonmalignant 2119 pain, the osteopathic physician must document in the patient's 2120 record the reason for prescribing that quantity. 2121 Section 53. Paragraph (hh) of subsection (1) of section 459.015, Florida Statutes, is amended to read: 2122 2123 459.015 Grounds for disciplinary action; action by the 2124 board and department.-2125

(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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2128 those physician assistants, paramedics, emergency medical 2129 technicians, advanced practice registered nurses advanced 2130 registered nurse practitioners, anesthesiologist assistants, or 2131 other persons acting under the supervision of the osteopathic 2132 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.-

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2138 (a) When an osteopathic physician enters into a formal 2139 supervisory relationship or standing orders with an emergency 2140 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 2143 established protocol with an advanced practice registered nurse advanced registered nurse practitioner, which protocol contemplates the performance of medical acts or acts set forth 2146 in s. 464.012(3) and (4), the osteopathic physician shall submit 2147 notice to the board. The notice must contain a statement in 2148 substantially the following form:

2150 I, ... (name and professional license number of osteopathic 2151 physician)..., of ... (address of osteopathic physician)... have 2152 hereby entered into a formal supervisory relationship, standing 2153 orders, or an established protocol with ... (number of 2154 persons)... emergency medical technician(s), ... (number of persons)... paramedic(s), or ... (number of persons)... advanced 2155 practice registered nurse(s) advanced registered nurse 2156

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2157 practitioner(s).

(3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.-2158 2159 An osteopathic physician who supervises an advanced practice 2160 registered nurse advanced registered nurse practitioner or 2161 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



2186 dermatologic and skin care services, which include aesthetic 2187 skin care services.

(c) An osteopathic physician who supervises an advanced 2188 2189 practice registered nurse advanced registered nurse practitioner 2190 or physician assistant at a medical office other than the 2191 osteopathic physician's primary practice location, where the 2192 advanced practice registered nurse advanced registered nurse 2193 practitioner or physician assistant is not under the onsite 2194 supervision of a supervising osteopathic physician and the 2195 services offered at the office are primarily dermatologic or 2196 skin care services, which include aesthetic skin care services 2197 other than plastic surgery, must comply with the standards 2198 listed in subparagraphs 1.-4. Notwithstanding s. 2199 459.022(4)(e)6., an osteopathic physician supervising a 2200 physician assistant pursuant to this paragraph may not be required to review and cosign charts or medical records prepared 2201 2202 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 <u>advanced practice</u> <u>registered nurse</u> <del>advanced registered nurse practitioner</del> or a <u>physician physician's</u> 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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2215 county that is contiguous to the county of the osteopathic 2216 physician's primary place of practice. However, the distance 2217 between any of the offices may not exceed 75 miles.

2218 4. The osteopathic physician may supervise only one office 2219 other than the osteopathic physician's primary place of practice 2220 except that until July 1, 2011, the osteopathic physician may 2221 supervise up to two medical offices other than the osteopathic 2222 physician's primary place of practice if the addresses of the 2223 offices are submitted to the Board of Osteopathic Medicine 2224 before July 1, 2006. Effective July 1, 2011, the osteopathic 2225 physician may supervise only one office other than the 2226 osteopathic physician's primary place of practice, regardless of 2227 when the addresses of the offices were submitted to the Board of 2228 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.

2236 (e) This subsection does not apply to health care services 2237 provided in facilities licensed under chapter 395 or in 2238 conjunction with a college of medicine or college of nursing or 2239 an accredited graduate medical or nursing education program; offices where the only service being performed is hair removal 2240 2241 by an advanced practice registered nurse advanced registered 2242 nurse practitioner or physician assistant; not-for-profit, 2243 family-planning clinics that are not licensed pursuant to

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2244 chapter 390; rural and federally qualified health centers; 2245 health care services provided in a nursing home licensed under 2246 part II of chapter 400, an assisted living facility licensed 2247 under part I of chapter 429, a continuing care facility licensed 2248 under chapter 651, or a retirement community consisting of 2249 independent living units and either a licensed nursing home or 2250 assisted living facility; anesthesia services provided in 2251 accordance with law; health care services provided in a 2252 designated rural health clinic; health care services provided to 2253 persons enrolled in a program designed to maintain elderly 2254 persons and persons with disabilities in a home or community-2255 based setting; university primary care student health centers; 2256 school health clinics; or health care services provided in 2257 federal, state, or local government facilities.

Section 55. Subsection (2) of section 464.003, Florida Statutes, is amended to read:

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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 2269 advanced registered nurse practitioner may perform acts of 2270 nursing diagnosis and nursing treatment of alterations of the 2271 health status. The advanced practice registered nurse advanced 2272 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.-

2281 (2) Seven members of the board must be registered nurses 2282 who are residents of this state and who have been engaged in the 2283 practice of professional nursing for at least 4 years, including 2284 at least one advanced practice registered nurse advanced 2285 registered nurse practitioner, one nurse educator member of an 2286 approved program, and one nurse executive. These seven board 2287 members should be representative of the diverse areas of 2288 practice within the nursing profession. In addition, three 2289 members of the board must be licensed practical nurses who are residents of this state and who have been actively engaged in 2290 2291 the practice of practical nursing for at least 4 years prior to 2292 their appointment. The remaining three members must be residents 2293 of the state who have never been licensed as nurses and who are 2294 in no way connected with the practice of nursing. No person may 2295 be appointed as a lay member who is in any way connected with, 2296 or has any financial interest in, any health care facility, 2297 agency, or insurer. At least one member of the board must be 60 2298 years of age or older.

2299 Section 57. Paragraph (b) of subsection (3) of section 2300 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.

2305 (b) Notwithstanding the exemption in paragraph (a), as part 2306 of the maximum 30 hours of continuing education hours required 2307 under this subsection, advanced practice registered nurses 2308 licensed advanced registered nurse practitioners certified under 2309 s. 464.012 must complete at least 3 hours of continuing 2310 education on the safe and effective prescription of controlled 2311 substances. Such continuing education courses must be offered by 2312 a statewide professional association of physicians in this state 2313 accredited to provide educational activities designated for the 2314 American Medical Association Physician's Recognition Award 2315 Category 1 credit, the American Nurses Credentialing Center, the 2316 American Association of Nurse Anesthetists, or the American 2317 Association of Nurse Practitioners and may be offered in a 2318 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 <u>licenses</u> <del>certificates</del> 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 <u>licenses</u> certificates to practice as <u>advanced practice registered nurses</u> advanced registered nurse practitioners in this state may use the title <u>"Advanced Practice Registered Nurse"</u> <u>"Advanced Registered Nurse</u> <u>Practitioner"</u> and the abbreviation <u>"A.P.R.N."</u> <u>"A.R.N.P."</u> Section 59. Subsection (9) of section 464.015, Florida

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2331 Statutes, as amended by section 9 of chapter 2016-139, Laws of 2332 Florida, is amended to read:

464.015 Titles and abbreviations; restrictions; penalty.-2333 2334 (9) A person may not practice or advertise as, or assume 2335 the title of, registered nurse, licensed practical nurse, 2336 clinical nurse specialist, certified registered nurse 2337 anesthetist, certified nurse midwife, certified nurse 2338 practitioner, or advanced practice registered nurse advanced 2339 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 2340 2341 "A.P.R.N.," "A.R.N.P." or take any other action that would lead 2342 the public to believe that person was authorized by law to 2343 practice as such or is performing nursing services pursuant to 2344 the exception set forth in s. 464.022(8) unless that person is 2345 licensed, certified, or authorized pursuant to s. 464.0095 to 2346 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,"
2353 (a) Using the name or title "Nurse," "Registered Nurse,"
2354 "Licensed Practical Nurse," "Clinical Nurse Specialist,"
2355 "Certified Registered Nurse Anesthetist," <u>"Certified Nurse</u>
2356 <u>Practitioner,"</u> "Certified Nurse Midwife," <u>"Advanced Practice</u>
2357 <u>Registered Nurse," "Advanced Registered Nurse Practitioner,"</u> or
2358 any other name or title which implies that a person was licensed
2359 or certified as same, unless such person is duly licensed or

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2360	certified.
2361	Section 61. Paragraphs (p) and (q) of subsection (1) of
2362	section 464.018, Florida Statutes, are amended to read:
2363	464.018 Disciplinary actions
2364	(1) The following acts constitute grounds for denial of a
2365	license or disciplinary action, as specified in s. 456.072(2):
2366	(p) For an <u>advanced practice registered nurse</u> <del>advanced</del>
2367	registered nurse practitioner:
2368	1. Presigning blank prescription forms.
2369	2. Prescribing for office use any medicinal drug appearing
2370	on Schedule II in chapter 893.
2371	3. Prescribing, ordering, dispensing, administering,
2372	supplying, selling, or giving a drug that is an amphetamine, a
2373	sympathomimetic amine drug, or a compound designated in s.
2374	893.03(2) as a Schedule II controlled substance, to or for any
2375	person except for:
2376	a. The treatment of narcolepsy; hyperkinesis; behavioral
2377	syndrome in children characterized by the developmentally
2378	inappropriate symptoms of moderate to severe distractibility,
2379	short attention span, hyperactivity, emotional lability, and
2380	impulsivity; or drug-induced brain dysfunction.
2381	b. The differential diagnostic psychiatric evaluation of
2382	depression or the treatment of depression shown to be refractory
2383	to other therapeutic modalities.
2384	c. The clinical investigation of the effects of such drugs
2385	or compounds when an investigative protocol is submitted to,
2386	reviewed by, and approved by the department before such
2387	investigation is begun.
2388	4. Prescribing, ordering, dispensing, administering,



2389 supplying, selling, or giving growth hormones, testosterone or 2390 its analogs, human chorionic gonadotropin (HCG), or other 2391 hormones for the purpose of muscle building or to enhance 2392 athletic performance. As used in this subparagraph, the term 2393 "muscle building" does not include the treatment of injured 2394 muscle. A prescription written for the drug products identified 2395 in this subparagraph may be dispensed by a pharmacist with the 2396 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."

2400 6. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including a controlled 2401 2402 substance, other than in the course of his or her professional 2403 practice. For the purposes of this subparagraph, it is legally 2404 presumed that prescribing, dispensing, administering, mixing, or 2405 otherwise preparing legend drugs, including all controlled 2406 substances, inappropriately or in excessive or inappropriate 2407 quantities is not in the best interest of the patient and is not 2408 in the course of the advanced practice registered nurse's 2409 advanced registered nurse practitioner's professional practice, 2410 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 <u>advanced practice registered nurse</u> <del>advanced</del> <del>registered nurse practitioner</del> by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

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8. Prescribing, ordering, dispensing, administering,

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2418 supplying, selling, or giving amygdalin (laetrile) to any 2419 person. 2420 9. Dispensing a substance designated in s. 893.03(2) or (3) 2421 as a substance controlled in Schedule II or Schedule III, 2422 respectively, in violation of s. 465.0276. 2423 10. Promoting or advertising through any communication medium the use, sale, or dispensing of a substance designated in 2424 2425 s. 893.03 as a controlled substance. 2426 (q) For a psychiatric nurse: 2427 1. Presigning blank prescription forms. 2428 2. Prescribing for office use any medicinal drug appearing 2429 in Schedule II of s. 893.03. 2430 3. Prescribing, ordering, dispensing, administering, 2431 supplying, selling, or giving a drug that is an amphetamine, a 2432 sympathomimetic amine drug, or a compound designated in s. 2433 893.03(2) as a Schedule II controlled substance, to or for any 2434 person except for: 2435 a. The treatment of narcolepsy; hyperkinesis; behavioral 2436 syndrome in children characterized by the developmentally 2437 inappropriate symptoms of moderate to severe distractibility, 2438 short attention span, hyperactivity, emotional lability, and 2439 impulsivity; or drug-induced brain dysfunction. 2440 b. The differential diagnostic psychiatric evaluation of 2441 depression or the treatment of depression shown to be refractory 2442 to other therapeutic modalities. 2443 c. The clinical investigation of the effects of such drugs

2444 or compounds when an investigative protocol is submitted to, 2445 reviewed by, and approved by the department before such 2446 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 <u>advanced practice registered nurse's</u> <del>advanced registered nurse practitioner's</del> 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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2476 8. Prescribing, ordering, dispensing, administering, 2477 supplying, selling, or giving amygdalin (laetrile) to any 2478 person. 2479 9. Dispensing a substance designated in s. 893.03(2) or (3) 2480 as a substance controlled in Schedule II or Schedule III, 2481 respectively, in violation of s. 465.0276. 2482 10. Promoting or advertising through any communication 2483 medium the use, sale, or dispensing of a substance designated in 2484 s. 893.03 as a controlled substance. 2485 Section 62. Paragraph (a) of subsection (4) of section 2486 464.0205, Florida Statutes, is amended to read: 2487 464.0205 Retired volunteer nurse certificate.-2488 (4) A retired volunteer nurse receiving certification from 2489 the board shall: 2490 (a) Work under the direct supervision of the director of a 2491 county health department, a physician working under a limited 2492 license issued pursuant to s. 458.317 or s. 459.0075, a 2493 physician licensed under chapter 458 or chapter 459, an advanced 2494 practice registered nurse licensed advanced registered nurse practitioner certified under s. 464.012, or a registered nurse 2495 2496 licensed under s. 464.008 or s. 464.009. 2497 Section 63. Subsection (2) of section 467.003, Florida 2498 Statutes, is amended to read: 467.003 Definitions.-As used in this chapter, unless the 2499 2500 context otherwise requires: 2501 (2) "Certified nurse midwife" means a person who is 2502 licensed as an advanced practice registered nurse advanced 2503 registered nurse practitioner under part I of chapter 464 and 2504 who is certified to practice midwifery by the American College

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2505 of Nurse Midwives.

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2506 Section 64. Subsection (1) of section 480.0475, Florida 2507 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;

2518 (b) In which every massage performed between the hours of 2519 midnight and 5 a.m. is performed by a massage therapist acting 2520 under the prescription of a physician or physician assistant 2521 licensed under chapter 458, an osteopathic physician or 2522 physician assistant licensed under chapter 459, a chiropractic 2523 physician licensed under chapter 460, a podiatric physician 2524 licensed under chapter 461, an advanced practice registered 2525 nurse advanced registered nurse practitioner licensed under part I of chapter 464, or a dentist licensed under chapter 466; or 2526

(c) Operating during a special event if the county or municipality in which the establishment operates has approved such operation during the special event.

2530 Section 65. Subsection (7) of section 483.041, Florida 2531 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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2534 under chapter 458, chapter 459, chapter 460, or chapter 461; a 2535 certified optometrist licensed under chapter 463; a dentist licensed under chapter 466; a person licensed under chapter 462; 2536 2537 a consultant pharmacist or doctor of pharmacy licensed under 2538 chapter 465; or an advanced practice registered nurse advanced 2539 registered nurse practitioner licensed under part I of chapter 2540 464; or a duly licensed practitioner from another state licensed 2541 under similar statutes who orders examinations on materials or 2542 specimens for nonresidents of the State of Florida, but who 2543 reside in the same state as the requesting licensed 2544 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) <u>Advanced practice registered nurses</u> 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



2563 thereto by the use of the physical, chemical, and other 2564 properties of air; electricity; exercise; massage; the 2565 performance of acupuncture only upon compliance with the 2566 criteria set forth by the Board of Medicine, when no penetration 2567 of the skin occurs; the use of radiant energy, including 2568 ultraviolet, visible, and infrared rays; ultrasound; water; the 2569 use of apparatus and equipment in the application of the 2570 foregoing or related thereto; the performance of tests of 2571 neuromuscular functions as an aid to the diagnosis or treatment 2572 of any human condition; or the performance of electromyography 2573 as an aid to the diagnosis of any human condition only upon 2574 compliance with the criteria set forth by the Board of Medicine.

2575 (a) A physical therapist may implement a plan of treatment 2576 developed by the physical therapist for a patient or provided 2577 for a patient by a practitioner of record or by an advanced 2578 practice registered nurse advanced registered nurse practitioner 2579 licensed under s. 464.012. The physical therapist shall refer 2580 the patient to or consult with a practitioner of record if the 2581 patient's condition is found to be outside the scope of physical 2582 therapy. If physical therapy treatment for a patient is required 2583 beyond 30 days for a condition not previously assessed by a 2584 practitioner of record, the physical therapist shall have a 2585 practitioner of record review and sign the plan. The requirement 2586 that a physical therapist have a practitioner of record review 2587 and sign a plan of treatment does not apply when a patient has 2588 been physically examined by a physician licensed in another 2589 state, the patient has been diagnosed by the physician as having 2590 a condition for which physical therapy is required, and the physical therapist is treating the condition. For purposes of 2591

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2592 this paragraph, a health care practitioner licensed under 2593 chapter 458, chapter 459, chapter 460, chapter 461, or chapter 2594 466 and engaged in active practice is eligible to serve as a 2595 practitioner of record. 2596 Section 68. Paragraph (d) of subsection (1) of section 2597 490.012, Florida Statutes, is amended to read: 490.012 Violations; penalties; injunction.-2598 2599 (1)2600 (d) A person may not No person shall hold herself or 2601 himself out by any title or description incorporating the word, 2602 or a permutation of the word, "psychotherapy" unless such person 2603 holds a valid, active license under chapter 458, chapter 459, 2604 chapter 490, or chapter 491, or such person is licensed 2605 certified as an advanced practice registered nurse under 2606 advanced registered nurse practitioner, pursuant to s. 464.012, 2607 who has been determined by the Board of Nursing as a specialist 2608 in psychiatric mental health. 2609 Section 69. Subsection (1) of section 491.0057, Florida 2610 Statutes, is amended to read: 2611 491.0057 Dual licensure as a marriage and family 2612 therapist.-The department shall license as a marriage and family 2613 therapist any person who demonstrates to the board that he or 2614 she: (1) Holds a valid, active license as a psychologist under 2615 2616 chapter 490 or as a clinical social worker or mental health 2617 counselor under this chapter, or is licensed certified under s. 2618 464.012 as an advanced practice registered nurse advanced 2619 registered nurse practitioner who has been determined by the 2620 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:

2626 (d) Use the terms psychotherapist, sex therapist, or 2627 juvenile sexual offender therapist unless such person is 2628 licensed pursuant to this chapter or chapter 490, or is licensed 2629 certified under s. 464.012 as an advanced practice registered 2630 nurse advanced registered nurse practitioner who has been 2631 determined by the Board of Nursing as a specialist in 2632 psychiatric mental health and the use of such terms is within 2633 the scope of her or his practice based on education, training, 2634 and licensure.

2635 (2) It is unlawful and a violation of this chapter for any 2636 person to describe her or his services using the following terms 2637 or any derivative thereof, unless such person holds a valid, 2638 active license under this chapter or chapter 490, or is licensed 2639 certified under s. 464.012 as an advanced practice registered 2640 nurse advanced registered nurse practitioner who has been 2641 determined by the Board of Nursing as a specialist in 2642 psychiatric mental health and the use of such terms is within 2643 the scope of her or his practice based on education, training, 2644 and licensure:

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- (b) "Sex therapy."
- (c) "Sex counseling."
- 2648 (d) "Clinical social work."

(a) "Psychotherapy."

2649 (e) "Psychiatric social work."

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2650 (f) "Marriage and family therapy." 2651 (g) "Marriage and family counseling." (h) "Marriage counseling." 2652 (i) "Family counseling." 2653 2654 (j) "Mental health counseling." 2655 Section 71. Subsection (2) of section 493.6108, Florida 2656 Statutes, is amended to read: 2657 493.6108 Investigation of applicants by Department of 2658 Agriculture and Consumer Services.-2659 (2) In addition to subsection (1), the department shall 2660 make an investigation of the general physical fitness of the 2661 Class "G" applicant to bear a weapon or firearm. Determination 2662 of physical fitness shall be certified by a physician or 2663 physician assistant currently licensed pursuant to chapter 458, 2664 chapter 459, or any similar law of another state or authorized 2665 to act as a licensed physician by a federal agency or department 2666 or by an advanced practice registered nurse advanced registered 2667 nurse practitioner currently licensed pursuant to chapter 464. 2668 Such certification shall be submitted on a form provided by the 2669 department. 2670 Section 72. Paragraph (b) of subsection (1) of section 2671 627.357, Florida Statutes, is amended to read: 2672 627.357 Medical malpractice self-insurance.-2673 (1) DEFINITIONS.-As used in this section, the term: 2674 (b) "Health care provider" means any: 2675 1. Hospital licensed under chapter 395. 2676 2. Physician licensed, or physician assistant licensed, 2677 under chapter 458. 3. Osteopathic physician or physician assistant licensed 2678



2679	under chapter 459.
2680	4. Podiatric physician licensed under chapter 461.
2681	5. Health maintenance organization certificated under part
2682	I of chapter 641.
2683	6. Ambulatory surgical center licensed under chapter 395.
2684	7. Chiropractic physician licensed under chapter 460.
2685	8. Psychologist licensed under chapter 490.
2686	9. Optometrist licensed under chapter 463.
2687	10. Dentist licensed under chapter 466.
2688	11. Pharmacist licensed under chapter 465.
2689	12. Registered nurse, licensed practical nurse, or advanced
2690	practice registered nurse advanced registered nurse practitioner
2691	licensed or registered under part I of chapter 464.
2692	13. Other medical facility.
2693	14. Professional association, partnership, corporation,
2694	joint venture, or other association established by the
2695	individuals set forth in subparagraphs 2., 3., 4., 7., 8., 9.,
2696	10., 11., and 12. for professional activity.
2697	Section 73. Subsection (6) of section 627.6471, Florida
2698	Statutes, is amended to read:
2699	627.6471 Contracts for reduced rates of payment;
2700	limitations; coinsurance and deductibles
2701	(6) If psychotherapeutic services are covered by a policy
2702	issued by the insurer, the insurer shall provide eligibility
2703	criteria for each group of health care providers licensed under
2704	chapter 458, chapter 459, chapter 490, or chapter 491, which
2705	include psychotherapy within the scope of their practice as
2706	provided by law, or for any person who is <u>licensed</u> <del>certified</del> as
2707	an <u>advanced practice registered nurse</u> advanced registered nurse

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2708 practitioner in psychiatric mental health under s. 464.012. When 2709 psychotherapeutic services are covered, eligibility criteria 2710 shall be established by the insurer to be included in the 2711 insurer's criteria for selection of network providers. The 2712 insurer may not discriminate against a health care provider by 2713 excluding such practitioner from its provider network solely on 2714 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 <u>licensed certified</u> as an <u>advanced practice registered nurse</u> advanced registered nurse <u>practitioner</u> 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 <u>advanced</u> <u>practice registered nurse</u> <del>advanced registered nurse practitioner</del> licensed <del>and certified</del> pursuant to s. 464.012, who is acting within the scope of such license <del>and certification</del>, solely on

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2737 the basis of such license or certification. This subsection 2738 shall not be construed to prohibit a plan from including 2739 providers only to the extent necessary to meet the needs of the 2740 plan's enrollees or from establishing any measure designed to 2741 maintain quality and control costs consistent with the 2742 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:

2758 (a) Medical benefits.-Eighty percent of all reasonable 2759 expenses for medically necessary medical, surgical, X-ray, 2760 dental, and rehabilitative services, including prosthetic 2761 devices and medically necessary ambulance, hospital, and nursing 2762 services if the individual receives initial services and care 2763 pursuant to subparagraph 1. within 14 days after the motor 2764 vehicle accident. The medical benefits provide reimbursement 2765 only for:



2766 1. Initial services and care that are lawfully provided, 2767 supervised, ordered, or prescribed by a physician licensed under 2768 chapter 458 or chapter 459, a dentist licensed under chapter 2769 466, or a chiropractic physician licensed under chapter 460 or 2770 that are provided in a hospital or in a facility that owns, or 2771 is wholly owned by, a hospital. Initial services and care may 2772 also be provided by a person or entity licensed under part III 2773 of chapter 401 which provides emergency transportation and 2774 treatment. 2775 2. Upon referral by a provider described in subparagraph 2776 1., followup services and care consistent with the underlying 2777 medical diagnosis rendered pursuant to subparagraph 1. which may 2778

be provided, supervised, ordered, or prescribed only by a 2779 physician licensed under chapter 458 or chapter 459, a 2780 chiropractic physician licensed under chapter 460, a dentist 2781 licensed under chapter 466, or, to the extent permitted by 2782 applicable law and under the supervision of such physician, 2783 osteopathic physician, chiropractic physician, or dentist, by a 2784 physician assistant licensed under chapter 458 or chapter 459 or 2785 an advanced practice registered nurse advanced registered nurse 2786 practitioner licensed under chapter 464. Followup services and 2787 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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2795	c. An entity that owns or is wholly owned, directly or
2796	indirectly, by a hospital or hospitals.
2797	d. A physical therapist licensed under chapter 486, based
2798	upon a referral by a provider described in this subparagraph.
2799	e. A health care clinic licensed under part X of chapter
2800	400 which is accredited by an accrediting organization whose
2801	standards incorporate comparable regulations required by this
2802	state, or
2803	(I) Has a medical director licensed under chapter 458,
2804	chapter 459, or chapter 460;
2805	(II) Has been continuously licensed for more than 3 years
2806	or is a publicly traded corporation that issues securities
2807	traded on an exchange registered with the United States
2808	Securities and Exchange Commission as a national securities
2809	exchange; and
2810	(III) Provides at least four of the following medical
2811	specialties:
2812	(A) General medicine.
2813	(B) Radiography.
2814	(C) Orthopedic medicine.
2815	(D) Physical medicine.
2816	(E) Physical therapy.
2817	(F) Physical rehabilitation.
2818	(G) Prescribing or dispensing outpatient prescription
2819	medication.
2820	(H) Laboratory services.
2821	3. Reimbursement for services and care provided in
2822	subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
2823	licensed under chapter 458 or chapter 459, a dentist licensed

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2824 under chapter 466, a physician assistant licensed under chapter 2825 458 or chapter 459, or an <u>advanced practice registered nurse</u> 2826 <del>advanced registered nurse practitioner</del> licensed under chapter 2827 464 has determined that the injured person had an emergency 2828 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.

2847 Only insurers writing motor vehicle liability insurance in this 2848 state may provide the required benefits of this section, and 2849 such insurer may not require the purchase of any other motor 2850 vehicle coverage other than the purchase of property damage 2851 liability coverage as required by s. 627.7275 as a condition for 2852 providing such benefits. Insurers may not require that property



2853 damage liability insurance in an amount greater than \$10,000 be 2854 purchased in conjunction with personal injury protection. Such 2855 insurers shall make benefits and required property damage 2856 liability insurance coverage available through normal marketing 2857 channels. An insurer writing motor vehicle liability insurance 2858 in this state who fails to comply with such availability 2859 requirement as a general business practice violates part IX of 2860 chapter 626, and such violation constitutes an unfair method of 2861 competition or an unfair or deceptive act or practice involving 2862 the business of insurance. An insurer committing such violation is subject to the penalties provided under that part, as well as 2863 2864 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:

2869 (5) Be in good physical condition as determined by a 2870 medical examination given by a physician, surgeon, or physician 2871 assistant licensed to practice in the state pursuant to chapter 2872 458; an osteopathic physician, surgeon, or physician assistant 2873 licensed to practice in the state pursuant to chapter 459; or an 2874 advanced practice registered nurse advanced registered nurse 2875 practitioner licensed to practice in the state pursuant to 2876 chapter 464. Such examination may include, but need not be 2877 limited to, the National Fire Protection Association Standard 2878 1582. A medical examination evidencing good physical condition 2879 shall be submitted to the division, on a form as provided by 2880 rule, before an individual is eligible for admission into a 2881 course under s. 633.408.

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2882 Section 77. Section 641.3923, Florida Statutes, is amended 2883 to read: 2884 641.3923 Discrimination against providers prohibited.-A 2885 health maintenance organization may shall not discriminate with 2886 respect to participation as to any advanced practice registered 2887 nurse advanced registered nurse practitioner licensed and certified pursuant to s. 464.012, who is acting within the scope 2888 2889 of such license and certification, solely on the basis of such 2890 license or certification. This section may shall not be 2891 construed to prohibit a plan from including providers only to 2892 the extent necessary to meet the needs of the plan's enrollees 2893 or from establishing any measure designed to maintain quality 2894 and control costs consistent with the responsibilities of the 2895 plan.

Section 78. Subsection (3) of section 766.103, Florida Statutes, is amended to read:

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766.103 Florida Medical Consent Law.-

2899 (3) No recovery shall be allowed in any court in this state 2900 against any physician licensed under chapter 458, osteopathic 2901 physician licensed under chapter 459, chiropractic physician 2902 licensed under chapter 460, podiatric physician licensed under 2903 chapter 461, dentist licensed under chapter 466, advanced 2904 practice registered nurse licensed advanced registered nurse 2905 practitioner certified under s. 464.012, or physician assistant 2906 licensed under s. 458.347 or s. 459.022 in an action brought for 2907 treating, examining, or operating on a patient without his or 2908 her informed consent when:

(a)1. The action of the physician, osteopathic physician,chiropractic physician, podiatric physician, dentist, advanced



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 advanced registered nurse practitioner, or physician assistant, 2922 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

(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, <u>advanced</u> <u>practice registered nurse</u> <u>advanced registered nurse</u> <u>practitioner</u>, or physician assistant in accordance with the 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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2940	766.1115 Health care providers; creation of agency
2941	relationship with governmental contractors
2942	(3) DEFINITIONS.—As used in this section, the term:
2943	(d) "Health care provider" or "provider" means:
2944	1. A birth center licensed under chapter 383.
2945	2. An ambulatory surgical center licensed under chapter
2946	395.
2947	3. A hospital licensed under chapter 395.
2948	4. A physician or physician assistant licensed under
2949	chapter 458.
2950	5. An osteopathic physician or osteopathic physician
2951	assistant licensed under chapter 459.
2952	6. A chiropractic physician licensed under chapter 460.
2953	7. A podiatric physician licensed under chapter 461.
2954	8. A registered nurse, nurse midwife, licensed practical
2955	nurse, or advanced practice registered nurse advanced registered
2956	nurse practitioner licensed or registered under part I of
2957	chapter 464 or any facility which employs nurses licensed or
2958	registered under part I of chapter 464 to supply all or part of
2959	the care delivered under this section.
2960	9. A midwife licensed under chapter 467.
2961	10. A health maintenance organization certificated under
2962	part I of chapter 641.
2963	11. A health care professional association and its
2964	employees or a corporate medical group and its employees.
2965	12. Any other medical facility the primary purpose of which
2966	is to deliver human medical diagnostic services or which
2967	delivers nonsurgical human medical treatment, and which includes
2968	an office maintained by a provider.

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2969 13. A dentist or dental hygienist licensed under chapter
2970 466.
2971 14. A free clinic that delivers only medical diagnostic

14. A free clinic that delivers only medical diagnostic 2 services or nonsurgical medical treatment free of charge to all 3 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 <u>advanced practice registered nurse</u> advanced

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2998 registered nurse practitioner, registered nurse, or licensed 2999 practical nurse licensed under part I of chapter 464; a dentist 3000 or dental hygienist licensed under chapter 466; or a midwife 3001 licensed under chapter 467, who participates as a health care 3002 provider under s. 766.1115. 3003 Section 81. Paragraph (c) of subsection (1) of section 3004 766.118, Florida Statutes, is amended to read: 3005 766.118 Determination of noneconomic damages.-3006 (1) DEFINITIONS.-As used in this section, the term: 3007 (c) "Practitioner" means any person licensed under chapter 3008 458, chapter 459, chapter 460, chapter 461, chapter 462, chapter 3009 463, chapter 466, chapter 467, or chapter 486 or certified under 3010 s. 464.012. "Practitioner" also means any association, 3011 corporation, firm, partnership, or other business entity under 3012 which such practitioner practices or any employee of such 3013 practitioner or entity acting in the scope of his or her 3014 employment. For the purpose of determining the limitations on noneconomic damages set forth in this section, the term 3015 3016 "practitioner" includes any person or entity for whom a 3017 practitioner is vicariously liable and any person or entity 3018 whose liability is based solely on such person or entity being 3019 vicariously liable for the actions of a practitioner. 3020 Section 82. Subsection (5) of section 794.08, Florida Statutes, is amended to read: 3021 3022 794.08 Female genital mutilation.-3023 (5) This section does not apply to procedures performed by 3024 or under the direction of a physician licensed under chapter 3025 458, an osteopathic physician licensed under chapter 459, a

registered nurse licensed under part I of chapter 464, a

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3027 practical nurse licensed under part I of chapter 464, an 3028 advanced practice registered nurse advanced registered nurse practitioner licensed under part I of chapter 464, a midwife 3029 3030 licensed under chapter 467, or a physician assistant licensed 3031 under chapter 458 or chapter 459 when necessary to preserve the 3032 physical health of a female person. This section also does not 3033 apply to any autopsy or limited dissection conducted pursuant to 3034 chapter 406.

3035 Section 83. Subsection (23) of section 893.02, Florida 3036 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:

3040 (23) "Practitioner" means a physician licensed under 3041 chapter 458, a dentist licensed under chapter 466, a 3042 veterinarian licensed under chapter 474, an osteopathic 3043 physician licensed under chapter 459, an advanced practice 3044 registered nurse licensed advanced registered nurse practitioner 3045 certified under chapter 464, a naturopath licensed under chapter 3046 462, a certified optometrist licensed under chapter 463, a 3047 psychiatric nurse as defined in s. 394.455, a podiatric 3048 physician licensed under chapter 461, or a physician assistant 3049 licensed under chapter 458 or chapter 459, provided such 3050 practitioner holds a valid federal controlled substance registry number. 3051

3052 Section 84. Paragraph (b) of subsection (1) of section 3053 893.05, Florida Statutes, is amended to read:

3054 893.05 Practitioners and persons administering controlled 3055 substances in their absence.-

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(1)

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(b) Pursuant to s. 458.347(4)(g), s. 459.022(4)(f), or s. 3057 464.012(3), as applicable, a practitioner who supervises a 3058 3059 licensed physician assistant or advanced practice registered 3060 nurse advanced registered nurse practitioner may authorize the 3061 licensed physician assistant or advanced practice registered 3062 nurse advanced registered nurse practitioner to order controlled 3063 substances for administration to a patient in a facility 3064 licensed under chapter 395 or part II of chapter 400. 3065 Section 85. Subsection (6) of section 943.13, Florida 3066 Statutes, is amended to read: 3067 943.13 Officers' minimum qualifications for employment or 3068 appointment.-On or after October 1, 1984, any person employed or 3069 appointed as a full-time, part-time, or auxiliary law 3070 enforcement officer or correctional officer; on or after October 3071 1, 1986, any person employed as a full-time, part-time, or 3072 auxiliary correctional probation officer; and on or after 3073 October 1, 1986, any person employed as a full-time, part-time, 3074 or auxiliary correctional officer by a private entity under 3075 contract to the Department of Corrections, to a county 3076 commission, or to the Department of Management Services shall: 3077 (6) Have passed a physical examination by a licensed 3078 physician, physician assistant, or licensed advanced practice 3079 registered nurse certified advanced registered nurse 3080 practitioner, based on specifications established by the 3081 commission. In order to be eligible for the presumption set 3082 forth in s. 112.18 while employed with an employing agency, a 3083 law enforcement officer, correctional officer, or correctional probation officer must have successfully passed the physical 3084

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3085 examination required by this subsection upon entering into 3086 service as a law enforcement officer, correctional officer, or 3087 correctional probation officer with the employing agency, which 3088 examination must have failed to reveal any evidence of 3089 tuberculosis, heart disease, or hypertension. A law enforcement 3090 officer, correctional officer, or correctional probation officer 3091 may not use a physical examination from a former employing 3092 agency for purposes of claiming the presumption set forth in s. 3093 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 <u>advanced practice registered nurse</u> <del>advanced</del> <del>registered nurse practitioner</del>, 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.

3110 Section 87. Paragraph (i) of subsection (3) of section 3111 1002.20, Florida Statutes, is amended to read:

3112 1002.20 K-12 student and parent rights.-Parents of public 3113 school students must receive accurate and timely information

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3114 regarding their child's academic progress and must be informed 3115 of ways they can help their child to succeed in school. K-12 3116 students and their parents are afforded numerous statutory 3117 rights including, but not limited to, the following:

(3) HEALTH ISSUES.-

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(i) Epinephrine use and supply.-

1. A student who has experienced or is at risk for life-3120 3121 threatening allergic reactions may carry an epinephrine auto-3122 injector and self-administer epinephrine by auto-injector while 3123 in school, participating in school-sponsored activities, or in 3124 transit to or from school or school-sponsored activities if the 3125 school has been provided with parental and physician 3126 authorization. The State Board of Education, in cooperation with 3127 the Department of Health, shall adopt rules for such use of 3128 epinephrine auto-injectors that shall include provisions to 3129 protect the safety of all students from the misuse or abuse of 3130 auto-injectors. A school district, county health department, 3131 public-private partner, and their employees and volunteers shall 3132 be indemnified by the parent of a student authorized to carry an 3133 epinephrine auto-injector for any and all liability with respect 3134 to the student's use of an epinephrine auto-injector pursuant to 3135 this paragraph.

3136 2. A public school may purchase a supply of epinephrine 3137 auto-injectors from a wholesale distributor as defined in s. 3138 499.003 or may enter into an arrangement with a wholesale 3139 distributor or manufacturer as defined in s. 499.003 for the 3140 epinephrine auto-injectors at fair-market, free, or reduced 3141 prices for use in the event a student has an anaphylactic 3142 reaction. The epinephrine auto-injectors must be maintained in a

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3143 secure location on the public school's premises. The participating school district shall adopt a protocol developed 3144 3145 by a licensed physician for the administration by school 3146 personnel who are trained to recognize an anaphylactic reaction 3147 and to administer an epinephrine auto-injection. The supply of 3148 epinephrine auto-injectors may be provided to and used by a student authorized to self-administer epinephrine by auto-3149 3150 injector under subparagraph 1. or trained school personnel.

3151 3. The school district and its employees, agents, and the 3152 physician who provides the standing protocol for school 3153 epinephrine auto-injectors are not liable for any injury arising 3154 from the use of an epinephrine auto-injector administered by 3155 trained school personnel who follow the adopted protocol and 3156 whose professional opinion is that the student is having an 3157 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 <u>advanced practice</u> <u>registered nurse</u> advanced registered nurse practitioner.

3168 Section 88. Paragraph (b) of subsection (17) of section 3169 1002.42, Florida Statutes, is amended to read: 3170 1002.42 Private schools.-3171 (17) EPINEPHRINE SUPPLY.-

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(b) The private school and its employees, agents, and the

3173 physician who provides the standing protocol for school 3174 epinephrine auto-injectors are not liable for any injury arising 3175 from the use of an epinephrine auto-injector administered by 3176 trained school personnel who follow the adopted protocol and 3177 whose professional opinion is that the student is having an 3178 anaphylactic reaction: 3179 1. Unless the trained school personnel's action is willful 3180 and wanton; 3181 2. Notwithstanding that the parents or quardians of the 3182 student to whom the epinephrine is administered have not been 3183 provided notice or have not signed a statement acknowledging 3184 that the school district is not liable; and 3185 3. Regardless of whether authorization has been given by 3186 the student's parents or guardians or by the student's 3187 physician, physician's assistant, or advanced practice 3188 registered nurse advanced registered nurse practitioner. 3189 Section 89. Subsections (4) and (5) of section 1006.062, 3190 Florida Statutes, are amended to read: 1006.062 Administration of medication and provision of 3191 3192 medical services by district school board personnel.-3193 (4) Nonmedical assistive personnel shall be allowed to 3194 perform health-related services upon successful completion of 3195 child-specific training by a registered nurse or advanced 3196 practice registered nurse advanced registered nurse practitioner 3197 licensed under chapter 464, a physician licensed pursuant to 3198 chapter 458 or chapter 459, or a physician assistant licensed 3199 pursuant to chapter 458 or chapter 459. All procedures shall be monitored periodically by a nurse, advanced practice registered 3200

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3201	nurse advanced registered nurse practitioner, physician
3202	assistant, or physician, including, but not limited to:
3203	(a) Intermittent clean catheterization.
3204	(b) Gastrostomy tube feeding.
3205	(c) Monitoring blood glucose.
3206	(d) Administering emergency injectable medication.
3207	(5) For all other invasive medical services not listed in
3208	this subsection, a registered nurse or advanced practice
3209	registered nurse advanced registered nurse practitioner licensed
3210	under chapter 464, a physician licensed pursuant to chapter 458
3211	or chapter 459, or a physician assistant licensed pursuant to
3212	chapter 458 or chapter 459 shall determine if nonmedical
3213	district school board personnel shall be allowed to perform such
3214	service.
3215	Section 90. Subsection (1) and paragraph (a) of subsection
3216	(2) of section 1009.65, Florida Statutes, are amended to read:
3217	1009.65 Medical Education Reimbursement and Loan Repayment
3218	Program
3219	(1) To encourage qualified medical professionals to
3220	practice in underserved locations where there are shortages of
3221	such personnel, there is established the Medical Education
3222	Reimbursement and Loan Repayment Program. The function of the
3223	program is to make payments that offset loans and educational
3224	expenses incurred by students for studies leading to a medical
3225	or nursing degree, medical or nursing licensure, or <u>advanced</u>
3226	practice registered nurse licensure advanced registered nurse
3227	practitioner certification or physician assistant licensure. The
3228	following licensed or certified health care professionals are
3229	eligible to participate in this program: medical doctors with

COMMITTEE AMENDMENT

Florida Senate - 2018 Bill No. SB 1594

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3254



3230 primary care specialties, doctors of osteopathic medicine with 3231 primary care specialties, physician's assistants, licensed 3232 practical nurses and registered nurses, and advanced practice 3233 registered nurses advanced registered nurse practitioners with 3234 primary care specialties such as certified nurse midwives. 3235 Primary care medical specialties for physicians include obstetrics, gynecology, general and family practice, internal 3236 3237 medicine, pediatrics, and other specialties which may be 3238 identified by the Department of Health.

(2) From the funds available, the Department of Health shall make payments to selected medical professionals as 3241 follows:

3242 (a) Up to \$4,000 per year for licensed practical nurses and 3243 registered nurses, up to \$10,000 per year for advanced practice 3244 registered nurses advanced registered nurse practitioners and 3245 physician's assistants, and up to \$20,000 per year for 3246 physicians. Penalties for noncompliance shall be the same as 3247 those in the National Health Services Corps Loan Repayment 3248 Program. Educational expenses include costs for tuition, 3249 matriculation, registration, books, laboratory and other fees, 3250 other educational costs, and reasonable living expenses as 3251 determined by the Department of Health.

3252 Section 91. Subsection (2) of section 1009.66, Florida 3253 Statutes, is amended to read:

1009.66 Nursing Student Loan Forgiveness Program.-3255 (2) To be eligible, a candidate must have graduated from an 3256 accredited or approved nursing program and have received a 3257 Florida license as a licensed practical nurse or a registered 3258 nurse or a Florida license certificate as an advanced practice

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3259	registered nurse advanced registered nurse practitioner.
3260	Section 92. Subsection (3) of section 1009.67, Florida
3261	Statutes, is amended to read:
3262	1009.67 Nursing scholarship program.—
3263	(3) A scholarship may be awarded for no more than 2 years,
3264	in an amount not to exceed \$8,000 per year. However, registered
3265	nurses pursuing a graduate degree for a faculty position or to
3266	practice as an advanced practice registered nurse advanced
3267	registered nurse practitioner may receive up to \$12,000 per
3268	year. These amounts shall be adjusted by the amount of increase
3269	or decrease in the Consumer Price Index for All Urban Consumers
3270	published by the United States Department of Commerce.
3271	Section 93. This act shall take effect October 1, 2018.
3272	
3273	========== T I T L E A M E N D M E N T ============
3274	And the title is amended as follows:
3275	Delete everything before the enacting clause
3276	and insert:
3277	A bill to be entitled
3278	An act relating to nursing; amending s. 464.003, F.S.;
3279	defining the term "advanced practice registered
3280	nurse"; deleting the terms "advanced registered nurse
3281	practitioner", "clinical nurse specialist" and
3282	"clinical nurse specialist practice," to conform to
3283	changes made by the act; repealing s. 464.0115, F.S.,
3284	relating to the certification of clinical nurse
3285	specialists; amending s. 464.012, F.S.; requiring any
3286	nurse desiring to be licensed as an advanced practice
3287	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, 400.9973, 400.9974, 400.9976, 400.9979, 401.445, 3304 409.905, 409.908, 409.973, 429.918, 456.0391, 3305 456.0392, 456.041, 456.048, 456.072, 456.44, 458.3265, 3306 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, 467.003, 480.0475, 483.041, 483.801, 486.021, 490.012, 3309 3310 491.0057, 491.012, 493.6108, 627.357, 627.6471, 627.6472, 627.736, 633.412, 641.3923, 766.103, 3311 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 changes made by the act; providing an effective date. 3315

House



LEGISLATIVE ACTION

Senate . Comm: RCS . 01/30/2018 . .

The Committee on Health Policy (Brandes) recommended the following:

Senate Amendment to Amendment (200842) (with title amendment)

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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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11	as an advanced practice registered nurse. An advanced registered
12	nurse practitioner or a clinical nurse specialist holding a
13	certificate to practice in good standing on September 30, 2018,
14	may continue to practice with all rights, authorizations, and
15	responsibilities authorized under this section for licensure as
16	an advanced practice registered nurse and may use the applicable
17	title under s. 464.015 after the effective date of this act
18	while the department and board complete the transition from
19	certification to licensure, as established under this act. This
20	subsection may not be construed to limit or restrict the
21	department's or board's disciplinary authority or enforcement
22	responsibilities for safe nursing practice. This subsection
23	expires on October 1, 2020.
24	
25	======================================
26	And the title is amended as follows:
27	Delete line 3296
28	and insert:
29	specified period of time; requiring the department and
30	the board to establish a transition process for
31	converting certain certified practitioners to licensed
32	practitioners; authorizing certain certified
33	practitioners to continue practicing advanced nursing
34	during a specified period of time; providing
35	construction; providing an expiration date for
36	provisions relating to the transition from
37	certification to licensure; conforming provisions to

**By** Senator Brandes

	24-01080A-18 20181594
1	A bill to be entitled
2	An act relating to nursing; amending s. 464.003, F.S.;
3	defining the term "advanced practice registered
4	nurse"; deleting the terms "advanced registered nurse
5	practitioner" and "clinical nurse specialist," to
6	conform to changes made by the act; repealing s.
7	464.0115, F.S., relating to the certification of
8	clinical nurse specialists; amending s. 464.012, F.S.;
9	requiring any nurse desiring to be licensed as an
10	advanced practice registered nurse to apply to the
11	Department of Health, submit proof that he or she
12	holds a current license to practice professional
13	nursing, and meet one or more specified requirements
14	as determined by the Board of Nursing; authorizing the
15	board to adopt rules to provide for provisional state
16	licensure of graduate registered nurse anesthetists,
17	clinical nurse specialists, certified nurse
18	practitioners, and certified nurse midwives for a
19	specified period of time; conforming provisions to
20	changes made by the act; amending s. 960.28, F.S.;
21	conforming a cross-reference; amending ss. 39.303,
22	39.304, 90.503, 110.12315, 121.0515, 252.515, 310.071,
23	310.073, 310.081, 320.0848, 381.00315, 381.00593,
24	383.14, 383.141, 390.0111, 390.012, 394.455, 395.0191,
25	397.311, 397.4012, 397.427, 397.679, 397.6793,
26	400.021, 400.462, 400.487, 400.506, 400.9973,
27	400.9974, 400.9976, 400.9979, 401.445, 409.905,
28	409.908, 409.973, 429.918, 456.0391, 456.0392,
29	456.041, 456.048, 456.072, 456.44, 458.3265, 458.331,

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	24-01080A-18 20181594
30	458.348, 459.0137, 459.015, 459.025, 464.003, 464.004,
31	464.013, 464.015, 464.016, 464.018, 464.0205, 467.003,
32	480.0475, 483.041, 483.801, 486.021, 490.012,
33	491.0057, 491.012, 493.6108, 627.357, 627.6471,
34	627.6472, 627.736, 633.412, 641.3923, 766.103,
35	766.1115, 766.1116, 794.08, 893.02, 893.05, 943.13,
36	948.03, 1002.20, 1002.42, 1006.062, 1009.65, 1009.66,
37	and 1009.67, F.S.; conforming provisions to changes
38	made by the act; providing an effective date.
39	
40	Be It Enacted by the Legislature of the State of Florida:
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42	Section 1. Subsections (3) and (6) of section 464.003,
43	Florida Statutes are amended, and subsections (7) through (23)
44	are redesignated as subsections (6) through (22), respectively,
45	to read:
46	464.003 Definitions.—As used in this part, the term:
47	(3) <u>"Advanced practice registered nurse"</u> "Advanced
48	registered nurse practitioner" means any person licensed in this
49	state to practice professional nursing and <u>licensed</u> <del>certified</del> in
50	advanced or specialized nursing practice, including certified
51	registered nurse anesthetists, certified nurse midwives,
52	clinical nurse specialists, and certified nurse practitioners.
53	(6) "Clinical nurse specialist" means any person licensed
54	in this state to practice professional nursing and certified in
55	clinical nurse specialist practice.
56	Section 2. Section 464.0115, Florida Statutes, is repealed.
57	Section 3. Section 464.012, Florida Statutes, is amended to
58	read:
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59	464.012 <u>Licensure</u> <del>Certification</del> of <u>advanced practice</u>
60	registered nurses advanced registered nurse practitioners; fees;
61	controlled substance prescribing
62	(1) Any nurse desiring to be <u>licensed</u> <del>certified</del> 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 <u>licensure</u>
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	<u>certified</u> nurse midwife. The board may by rule provide for
78	provisional state <u>licensure</u> <del>certification</del> of graduate <u>registered</u>
79	nurse anesthetists, clinical nurse specialists, certified nurse
80	practitioners, <del>psychiatric nurses,</del> and <u>certified</u> nurse midwives
81	for a period of time determined to be appropriate for preparing
82	for and passing the national certification examination.
83	<u>(c)</u> 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 <u>is shall be</u> required for initial <u>licensure</u> 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 <u>is</u> <del>shall be</del> required for initial
91	<u>licensure</u> 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 <u>advanced practice registered nurses</u> advanced
99	registered nurse practitioners in the categories of certified
100	registered nurse anesthetist, certified nurse midwife, and nurse
101	practitioner.
102	(3) An <u>advanced practice registered nurse</u> advanced
103	registered nurse practitioner shall perform those functions
104	authorized in this section within the framework of an
105	established protocol $\underline{\textit{\prime}}$ which must be maintained on site at the
106	location or locations at which an <u>advanced practice registered</u>
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	<del>practitioner</del> 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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1	24-01080A-18 20181594
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	<del>practitioner</del> 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 <u>advanced practice registered nurse</u> <del>advanced</del>
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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24-01080A-18 20181594 responsible physician, the appropriate type of anesthesia within 146 147 the framework of the protocol. 3. Order under the protocol preanesthetic medication. 148 4. Perform under the protocol procedures commonly used to 149 150 render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical 151 152 procedures. These procedures include ordering and administering 153 regional, spinal, and general anesthesia; inhalation agents and 154 techniques; intravenous agents and techniques; and techniques of 155 hypnosis. 156 5. Order or perform monitoring procedures indicated as 157 pertinent to the anesthetic health care management of the 158 patient. 159 6. Support life functions during anesthesia health care, 160 including induction and intubation procedures, the use of 161 appropriate mechanical supportive devices, and the management of 162 fluid, electrolyte, and blood component balances. 163 7. Recognize and take appropriate corrective action for 164 abnormal patient responses to anesthesia, adjunctive medication, 165 or other forms of therapy. 8. Recognize and treat a cardiac arrhythmia while the 166 167 patient is under anesthetic care. 168 9. Participate in management of the patient while in the 169 postanesthesia recovery area, including ordering the administration of fluids and drugs. 170 171 10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate. 172 173 (b) The certified nurse midwife may, to the extent 174 authorized by an established protocol which has been approved by

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175	the medical staff of the health care facility in which the
176	midwifery services are performed, or approved by the nurse
177	midwife's physician backup when the delivery is performed in a
178	patient's home, perform any or all of the following:
179	1. Perform superficial minor surgical procedures.
180	2. Manage the patient during labor and delivery to include
181	amniotomy, episiotomy, and repair.
182	3. Order, initiate, and perform appropriate anesthetic
183	procedures.
184	4. Perform postpartum examination.
185	5. Order appropriate medications.
186	6. Provide family-planning services and well-woman care.
187	7. Manage the medical care of the normal obstetrical
188	patient and the initial care of a newborn patient.
189	(c) The <u>certified</u> nurse practitioner may perform any or all
190	of the following acts within the framework of established
191	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	(5) A psychiatric nurse, as defined in s. 394.455, within
201	the framework of an established protocol with a psychiatrist,
202	may prescribe psychotropic controlled substances for the
203	treatment of mental disorders.

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SB 1594

24-01080A-18 20181594 204 (6) The board shall certify, and the department shall issue 205 a certificate to, any nurse meeting the qualifications in this 206 section. The board shall establish an application fee not to 207 exceed \$100 and a biennial renewal fee not to exceed \$50. The 208 board is authorized to adopt such other rules as are necessary 209 to implement the provisions of this section. 210 (7) (a) The board shall establish a committee to recommend a 211 formulary of controlled substances that an advanced practice registered nurse advanced registered nurse practitioner may not 212 prescribe or may prescribe only for specific uses or in limited 213 214 quantities. The committee must consist of three advanced 215 practice registered nurses advanced registered nurse 216 practitioners licensed under this section, recommended by the 217 board; three physicians licensed under chapter 458 or chapter 218 459 who have work experience with advanced practice registered 219 nurses advanced registered nurse practitioners, recommended by 220 the Board of Medicine; and a pharmacist licensed under chapter 221 465 who is a doctor of pharmacy, recommended by the Board of 222 Pharmacy. The committee may recommend an evidence-based 223 formulary applicable to all advanced practice registered nurses 224 advanced registered nurse practitioners which is limited by 225 specialty certification, is limited to approved uses of 226 controlled substances, or is subject to other similar 227 restrictions the committee finds are necessary to protect the 228 health, safety, and welfare of the public. The formulary must 229 restrict the prescribing of psychiatric mental health controlled 230 substances for children younger than 18 years of age to advanced 231 practice registered nurses advanced registered nurse practitioners who also are psychiatric nurses as defined in s. 232

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233	
234	Schedule II controlled substances as listed in s. 893.03 to a 7-
235	day supply, except that such restriction does not apply to
236	controlled substances that are psychiatric medications
237	prescribed by psychiatric nurses as defined in s. 394.455.
238	(b) The board shall adopt by rule the recommended formulary
239	and any revision to the formulary which it finds is supported by
240	evidence-based clinical findings presented by the Board of
241	Medicine, the Board of Osteopathic Medicine, or the Board of
242	Dentistry.
243	(c) The formulary required under this subsection does not
244	apply to a controlled substance that is dispensed for
245	administration pursuant to an order, including an order for
246	medication authorized by subparagraph (4)(a)3., subparagraph
247	(4)(a)4., or subparagraph (4)(a)9.
248	(d) The board shall adopt the committee's initial
249	recommendation no later than October 31, 2016.
250	(8) This section shall be known as "The Barbara Lumpkin
251	Prescribing Act."
252	Section 4. Section 3 of chapter 2017-134, Laws of Florida,
253	is amended to read:
254	Section 3. Effective December 31, 2018, or upon enactment
255	of the Nurse Licensure Compact into law by 26 states, whichever
256	occurs first, subsection (1) of section 464.012, Florida
257	Statutes, as amended by section 8 of chapter 2016-139, section
258	12 of chapter 2016-224, and section 7 of chapter 2016-231, Laws
259	of Florida, is amended to read:
260	464.012 Licensure Certification of advanced practice
261	registered nurses advanced registered nurse practitioners; fees;
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262 controlled substance prescribing.-

263 (1) Any nurse desiring to be licensed certified as an advanced practice registered nurse must advanced registered 264 265 nurse practitioner shall apply to the department and submit 266 proof that he or she holds a current license to practice 267 professional nursing or holds an active multistate license to 268 practice professional nursing pursuant to s. 464.0095, and that he or she meets one or more of the following requirements as 269 270 determined by the board:

(a) <u>Completion of a postbasic educational program.</u>
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.

275 (b) Certification by an appropriate specialty board. Such 276 certification shall be required for initial state licensure 277 certification and any licensure renewal recertification as a 278 certified registered nurse anesthetist, psychiatric nurse, 279 certified nurse practitioner, clinical nurse specialist, or 280 certified nurse midwife. The board shall may by rule provide for 281 provisional state licensure certification of graduate registered 282 nurse anesthetists, clinical nurse specialist, certified nurse 283 practitioners, psychiatric nurses, and certified nurse midwives 284 for a period of time determined to be appropriate for preparing 285 for and passing the national certification examination.

286 <u>(c) (b)</u> Graduation from a program leading to a master's 287 degree in a nursing clinical specialty area with preparation in 288 specialized practitioner skills. For applicants graduating on or 289 after October 1, 1998, graduation from a master's degree program 290 <u>is shall be</u> required for initial <u>licensure</u> <del>certification</del> as a

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291	certified nurse practitioner under paragraph (4)(c). For
292	applicants graduating on or after October 1, 2001, graduation
293	from a master's degree program <u>is</u> <del>shall be</del> required for initial
294	<u>licensure</u> <del>certification</del> as a <u>certified</u> registered nurse
295	anesthetist under paragraph (4)(a). For applicants graduating on
296	or after October 1, 1998, graduation from a master's degree
297	program is required for the initial licensure of a certified
298	nurse midwife or clinical nurse specialist as an advanced
299	practice registered nurse.
300	Section 5. Subsection (2) of section 960.28, Florida
301	Statutes, is amended to read:
302	960.28 Payment for victims' initial forensic physical
303	examinations
304	(2) The Crime Victims' Services Office of the department
305	shall pay for medical expenses connected with an initial
306	forensic physical examination of a victim of sexual battery as
307	defined in chapter 794 or a lewd or lascivious offense as
308	defined in chapter 800. Such payment shall be made regardless of
309	whether the victim is covered by health or disability insurance
310	and whether the victim participates in the criminal justice
311	system or cooperates with law enforcement. The payment shall be
312	made only out of moneys allocated to the Crime Victims' Services
313	Office for the purposes of this section, and the payment may not
314	exceed \$500 with respect to any violation. The department shall
315	develop and maintain separate protocols for the initial forensic
316	physical examination of adults and children. Payment under this
317	section is limited to medical expenses connected with the
318	initial forensic physical examination, and payment may be made
319	to a medical provider using an examiner qualified under part I
I	

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24-01080A-18 20181594 320 of chapter 464, excluding s. 464.003(15) s. 464.003(16); chapter 321 458; or chapter 459. Payment made to the medical provider by the 322 department shall be considered by the provider as payment in 323 full for the initial forensic physical examination associated 324 with the collection of evidence. The victim may not be required 325 to pay, directly or indirectly, the cost of an initial forensic 326 physical examination performed in accordance with this section. 327 Section 6. Paragraph (c) of subsection (5) and paragraph 328 (a) of subsection (6) of section 39.303, Florida Statutes, are 329 amended to read: 330 39.303 Child protection teams and sexual abuse treatment 331 programs; services; eligible cases.-332 (5) All abuse and neglect cases transmitted for 333 investigation to a circuit by the hotline must be simultaneously 334 transmitted to the child protection team for review. For the 335 purpose of determining whether a face-to-face medical evaluation 336 by a child protection team is necessary, all cases transmitted 337 to the child protection team which meet the criteria in 338 subsection (4) must be timely reviewed by: 339 (c) An advanced practice registered nurse advanced 340 registered nurse practitioner licensed under chapter 464 who has 341 a specialty in pediatrics or family medicine and is a member of 342 a child protection team; 343 (6) A face-to-face medical evaluation by a child protection 344 team is not necessary when: 345 (a) The child was examined for the alleged abuse or neglect 346 by a physician who is not a member of the child protection team, 347 and a consultation between the child protection team medical 348 director or a child protection team board-certified

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	24-01080A-18 20181594
349	pediatrician, <u>advanced practice registered nurse</u> <del>advanced</del>
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 <u>advanced practice registered nurse</u> advanced registered nurse
377	<del>practitioner</del> licensed pursuant to part I of chapter 464. Any
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licensed physician, or advanced practice registered nurse
advanced registered nurse practitioner licensed pursuant to part
I of chapter 464 $_{m{ au}}$ 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 8. Paragraph (a) of subsection (1) of section
90.503, Florida Statutes, is amended to read:
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

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24-01080A-18 20181594 407 facilities defined as community mental health centers pursuant 408 to s. 394.907(1), who are engaged primarily in the diagnosis or 409 treatment of a mental or emotional condition, including 410 alcoholism and other drug addiction; or 411 5. An advanced practice registered nurse advanced registered nurse practitioner certified under s. 464.012, whose 412 413 primary scope of practice is the diagnosis or treatment of mental or emotional conditions, including chemical abuse, and 414 limited only to actions performed in accordance with part I of 415 416 chapter 464. 417 Section 9. Paragraph (d) of subsection (2) of section 418 110.12315, Florida Statutes, is amended to read: 419 110.12315 Prescription drug program.-The state employees' 420 prescription drug program is established. This program shall be 421 administered by the Department of Management Services, according 422 to the terms and conditions of the plan as established by the 423 relevant provisions of the annual General Appropriations Act and 424 implementing legislation, subject to the following conditions: 425 (2) In providing for reimbursement of pharmacies for 426 prescription drugs and supplies dispensed to members of the 427 state group health insurance plan and their dependents under the 428 state employees' prescription drug program: 429 (d) The department shall establish the reimbursement 430 schedule for prescription drugs and supplies dispensed under the program. Reimbursement rates for a prescription drug or supply 431 432 must be based on the cost of the generic equivalent drug or

433 supply if a generic equivalent exists, unless the physician,
434 <u>advanced practice registered nurse</u> <del>advanced registered nurse</del>
435 <del>practitioner</del>, or physician assistant prescribing the drug or

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436 supply clearly states on the prescription that the bran 437 drug or supply is medically necessary or that the drug 438 is included on the formulary of drugs and supplies that	g or supply at may not
	at may not
438 is included on the formulary of drugs and supplies that	-
	case
439 be interchanged as provided in chapter 465, in which ca	
440 reimbursement must be based on the cost of the brand na	name drug
441 or supply as specified in the reimbursement schedule ad	dopted by
442 the department.	
443 Section 10. Paragraph (f) of subsection (3) of sec	ection
444 121.0515, Florida Statutes, is amended to read:	
445 121.0515 Special Risk Class	
446 (3) CRITERIA.—A member, to be designated as a spec	ecial risk
447 member, must meet the following criteria:	
448 (f) Effective January 1, 2001, the member must be	e employed
449 in one of the following classes and must spend at least	st 75
450 percent of his or her time performing duties which invo	volve
451 contact with patients or inmates in a correctional or f	forensic
452 facility or institution:	
453 1. Dietitian (class codes 5203 and 5204);	
454 2. Public health nutrition consultant (class code	e 5224);
455 3. Psychological specialist (class codes 5230 and	1 5231);
456 4. Psychologist (class code 5234);	
457 5. Senior psychologist (class codes 5237 and 5238)	3);
458 6. Regional mental health consultant (class code 5	5240);
459 7. Psychological Services Director-DCF (class code	le 5242);
460 8. Pharmacist (class codes 5245 and 5246);	
461 9. Senior pharmacist (class codes 5248 and 5249);	
462 10. Dentist (class code 5266);	
463 11. Senior dentist (class code 5269);	
464 12. Registered nurse (class codes 5290 and 5291);	

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	24-01080A-18 20181594
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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	24-01080A-18 20181594
494	5. A dentist licensed under chapter 466.
495	6. An advanced practice registered nurse advanced
496	registered nurse practitioner certified under s. 464.012.
497	7. A physician assistant licensed under s. 458.347 or s.
498	459.022.
499	8. A worker employed by a public or private hospital in the
500	state.
501	9. A paramedic as defined in s. 401.23(17).
502	10. An emergency medical technician as defined in s.
503	401.23(11).
504	11. A firefighter as defined in s. 633.102.
505	12. A law enforcement officer as defined in s. 943.10.
506	13. A member of the Florida National Guard.
507	14. Any other personnel designated as emergency personnel
508	by the Governor pursuant to a declared emergency.
509	Section 12. Paragraph (c) of subsection (1) of section
510	310.071, Florida Statutes, is amended to read:
511	310.071 Deputy pilot certification
512	(1) In addition to meeting other requirements specified in
513	this chapter, each applicant for certification as a deputy pilot
514	must:
515	(c) Be in good physical and mental health, as evidenced by
516	documentary proof of having satisfactorily passed a complete
517	physical examination administered by a licensed physician within
518	the preceding 6 months. The board shall adopt rules to establish
519	requirements for passing the physical examination, which rules
520	shall establish minimum standards for the physical or mental
521	capabilities necessary to carry out the professional duties of a
522	certificated deputy pilot. Such standards shall include zero
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24-01080A-18 20181594 523 tolerance for any controlled substance regulated under chapter 524 893 unless that individual is under the care of a physician, an 525 advanced practice registered nurse advanced registered nurse 526 practitioner, or a physician assistant and that controlled 527 substance was prescribed by that physician, advanced practice 528 registered nurse advanced registered nurse practitioner, or 529 physician assistant. To maintain eligibility as a certificated 530 deputy pilot, each certificated deputy pilot must annually provide documentary proof of having satisfactorily passed a 531 complete physical examination administered by a licensed 532 533 physician. The physician must know the minimum standards and 534 certify that the certificateholder satisfactorily meets the 535 standards. The standards for certificateholders shall include a 536 drug test. 537 Section 13. Subsection (3) of section 310.073, Florida 538 Statutes, is amended to read: 539 310.073 State pilot licensing.-In addition to meeting other 540 requirements specified in this chapter, each applicant for 541 license as a state pilot must: 542 (3) Be in good physical and mental health, as evidenced by 543 documentary proof of having satisfactorily passed a complete 544 physical examination administered by a licensed physician within 545 the preceding 6 months. The board shall adopt rules to establish

546 requirements for passing the physical examination, which rules 547 shall establish minimum standards for the physical or mental 548 capabilities necessary to carry out the professional duties of a 549 licensed state pilot. Such standards shall include zero 550 tolerance for any controlled substance regulated under chapter 551 893 unless that individual is under the care of a physician, an

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24-01080A-18 20181594 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.

563Section 14. Paragraph (b) of subsection (3) of section564310.081, 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 certificates568 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 nurse advanced registered nurse practitioner, or a physician 580

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24-01080A-18 20181594 581 assistant and that controlled substance was prescribed by that 582 physician, advanced practice registered nurse advanced registered nurse practitioner, or physician assistant. To 583 584 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

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a brace, cane, crutch, prosthetic device, or other assistive

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610	device, or without the assistance of another person. If the
611	assistive device significantly restores the person's ability to
612	walk to the extent that the person can walk without severe
613	limitation, the person is not eligible for the exemption parking
614	permit.
615	b. The need to permanently use a wheelchair.
616	c. Restriction by lung disease to the extent that the
617	person's forced (respiratory) expiratory volume for 1 second,
618	when measured by spirometry, is less than 1 liter, or the
619	person's arterial oxygen is less than 60 mm/hg on room air at
620	rest.
621	d. Use of portable oxygen.
622	e. Restriction by cardiac condition to the extent that the
623	person's functional limitations are classified in severity as
624	Class III or Class IV according to standards set by the American
625	Heart Association.
626	f. Severe limitation in the person's ability to walk due to
627	an arthritic, neurological, or orthopedic condition.
628	2. The certification of disability which is required under
629	subparagraph 1. must be provided by a physician licensed under
630	chapter 458, chapter 459, or chapter 460, by a podiatric
631	physician licensed under chapter 461, by an optometrist licensed
632	under chapter 463, by an <u>advanced practice registered nurse</u>
633	advanced registered nurse practitioner licensed under chapter
634	464 under the protocol of a licensed physician as stated in this
635	subparagraph, by a physician assistant licensed under chapter
636	458 or chapter 459, or by a similarly licensed physician from
637	another state if the application is accompanied by documentation
638	of the physician's licensure in the other state and a form

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24-01080A-18 20181594 639 signed by the out-of-state physician verifying his or her 640 knowledge of this state's eligibility guidelines. Section 16. Paragraph (c) of subsection (1) of section 641 642 381.00315, Florida Statutes, is amended to read: 643 381.00315 Public health advisories; public health 644 emergencies; isolation and guarantines.-The State Health Officer 645 is responsible for declaring public health emergencies, issuing 646 public health advisories, and ordering isolation or quarantines. (1) As used in this section, the term: 647 648 (c) "Public health emergency" means any occurrence, or 649 threat thereof, whether natural or manmade, which results or may 650 result in substantial injury or harm to the public health from 651 infectious disease, chemical agents, nuclear agents, biological 652 toxins, or situations involving mass casualties or natural 653 disasters. Before declaring a public health emergency, the State 654 Health Officer shall, to the extent possible, consult with the 655 Governor and shall notify the Chief of Domestic Security. The 656 declaration of a public health emergency shall continue until 657 the State Health Officer finds that the threat or danger has 658 been dealt with to the extent that the emergency conditions no 659 longer exist and he or she terminates the declaration. However, 660 a declaration of a public health emergency may not continue for 661 longer than 60 days unless the Governor concurs in the renewal 662 of the declaration. The State Health Officer, upon declaration of a public health emergency, may take actions that are 663 664 necessary to protect the public health. Such actions include, 665 but are not limited to: 666 1. Directing manufacturers of prescription drugs or over-

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the-counter drugs who are permitted under chapter 499 and

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24-01080A-18 20181594 668 wholesalers of prescription drugs located in this state who are 669 permitted under chapter 499 to give priority to the shipping of 670 specified drugs to pharmacies and health care providers within 671 geographic areas that have been identified by the State Health 672 Officer. The State Health Officer must identify the drugs to be 673 shipped. Manufacturers and wholesalers located in the state must 674 respond to the State Health Officer's priority shipping 675 directive before shipping the specified drugs.

676 2. Notwithstanding chapters 465 and 499 and rules adopted 677 thereunder, directing pharmacists employed by the department to 678 compound bulk prescription drugs and provide these bulk 679 prescription drugs to physicians and nurses of county health 680 departments or any qualified person authorized by the State 681 Health Officer for administration to persons as part of a 682 prophylactic or treatment regimen.

683 3. Notwithstanding s. 456.036, temporarily reactivating the 684 inactive license of the following health care practitioners, 685 when such practitioners are needed to respond to the public 686 health emergency: physicians licensed under chapter 458 or 687 chapter 459; physician assistants licensed under chapter 458 or 688 chapter 459; licensed practical nurses, registered nurses, and 689 advanced practice registered nurses advanced registered nurse 690 practitioners licensed under part I of chapter 464; respiratory 691 therapists licensed under part V of chapter 468; and emergency 692 medical technicians and paramedics certified under part III of 693 chapter 401. Only those health care practitioners specified in 694 this paragraph who possess an unencumbered inactive license and 695 who request that such license be reactivated are eligible for 696 reactivation. An inactive license that is reactivated under this

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24-01080A-18 20181594 697 paragraph shall return to inactive status when the public health 698 emergency ends or before the end of the public health emergency 699 if the State Health Officer determines that the health care 700 practitioner is no longer needed to provide services during the 701 public health emergency. Such licenses may only be reactivated 702 for a period not to exceed 90 days without meeting the 703 requirements of s. 456.036 or chapter 401, as applicable. 704 4. Ordering an individual to be examined, tested, 705 vaccinated, treated, isolated, or quarantined for communicable diseases that have significant morbidity or mortality and 706 707 present a severe danger to public health. Individuals who are 708 unable or unwilling to be examined, tested, vaccinated, or 709 treated for reasons of health, religion, or conscience may be 710 subjected to isolation or quarantine. 711 a. Examination, testing, vaccination, or treatment may be 712 performed by any qualified person authorized by the State Health 713 Officer. 714 b. If the individual poses a danger to the public health, 715 the State Health Officer may subject the individual to isolation 716 or quarantine. If there is no practical method to isolate or 717 quarantine the individual, the State Health Officer may use any 718 means necessary to vaccinate or treat the individual. 719 720 Any order of the State Health Officer given to effectuate this 721 paragraph shall be immediately enforceable by a law enforcement 722 officer under s. 381.0012. 723 Section 17. Subsection (3) of section 381.00593, Florida 724 Statutes, is amended to read: 725 381.00593 Public school volunteer health care practitioner Page 25 of 122

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726 program.-

727 (3) For purposes of this section, the term "health care practitioner" means a physician licensed under chapter 458; an 728 729 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 registered nurse practitioner, registered nurse, or licensed 733 734 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 section742 383.14, Florida Statutes, is amended to read:

743383.14 Screening for metabolic disorders, other hereditary744and 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 newborns in this state and their families for environmental risk 753 754 factors such as low income, poor education, maternal and family

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24-01080A-18 20181594 755 stress, emotional instability, substance abuse, and other high-756 risk conditions associated with increased risk of infant 757 mortality and morbidity to provide early intervention, 758 remediation, and prevention services, including, but not limited 759 to, parent support and training programs, home visitation, and 760 case management. Identification, perinatal screening, and 761 intervention efforts shall begin prior to and immediately 762 following the birth of the child by the attending health care 763 provider. Such efforts shall be conducted in hospitals, 764 perinatal centers, county health departments, school health 765 programs that provide prenatal care, and birthing centers, and 766 reported to the Office of Vital Statistics. 767 (c) Release of screening results.-Notwithstanding any law 768 to the contrary, the State Public Health Laboratory may release, 769 directly or through the Children's Medical Services program, the

770 results of a newborn's hearing and metabolic tests or screenings 771 to the newborn's health care practitioner, the newborn's parent 772 or legal guardian, the newborn's personal representative, or a 773 person designated by the newborn's parent or legal guardian. As 774 used in this paragraph, the term "health care practitioner" 775 means a physician or physician assistant licensed under chapter 776 458; an osteopathic physician or physician assistant licensed 777 under chapter 459; an advanced practice registered nurse 778 advanced registered nurse practitioner, registered nurse, or 779 licensed practical nurse licensed under part I of chapter 464; a 780 midwife licensed under chapter 467; a speech-language 781 pathologist or audiologist licensed under part I of chapter 468; 782 or a dietician or nutritionist licensed under part X of chapter 783 468.

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785	383.141, Florida Statutes, is amended to read:
786	383.141 Prenatally diagnosed conditions; patient to be
787	provided information; definitions; information clearinghouse;
788	advisory council
789	(1) As used in this section, the term:
790	(c) "Health care provider" means a practitioner licensed or
791	registered under chapter 458 or chapter 459 or an <u>advanced</u>
792	practice registered nurse advanced registered nurse practitioner
793	certified under chapter 464.
794	Section 20. Paragraph (a) of subsection (3) of section
795	390.0111, Florida Statutes, is amended to read:
796	390.0111 Termination of pregnancies
797	(3) CONSENTS REQUIRED.—A termination of pregnancy may not
798	be performed or induced except with the voluntary and informed
799	written consent of the pregnant woman or, in the case of a
800	mental incompetent, the voluntary and informed written consent
801	of her court-appointed guardian.
802	(a) Except in the case of a medical emergency, consent to a
803	termination of pregnancy is voluntary and informed only if:
804	1. The physician who is to perform the procedure, or the
805	referring physician, has, at a minimum, orally, while physically
806	present in the same room, and at least 24 hours before the
807	procedure, informed the woman of:
808	a. The nature and risks of undergoing or not undergoing the
809	proposed procedure that a reasonable patient would consider
810	material to making a knowing and willful decision of whether to
811	terminate a pregnancy.
812	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
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     performed.
815
          (I) The ultrasound must be performed by the physician who
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     is to perform the abortion or by a person having documented
817
     evidence that he or she has completed a course in the operation
818
     of ultrasound equipment as prescribed by rule and who is working
819
     in conjunction with the physician.
820
           (II) The person performing the ultrasound must offer the
821
     woman the opportunity to view the live ultrasound images and
822
     hear an explanation of them. If the woman accepts the
823
     opportunity to view the images and hear the explanation, a
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824 physician or a registered nurse, licensed practical nurse, 825 <u>advanced practice registered nurse</u> <del>advanced registered nurse</del> 826 <del>practitioner</del>, or physician assistant working in conjunction with 827 the physician must contemporaneously review and explain the 828 images to the woman before the woman gives informed consent to 829 having an abortion procedure performed.

830 (III) The woman has a right to decline to view and hear the 831 explanation of the live ultrasound images after she is informed 832 of her right and offered an opportunity to view the images and 833 hear the explanation. If the woman declines, the woman shall 834 complete a form acknowledging that she was offered an 835 opportunity to view and hear the explanation of the images but 836 that she declined that opportunity. The form must also indicate 837 that the woman's decision was not based on any undue influence 838 from any person to discourage her from viewing the images or 839 hearing the explanation and that she declined of her own free 840 will.

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(IV) Unless requested by the woman, the person performing

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24-01080A-18 20181594 842 the ultrasound may not offer the opportunity to view the images 843 and hear the explanation and the explanation may not be given 844 if, at the time the woman schedules or arrives for her 845 appointment to obtain an abortion, a copy of a restraining 846 order, police report, medical record, or other court order or 847 documentation is presented which provides evidence that the 848 woman is obtaining the abortion because the woman is a victim of 849 rape, incest, domestic violence, or human trafficking or that 850 the woman has been diagnosed as having a condition that, on the 851 basis of a physician's good faith clinical judgment, would 852 create a serious risk of substantial and irreversible impairment 853 of a major bodily function if the woman delayed terminating her 854 pregnancy. 855 c. The medical risks to the woman and fetus of carrying the 856 pregnancy to term. 857 858

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.

866 2. Printed materials prepared and provided by the 867 department have been provided to the pregnant woman, if she 868 chooses to view these materials, including:

a. A description of the fetus, including a description ofthe various stages of development.

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871	b. A list of entities that offer alternatives to
872	terminating the pregnancy.
873	c. Detailed information on the availability of medical
874	assistance benefits for prenatal care, childbirth, and neonatal
875	care.
876	3. The woman acknowledges in writing, before the
877	termination of pregnancy, that the information required to be
878	provided under this subsection has been provided.
879	
880	Nothing in this paragraph is intended to prohibit a physician
881	from providing any additional information which the physician
882	deems material to the woman's informed decision to terminate her
883	pregnancy.
884	Section 21. Paragraphs (c), (e), and (f) of subsection (3)
885	of section 390.012, Florida Statutes, are amended to read:
886	390.012 Powers of agency; rules; disposal of fetal
887	remains
888	(3) For clinics that perform or claim to perform abortions
889	after the first trimester of pregnancy, the agency shall adopt
890	rules pursuant to ss. 120.536(1) and 120.54 to implement the
891	provisions of this chapter, including the following:
892	(c) Rules relating to abortion clinic personnel. At a
893	minimum, these rules shall require that:
894	1. The abortion clinic designate a medical director who is
895	licensed to practice medicine in this state, and all physicians
896	who perform abortions in the clinic have admitting privileges at
897	a hospital within reasonable proximity to the clinic, unless the
898	clinic has a written patient transfer agreement with a hospital
899	within reasonable proximity to the clinic which includes the
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24-01080A-18 20181594\_ 900 transfer of the patient's medical records held by both the 901 clinic and the treating physician. 902 2. If a physician is not present after an abortion is 903 performed, a registered nurse, licensed practical nurse, 904 <u>advanced practice registered nurse</u> advanced registered nurse 905 <del>practitioner</del>, or physician assistant be present and remain at

906 the clinic to provide postoperative monitoring and care until 907 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.

911 4. Volunteers receive training in the specific 912 responsibilities associated with the services the volunteers 913 provide, including counseling and patient advocacy as provided 914 in the rules adopted by the director for different types of 915 volunteers based on their responsibilities.

916 (e) Rules relating to the abortion procedure. At a minimum, 917 these rules shall require:

918 1. That a physician, registered nurse, licensed practical 919 nurse, <u>advanced practice registered nurse</u> <del>advanced registered</del> 920 <del>nurse practitioner</del>, or physician assistant is available to all 921 patients throughout the abortion procedure.

922 2. Standards for the safe conduct of abortion procedures 923 that conform to obstetric standards in keeping with established 924 standards of care regarding the estimation of fetal age as 925 defined in rule.

3. Appropriate use of general and local anesthesia,analgesia, and sedation if ordered by the physician.

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4. Appropriate precautions, such as the establishment of

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929	
930	trimester abortions.
931	5. Appropriate monitoring of the vital signs and other
932	defined signs and markers of the patient's status throughout the
933	abortion procedure and during the recovery period until the
934	patient's condition is deemed to be stable in the recovery room.
935	(f) Rules that prescribe minimum recovery room standards.
936	At a minimum, these rules must require that:
937	1. Postprocedure recovery rooms be supervised and staffed
938	to meet the patients' needs.
939	2. Immediate postprocedure care consist of observation in a
940	supervised recovery room for as long as the patient's condition
941	warrants.
942	3. A registered nurse, licensed practical nurse, <u>advanced</u>
943	practice registered nurse advanced registered nurse
944	practitioner, or physician assistant who is trained in the
945	management of the recovery area and is capable of providing
946	basic cardiopulmonary resuscitation and related emergency
947	procedures remain on the premises of the abortion clinic until
948	all patients are discharged.
949	4. A physician sign the discharge order and be readily
950	accessible and available until the last patient is discharged to
951	facilitate the transfer of emergency cases if hospitalization of
952	the patient or viable fetus is necessary.
953	5. A physician discuss Rho(D) immune globulin with each
954	patient for whom it is indicated and ensure that it is offered
955	to the patient in the immediate postoperative period or will be
956	available to her within 72 hours after completion of the
957	abortion procedure. If the patient refuses the Rho(D) immune

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24-01080A-18 20181594 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 physician assistant from the abortion clinic makes a good faith 972 973 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 certified under s. 464.012 who has a master's or doctoral degree 984 985 in psychiatric nursing, holds a national advanced practice certification as a psychiatric mental health advanced practice 986

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24-01080A-18 20181594 987 nurse, and has 2 years of post-master's clinical experience 988 under the supervision of a physician. 989 (44) "Service provider" means a receiving facility, a 990 facility licensed under chapter 397, a treatment facility, an 991 entity under contract with the department to provide mental 992 health or substance abuse services, a community mental health 993 center or clinic, a psychologist, a clinical social worker, a 994 marriage and family therapist, a mental health counselor, a 995 physician, a psychiatrist, an advanced practice registered nurse 996 advanced registered nurse practitioner, a psychiatric nurse, or 997 a qualified professional as defined in s. 39.01. 998 Section 23. Paragraphs (a) and (b) of subsection (2) and 999 subsection (4) of section 395.0191, Florida Statutes, are amended to read: 1000 1001 395.0191 Staff membership and clinical privileges.-1002 (2) (a) Each licensed facility shall establish rules and 1003 procedures for consideration of an application for clinical 1004 privileges submitted by an advanced practice registered nurse 1005 advanced registered nurse practitioner licensed and certified 1006 under part I of chapter 464, in accordance with the provisions 1007 of this section. No licensed facility shall deny such 1008 application solely because the applicant is licensed under part 1009 I of chapter 464 or because the applicant is not a participant 1010 in the Florida Birth-Related Neurological Injury Compensation Plan. 1011

(b) An <u>advanced practice registered nurse</u> 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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24-01080A-18 20181594 1016 professional licensed under chapter 458, chapter 459, or chapter 1017 466, and in accordance with an established protocol approved by 1018 the medical staff. The medical direction shall specifically 1019 address the needs of the individual patient. 1020 (4) Nothing herein shall restrict in any way the authority 1021 of the medical staff of a licensed facility to review for 1022 approval or disapproval all applications for appointment and 1023 reappointment to all categories of staff and to make 1024 recommendations on each applicant to the governing board, 1025 including the delineation of privileges to be granted in each 1026 case. In making such recommendations and in the delineation of 1027 privileges, each applicant shall be considered individually 1028 pursuant to criteria for a doctor licensed under chapter 458, 1029 chapter 459, chapter 461, or chapter 466, or for an advanced 1030 practice registered nurse advanced registered nurse practitioner licensed and certified under part I of chapter 464, or for a 1031 1032 psychologist licensed under chapter 490, as applicable. The 1033 applicant's eligibility for staff membership or clinical 1034 privileges shall be determined by the applicant's background, 1035 experience, health, training, and demonstrated competency; the 1036 applicant's adherence to applicable professional ethics; the 1037 applicant's reputation; and the applicant's ability to work with 1038 others and by such other elements as determined by the governing board, consistent with this part. 1039

1040 Section 24. Subsection (34) of section 397.311, Florida 1041 Statutes, is amended to read:

1042 397.311 Definitions.—As used in this chapter, except part
1043 VIII, the term:

1044

(34) "Qualified professional" means a physician or a

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24-01080A-18 20181594 1045 physician assistant licensed under chapter 458 or chapter 459; a 1046 professional licensed under chapter 490 or chapter 491; an 1047 advanced practice registered nurse advanced registered nurse 1048 practitioner licensed under part I of chapter 464; or a person 1049 who is certified through a department-recognized certification 1050 process for substance abuse treatment services and who holds, at 1051 a minimum, a bachelor's degree. A person who is certified in 1052 substance abuse treatment services by a state-recognized 1053 certification process in another state at the time of employment 1054 with a licensed substance abuse provider in this state may 1055 perform the functions of a qualified professional as defined in 1056 this chapter but must meet certification requirements contained 1057 in this subsection no later than 1 year after his or her date of 1058 employment. Section 25. Section 397.4012, Florida Statutes, is amended 1059 1060 to read: 1061 397.4012 Exemptions from licensure.-The following are 1062 exempt from the licensing provisions of this chapter: 1063 (1) A hospital or hospital-based component licensed under 1064 chapter 395. 1065 (2) A nursing home facility as defined in s. 400.021. 1066 (3) A substance abuse education program established 1067 pursuant to s. 1003.42. 1068 (4) A facility or institution operated by the Federal 1069 Government. 1070 (5) A physician or physician assistant licensed under 1071 chapter 458 or chapter 459. 1072 (6) A psychologist licensed under chapter 490. 1073 (7) A social worker, marriage and family therapist, or

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4 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.

094 (11) A facility licensed under s. 394.875 as a crisis 095 stabilization unit.

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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1103	physician assistant licensed under chapter 458 or chapter 459, a
1104	psychologist licensed under chapter 490, a psychotherapist
1105	licensed under chapter 491, or an <u>advanced practice registered</u>
1106	<u>nurse</u> advanced registered nurse practitioner licensed under part
1107	I of chapter 464, who provides substance abuse treatment, so
1108	long as the physician, physician assistant, psychologist,
1109	psychotherapist, or <u>advanced practice registered nurse</u> <del>advanced</del>
1110	registered nurse practitioner does not represent to the public
1111	that he or she is a licensed service provider and does not
1112	provide services to individuals pursuant to part V of this
1113	chapter. Failure to comply with any requirement necessary to
1114	maintain an exempt status under this section is a misdemeanor of
1115	the first degree, punishable as provided in s. 775.082 or s.
1116	775.083.
1117	Section 26. Subsections (4), (7), and (8) of section
1118	397.427, Florida Statutes, are amended to read:
1119	397.427 Medication-assisted treatment service providers;
1120	rehabilitation program; needs assessment and provision of
1121	services; persons authorized to issue takeout medication;
1122	unlawful operation; penalty
1123	(4) Notwithstanding s. 465.019(2), a physician assistant, a
1124	registered nurse, an <u>advanced practice registered nurse</u> <del>advanced</del>
1125	registered nurse practitioner, or a licensed practical nurse
1126	working for a licensed service provider may deliver takeout
1127	medication for opiate treatment to persons enrolled in a
1128	maintenance treatment program for medication-assisted treatment
1129	for opiate addiction if:
1130	(a) The medication-assisted treatment program for opiate
1131	addiction has an appropriate valid permit issued pursuant to
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20181594 24-01080A-18 rules adopted by the Board of Pharmacy; 1132 1133 (b) The medication for treatment of opiate addiction has 1134 been delivered pursuant to a valid prescription written by the program's physician licensed pursuant to chapter 458 or chapter 1135 1136 459; (c) The medication for treatment of opiate addiction which 1137 1138 is ordered appears on a formulary and is prepackaged and 1139 prelabeled with dosage instructions and distributed from a source authorized under chapter 499; 1140 1141 (d) Each licensed provider adopts written protocols which 1142 provide for supervision of the physician assistant, registered 1143 nurse, advanced practice registered nurse advanced registered 1144 nurse practitioner, or licensed practical nurse by a physician licensed pursuant to chapter 458 or chapter 459 and for the 1145 1146 procedures by which patients' medications may be delivered by the physician assistant, registered nurse, advanced practice 1147 1148 registered nurse advanced registered nurse practitioner, or 1149 licensed practical nurse. Such protocols shall be signed by the 1150 supervising physician and either the administering registered 1151 nurse, the advanced practice registered nurse advanced 1152 registered nurse practitioner, or the licensed practical nurse. 1153 (e) Each licensed service provider maintains and has

1154 available for inspection by representatives of the Board of 1155 Pharmacy all medical records and patient care protocols, 1156 including records of medications delivered to patients, in 1157 accordance with the board.

(7) A physician assistant, a registered nurse, an <u>advanced</u> practice registered nurse <u>advanced registered nurse</u> <del>practitioner</del>, or a licensed practical nurse working for a

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1161 licensed service provider may deliver medication as prescribed 1162 by rule if: (a) The service provider is authorized to provide 1163 1164 medication-assisted treatment; 1165 (b) The medication has been administered pursuant to a 1166 valid prescription written by the program's physician who is 1167 licensed under chapter 458 or chapter 459; and 1168 (c) The medication ordered appears on a formulary or meets federal requirements for medication-assisted treatment. 1169 1170 (8) Each licensed service provider that provides 1171 medication-assisted treatment must adopt written protocols as 1172 specified by the department and in accordance with federally 1173 required rules, regulations, or procedures. The protocol shall 1174 provide for the supervision of the physician assistant, 1175 registered nurse, advanced practice registered nurse advanced 1176 registered nurse practitioner, or licensed practical nurse 1177 working under the supervision of a physician who is licensed 1178 under chapter 458 or chapter 459. The protocol must specify how 1179 the medication will be used in conjunction with counseling or 1180 psychosocial treatment and that the services provided will be 1181 included on the treatment plan. The protocol must specify the 1182 procedures by which medication-assisted treatment may be 1183 administered by the physician assistant, registered nurse, 1184 advanced practice registered nurse advanced registered nurse 1185 practitioner, or licensed practical nurse. These protocols shall 1186 be signed by the supervising physician and the administering physician assistant, registered nurse, advanced practice 1187 1188 registered nurse advanced registered nurse practitioner, or 1189 licensed practical nurse.

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1190
           Section 27. Section 397.679, Florida Statutes, is amended
1191
      to read:
1192
           397.679 Emergency admission; circumstances justifying.-A
      person who meets the criteria for involuntary admission in s.
1193
1194
      397.675 may be admitted to a hospital or to a licensed
1195
      detoxification facility or addictions receiving facility for
1196
      emergency assessment and stabilization, or to a less intensive
1197
      component of a licensed service provider for assessment only,
      upon receipt by the facility of a certificate by a physician, an
1198
1199
      advanced practice registered nurse advanced registered nurse
1200
      practitioner, a psychiatric nurse, a clinical psychologist, a
1201
      clinical social worker, a marriage and family therapist, a
1202
      mental health counselor, a physician assistant working under the
1203
      scope of practice of the supervising physician, or a master's-
1204
      level-certified addictions professional for substance abuse
1205
      services, if the certificate is specific to substance abuse
1206
      impairment, and the completion of an application for emergency
1207
      admission.
1208
           Section 28. Subsection (1) of section 397.6793, Florida
1209
      Statutes, is amended to read:
1210
           397.6793 Professional's certificate for emergency
1211
      admission.-
1212
            (1) A physician, a clinical psychologist, a physician
1213
      assistant working under the scope of practice of the supervising
1214
      physician, a psychiatric nurse, an advanced practice registered
1215
      nurse advanced registered nurse practitioner, a mental health
1216
      counselor, a marriage and family therapist, a master's-level-
1217
      certified addictions professional for substance abuse services,
```

### or a clinical social worker may execute a professional's

1218

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1242

another; or

24-01080A-18 20181594 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 impairment the person has lost the power of self-control with 1231 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

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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1248	Section 29. Subsection (8) of section 400.021, Florida
1249	Statutes, is amended to read:
1250	400.021 DefinitionsWhen used in this part, unless the
1251	context otherwise requires, the term:
1252	(8) "Geriatric outpatient clinic" means a site for
1253	providing outpatient health care to persons 60 years of age or
1254	older, which is staffed by a registered nurse, a physician
1255	assistant, or a licensed practical nurse under the direct
1256	supervision of a registered nurse, advanced practice registered
1257	nurse advanced registered nurse practitioner, physician
1258	assistant, or physician.
1259	Section 30. Subsection (3) of section 400.462, Florida
1260	Statutes, is amended to read:
1261	400.462 Definitions.—As used in this part, the term:
1262	(3) <u>"Advanced practice registered nurse"</u> "Advanced
1263	registered nurse practitioner" means a person licensed in this
1264	state to practice professional nursing and certified in advanced
1265	or specialized nursing practice, as defined in s. 464.003.
1266	Section 31. Section 400.487, Florida Statutes, is amended
1267	to read:
1268	400.487 Home health service agreements; physician's,
1269	physician assistant's, and <u>advanced practice registered nurse's</u>
1270	advanced registered nurse practitioner's treatment orders;
1271	patient assessment; establishment and review of plan of care;
1272	provision of services; orders not to resuscitate
1273	(1) Services provided by a home health agency must be
1274	covered by an agreement between the home health agency and the
1275	patient or the patient's legal representative specifying the
1276	home health services to be provided, the rates or charges for

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24-01080A-18 20181594 1277 services paid with private funds, and the sources of payment, 1278 which may include Medicare, Medicaid, private insurance, 1279 personal funds, or a combination thereof. A home health agency 1280 providing skilled care must make an assessment of the patient's 1281 needs within 48 hours after the start of services. 1282 (2) When required by the provisions of chapter 464; part I, 1283 part III, or part V of chapter 468; or chapter 486, the 1284 attending physician, physician assistant, or advanced practice 1285 registered nurse advanced registered nurse practitioner, acting 1286 within his or her respective scope of practice, shall establish 1287 treatment orders for a patient who is to receive skilled care. 1288 The treatment orders must be signed by the physician, physician 1289 assistant, or advanced practice registered nurse advanced 1290 registered nurse practitioner before a claim for payment for the 1291 skilled services is submitted by the home health agency. If the 1292 claim is submitted to a managed care organization, the treatment 1293 orders must be signed within the time allowed under the provider 1294 agreement. The treatment orders shall be reviewed, as frequently 1295 as the patient's illness requires, by the physician, physician 1296 assistant, or advanced practice registered nurse advanced 1297 registered nurse practitioner in consultation with the home 1298 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.

1304 (4) Each patient has the right to be informed of and to1305 participate in the planning of his or her care. Each patient

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24-01080A-18 20181594 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.

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.

1331Section 32. Paragraph (a) of subsection (13) of section1332400.506, Florida Statutes, is amended to read:

1333 400.506 Licensure of nurse registries; requirements; 1334 penalties.-

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1335
            (13) All persons referred for contract in private
1336
      residences by a nurse registry must comply with the following
1337
      requirements for a plan of treatment:
1338
            (a) When, in accordance with the privileges and
1339
      restrictions imposed upon a nurse under part I of chapter 464,
1340
      the delivery of care to a patient is under the direction or
1341
      supervision of a physician or when a physician is responsible
1342
      for the medical care of the patient, a medical plan of treatment
      must be established for each patient receiving care or treatment
1343
1344
      provided by a licensed nurse in the home. The original medical
1345
      plan of treatment must be timely signed by the physician,
1346
      physician assistant, or advanced practice registered nurse
1347
      advanced registered nurse practitioner, acting within his or her
1348
      respective scope of practice, and reviewed in consultation with
1349
      the licensed nurse at least every 2 months. Any additional order
1350
      or change in orders must be obtained from the physician,
1351
      physician assistant, or advanced practice registered nurse
1352
      advanced registered nurse practitioner and reduced to writing
1353
      and timely signed by the physician, physician assistant, or
1354
      advanced practice registered nurse advanced registered nurse
1355
      practitioner. The delivery of care under a medical plan of
1356
      treatment must be substantiated by the appropriate nursing notes
1357
      or documentation made by the nurse in compliance with nursing
1358
      practices established under part I of chapter 464.
           Section 33. Subsections (5) and (7) of section 400.9973,
1359
1360
      Florida Statutes, are amended to read:
1361
           400.9973 Client admission, transfer, and discharge.-
```

(5) A client admitted to a transitional living facilitymust be admitted upon prescription by a licensed physician,

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1	24-01080A-18 20181594
1364	physician assistant, or <u>advanced practice registered nurse</u>
1365	advanced registered nurse practitioner and must remain under the
1366	care of a licensed physician, physician assistant, or <u>advanced</u>
1367	practice registered nurse advanced registered nurse practitioner
1368	for the duration of the client's stay in the facility.
1369	(7) A person may not be admitted to a transitional living
1370	facility if the person:
1371	(a) Presents significant risk of infection to other clients
1372	or personnel. A health care practitioner must provide
1373	documentation that the person is free of apparent signs and
1374	symptoms of communicable disease;
1375	(b) Is a danger to himself or herself or others as
1376	determined by a physician, physician assistant, <del>or</del> <u>advanced</u>
1377	practice registered nurse, advanced registered nurse
1378	practitioner or a mental health practitioner licensed under
1379	chapter 490 or chapter 491, unless the facility provides
1380	adequate staffing and support to ensure patient safety;
1381	(c) Is bedridden; or
1382	(d) Requires 24-hour nursing supervision.
1383	Section 34. Subsection (1) and paragraphs (a) and (b) of
1384	subsection (2) of section 400.9974, Florida Statutes, are
1385	amended to read:
1386	400.9974 Client comprehensive treatment plans; client
1387	services
1388	(1) A transitional living facility shall develop a
1389	comprehensive treatment plan for each client as soon as
1390	practicable but no later than 30 days after the initial
1391	comprehensive treatment plan is developed. The comprehensive
1392	treatment plan must be developed by an interdisciplinary team
I	

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24-01080A-18 20181594 1393 consisting of the case manager, the program director, the 1394 advanced practice registered nurse advanced registered nurse 1395 practitioner, and appropriate therapists. The client or, if 1396 appropriate, the client's representative must be included in 1397 developing the comprehensive treatment plan. The comprehensive 1398 treatment plan must be reviewed and updated if the client fails 1399 to meet projected improvements outlined in the plan or if a 1400 significant change in the client's condition occurs. The 1401 comprehensive treatment plan must be reviewed and updated at 1402 least once monthly. 1403 (2) The comprehensive treatment plan must include: 1404 (a) Orders obtained from the physician, physician 1405 assistant, or advanced practice registered nurse advanced 1406 registered nurse practitioner and the client's diagnosis, 1407 medical history, physical examination, and rehabilitative or 1408 restorative needs. 1409 (b) A preliminary nursing evaluation, including orders for 1410 immediate care provided by the physician, physician assistant, 1411 or advanced practice registered nurse advanced registered nurse 1412 practitioner, which shall be completed when the client is 1413 admitted. 1414 Section 35. Section 400.9976, Florida Statutes, is amended to read: 1415 400.9976 Administration of medication.-1416 (1) An individual medication administration record must be 1417

1418 maintained for each client. A dose of medication, including a 1419 self-administered dose, shall be properly recorded in the 1420 client's record. A client who self-administers medication shall 1421 be given a pill organizer. Medication must be placed in the pill

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1422	organizer by a nurse. A nurse shall document the date and time
1423	that medication is placed into each client's pill organizer. All
1424	medications must be administered in compliance with orders of a
1425	physician, physician assistant, or advanced practice registered
1426	nurse advanced registered nurse practitioner.
1427	(2) If an interdisciplinary team determines that self-
1428	administration of medication is an appropriate objective, and if
1429	the physician, physician assistant, or advanced practice
1430	registered nurse advanced registered nurse practitioner does not
1431	specify otherwise, the client must be instructed by the
1432	physician, physician assistant, or advanced practice registered
1433	nurse <del>advanced registered nurse practitioner</del> to self-administer
1434	his or her medication without the assistance of a staff person.
1435	All forms of self-administration of medication, including
1436	administration orally, by injection, and by suppository, shall
1437	be included in the training. The client's physician, physician
1438	assistant, or advanced practice registered nurse advanced
1439	registered nurse practitioner must be informed of the
1440	interdisciplinary team's decision that self-administration of
1441	medication is an objective for the client. A client may not
1442	self-administer medication until he or she demonstrates the
1443	competency to take the correct medication in the correct dosage
1444	at the correct time, to respond to missed doses, and to contact
1445	the appropriate person with questions.
1446	(3) Medication administration discrepancies and adverse

1447 drug reactions must be recorded and reported immediately to a
1448 physician, physician assistant, or <u>advanced practice registered</u>
1449 <u>nurse</u> advanced registered nurse practitioner.

1450

Section 36. Subsections (2) through (5) of section

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24-01080A-18 20181594 1451 400.9979, Florida Statutes, are amended to read: 1452 400.9979 Restraint and seclusion; client safety.-1453 (2) The use of physical restraints must be ordered and 1454 documented by a physician, physician assistant, or advanced 1455 practice registered nurse advanced registered nurse practitioner 1456 and must be consistent with the policies and procedures adopted 1457 by the facility. The client or, if applicable, the client's 1458 representative shall be informed of the facility's physical 1459 restraint policies and procedures when the client is admitted. 1460 (3) The use of chemical restraints shall be limited to prescribed dosages of medications as ordered by a physician,

1461 prescribed dosages of medications as ordered by a physician, 1462 physician assistant, or <u>advanced practice registered nurse</u> 1463 advanced registered nurse practitioner and must be consistent 1464 with the client's diagnosis and the policies and procedures 1465 adopted by the facility. The client and, if applicable, the 1466 client's representative shall be informed of the facility's 1467 chemical restraint policies and procedures when the client is 1468 admitted.

1469 (4) Based on the assessment by a physician, physician 1470 assistant, or advanced practice registered nurse advanced 1471 registered nurse practitioner, if a client exhibits symptoms 1472 that present an immediate risk of injury or death to himself or 1473 herself or others, a physician, physician assistant, or advanced 1474 practice registered nurse advanced registered nurse practitioner 1475 may issue an emergency treatment order to immediately administer 1476 rapid-response psychotropic medications or other chemical 1477 restraints. Each emergency treatment order must be documented and maintained in the client's record. 1478

1479

(a) An emergency treatment order is not effective for more

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1480	than 24 hours.
1481	(b) Whenever a client is medicated under this subsection,
1482	the client's representative or a responsible party and the
1483	client's physician, physician assistant, or advanced practice
1484	registered nurse advanced registered nurse practitioner shall be
1485	notified as soon as practicable.
1486	(5) A client who is prescribed and receives a medication
1487	that can serve as a chemical restraint for a purpose other than
1488	an emergency treatment order must be evaluated by his or her
1489	physician, physician assistant, or advanced practice registered
1490	nurse advanced registered nurse practitioner at least monthly to
1491	assess:
1492	(a) The continued need for the medication.
1493	(b) The level of the medication in the client's blood.
1494	(c) The need for adjustments to the prescription.
1495	Section 37. Subsections (1) and (2) of section 401.445,
1496	Florida Statutes, are amended to read:
1497	401.445 Emergency examination and treatment of
1498	incapacitated persons
1499	(1) No recovery shall be allowed in any court in this state
1500	against any emergency medical technician, paramedic, or
1501	physician as defined in this chapter, any advanced practice
1502	registered nurse advanced registered nurse practitioner
1503	certified under s. 464.012, or any physician assistant licensed
1504	under s. 458.347 or s. 459.022, or any person acting under the
1505	direct medical supervision of a physician, in an action brought
1506	for examining or treating a patient without his or her informed
1507	consent if:
1508	(a) The patient at the time of examination or treatment is

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1509
      intoxicated, under the influence of drugs, or otherwise
1510
      incapable of providing informed consent as provided in s.
1511
      766.103;
1512
            (b) The patient at the time of examination or treatment is
1513
      experiencing an emergency medical condition; and
1514
            (c) The patient would reasonably, under all the surrounding
1515
      circumstances, undergo such examination, treatment, or procedure
1516
      if he or she were advised by the emergency medical technician,
1517
      paramedic, physician, advanced practice registered nurse
1518
      advanced registered nurse practitioner, or physician assistant
1519
      in accordance with s. 766.103(3).
1520
1521
      Examination and treatment provided under this subsection shall
1522
      be limited to reasonable examination of the patient to determine
1523
      the medical condition of the patient and treatment reasonably
1524
      necessary to alleviate the emergency medical condition or to
1525
      stabilize the patient.
1526
            (2) In examining and treating a person who is apparently
1527
      intoxicated, under the influence of drugs, or otherwise
1528
      incapable of providing informed consent, the emergency medical
1529
      technician, paramedic, physician, advanced practice registered
1530
      nurse advanced registered nurse practitioner, or physician
1531
      assistant, or any person acting under the direct medical
1532
      supervision of a physician, shall proceed wherever possible with
1533
      the consent of the person. If the person reasonably appears to
1534
      be incapacitated and refuses his or her consent, the person may
1535
      be examined, treated, or taken to a hospital or other
1536
      appropriate treatment resource if he or she is in need of
1537
      emergency attention, without his or her consent, but
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24-01080A-18 20181594 1538 unreasonable force shall not be used. 1539 Section 38. Subsection (1) of section 409.905, Florida 1540 Statutes, is amended to read: 1541 409.905 Mandatory Medicaid services.-The agency may make 1542 payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by 1543 1544 Medicaid providers to recipients who are determined to be 1545 eligible on the dates on which the services were provided. Any 1546 service under this section shall be provided only when medically 1547 necessary and in accordance with state and federal law.

Mandatory services rendered by providers in mobile units to 1548 1549 Medicaid recipients may be restricted by the agency. Nothing in 1550 this section shall be construed to prevent or limit the agency 1551 from adjusting fees, reimbursement rates, lengths of stay, 1552 number of visits, number of services, or any other adjustments 1553 necessary to comply with the availability of moneys and any 1554 limitations or directions provided for in the General 1555 Appropriations Act or chapter 216.

1556 (1) ADVANCED PRACTICE REGISTERED NURSE ADVANCED REGISTERED 1557 NURSE PRACTITIONER SERVICES. - The agency shall pay for services 1558 provided to a recipient by a licensed advanced practice 1559 registered nurse advanced registered nurse practitioner who has 1560 a valid collaboration agreement with a licensed physician on 1561 file with the Department of Health or who provides anesthesia 1562 services in accordance with established protocol required by 1563 state law and approved by the medical staff of the facility in 1564 which the anesthetic service is performed. Reimbursement for 1565 such services must be provided in an amount that equals not less 1566 than 80 percent of the reimbursement to a physician who provides

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24-01080A-18 20181594 1567 the same services, unless otherwise provided for in the General 1568 Appropriations Act. Section 39. Paragraph (a) of subsection (3) and subsection 1569 1570 (7) of section 409.908, Florida Statutes, are amended to read: 1571 409.908 Reimbursement of Medicaid providers.-Subject to 1572 specific appropriations, the agency shall reimburse Medicaid 1573 providers, in accordance with state and federal law, according 1574 to methodologies set forth in the rules of the agency and in 1575 policy manuals and handbooks incorporated by reference therein. 1576 These methodologies may include fee schedules, reimbursement 1577 methods based on cost reporting, negotiated fees, competitive 1578 bidding pursuant to s. 287.057, and other mechanisms the agency 1579 considers efficient and effective for purchasing services or 1580 goods on behalf of recipients. If a provider is reimbursed based 1581 on cost reporting and submits a cost report late and that cost 1582 report would have been used to set a lower reimbursement rate 1583 for a rate semester, then the provider's rate for that semester 1584 shall be retroactively calculated using the new cost report, and 1585 full payment at the recalculated rate shall be effected 1586 retroactively. Medicare-granted extensions for filing cost 1587 reports, if applicable, shall also apply to Medicaid cost 1588 reports. Payment for Medicaid compensable services made on 1589 behalf of Medicaid eligible persons is subject to the 1590 availability of moneys and any limitations or directions 1591 provided for in the General Appropriations Act or chapter 216. 1592 Further, nothing in this section shall be construed to prevent 1593 or limit the agency from adjusting fees, reimbursement rates, 1594 lengths of stay, number of visits, or number of services, or 1595 making any other adjustments necessary to comply with the

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24-01080A-18 20181594 1596 availability of moneys and any limitations or directions 1597 provided for in the General Appropriations Act, provided the 1598 adjustment is consistent with legislative intent. 1599 (3) Subject to any limitations or directions provided for 1600 in the General Appropriations Act, the following Medicaid 1601 services and goods may be reimbursed on a fee-for-service basis. 1602 For each allowable service or goods furnished in accordance with 1603 Medicaid rules, policy manuals, handbooks, and state and federal 1604 law, the payment shall be the amount billed by the provider, the 1605 provider's usual and customary charge, or the maximum allowable 1606 fee established by the agency, whichever amount is less, with the exception of those services or goods for which the agency 1607 1608 makes payment using a methodology based on capitation rates, 1609 average costs, or negotiated fees. 1610 (a) Advanced practice registered nurse Advanced registered 1611 nurse practitioner services. 1612 (7) A provider of family planning services shall be 1613 reimbursed the lesser of the amount billed by the provider or an 1614 all-inclusive amount per type of visit for physicians and 1615 advanced practice registered nurses advanced registered nurse 1616 practitioners, as established by the agency in a fee schedule. 1617 Section 40. Paragraph (a) of subsection (1) of section 409.973, Florida Statutes, is amended to read: 1618 1619 409.973 Benefits.-1620 (1) MINIMUM BENEFITS.-Managed care plans shall cover, at a 1621 minimum, the following services: 1622 (a) Advanced practice registered nurse Advanced registered 1623 nurse practitioner services. 1624 Section 41. Section 1 of chapter 2016-109, Laws of

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1	24-01080A-18 20181594
1625	Florida, is amended to read:
1626	Section 1. Effective March 1, 2019, subsection (1) of
1627	section 409.973, Florida Statutes, is amended to read:
1628	409.973 Benefits
1629	(1) MINIMUM BENEFITSManaged care plans shall cover, at a
1630	minimum, the following services:
1631	(a) <u>Advanced practice registered nurse</u> Advanced registered
1632	nurse practitioner services.
1633	(b) Ambulatory surgical treatment center services.
1634	(c) Birthing center services.
1635	(d) Chiropractic services.
1636	(e) Early periodic screening diagnosis and treatment
1637	services for recipients under age 21.
1638	(f) Emergency services.
1639	(g) Family planning services and supplies. Pursuant to 42
1640	C.F.R. s. 438.102, plans may elect to not provide these services
1641	due to an objection on moral or religious grounds, and must
1642	notify the agency of that election when submitting a reply to an
1643	invitation to negotiate.
1644	(h) Healthy start services, except as provided in s.
1645	409.975(4).
1646	(i) Hearing services.
1647	(j) Home health agency services.
1648	(k) Hospice services.
1649	(l) Hospital inpatient services.
1650	(m) Hospital outpatient services.
1651	(n) Laboratory and imaging services.
1652	(o) Medical supplies, equipment, prostheses, and orthoses.
1653	(p) Mental health services.

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1	24-01080A-18 20181594
1654	(q) Nursing care.
1655	(r) Optical services and supplies.
1656	(s) Optometrist services.
1657	(t) Physical, occupational, respiratory, and speech therapy
1658	services.
1659	(u) Physician services, including physician assistant
1660	services.
1661	(v) Podiatric services.
1662	(w) Prescription drugs.
1663	(x) Renal dialysis services.
1664	(y) Respiratory equipment and supplies.
1665	(z) Rural health clinic services.
1666	(aa) Substance abuse treatment services.
1667	(bb) Transportation to access covered services.
1668	Section 42. Paragraph (a) of subsection (2) and paragraph
1669	(a) of subsection (7) of section 429.918, Florida Statutes, are
1670	amended to read:
1671	429.918 Licensure designation as a specialized Alzheimer's
1672	services adult day care center
1673	(2) As used in this section, the term:
1674	(a) "ADRD participant" means a participant who has a
1675	documented diagnosis of Alzheimer's disease or a dementia-
1676	related disorder (ADRD) from a licensed physician, licensed
1677	physician assistant, or a licensed <u>advanced practice registered</u>
1678	nurse advanced registered nurse practitioner.
1679	(7)(a) An ADRD participant admitted to an adult day care
1680	center having a license designated under this section, or the
1681	caregiver when applicable, must:
1682	1. Require ongoing supervision to maintain the highest
I	

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1683	
1684	demonstrated need for a responsible party to oversee his or her
1685	care.
1686	2. Not actively demonstrate aggressive behavior that places
1687	himself, herself, or others at risk of harm.
1688	3. Provide the following medical documentation signed by a
1689	licensed physician, licensed physician assistant, or a licensed
1690	advanced practice registered nurse advanced registered nurse
1691	practitioner:
1692	a. Any physical, health, or emotional conditions that
1693	require medical care.
1694	b. A listing of the ADRD participant's current prescribed
1695	and over-the-counter medications and dosages, diet restrictions,
1696	mobility restrictions, and other physical limitations.
1697	4. Provide documentation signed by a health care provider
1698	licensed in this state which indicates that the ADRD participant
1699	is free of the communicable form of tuberculosis and free of
1700	signs and symptoms of other communicable diseases.
1701	Section 43. Section 456.0391, Florida Statutes, is amended
1702	to read:
1703	456.0391 Advanced practice registered nurses Advanced
1704	registered nurse practitioners; information required for
1705	certification
1706	(1)(a) Each person who applies for initial certification
1707	under s. 464.012 must, at the time of application, and each
1708	person certified under s. 464.012 who applies for certification
1709	renewal must, in conjunction with the renewal of such
1710	certification and under procedures adopted by the Department of
1711	Health, and in addition to any other information that may be

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24-01080A-18 20181594 1712 required from the applicant, furnish the following information 1713 to the Department of Health: 1714 1. The name of each school or training program that the applicant has attended, with the months and years of attendance 1715 1716 and the month and year of graduation, and a description of all 1717 graduate professional education completed by the applicant, 1718 excluding any coursework taken to satisfy continuing education 1719 requirements.

1720 2. The name of each location at which the applicant1721 practices.

1722 3. The address at which the applicant will primarily1723 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.

1737 7. A description of any criminal offense of which the
1738 applicant has been found guilty, regardless of whether
1739 adjudication of guilt was withheld, or to which the applicant
1740 has pled guilty or nolo contendere. A criminal offense committed

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24-01080A-18 20181594 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. 8. A description of any final disciplinary action taken 1752

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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24-01080A-18 20181594 1770 (a), each applicant for initial certification or certification 1771 renewal must provide the information required of licensees 1772 pursuant to s. 456.049. 1773 (2) The Department of Health shall send a notice to each 1774 person certified under s. 464.012 at the certificateholder's 1775 last known address of record regarding the requirements for 1776 information to be submitted by advanced practice registered 1777 nurses advanced registered nurse practitioners pursuant to this 1778 section in conjunction with the renewal of such certificate. 1779 (3) Each person certified under s. 464.012 who has 1780 submitted information pursuant to subsection (1) must update that information in writing by notifying the Department of 1781 1782 Health within 45 days after the occurrence of an event or the

1783 attainment of a status that is required to be reported by 1784 subsection (1). Failure to comply with the requirements of this 1785 subsection to update and submit information constitutes a ground 1786 for disciplinary action under chapter 464 and s. 456.072(1)(k). 1787 For failure to comply with the requirements of this subsection 1788 to update and submit information, the department or board, as 1789 appropriate, may:

1790 (a) Refuse to issue a certificate to any person applying 1791 for initial certification who fails to submit and update the 1792 required information.

1793 (b) Issue a citation to any certificateholder who fails to 1794 submit and update the required information and may fine the 1795 certificateholder up to \$50 for each day that the 1796 certificateholder is not in compliance with this subsection. The 1797 citation must clearly state that the certificateholder may 1798 choose, in lieu of accepting the citation, to follow the

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24-01080A-18 20181594 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.

(4) (a) An applicant for initial 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.

1814 (b) An applicant for renewed certification who has not 1815 previously submitted a set of fingerprints to the Department of Health for purposes of certification must submit a set of 1816 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 effective date of this section. 1842 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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24-01080A-18 20181594 1857 applicant has undergone a criminal history check as a condition 1858 of initial certification or renewal of certification as an 1859 advanced practice registered nurse advanced registered nurse 1860 practitioner with the Department of Health, notwithstanding any 1861 other provision of law to the contrary. In lieu of such 1862 duplicate submission, the Agency for Health Care Administration, 1863 the Department of Juvenile Justice, and the Department of 1864 Children and Families shall obtain criminal history information 1865 for employment or licensure of persons certified under s. 1866 464.012 by such agency or department from the Department of 1867 Health's health care practitioner credentialing system. 1868 (5) Each person who is required to submit information 1869 pursuant to this section may submit additional information to 1870 the Department of Health. Such information may include, but is 1871 not limited to: 1872 (a) Information regarding publications in peer-reviewed

1873 professional literature within the previous 10 years.

1874 (b) Information regarding professional or community service1875 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 theMedicaid program.

1882 Section 44. Subsection (2) of section 456.0392, Florida
1883 Statutes, is amended to read:

1884

456.0392 Prescription labeling.-

1885 (2) A prescription for a drug that is not listed as a

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1	24-01080A-18 20181594
1886	controlled substance in chapter 893 which is written by an
1887	advanced practice registered nurse advanced registered nurse
1888	practitioner certified under s. 464.012 is presumed, subject to
1889	rebuttal, to be valid and within the parameters of the
1890	prescriptive authority delegated by a practitioner licensed
1891	under chapter 458, chapter 459, or chapter 466.
1892	Section 45. Paragraph (a) of subsection (1) and subsection
1893	(6) of section 456.041, Florida Statutes, are amended to read:
1894	456.041 Practitioner profile; creation
1895	(1)(a) The Department of Health shall compile the
1896	information submitted pursuant to s. 456.039 into a practitioner
1897	profile of the applicant submitting the information, except that
1898	the Department of Health shall develop a format to compile
1899	uniformly any information submitted under s. 456.039(4)(b).
1900	Beginning July 1, 2001, the Department of Health may compile the
1901	information submitted pursuant to s. 456.0391 into a
1902	practitioner profile of the applicant submitting the
1903	information. The protocol submitted pursuant to s. 464.012(3)
1904	must be included in the practitioner profile of the advanced
1905	practice registered nurse advanced registered nurse
1906	practitioner.
1907	(6) The Department of Health shall provide in each
1908	practitioner profile for every physician or advanced practice
1909	registered nurse advanced registered nurse practitioner
1910	terminated for cause from participating in the Medicaid program,
1911	pursuant to s. 409.913, or sanctioned by the Medicaid program a
1912	statement that the practitioner has been terminated from
1913	participating in the Florida Medicaid program or sanctioned by
1914	the Medicaid program.

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24-01080A-18 20181594 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 under the respective board, and the Board of Medicine and the 1923 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

1935 Section 47. Subsection (7) of section 456.072, Florid 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 <u>advanced practice</u>

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24-01080A-18 20181594 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 Schedule IV as defined in s. 893.03, for the treatment of 1966 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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	24-01080A-18 20181594
1973	458.3265, Florida Statutes, is amended to read:
1974	458.3265 Pain-management clinics
1975	(2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
1976	apply to any physician who provides professional services in a
1977	pain-management clinic that is required to be registered in
1978	subsection (1).
1979	(c) A physician, a physician assistant, or an <u>advanced</u>
1980	practice registered nurse advanced registered nurse practitioner
1981	must perform a physical examination of a patient on the same day
1982	that the physician prescribes a controlled substance to a
1983	patient at a pain-management clinic. If the physician prescribes
1984	more than a 72-hour dose of controlled substances for the
1985	treatment of chronic nonmalignant pain, the physician must
1986	document in the patient's record the reason for prescribing that
1987	quantity.
1988	Section 50. Paragraph (dd) of subsection (1) of section
1989	458.331, Florida Statutes, is amended to read:
1990	458.331 Grounds for disciplinary action; action by the
1991	board and department
1992	(1) The following acts constitute grounds for denial of a
1993	license or disciplinary action, as specified in s. 456.072(2):
1994	(dd) Failing to supervise adequately the activities of
1995	those physician assistants, paramedics, emergency medical
1996	technicians, advanced practice registered nurses advanced
1997	registered nurse practitioners, or anesthesiologist assistants
1998	acting under the supervision of the physician.
1999	Section 51. Paragraph (a) of subsection (1) and subsection
2000	(3) of section 458.348, Florida Statutes, are amended to read:
2001	458.348 Formal supervisory relationships, standing orders,

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24-01080A-18 20181594 2002 and established protocols; notice; standards.-2003 (1) NOTICE.-2004 (a) When a physician enters into a formal supervisory 2005 relationship or standing orders with an emergency medical 2006 technician or paramedic licensed pursuant to s. 401.27, which 2007 relationship or orders contemplate the performance of medical 2008 acts, or when a physician enters into an established protocol 2009 with an advanced practice registered nurse advanced registered 2010 nurse practitioner, which protocol contemplates the performance 2011 of medical acts set forth in s. 464.012(3) and (4), the 2012 physician shall submit notice to the board. The notice shall 2013 contain a statement in substantially the following form: 2014 2015 I, ... (name and professional license number of 2016 physician)..., of ... (address of physician)... have hereby 2017 entered into a formal supervisory relationship, standing orders, 2018 or an established protocol with ... (number of persons) ... 2019 emergency medical technician(s), ...(number of persons)... 2020 paramedic(s), or ... (number of persons)... advanced practice 2021 registered nurse(s) advanced registered nurse practitioner(s). 2022 2023 (3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS.-A 2024 physician who supervises an advanced practice registered nurse 2025 advanced registered nurse practitioner or physician assistant at 2026 a medical office other than the physician's primary practice 2027 location, where the advanced practice registered nurse advanced 2028 registered nurse practitioner or physician assistant is not 2029 under the onsite supervision of a supervising physician, must 2030 comply with the standards set forth in this subsection. For the

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24-01080A-18 20181594 2031 purpose of this subsection, a physician's "primary practice 2032 location" means the address reflected on the physician's profile 2033 published pursuant to s. 456.041. 2034 (a) A physician who is engaged in providing primary health 2035 care services may not supervise more than four offices in addition to the physician's primary practice location. For the 2036 2037 purpose of this subsection, "primary health care" means health 2038 care services that are commonly provided to patients without 2039 referral from another practitioner, including obstetrical and gynecological services, and excludes practices providing 2040 2041 primarily dermatologic and skin care services, which include 2042 aesthetic skin care services.

2043 (b) A physician who is engaged in providing specialty 2044 health care services may not supervise more than two offices in 2045 addition to the physician's primary practice location. For the 2046 purpose of this subsection, "specialty health care" means health 2047 care services that are commonly provided to patients with a 2048 referral from another practitioner and excludes practices 2049 providing primarily dermatologic and skin care services, which 2050 include aesthetic skin care services.

2051 (c) A physician who supervises an advanced practice 2052 registered nurse advanced registered nurse practitioner or 2053 physician assistant at a medical office other than the 2054 physician's primary practice location, where the advanced 2055 practice registered nurse advanced registered nurse practitioner 2056 or physician assistant is not under the onsite supervision of a 2057 supervising physician and the services offered at the office are 2058 primarily dermatologic or skin care services, which include 2059 aesthetic skin care services other than plastic surgery, must

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24-01080A-18 20181594 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 1, 2006. Effective July 1, 2011, the physician may supervise 2084 only one office other than the physician's primary place of 2085 2086 practice, regardless of when the addresses of the offices were

2087 2088 submitted to the board.

(d) A physician who supervises an office in addition to the

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24-01080A-18 20181594 2089 physician's primary practice location must conspicuously post in 2090 each of the physician's offices a current schedule of the 2091 regular hours when the physician is present in that office and 2092 the hours when the office is open while the physician is not 2093 present. 2094 (e) This subsection does not apply to health care services 2095 provided in facilities licensed under chapter 395 or in 2096 conjunction with a college of medicine, a college of nursing, an 2097 accredited graduate medical program, or a nursing education 2098 program; not-for-profit, family-planning clinics that are not 2099 licensed pursuant to chapter 390; rural and federally qualified 2100 health centers; health care services provided in a nursing home 2101 licensed under part II of chapter 400, an assisted living 2102 facility licensed under part I of chapter 429, a continuing care 2103 facility licensed under chapter 651, or a retirement community 2104 consisting of independent living units and a licensed nursing 2105 home or assisted living facility; anesthesia services provided 2106 in accordance with law; health care services provided in a 2107 designated rural health clinic; health care services provided to 2108 persons enrolled in a program designed to maintain elderly 2109 persons and persons with disabilities in a home or community-2110 based setting; university primary care student health centers; school health clinics; or health care services provided in 2111 2112 federal, state, or local government facilities. Subsection (2) 2113 and this subsection do not apply to offices at which the exclusive service being performed is laser hair removal by an 2114 2115 advanced practice registered nurse advanced registered nurse 2116 practitioner or physician assistant.

Section 52. Paragraph (c) of subsection (2) of section

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	24-01080A-18 20181594
2118	459.0137, Florida Statutes, is amended to read:
2119	459.0137 Pain-management clinics
2120	(2) PHYSICIAN RESPONSIBILITIES.—These responsibilities
2121	apply to any osteopathic physician who provides professional
2122	services in a pain-management clinic that is required to be
2123	registered in subsection (1).
2124	(c) An osteopathic physician, a physician assistant, or an
2125	advanced practice registered nurse advanced registered nurse
2126	practitioner must perform a physical examination of a patient on
2127	the same day that the physician prescribes a controlled
2128	substance to a patient at a pain-management clinic. If the
2129	osteopathic physician prescribes more than a 72-hour dose of
2130	controlled substances for the treatment of chronic nonmalignant
2131	pain, the osteopathic physician must document in the patient's
2132	record the reason for prescribing that quantity.
2133	Section 53. Paragraph (hh) of subsection (1) of section
2134	459.015, Florida Statutes, is amended to read:
2135	459.015 Grounds for disciplinary action; action by the
2136	board and department
2137	(1) The following acts constitute grounds for denial of a
2138	license or disciplinary action, as specified in s. 456.072(2):
2139	(hh) Failing to supervise adequately the activities of
2140	those physician assistants, paramedics, emergency medical
2141	technicians, advanced practice registered nurses advanced
2142	registered nurse practitioners, anesthesiologist assistants, or
2143	other persons acting under the supervision of the osteopathic
2144	physician.
2145	Section 54. Paragraph (a) of subsection (1) and subsection
2146	(3) of section 459.025, Florida Statutes, are amended to read:

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	24-01080A-18 20181594
2147	459.025 Formal supervisory relationships, standing orders,
2148	and established protocols; notice; standards
2149	(1) NOTICE
2150	(a) When an osteopathic physician enters into a formal
2151	supervisory relationship or standing orders with an emergency
2152	medical technician or paramedic licensed pursuant to s. 401.27,
2153	which relationship or orders contemplate the performance of
2154	medical acts, or when an osteopathic physician enters into an
2155	established protocol with an advanced practice registered nurse
2156	advanced registered nurse practitioner, which protocol
2157	contemplates the performance of medical acts or acts set forth
2158	in s. 464.012(3) and (4), the osteopathic physician shall submit
2159	notice to the board. The notice must contain a statement in
2160	substantially the following form:
2161	
2162	I,(name and professional license number of osteopathic
2163	physician), of (address of osteopathic physician) have
2164	hereby entered into a formal supervisory relationship, standing
2165	orders, or an established protocol with(number of
2166	persons) emergency medical technician(s),(number of
2167	persons) paramedic(s), or(number of persons) <u>advanced</u>
2168	<pre>practice registered nurse(s) advanced registered nurse</pre>
2169	<del>practitioner(s)</del> .
2170	(3) SUPERVISORY RELATIONSHIPS IN MEDICAL OFFICE SETTINGS
2171	An osteopathic physician who supervises an advanced practice
2172	registered nurse advanced registered nurse practitioner or
2173	physician assistant at a medical office other than the
2174	osteopathic physician's primary practice location, where the
2175	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.

(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
dermatologic and skin care services, which include aesthetic
skin care services.

(c) An osteopathic physician who supervises an <u>advanced</u>
 <u>practice registered nurse</u> advanced registered nurse practitioner
 or physician assistant at a medical office other than the
 osteopathic physician's primary practice location, where the
 <u>advanced practice registered nurse</u> advanced registered nurse

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24-01080A-18 20181594 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 listed in subparagraphs 1.-4. Notwithstanding s. 2210 2211 459.022(4)(e)6., an osteopathic physician supervising a 2212 physician assistant pursuant to this paragraph may not be required to review and cosign charts or medical records prepared 2213 2214 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 <u>advanced practice</u> <u>registered nurse</u> <del>advanced registered nurse practitioner</del> or a physician's assistant which are not the osteopathic physician's 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.

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 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

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24-01080A-18 20181594 2234 physician's primary place of practice if the addresses of the 2235 offices are submitted to the Board of Osteopathic Medicine 2236 before July 1, 2006. Effective July 1, 2011, the osteopathic 2237 physician may supervise only one office other than the 2238 osteopathic physician's primary place of practice, regardless of 2239 when the addresses of the offices were submitted to the Board of 2240 Osteopathic Medicine. 2241 (d) An osteopathic physician who supervises an office in 2242 addition to the osteopathic physician's primary practice 2243 location must conspicuously post in each of the osteopathic 2244 physician's offices a current schedule of the regular hours when 2245 the osteopathic physician is present in that office and the hours when the office is open while the osteopathic physician is 2246 2247 not present. 2248 (e) This subsection does not apply to health care services 2249 provided in facilities licensed under chapter 395 or in 2250 conjunction with a college of medicine or college of nursing or 2251 an accredited graduate medical or nursing education program; 2252 offices where the only service being performed is hair removal 2253 by an advanced practice registered nurse advanced registered 2254 nurse practitioner or physician assistant; not-for-profit, 2255 family-planning clinics that are not licensed pursuant to 2256 chapter 390; rural and federally qualified health centers; 2257 health care services provided in a nursing home licensed under 2258 part II of chapter 400, an assisted living facility licensed 2259 under part I of chapter 429, a continuing care facility licensed 2260 under chapter 651, or a retirement community consisting of 2261 independent living units and either a licensed nursing home or 2262 assisted living facility; anesthesia services provided in

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2291

24-01080A-18 20181594 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 addition to the practice of professional nursing, the 2274 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

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Statutes, is amended to read:

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24-01080A-18 20181594 2292 464.004 Board of Nursing; membership; appointment; terms.-(2) Seven members of the board must be registered nurses 2293 2294 who are residents of this state and who have been engaged in the 2295 practice of professional nursing for at least 4 years, including 2296 at least one advanced practice registered nurse advanced 2297 registered nurse practitioner, one nurse educator member of an 2298 approved program, and one nurse executive. These seven board 2299 members should be representative of the diverse areas of 2300 practice within the nursing profession. In addition, three 2301 members of the board must be licensed practical nurses who are 2302 residents of this state and who have been actively engaged in 2303 the practice of practical nursing for at least 4 years prior to 2304 their appointment. The remaining three members must be residents 2305 of the state who have never been licensed as nurses and who are 2306 in no way connected with the practice of nursing. No person may 2307 be appointed as a lay member who is in any way connected with, 2308 or has any financial interest in, any health care facility, 2309 agency, or insurer. At least one member of the board must be 60 2310 years of age or older. 2311 Section 57. Paragraph (b) of subsection (3) of section 2312 464.013, Florida Statutes, is amended to read: 2313 464.013 Renewal of license or certificate.-2314 (3) The board shall by rule prescribe up to 30 hours of 2315 continuing education biennially as a condition for renewal of a license or certificate. 2316 2317 (b) Notwithstanding the exemption in paragraph (a), as part 2318 of the maximum 30 hours of continuing education hours required under this subsection, advanced practice registered nurses 2319 advanced registered nurse practitioners certified under s. 2320

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24-01080A-18 20181594 2321 464.012 must complete at least 3 hours of continuing education 2322 on the safe and effective prescription of controlled substances. 2323 Such continuing education courses must be offered by a statewide 2324 professional association of physicians in this state accredited 2325 to provide educational activities designated for the American 2326 Medical Association Physician's Recognition Award Category 1 2327 credit, the American Nurses Credentialing Center, the American 2328 Association of Nurse Anesthetists, or the American Association 2329 of Nurse Practitioners and may be offered in a distance learning 2330 format. 2331 Section 58. Subsections (8) and (9) of section 464.015, 2332 Florida Statutes, are amended to read: 2333 464.015 Titles and abbreviations; restrictions; penalty.-2334

(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 <u>"Advanced Practice</u> Registered Nurse" <u>"Advanced Registered Nurse Practitioner"</u> and the abbreviation "A.P.R.N." <u>"A.R.N.P."</u>

2339 (9) A person may not practice or advertise as, or assume 2340 the title of, registered nurse, licensed practical nurse, 2341 clinical nurse specialist, certified registered nurse 2342 anesthetist, certified nurse midwife, or advanced practice 2343 registered nurse advanced registered nurse practitioner or use the abbreviation "R.N.," "L.P.N.," "C.N.S.," "C.R.N.A.," 2344 "C.N.M.," or "A.P.R.N." "A.R.N.P." or take any other action that 2345 2346 would lead the public to believe that person was certified as 2347 such or is performing nursing services pursuant to the exception set forth in s. 464.022(8), unless that person is licensed or 2348 2349 certified to practice as such.

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1	24-01080A-18 20181594
2350	Section 59. Section 9 of chapter 2016-139, Laws of Florida,
2351	is amended to read:
2352	Section 9. Subsections (1), (2), and (9) of section
2353	464.015, Florida Statutes, are amended to read:
2354	464.015 Titles and abbreviations; restrictions; penalty
2355	(1) Only a person who holds a license in this state or a
2356	multistate license pursuant to s. 464.0095 to practice
2357	professional nursing or who performs nursing services pursuant
2358	to the exception set forth in s. 464.022(8) may use the title
2359	"Registered Nurse" and the abbreviation "R.N."
2360	(2) Only a person who holds a license in this state or a
2361	multistate license pursuant to s. 464.0095 to practice as a
2362	licensed practical nurse or who performs practical nursing
2363	services pursuant to the exception set forth in s. 464.022(8)
2364	may use the title "Licensed Practical Nurse" and the
2365	abbreviation "L.P.N."
2366	(9) A person may not practice or advertise as, or assume
2367	the title of, registered nurse, licensed practical nurse,
2368	clinical nurse specialist, certified registered nurse
2369	anesthetist, certified nurse midwife, or advanced practice
2370	registered nurse advanced registered nurse practitioner or use
2371	the abbreviation "R.N.," "L.P.N.," "C.N.S.," "C.R.N.A.,"
2372	"C.N.M.," or <u>"A.P.R.N."</u> "A.R.N.P." or take any other action that
2373	would lead the public to believe that person was authorized by
2374	law to practice as such or is performing nursing services
2375	pursuant to the exception set forth in s. 464.022(8) unless that
2376	person is licensed, certified, or authorized pursuant to s.
2377	464.0095 to practice as such.
2378	Section 60. Paragraph (a) of subsection (2) of section

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2379	464.016, Florida Statutes, is amended to read:
2380	464.016 Violations and penalties
2381	(2) Each of the following acts constitutes a misdemeanor of
2382	the first degree, punishable as provided in s. 775.082 or s.
2383	775.083:
2384	(a) Using the name or title "Nurse," "Registered Nurse,"
2385	"Licensed Practical Nurse," "Clinical Nurse Specialist,"
2386	"Certified Registered Nurse Anesthetist," "Certified Nurse
2387	Midwife," <u>"Advanced Practice Registered Nurse,"</u>
2388	Registered Nurse Practitioner," or any other name or title which
2389	implies that a person was licensed or certified as same, unless
2390	such person is duly licensed or certified.
2391	Section 61. Paragraphs (p) and (q) of subsection (1) of
2392	section 464.018, Florida Statutes, are amended to read:
2393	464.018 Disciplinary actions
2394	(1) The following acts constitute grounds for denial of a
2395	license or disciplinary action, as specified in s. 456.072(2):
2396	(p) For an <u>advanced practice registered nurse</u> <del>advanced</del>
2397	registered nurse practitioner:
2398	1. Presigning blank prescription forms.
2399	2. Prescribing for office use any medicinal drug appearing
2400	on Schedule II in chapter 893.
2401	3. Prescribing, ordering, dispensing, administering,
2402	supplying, selling, or giving a drug that is an amphetamine, a
2403	sympathomimetic amine drug, or a compound designated in s.
2404	893.03(2) as a Schedule II controlled substance, to or for any
2405	person except for:
2406	a. The treatment of narcolepsy; hyperkinesis; behavioral
2407	syndrome in children characterized by the developmentally

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24-01080A-18 20181594\_ 2408 inappropriate symptoms of moderate to severe distractibility, 2409 short attention span, hyperactivity, emotional lability, and 2410 impulsivity; or drug-induced brain dysfunction. 2411 b. The differential diagnostic psychiatric evaluation of 2412 depression or the treatment of depression shown to be refractory 2413 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.

418 4. Prescribing, ordering, dispensing, administering, 419 supplying, selling, or giving growth hormones, testosterone or 420 its analogs, human chorionic gonadotropin (HCG), or other 421 hormones for the purpose of muscle building or to enhance 422 athletic performance. As used in this subparagraph, the term 423 "muscle building" does not include the treatment of injured 424 muscle. A prescription written for the drug products identified 425 in this subparagraph may be dispensed by a pharmacist with the 426 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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24-01080A-18 20181594 2437 quantities is not in the best interest of the patient and is not in the course of the advanced practice registered nurse's 2438 advanced registered nurse practitioner's professional practice, 2439 2440 without regard to his or her intent. 2441 7. Prescribing, dispensing, or administering a medicinal drug appearing on any schedule set forth in chapter 893 to 2442 2443 himself or herself, except a drug prescribed, dispensed, or 2444 administered to the advanced practice registered nurse advanced 2445 registered nurse practitioner by another practitioner authorized 2446 to prescribe, dispense, or administer medicinal drugs. 8. Prescribing, ordering, dispensing, administering, 2447 2448 supplying, selling, or giving amygdalin (laetrile) to any 2449 person. 2450 9. Dispensing a substance designated in s. 893.03(2) or (3) 2451 as a substance controlled in Schedule II or Schedule III, respectively, in violation of s. 465.0276. 2452 2453 10. Promoting or advertising through any communication 2454 medium the use, sale, or dispensing of a substance designated in 2455 s. 893.03 as a controlled substance. 2456 (q) For a psychiatric nurse: 2457 1. Presigning blank prescription forms. 2458 2. Prescribing for office use any medicinal drug appearing 2459 in Schedule II of s. 893.03. 2460 3. Prescribing, ordering, dispensing, administering, supplying, selling, or giving a drug that is an amphetamine, a 2461 sympathomimetic amine drug, or a compound designated in s. 2462 2463 893.03(2) as a Schedule II controlled substance, to or for any 2464 person except for: a. The treatment of narcolepsy; hyperkinesis; behavioral 2465

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24-01080A-18 20181594 2466 syndrome in children characterized by the developmentally 2467 inappropriate symptoms of moderate to severe distractibility, 2468 short attention span, hyperactivity, emotional lability, and 2469 impulsivity; or drug-induced brain dysfunction. 2470 b. The differential diagnostic psychiatric evaluation of 2471 depression or the treatment of depression shown to be refractory 2472 to other therapeutic modalities. 2473 c. The clinical investigation of the effects of such drugs 2474 or compounds when an investigative protocol is submitted to, 2475 reviewed by, and approved by the department before such 2476 investigation is begun. 2477 4. Prescribing, ordering, dispensing, administering, 2478 supplying, selling, or giving growth hormones, testosterone or 2479 its analogs, human chorionic gonadotropin (HCG), or other 2480 hormones for the purpose of muscle building or to enhance 2481 athletic performance. As used in this subparagraph, the term 2482 "muscle building" does not include the treatment of injured 2483 muscle. A prescription written for the drug products identified 2484 in this subparagraph may be dispensed by a pharmacist with the 2485 presumption that the prescription is for legitimate medical use. 5. Promoting or advertising on any prescription form a 2486 2487 community pharmacy unless the form also states: "This 2488 prescription may be filled at any pharmacy of your choice." 2489 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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2495	substances, inappropriately or in excessive or inappropriate
2496	quantities is not in the best interest of the patient and is not
2497	in the course of the advanced practice registered nurse's
2498	advanced registered nurse practitioner's professional practice,
2499	without regard to his or her intent.
2500	7. Prescribing, dispensing, or administering a medicinal
2501	drug appearing on any schedule set forth in chapter 893 to
2502	himself or herself, except a drug prescribed, dispensed, or
2503	administered to the psychiatric nurse by another practitioner
2504	authorized to prescribe, dispense, or administer medicinal
2505	drugs.
2506	8. Prescribing, ordering, dispensing, administering,
2507	supplying, selling, or giving amygdalin (laetrile) to any
2508	person.
2509	9. Dispensing a substance designated in s. 893.03(2) or (3)
2510	as a substance controlled in Schedule II or Schedule III,
2511	respectively, in violation of s. 465.0276.
2512	10. Promoting or advertising through any communication
2513	medium the use, sale, or dispensing of a substance designated in
2514	s. 893.03 as a controlled substance.
2515	Section 62. Section 10 of chapter 2016-139, Laws of
2516	Florida, as amended, is amended to read:
2517	Section 10. Subsections (1) and (2) of section 464.018,
2518	Florida Statutes, are amended to read:
2519	464.018 Disciplinary actions
2520	(1) The following acts constitute grounds for denial of a
2521	license or disciplinary action, as specified in ss. 456.072(2)
2522	and 464.0095:
2523	(a) Procuring, attempting to procure, or renewing a license
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2524	to practice nursing or the authority to practice practical or
2525	professional nursing pursuant to s. 464.0095 by bribery, by
2526	knowing misrepresentations, or through an error of the
2527	department or the board.
2528	(b) Having a license to practice nursing revoked,
2529	suspended, or otherwise acted against, including the denial of
2530	licensure, by the licensing authority of another state,
2531	territory, or country.
2532	(c) Being convicted or found guilty of, or entering a plea
2533	of guilty or nolo contendere to, regardless of adjudication, a
2534	crime in any jurisdiction which directly relates to the practice
2535	of nursing or to the ability to practice nursing.
2536	(d) Being convicted or found guilty of, or entering a plea
2537	of guilty or nolo contendere to, regardless of adjudication, any
2538	of the following offenses:
2539	1. A forcible felony as defined in chapter 776.
2540	2. A violation of chapter 812, relating to theft, robbery,
2541	and related crimes.
2542	3. A violation of chapter 817, relating to fraudulent
2543	practices.
2544	4. A violation of chapter 800, relating to lewdness and
2545	indecent exposure.
2546	5. A violation of chapter 784, relating to assault,
2547	battery, and culpable negligence.
2548	6. A violation of chapter 827, relating to child abuse.
2549	7. A violation of chapter 415, relating to protection from
2550	abuse, neglect, and exploitation.
2551	8. A violation of chapter 39, relating to child abuse,
2552	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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24-01080A-18 20181594 2582 paragraph, the authority to issue an order to compel a nurse to 2583 submit to a mental or physical examination by physicians 2584 designated by the department. If the nurse refuses to comply 2585 with such order, the department's order directing such 2586 examination may be enforced by filing a petition for enforcement 2587 in the circuit court where the nurse resides or does business. 2588 The nurse against whom the petition is filed shall not be named 2589 or identified by initials in any public court records or documents, and the proceedings shall be closed to the public. 2590 2591 The department shall be entitled to the summary procedure 2592 provided in s. 51.011. A nurse affected by this paragraph shall 2593 at reasonable intervals be afforded an opportunity to 2594 demonstrate that she or he can resume the competent practice of 2595 nursing with reasonable skill and safety to patients.

2596 (k) Failing to report to the department any person who the 2597 nurse knows is in violation of this part or of the rules of the 2598 department or the board. However, a person who the licensee 2599 knows is unable to practice nursing with reasonable skill and 2600 safety to patients by reason of illness or use of alcohol, 2601 drugs, narcotics, chemicals, or any other type of material, or 2602 as a result of a mental or physical condition, may be reported 2603 to a consultant operating an impaired practitioner program as 2604 described in s. 456.076 rather than to the department.

(1) 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.

2610

(m) Failing to report to the department any licensee under

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1	24-01080A-18 20181594
2611	chapter 458 or under chapter 459 who the nurse knows has
2612	violated the grounds for disciplinary action set out in the law
2613	under which that person is licensed and who provides health care
2614	services in a facility licensed under chapter 395, or a health
2615	maintenance organization certificated under part I of chapter
2616	641, in which the nurse also provides services.
2617	(n) Failing to meet minimal standards of acceptable and
2618	prevailing nursing practice, including engaging in acts for
2619	which the nurse is not qualified by training or experience.
2620	(o) Violating any provision of this chapter or chapter 456,
2621	or any rules adopted pursuant thereto.
2622	(p) For an <u>advanced practice registered nurse</u> advanced
2623	registered nurse practitioner:
2624	1. Presigning blank prescription forms.
2625	2. Prescribing for office use any medicinal drug appearing
2626	on Schedule II in chapter 893.
2627	3. Prescribing, ordering, dispensing, administering,
2628	supplying, selling, or giving a drug that is an amphetamine, a
2629	sympathomimetic amine drug, or a compound designated in s.
2630	893.03(2) as a Schedule II controlled substance, to or for any
2631	person except for:
2632	a. The treatment of narcolepsy; hyperkinesis; behavioral
2633	syndrome in children characterized by the developmentally
2634	inappropriate symptoms of moderate to severe distractibility,
2635	short attention span, hyperactivity, emotional lability, and
2636	impulsivity; or drug-induced brain dysfunction.
2637	b. The differential diagnostic psychiatric evaluation of
2638	depression or the treatment of depression shown to be refractory
2639	to other therapeutic modalities.

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24-01080A-18 20181594 2640 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.

2667 7. Prescribing, dispensing, or administering a medicinal 2668 drug appearing on any schedule set forth in chapter 893 to

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2669	himself or herself, except a drug prescribed, dispensed, or
2670	administered to the advanced practice registered nurse advanced
2671	registered nurse practitioner by another practitioner authorized
2672	to prescribe, dispense, or administer medicinal drugs.
2673	8. Prescribing, ordering, dispensing, administering,
2674	supplying, selling, or giving amygdalin (laetrile) to any
2675	person.
2676	9. Dispensing a substance designated in s. 893.03(2) or (3)
2677	as a substance controlled in Schedule II or Schedule III,
2678	respectively, in violation of s. 465.0276.
2679	10. Promoting or advertising through any communication
2680	medium the use, sale, or dispensing of a substance designated in
2681	s. 893.03 as a controlled substance.
2682	(q) For a psychiatric nurse:
2683	1. Presigning blank prescription forms.
2684	2. Prescribing for office use any medicinal drug appearing
2685	in Schedule II of s. 893.03.
2686	3. Prescribing, ordering, dispensing, administering,
2687	supplying, selling, or giving a drug that is an amphetamine, a
2688	sympathomimetic amine drug, or a compound designated in s.
2689	893.03(2) as a Schedule II controlled substance, to or for any
2690	person except for:
2691	a. The treatment of narcolepsy; hyperkinesis; behavioral
2692	syndrome in children characterized by the developmentally
2693	inappropriate symptoms of moderate to severe distractibility,
2694	short attention span, hyperactivity, emotional lability, and
2695	impulsivity; or drug-induced brain dysfunction.
2696	b. The differential diagnostic psychiatric evaluation of
2697	depression or the treatment of depression shown to be refractory
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2699 c. The clinical investigation of the effects of such drugs 2700 or compounds when an investigative protocol is submitted to, 2701 reviewed by, and approved by the department before such 2702 investigation is begun. 2703 4. Prescribing, ordering, dispensing, administering, 2704 2705 its analogs, human chorionic gonadotropin (HCG), or other 2706 hormones for the purpose of muscle building or to enhance 2707 athletic performance. As used in this subparagraph, the term 2708 "muscle building" does not include the treatment of injured 2709 2710 2711 2712 5. Promoting or advertising on any prescription form a 2713 community pharmacy unless the form also states: "This 2714 prescription may be filled at any pharmacy of your choice." 2715 6. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including a controlled otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate in the course of the advanced practice registered nurse's

to other therapeutic modalities.

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supplying, selling, or giving growth hormones, testosterone or 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.

2716 2717 substance, other than in the course of his or her professional 2718 practice. For the purposes of this subparagraph, it is legally 2719 presumed that prescribing, dispensing, administering, mixing, or 2720 2721 2722 quantities is not in the best interest of the patient and is not 2723 2724 advanced registered nurse practitioner's professional practice, 2725 without regard to his or her intent.

2726

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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2756	license issued pursuant to s. 458.317 or s. 459.0075, a
2757	physician licensed under chapter 458 or chapter 459, an <u>advanced</u>
2758	practice registered nurse advanced registered nurse practitioner
2759	certified under s. 464.012, or a registered nurse licensed under
2760	s. 464.008 or s. 464.009.
2761	Section 64. Subsection (2) of section 467.003, Florida
2762	Statutes, is amended to read:
2763	467.003 Definitions.—As used in this chapter, unless the
2764	context otherwise requires:
2765	(2) "Certified nurse midwife" means a person who is
2766	licensed as an <u>advanced practice registered nurse</u> advanced
2767	registered nurse practitioner under part I of chapter 464 and
2768	who is certified to practice midwifery by the American College
2769	of Nurse Midwives.
2770	Section 65. Subsection (1) of section 480.0475, Florida
2771	Statutes, is amended to read:
2772	480.0475 Massage establishments; prohibited practices
2773	(1) A person may not operate a massage establishment
2774	between the hours of midnight and 5 a.m. This subsection does
2775	not apply to a massage establishment:
2776	(a) Located on the premises of a health care facility as
2777	defined in s. 408.07; a health care clinic as defined in s.
2778	400.9905(4); a hotel, motel, or bed and breakfast inn, as those
2779	terms are defined in s. 509.242; a timeshare property as defined
2780	in s. 721.05; a public airport as defined in s. 330.27; or a
2781	pari-mutuel facility as defined in s. 550.002;
2782	(b) In which every massage performed between the hours of
2783	midnight and 5 a.m. is performed by a massage therapist acting
2784	under the prescription of a physician or physician assistant

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2785	 licensed under chapter 458, an osteopathic physician or
2786	physician assistant licensed under chapter 459, a chiropractic
2787	physician licensed under chapter 460, a podiatric physician
2788	licensed under chapter 461, an <u>advanced practice registered</u>
2789	<u>nurse</u> advanced registered nurse practitioner licensed under part
2790	I of chapter 464, or a dentist licensed under chapter 466; or
2791	(c) Operating during a special event if the county or
2792	municipality in which the establishment operates has approved
2793	such operation during the special event.
2794	Section 66. Subsection (7) of section 483.041, Florida
2795	Statutes, is amended to read:
2796	483.041 DefinitionsAs used in this part, the term:
2797	(7) "Licensed practitioner" means a physician licensed
2798	under chapter 458, chapter 459, chapter 460, or chapter 461; a
2799	certified optometrist licensed under chapter 463; a dentist
2800	licensed under chapter 466; a person licensed under chapter 462;
2801	a consultant pharmacist or doctor of pharmacy licensed under
2802	chapter 465; or an <u>advanced practice registered nurse</u> advanced
2803	registered nurse practitioner licensed under part I of chapter
2804	464; or a duly licensed practitioner from another state licensed
2805	under similar statutes who orders examinations on materials or
2806	specimens for nonresidents of the State of Florida, but who
2807	reside in the same state as the requesting licensed
2808	practitioner.
2809	Section 67. Subsection (5) of section 483.801, Florida
2810	Statutes, is amended to read:
2811	483.801 ExemptionsThis part applies to all clinical
2812	laboratories and clinical laboratory personnel within this
2813	state, except:

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2814	(5) <u>Advanced practice registered nurses</u> advanced registered
2815	nurse practitioners licensed under part I of chapter 464 who
2816	perform provider-performed microscopy procedures (PPMP) in an
2817	exclusive-use laboratory setting.
2818	Section 68. Paragraph (a) of subsection (11) of section
2819	486.021, Florida Statutes, is amended to read:
2820	486.021 DefinitionsIn this chapter, unless the context
2821	otherwise requires, the term:
2822	(11) "Practice of physical therapy" means the performance
2823	of physical therapy assessments and the treatment of any
2824	disability, injury, disease, or other health condition of human
2825	beings, or the prevention of such disability, injury, disease,
2826	or other condition of health, and rehabilitation as related
2827	thereto by the use of the physical, chemical, and other
2828	properties of air; electricity; exercise; massage; the
2829	performance of acupuncture only upon compliance with the
2830	criteria set forth by the Board of Medicine, when no penetration
2831	of the skin occurs; the use of radiant energy, including
2832	ultraviolet, visible, and infrared rays; ultrasound; water; the
2833	use of apparatus and equipment in the application of the
2834	foregoing or related thereto; the performance of tests of
2835	neuromuscular functions as an aid to the diagnosis or treatment
2836	of any human condition; or the performance of electromyography
2837	as an aid to the diagnosis of any human condition only upon
2838	compliance with the criteria set forth by the Board of Medicine.
2839	(a) A physical therapist may implement a plan of treatment
2840	developed by the physical therapist for a patient or provided
2841	for a patient by a practitioner of record or by an <u>advanced</u>
2842	practice registered nurse advanced registered nurse practitioner
I	

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24-01080A-18 20181594 2843 licensed under s. 464.012. The physical therapist shall refer 2844 the patient to or consult with a practitioner of record if the 2845 patient's condition is found to be outside the scope of physical 2846 therapy. If physical therapy treatment for a patient is required 2847 beyond 30 days for a condition not previously assessed by a 2848 practitioner of record, the physical therapist shall have a 2849 practitioner of record review and sign the plan. The requirement 2850 that a physical therapist have a practitioner of record review 2851 and sign a plan of treatment does not apply when a patient has 2852 been physically examined by a physician licensed in another state, the patient has been diagnosed by the physician as having 2853 2854 a condition for which physical therapy is required, and the 2855 physical therapist is treating the condition. For purposes of 2856 this paragraph, a health care practitioner licensed under 2857 chapter 458, chapter 459, chapter 460, chapter 461, or chapter 2858 466 and engaged in active practice is eligible to serve as a 2859 practitioner of record. 2860 Section 69. Paragraph (d) of subsection (1) of section 2861 490.012, Florida Statutes, is amended to read: 2862 490.012 Violations; penalties; injunction.-2863 (1)2864 (d) A person may not No person shall hold herself or 2865 himself out by any title or description incorporating the word, or a permutation of the word, "psychotherapy" unless such person 2866 2867 holds a valid, active license under chapter 458, chapter 459, chapter 490, or chapter 491, or such person is certified as an 2868 2869 advanced practice registered nurse advanced registered nurse 2870 practitioner, pursuant to s. 464.012, who has been determined by 2871 the Board of Nursing as a specialist in psychiatric mental

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2872	health.
2873	Section 70. Subsection (1) of section 491.0057, Florida
2874	Statutes, is amended to read:
2875	491.0057 Dual licensure as a marriage and family
2876	therapist.—The department shall license as a marriage and family
2877	therapist any person who demonstrates to the board that he or
2878	she:
2879	(1) Holds a valid, active license as a psychologist under
2880	chapter 490 or as a clinical social worker or mental health
2881	counselor under this chapter, or is certified under s. 464.012
2882	as an <u>advanced practice registered nurse</u> advanced registered
2883	nurse practitioner who has been determined by the Board of
2884	Nursing as a specialist in psychiatric mental health.
2885	Section 71. Paragraph (d) of subsection (1) and subsection
2886	(2) of section 491.012, Florida Statutes, are amended to read:
2887	491.012 Violations; penalty; injunction
2888	(1) It is unlawful and a violation of this chapter for any
2889	person to:
2890	(d) Use the terms psychotherapist, sex therapist, or
2891	juvenile sexual offender therapist unless such person is
2892	licensed pursuant to this chapter or chapter 490, or is
2893	certified under s. 464.012 as an <u>advanced practice registered</u>
2894	nurse advanced registered nurse practitioner who has been
2895	determined by the Board of Nursing as a specialist in
2896	psychiatric mental health and the use of such terms is within
2897	the scope of her or his practice based on education, training,
2898	and licensure.
2899	(2) It is unlawful and a violation of this chapter for any
2900	person to describe her or his services using the following terms
-	

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2901	or any derivative thereof, unless such person holds a valid,
2902	active license under this chapter or chapter 490, or is
2903	certified under s. 464.012 as an <u>advanced practice registered</u>
2904	nurse advanced registered nurse practitioner who has been
2905	determined by the Board of Nursing as a specialist in
2906	psychiatric mental health and the use of such terms is within
2907	the scope of her or his practice based on education, training,
2908	and licensure:
2909	(a) "Psychotherapy."
2910	(b) "Sex therapy."
2911	(c) "Sex counseling."
2912	(d) "Clinical social work."
2913	(e) "Psychiatric social work."
2914	(f) "Marriage and family therapy."
2915	(g) "Marriage and family counseling."
2916	(h) "Marriage counseling."
2917	(i) "Family counseling."
2918	(j) "Mental health counseling."
2919	Section 72. Subsection (2) of section 493.6108, Florida
2920	Statutes, is amended to read:
2921	493.6108 Investigation of applicants by Department of
2922	Agriculture and Consumer Services
2923	(2) In addition to subsection (1), the department shall
2924	make an investigation of the general physical fitness of the
2925	Class "G" applicant to bear a weapon or firearm. Determination
2926	of physical fitness shall be certified by a physician or
2927	physician assistant currently licensed pursuant to chapter 458,
2928	chapter 459, or any similar law of another state or authorized
2929	to act as a licensed physician by a federal agency or department
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2930	or by an <u>advanced practice registered nurse</u> <del>advanced registered</del>
2931	nurse practitioner currently licensed pursuant to chapter 464.
2932	Such certification shall be submitted on a form provided by the
2933	department.
2934	Section 73. Paragraph (b) of subsection (1) of section
2935	627.357, Florida Statutes, is amended to read:
2936	627.357 Medical malpractice self-insurance
2937	(1) DEFINITIONSAs used in this section, the term:
2938	(b) "Health care provider" means any:
2939	1. Hospital licensed under chapter 395.
2940	2. Physician licensed, or physician assistant licensed,
2941	under chapter 458.
2942	3. Osteopathic physician or physician assistant licensed
2943	under chapter 459.
2944	4. Podiatric physician licensed under chapter 461.
2945	5. Health maintenance organization certificated under part
2946	I of chapter 641.
2947	6. Ambulatory surgical center licensed under chapter 395.
2948	7. Chiropractic physician licensed under chapter 460.
2949	8. Psychologist licensed under chapter 490.
2950	9. Optometrist licensed under chapter 463.
2951	10. Dentist licensed under chapter 466.
2952	11. Pharmacist licensed under chapter 465.
2953	12. Registered nurse, licensed practical nurse, or <u>advanced</u>
2954	practice registered nurse advanced registered nurse practitioner
2955	licensed or registered under part I of chapter 464.
2956	13. Other medical facility.
2957	14. Professional association, partnership, corporation,
2958	joint venture, or other association established by the

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2959	individuals set forth in subparagraphs 2., 3., 4., 7., 8., 9.,
2960	10., 11., and 12. for professional activity.
2961	Section 74. Subsection (6) of section 627.6471, Florida
2962	Statutes, is amended to read:
2963	627.6471 Contracts for reduced rates of payment;
2964	limitations; coinsurance and deductibles
2965	(6) If psychotherapeutic services are covered by a policy
2966	issued by the insurer, the insurer shall provide eligibility
2967	criteria for each group of health care providers licensed under
2968	chapter 458, chapter 459, chapter 490, or chapter 491, which
2969	include psychotherapy within the scope of their practice as
2970	provided by law, or for any person who is certified as an
2971	advanced practice registered nurse advanced registered nurse
2972	practitioner in psychiatric mental health under s. 464.012. When
2973	psychotherapeutic services are covered, eligibility criteria
2974	shall be established by the insurer to be included in the
2975	insurer's criteria for selection of network providers. The
2976	insurer may not discriminate against a health care provider by
2977	excluding such practitioner from its provider network solely on
2978	the basis of the practitioner's license.
2979	Section 75. Subsections (15) and (17) of section 627.6472,
2980	Florida Statutes, are amended to read:
2981	627.6472 Exclusive provider organizations
2982	(15) If psychotherapeutic services are covered by a policy
2983	issued by the insurer, the insurer shall provide eligibility
2984	criteria for all groups of health care providers licensed under

2985 chapter 458, chapter 459, chapter 490, or chapter 491, which 2986 include psychotherapy within the scope of their practice as 2987 provided by law, or for any person who is certified as an

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24-01080A-18 20181594 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.-

(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

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3017	of a self-propelled vehicle, subject to subsection (2) and
3018	paragraph (4)(e), to a limit of \$10,000 in medical and
3019	disability benefits and \$5,000 in death benefits resulting from
3020	bodily injury, sickness, disease, or death arising out of the
3021	ownership, maintenance, or use of a motor vehicle as follows:
3022	(a) Medical benefits.—Eighty percent of all reasonable
3023	expenses for medically necessary medical, surgical, X-ray,
3024	dental, and rehabilitative services, including prosthetic
3025	devices and medically necessary ambulance, hospital, and nursing
3026	services if the individual receives initial services and care
3027	pursuant to subparagraph 1. within 14 days after the motor
3028	vehicle accident. The medical benefits provide reimbursement
3029	only for:
3030	1. Initial services and care that are lawfully provided,
3031	supervised, ordered, or prescribed by a physician licensed under
3032	chapter 458 or chapter 459, a dentist licensed under chapter
3033	466, or a chiropractic physician licensed under chapter 460 or
3034	that are provided in a hospital or in a facility that owns, or
3035	is wholly owned by, a hospital. Initial services and care may
3036	also be provided by a person or entity licensed under part III
3037	of chapter 401 which provides emergency transportation and
3038	treatment.
3039	2. Upon referral by a provider described in subparagraph
3040	1., followup services and care consistent with the underlying
3041	medical diagnosis rendered pursuant to subparagraph 1. which may
3042	be provided, supervised, ordered, or prescribed only by a

3043 physician licensed under chapter 458 or chapter 459, a 3044 chiropractic physician licensed under chapter 460, a dentist 3045 licensed under chapter 466, or, to the extent permitted by

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24-01080A-18 20181594 3046 applicable law and under the supervision of such physician, 3047 osteopathic physician, chiropractic physician, or dentist, by a 3048 physician assistant licensed under chapter 458 or chapter 459 or 3049 an advanced practice registered nurse advanced registered nurse 3050 practitioner licensed under chapter 464. Followup services and 3051 care may also be provided by the following persons or entities: 3052 a. A hospital or ambulatory surgical center licensed under 3053 chapter 395. 3054 b. An entity wholly owned by one or more physicians 3055 licensed under chapter 458 or chapter 459, chiropractic 3056 physicians licensed under chapter 460, or dentists licensed 3057 under chapter 466 or by such practitioners and the spouse, 3058 parent, child, or sibling of such practitioners. 3059 c. An entity that owns or is wholly owned, directly or 3060 indirectly, by a hospital or hospitals. 3061 d. A physical therapist licensed under chapter 486, based 3062 upon a referral by a provider described in this subparagraph. 3063 e. A health care clinic licensed under part X of chapter 3064 400 which is accredited by an accrediting organization whose 3065 standards incorporate comparable regulations required by this 3066 state, or 3067 (I) Has a medical director licensed under chapter 458, 3068 chapter 459, or chapter 460; 3069 (II) Has been continuously licensed for more than 3 years 3070 or is a publicly traded corporation that issues securities 3071 traded on an exchange registered with the United States 3072 Securities and Exchange Commission as a national securities 3073 exchange; and 3074 (III) Provides at least four of the following medical

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3075	specialties:
3076	(A) General medicine.
3077	(B) Radiography.
3078	(C) Orthopedic medicine.
3079	(D) Physical medicine.
3080	(E) Physical therapy.
3081	(F) Physical rehabilitation.
3082	(G) Prescribing or dispensing outpatient prescription
3083	medication.
3084	(H) Laboratory services.
3085	3. Reimbursement for services and care provided in
3086	subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
3087	licensed under chapter 458 or chapter 459, a dentist licensed
3088	under chapter 466, a physician assistant licensed under chapter
3089	458 or chapter 459, or an <u>advanced practice registered nurse</u>
3090	advanced registered nurse practitioner licensed under chapter
3091	464 has determined that the injured person had an emergency
3092	medical condition.
3093	4. Reimbursement for services and care provided in
3094	subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
3095	provider listed in subparagraph 1. or subparagraph 2. determines
3096	that the injured person did not have an emergency medical
3097	condition.
3098	5. Medical benefits do not include massage as defined in s.
3099	480.033 or acupuncture as defined in s. 457.102, regardless of
3100	the person, entity, or licensee providing massage or
3101	acupuncture, and a licensed massage therapist or licensed
3102	acupuncturist may not be reimbursed for medical benefits under
3103	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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24-01080A-18 20181594 3133 (5) Be in good physical condition as determined by a 3134 medical examination given by a physician, surgeon, or physician 3135 assistant licensed to practice in the state pursuant to chapter 458; an osteopathic physician, surgeon, or physician assistant 3136 3137 licensed to practice in the state pursuant to chapter 459; or an 3138 advanced practice registered nurse advanced registered nurse 3139 practitioner licensed to practice in the state pursuant to 3140 chapter 464. Such examination may include, but need not be 3141 limited to, the National Fire Protection Association Standard 3142 1582. A medical examination evidencing good physical condition 3143 shall be submitted to the division, on a form as provided by 3144 rule, before an individual is eligible for admission into a 3145 course under s. 633.408. Section 78. Section 641.3923, Florida Statutes, is amended 3146 3147 to read: 641.3923 Discrimination against providers prohibited.-A 3148 3149 health maintenance organization may shall not discriminate with 3150 respect to participation as to any advanced practice registered 3151 nurse advanced registered nurse practitioner licensed and 3152 certified pursuant to s. 464.012, who is acting within the scope 3153 of such license and certification, solely on the basis of such 3154 license or certification. This section may shall not be 3155 construed to prohibit a plan from including providers only to 3156 the extent necessary to meet the needs of the plan's enrollees 3157 or from establishing any measure designed to maintain quality 3158 and control costs consistent with the responsibilities of the 3159 plan. 3160 Section 79. Subsection (3) of section 766.103, Florida Statutes, is amended to read: 3161

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3162
           766.103 Florida Medical Consent Law.-
3163
           (3) No recovery shall be allowed in any court in this state
3164
      against any physician licensed under chapter 458, osteopathic
      physician licensed under chapter 459, chiropractic physician
3165
3166
      licensed under chapter 460, podiatric physician licensed under
      chapter 461, dentist licensed under chapter 466, advanced
3167
3168
      practice registered nurse advanced registered nurse practitioner
      certified under s. 464.012, or physician assistant licensed
3169
      under s. 458.347 or s. 459.022 in an action brought for
3170
3171
      treating, examining, or operating on a patient without his or
3172
      her informed consent when:
3173
            (a)1. The action of the physician, osteopathic physician,
3174
      chiropractic physician, podiatric physician, dentist, advanced
3175
      practice registered nurse advanced registered nurse
3176
      practitioner, or physician assistant in obtaining the consent of
3177
      the patient or another person authorized to give consent for the
3178
      patient was in accordance with an accepted standard of medical
3179
      practice among members of the medical profession with similar
3180
      training and experience in the same or similar medical community
3181
      as that of the person treating, examining, or operating on the
      patient for whom the consent is obtained; and
3182
3183
           2. A reasonable individual, from the information provided
3184
      by the physician, osteopathic physician, chiropractic physician,
3185
      podiatric physician, dentist, advanced practice registered nurse
3186
      advanced registered nurse practitioner, or physician assistant,
      under the circumstances, would have a general understanding of
3187
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3188 the procedure, the medically acceptable alternative procedures 3189 or treatments, and the substantial risks and hazards inherent in 3190 the proposed treatment or procedures, which are recognized among

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3191	other physicians, osteopathic physicians, chiropractic
3192	physicians, podiatric physicians, or dentists in the same or
3193	similar community who perform similar treatments or procedures;
3194	or
3195	(b) The patient would reasonably, under all the surrounding
3196	circumstances, have undergone such treatment or procedure had he
3197	or she been advised by the physician, osteopathic physician,
3198	chiropractic physician, podiatric physician, dentist, <u>advanced</u>
3199	practice registered nurse advanced registered nurse
3200	practitioner, or physician assistant in accordance with the
3201	provisions of paragraph (a).
3202	Section 80. Paragraph (d) of subsection (3) of section
3203	766.1115, Florida Statutes, is amended to read:
3204	766.1115 Health care providers; creation of agency
3205	relationship with governmental contractors
3206	(3) DEFINITIONSAs used in this section, the term:
3207	(d) "Health care provider" or "provider" means:
3208	1. A birth center licensed under chapter 383.
3209	2. An ambulatory surgical center licensed under chapter
3210	395.
3211	3. A hospital licensed under chapter 395.
3212	4. A physician or physician assistant licensed under
3213	chapter 458.
3214	5. An osteopathic physician or osteopathic physician
3215	assistant licensed under chapter 459.
3216	6. A chiropractic physician licensed under chapter 460.
3217	7. A podiatric physician licensed under chapter 461.
3218	8. A registered nurse, nurse midwife, licensed practical
3219	nurse, or <u>advanced practice registered nurse</u> advanced registered

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3220	nurse practitioner licensed or registered under part I of
3221	chapter 464 or any facility which employs nurses licensed or
3222	registered under part I of chapter 464 to supply all or part of
3223	the care delivered under this section.
3224	9. A midwife licensed under chapter 467.
3225	10. A health maintenance organization certificated under
3226	part I of chapter 641.
3227	11. A health care professional association and its
3228	employees or a corporate medical group and its employees.
3229	12. Any other medical facility the primary purpose of which
3230	is to deliver human medical diagnostic services or which
3231	delivers nonsurgical human medical treatment, and which includes
3232	an office maintained by a provider.
3233	13. A dentist or dental hygienist licensed under chapter
3234	466.
3235	14. A free clinic that delivers only medical diagnostic
3236	services or nonsurgical medical treatment free of charge to all
3237	low-income recipients.
3238	15. Any other health care professional, practitioner,
3239	provider, or facility under contract with a governmental
3240	contractor, including a student enrolled in an accredited
3241	program that prepares the student for licensure as any one of
3242	the professionals listed in subparagraphs 49.
3243	
3244	The term includes any nonprofit corporation qualified as exempt
3245	from federal income taxation under s. 501(a) of the Internal
3246	Revenue Code, and described in s. 501(c) of the Internal Revenue
3247	Code, which delivers health care services provided by licensed
3248	professionals listed in this paragraph, any federally funded
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3277

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3249
      community health center, and any volunteer corporation or
3250
      volunteer health care provider that delivers health care
      services.
3251
3252
           Section 81. Subsection (1) of section 766.1116, Florida
3253
      Statutes, is amended to read:
3254
           766.1116 Health care practitioner; waiver of license
3255
      renewal fees and continuing education requirements.-
3256
            (1) As used in this section, the term "health care
3257
      practitioner" means a physician or physician assistant licensed
3258
      under chapter 458; an osteopathic physician or physician
      assistant licensed under chapter 459; a chiropractic physician
3259
3260
      licensed under chapter 460; a podiatric physician licensed under
3261
      chapter 461; an advanced practice registered nurse advanced
3262
      registered nurse practitioner, registered nurse, or licensed
3263
      practical nurse licensed under part I of chapter 464; a dentist
3264
      or dental hygienist licensed under chapter 466; or a midwife
3265
      licensed under chapter 467, who participates as a health care
      provider under s. 766.1115.
3266
3267
           Section 82. Subsection (5) of section 794.08, Florida
3268
      Statutes, is amended to read:
3269
           794.08 Female genital mutilation.-
3270
           (5) This section does not apply to procedures performed by
3271
      or under the direction of a physician licensed under chapter
3272
      458, an osteopathic physician licensed under chapter 459, a
3273
      registered nurse licensed under part I of chapter 464, a
3274
      practical nurse licensed under part I of chapter 464, an
3275
      advanced practice registered nurse advanced registered nurse
3276
      practitioner licensed under part I of chapter 464, a midwife
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licensed under chapter 467, or a physician assistant licensed

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24-01080A-18 20181594 3278 under chapter 458 or chapter 459 when necessary to preserve the 3279 physical health of a female person. This section also does not 3280 apply to any autopsy or limited dissection conducted pursuant to 3281 chapter 406. 3282 Section 83. Subsection (23) of section 893.02, Florida 3283 Statutes, is amended to read: 3284 893.02 Definitions.-The following words and phrases as used 3285 in this chapter shall have the following meanings, unless the 3286 context otherwise requires: 3287 (23) "Practitioner" means a physician licensed under 3288 chapter 458, a dentist licensed under chapter 466, a 3289 veterinarian licensed under chapter 474, an osteopathic 3290 physician licensed under chapter 459, an advanced practice 3291 registered nurse advanced registered nurse practitioner 3292 certified under chapter 464, a naturopath licensed under chapter 3293 462, a certified optometrist licensed under chapter 463, a 3294 psychiatric nurse as defined in s. 394.455, a podiatric 3295 physician licensed under chapter 461, or a physician assistant 3296 licensed under chapter 458 or chapter 459, provided such 3297 practitioner holds a valid federal controlled substance registry 3298 number. 3299 Section 84. Paragraph (b) of subsection (1) of section 3300 893.05, Florida Statutes, is amended to read: 3301 893.05 Practitioners and persons administering controlled substances in their absence.-3302 3303 (1)3304 (b) Pursuant to s. 458.347(4)(q), s. 459.022(4)(f), or s. 3305 464.012(3), as applicable, a practitioner who supervises a 3306 licensed physician assistant or advanced practice registered

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3307	nurse advanced registered nurse practitioner may authorize the
3308	licensed physician assistant or advanced practice registered
3309	<u>nurse</u> advanced registered nurse practitioner to order controlled
3310	substances for administration to a patient in a facility
3311	licensed under chapter 395 or part II of chapter 400.
3312	Section 85. Subsection (6) of section 943.13, Florida
3313	Statutes, is amended to read:
3314	943.13 Officers' minimum qualifications for employment or
3315	appointment.—On or after October 1, 1984, any person employed or
3316	appointed as a full-time, part-time, or auxiliary law
3317	enforcement officer or correctional officer; on or after October
3318	1, 1986, any person employed as a full-time, part-time, or
3319	auxiliary correctional probation officer; and on or after
3320	October 1, 1986, any person employed as a full-time, part-time,
3321	or auxiliary correctional officer by a private entity under
3322	contract to the Department of Corrections, to a county
3323	commission, or to the Department of Management Services shall:
3324	(6) Have passed a physical examination by a licensed
3325	physician, physician assistant, or certified advanced practice
3326	registered nurse advanced registered nurse practitioner, based
3327	on specifications established by the commission. In order to be
3328	eligible for the presumption set forth in s. 112.18 while
3329	employed with an employing agency, a law enforcement officer,
3330	correctional officer, or correctional probation officer must
3331	have successfully passed the physical examination required by
3332	this subsection upon entering into service as a law enforcement
3333	officer, correctional officer, or correctional probation officer
3334	with the employing agency, which examination must have failed to
3335	reveal any evidence of tuberculosis, heart disease, or

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3336	hypertension. A law enforcement officer, correctional officer,
3337	or correctional probation officer may not use a physical
3338	examination from a former employing agency for purposes of
3339	claiming the presumption set forth in s. 112.18 against the
3340	current employing agency.
3341	Section 86. Paragraph (n) of subsection (1) of section
3342	948.03, Florida Statutes, is amended to read:
3343	948.03 Terms and conditions of probation
3344	(1) The court shall determine the terms and conditions of
3345	probation. Conditions specified in this section do not require
3346	oral pronouncement at the time of sentencing and may be
3347	considered standard conditions of probation. These conditions
3348	may include among them the following, that the probationer or
3349	offender in community control shall:
3350	(n) Be prohibited from using intoxicants to excess or
3351	possessing any drugs or narcotics unless prescribed by a
3352	physician, an advanced practice registered nurse advanced
3353	registered nurse practitioner, or a physician assistant. The
3354	probationer or community controllee may not knowingly visit
3355	places where intoxicants, drugs, or other dangerous substances
3356	are unlawfully sold, dispensed, or used.
3357	Section 87. Paragraph (i) of subsection (3) of section
3358	1002.20, Florida Statutes, is amended to read:
3359	1002.20 K-12 student and parent rightsParents of public
3360	school students must receive accurate and timely information
3361	regarding their child's academic progress and must be informed
3362	of ways they can help their child to succeed in school. K-12
3363	students and their parents are afforded numerous statutory
3364	rights including, but not limited to, the following:

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3365 (3) HEALTH ISSUES.-3366 (i) Epinephrine use and supply.-3367 1. A student who has experienced or is at risk for life-3368 threatening allergic reactions may carry an epinephrine auto-3369 injector and self-administer epinephrine by auto-injector while 3370 in school, participating in school-sponsored activities, or in 3371 transit to or from school or school-sponsored activities if the 3372 school has been provided with parental and physician 3373 authorization. The State Board of Education, in cooperation with 3374 the Department of Health, shall adopt rules for such use of 3375 epinephrine auto-injectors that shall include provisions to 3376 protect the safety of all students from the misuse or abuse of 3377 auto-injectors. A school district, county health department, 3378 public-private partner, and their employees and volunteers shall 3379 be indemnified by the parent of a student authorized to carry an 3380 epinephrine auto-injector for any and all liability with respect 3381 to the student's use of an epinephrine auto-injector pursuant to 3382 this paragraph. 3383 2. A public school may purchase a supply of epinephrine

3384 auto-injectors from a wholesale distributor as defined in s. 3385 499.003 or may enter into an arrangement with a wholesale 3386 distributor or manufacturer as defined in s. 499.003 for the 3387 epinephrine auto-injectors at fair-market, free, or reduced 3388 prices for use in the event a student has an anaphylactic reaction. The epinephrine auto-injectors must be maintained in a 3389 3390 secure location on the public school's premises. The 3391 participating school district shall adopt a protocol developed 3392 by a licensed physician for the administration by school 3393 personnel who are trained to recognize an anaphylactic reaction

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3394	and to administer an epinephrine auto-injection. The supply of
3395	epinephrine auto-injectors may be provided to and used by a
3396	student authorized to self-administer epinephrine by auto-
3397	injector under subparagraph 1. or trained school personnel.
3398	3. The school district and its employees, agents, and the
3399	physician who provides the standing protocol for school
3400	epinephrine auto-injectors are not liable for any injury arising
3401	from the use of an epinephrine auto-injector administered by
3402	trained school personnel who follow the adopted protocol and
3403	whose professional opinion is that the student is having an
3404	anaphylactic reaction:
3405	a. Unless the trained school personnel's action is willful
3406	and wanton;
3407	b. Notwithstanding that the parents or guardians of the
3408	student to whom the epinephrine is administered have not been
3409	provided notice or have not signed a statement acknowledging
3410	that the school district is not liable; and
3411	c. Regardless of whether authorization has been given by
3412	the student's parents or guardians or by the student's
3413	physician, physician's assistant, or <u>advanced practice</u>
3414	registered nurse advanced registered nurse practitioner.
3415	Section 88. Paragraph (b) of subsection (17) of section
3416	1002.42, Florida Statutes, is amended to read:
3417	1002.42 Private schools
3418	(17) EPINEPHRINE SUPPLY
3419	(b) The private school and its employees, agents, and the
3420	physician who provides the standing protocol for school

3421 epinephrine auto-injectors are not liable for any injury arising 3422 from the use of an epinephrine auto-injector administered by

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24-01080A-18 20181594 3423 trained school personnel who follow the adopted protocol and 3424 whose professional opinion is that the student is having an 3425 anaphylactic reaction: 3426 1. Unless the trained school personnel's action is willful 3427 and wanton; 2. Notwithstanding that the parents or guardians of the 3428 3429 student to whom the epinephrine is administered have not been 3430 provided notice or have not signed a statement acknowledging 3431 that the school district is not liable; and 3. Regardless of whether authorization has been given by 3432 the student's parents or guardians or by the student's 3433 physician, physician's assistant, or advanced practice 3434 3435 registered nurse advanced registered nurse practitioner. 3436 Section 89. Subsections (4) and (5) of section 1006.062, 3437 Florida Statutes, are amended to read: 3438 1006.062 Administration of medication and provision of 3439 medical services by district school board personnel.-3440 (4) Nonmedical assistive personnel shall be allowed to 3441 perform health-related services upon successful completion of 3442 child-specific training by a registered nurse or advanced 3443 practice registered nurse advanced registered nurse practitioner 3444 licensed under chapter 464, a physician licensed pursuant to 3445 chapter 458 or chapter 459, or a physician assistant licensed 3446 pursuant to chapter 458 or chapter 459. All procedures shall be 3447 monitored periodically by a nurse, advanced practice registered 3448 nurse advanced registered nurse practitioner, physician 3449 assistant, or physician, including, but not limited to: 3450 (a) Intermittent clean catheterization. 3451 (b) Gastrostomy tube feeding.

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3452
            (c) Monitoring blood glucose.
3453
            (d) Administering emergency injectable medication.
3454
            (5) For all other invasive medical services not listed in
3455
      this subsection, a registered nurse or advanced practice
3456
      registered nurse advanced registered nurse practitioner licensed
3457
      under chapter 464, a physician licensed pursuant to chapter 458
3458
      or chapter 459, or a physician assistant licensed pursuant to
3459
      chapter 458 or chapter 459 shall determine if nonmedical
3460
      district school board personnel shall be allowed to perform such
3461
      service.
3462
           Section 90. Subsection (1) and paragraph (a) of subsection
3463
      (2) of section 1009.65, Florida Statutes, are amended to read:
3464
           1009.65 Medical Education Reimbursement and Loan Repayment
3465
      Program.-
3466
            (1) To encourage qualified medical professionals to
3467
      practice in underserved locations where there are shortages of
3468
      such personnel, there is established the Medical Education
3469
      Reimbursement and Loan Repayment Program. The function of the
3470
      program is to make payments that offset loans and educational
3471
      expenses incurred by students for studies leading to a medical
3472
      or nursing degree, medical or nursing licensure, or advanced
3473
      practice registered nurse advanced registered nurse practitioner
3474
      certification or physician assistant licensure. The following
3475
      licensed or certified health care professionals are eligible to
3476
      participate in this program: medical doctors with primary care
3477
      specialties, doctors of osteopathic medicine with primary care
3478
      specialties, physician's assistants, licensed practical nurses
3479
      and registered nurses, and advanced practice registered nurses
3480
      advanced registered nurse practitioners with primary care
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SB 1594

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3481	specialties such as certified nurse midwives. Primary care
3482	medical specialties for physicians include obstetrics,
3483	gynecology, general and family practice, internal medicine,
3484	pediatrics, and other specialties which may be identified by the
3485	Department of Health.
3486	(2) From the funds available, the Department of Health
3487	shall make payments to selected medical professionals as
3488	follows:
3489	(a) Up to \$4,000 per year for licensed practical nurses and
3490	registered nurses, up to \$10,000 per year for <u>advanced practice</u>
3491	registered nurses advanced registered nurse practitioners and
3492	physician's assistants, and up to \$20,000 per year for
3493	physicians. Penalties for noncompliance shall be the same as
3494	those in the National Health Services Corps Loan Repayment
3495	Program. Educational expenses include costs for tuition,
3496	matriculation, registration, books, laboratory and other fees,
3497	other educational costs, and reasonable living expenses as
3498	determined by the Department of Health.
3499	Section 91. Subsection (2) of section 1009.66, Florida
3500	Statutes, is amended to read:
3501	1009.66 Nursing Student Loan Forgiveness Program
3502	(2) To be eligible, a candidate must have graduated from an
3503	accredited or approved nursing program and have received a
3504	Florida license as a licensed practical nurse or a registered
3505	nurse or a Florida certificate as an <u>advanced practice</u>
3506	registered nurse advanced registered nurse practitioner.
3507	Section 92. Subsection (3) of section 1009.67, Florida
3508	Statutes, is amended to read:
3509	1009.67 Nursing scholarship program.—
Ĩ	

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3510	(3) A scholarship may be awarded for no more than 2 years,					
3511	in an amount not to exceed \$8,000 per year. However, registered					
3512	nurses pursuing a graduate degree for a faculty position or to					
3513	3 practice as an <u>advanced practice registered nurse</u> advanced					
3514	registered nurse practitioner may receive up to \$12,000 per					
3515	year. These amounts shall be adjusted by the amount of increase					
3516	or decrease in the Consumer Price Index for All Urban Consumers					
3517	published by the United States Department of Commerce.					
3518	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 B

Senator Jeff Brandes Florida Senate, District 24

THE FLORIDA SENATE	
Deliver BOTH copies of this form to the Senator or Senate Professional S	Staff conducting the meeting) 1594
Topic <u>NUCSing</u>	Bill Number (if applicable) 
Name <u>Chris Spencer</u> Job Title <u>Covernment Consultant</u>	_
Job Title     Government Consultant       Address     401 @. Jackson Street       Street	Phone <u>813</u> 273 5000
Tampa IZ 38703 City State Zip	_ Email <u>Chrisspencer Coray - robinson</u> Com
	peaking: X In Support Against air will read this information into the record.)
Representing <u><i>Horida Nurses</i> Association</u>	
Appearing at request of Chair: Yes 🔨 No Lobbyist regist	tered 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)

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**THE FLORIDA SENATE** 

# **APPEARANCE RECORD**

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

Meeting Date	Bill Number (if applicable)
Topic Nursing	Amendment Barcode (if applicable)
Name Andrea, Reilly	· ·
Job Title Consultant	
Address 311 E. Park Que.	Phone <u>850-224-5081</u>
Tallahassee Fa 32301 City, State Zip	Email <u>Creilly@Smithbryan</u> and myers.
Speaking: For Against Information Waive Sp (The Chai	beaking: In Support Against ir will read this information into the record.)
Representing National Council of State Board	ts of Nursing
Appearing at request of Chair: Yes No Lobbyist register	ered 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)

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RD
taff conducting the meeting) Bill Number (if applicable)
Amendment Barcode (if applicable)
-
-
Phone 727-7087
Email <u>allisonerambaconsalting.com</u>
peaking: In Support Against ir will read this information into the record.)
HWORK
ered 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.

The Florida Senate	
APPEARANCE RECO	RD
(Deliver BOTH copies of this form to the Senator or Senate Professional Sta	aff conducting the meeting) $1594$
Meeting Date	Bill Number (if applicable)
Topic NUISING	Amendment Barcode (if applicable)
Name Chris Floyd	
Job Title Consultant	
Address 101 E. College Ave. Ste. 302	Phone 8/3-624-5117
Street Julichassee FL 32301	Email
City     State     Zip       Speaking:     For     Against     Information     Waive Sp (The Chain	eaking: In Support Against will read this information into the record.)
Representing FL ASSIC. of Nurse Pract	htsonus
Appearing at request of Chair: Yes No Lobbyist register	ered with Legislature: Ves No
While it is a Senate tradition to encourage public testimony, time may not permit all preeting. Those who do speak may be asked to limit their remarks so that as many p	

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

The Florida Senate	
APPEARANCE RECO Deliver BOTH copies of this form to the Senator or Senate Professional S Meeting Date	
Topic NURSING	Amendment Barcode (if applicable)
Name MARTHA DeCASTRS	_
Job Title VP for NUISNY & CLINCARE Por	1 Cy
Address 306 E Cillege And	Phone 850 222 9800
Street Tallahajsel F2 323/7 City State Zip	_ Email Moutha @ An. org_
Speaking: For Against Information Waive S	Speaking: In Support Against A
Representing Frokila Huspin AssociAn	n(
Appearing at request of Chair: Yes LNo Lobbyist regis	tered with Legislature: Ves No
While it is a Senate tradition to encourage public testimony, time may not permit al meeting. Those who do speak may be asked to limit their remarks so that as many	

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

	THE FLC	DRIDA SENATE		
	APPEARA	NCE RECO	RD	
(Deliver BOTH Meeting Date	H copies of this form to the Senato			the meeting) <u>1594</u> Bill Number (if applicable)
Topic Nursing				Amendment Barcode (if applicable)
Name Chris Lyon				
Job Title Legislativ- Com	isel			
Address 315 S. Celhoun	St., Ste. 830		Phone _	850/222-5702
Street	FL	32301	Email	Clyonellw-law.com
<i>City</i> Speaking:  For Against	State	Zip Waive Sp (The Chai		In Support Against
Representing <u>Hovida</u>	Association of M	Vorse Anesthet	rists	
Appearing at request of Chair:	Yes No	Lobbyist registe		-
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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.

# 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 1850							
INTRODUCER:	Health Po	licy Comm	ittee and Sena	ator Stewart				
SUBJECT:	Public Re Examiner	cords/Photo	ograph, Video	o, Audio Recordin	ig of an Auto	psy Held by a Medical		
DATE: Janua		1, 2018	REVISED:					
ANALYST		STAFF	DIRECTOR	REFERENCE		ACTION		
1. Rossitto-Van Winkle		Stovall		HP	Fav/CS			
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

<sup>11</sup> *Id*.

<sup>&</sup>lt;sup>1</sup> FLA. CONST., art. I, s. 24(a).

 $<sup>^{2}</sup>$  Id.

<sup>&</sup>lt;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>&</sup>lt;sup>4</sup> Public records laws are found throughout the Florida Statutes.

<sup>&</sup>lt;sup>5</sup> Section 119.01(1), F.S.

<sup>&</sup>lt;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>&</sup>lt;sup>7</sup> Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc., 379 So. 2d 633, 640 (Fla. 1980).

<sup>&</sup>lt;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>&</sup>lt;sup>9</sup> FLA. CONST., art. I, s. 24(c).

 $<sup>^{10}</sup>$  Id.

exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.  $^{\rm 12}$ 

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>&</sup>lt;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>&</sup>lt;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>&</sup>lt;sup>14</sup> Williams v. City of Minneola, 575 So. 2d 687 (Fla. 5th DCA 1991).

<sup>&</sup>lt;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>&</sup>lt;sup>16</sup> Section 119.15(3), F.S.

<sup>&</sup>lt;sup>17</sup> Section 119.15(6)(b), F.S.

<sup>&</sup>lt;sup>18</sup> Section 119.15(6)(b)1., F.S.

<sup>&</sup>lt;sup>19</sup> Section 119.15(6)(b)2., F.S.

<sup>&</sup>lt;sup>20</sup> Section 119.15(6)(b)3., F.S.

<sup>&</sup>lt;sup>21</sup> Section 119.15(6)(a), F.S. The specified questions are:

<sup>1.</sup> What specific records or meetings are affected by the exemption?

<sup>2.</sup> 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>

<sup>3.</sup> What is the identifiable public purpose or goal of the exemption?

<sup>4.</sup> Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?

<sup>5.</sup> Is the record or meeting protected by another exemption?

<sup>6.</sup> Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>&</sup>lt;sup>22</sup> FLA. CONST. art. I, s. 24(c).

<sup>&</sup>lt;sup>23</sup> Section 119.15(7), F.S.

<sup>&</sup>lt;sup>24</sup> Section 406.01, F.S.

<sup>&</sup>lt;sup>25</sup> Section 406.02, F.S.

<sup>&</sup>lt;sup>26</sup> Section 406.11, F.S.

<sup>&</sup>lt;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>

 $^{31}$  *Id*.

- <sup>33</sup> Section 406.235(5), F.S.
- <sup>34</sup> Section 406.135(4)(c), F.S.

<sup>&</sup>lt;sup>28</sup> Section 406.135(1), F.S.

<sup>&</sup>lt;sup>29</sup> Section 406.135(2), F.S.

<sup>&</sup>lt;sup>30</sup> Section 406.135(3), F.S.

<sup>&</sup>lt;sup>32</sup> Section 406.135(4), F.S.

<sup>&</sup>lt;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.

<sup>&</sup>lt;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.

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



LEGISLATIVE ACTION

Senate . Comm: RCS . 01/30/2018 . House

The Committee on Health Policy (Stewart) recommended the following:

Senate Amendment (with title amendment)

Delete lines 66 - 94

and insert:

1 2 3

4

5 24(a), Art. I of the State Constitution for 10 days after the

6 medical examiner has completed the report, except that a

7 surviving spouse may view and copy the records. If there is no

8 surviving spouse, the surviving parents or legal guardians shall

9 have access to such records. If there is no surviving spouse,

10 parent, or legal guardian, an adult child shall have access to

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# 856288

11 such records.

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(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.

<u>(7) (a) (6) (a)</u> Any custodian of <u>an autopsy report or a</u> <u>related written record that personally identifies the deceased,</u> <u>or a photograph or video or audio recording of an autopsy</u>, 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 <u>applies to records held before</u>, on, or after the effective date of this act <del>shall be given</del> <del>retroactive application</del>.

Section 2. <u>The Legislature finds that it is a public</u> <u>necessity that autopsy reports and related written records that</u> <u>personally identify the deceased be made confidential and exempt</u> <u>from the requirements of s. 119.07(1), Florida Statutes, and s.</u> <u>24(a), Article I of the State Constitution for 10 days after the</u> <u>medical examiner has completed the report. The Legislature finds</u> <u>that the deceased's family</u>

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588-02558-18

COMMITTEE AMENDMENT

Florida Senate - 2018 Bill No. SB 1850

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),
I	Page 1 of 4

# Page 1 of 4

13-01538C-18

30 respectively, present subsections (6) and (8) are amended, and a 31 new subsection (6) is added to that section, to read: 32 406.135 Autopsies; confidentiality of reports, related written records, photographs, and video and audio recordings; 33 34 exemption.-35 (1) For the purpose of this section, the term "medical 36 examiner" means any district medical examiner, associate medical 37 examiner, or substitute medical examiner acting pursuant to this 38 chapter, as well as any employee, deputy, or agent of a medical 39 examiner or any other person who may obtain possession of an 40 autopsy report or a related written record that personally 41 identifies the deceased, or a photograph or audio or video 42 recording of an autopsy, in the course of assisting a medical examiner in the performance of his or her official duties. 43 44 (2) A photograph or video or audio recording of an autopsy held by a medical examiner is confidential and exempt from s. 45 46 119.07(1) and s. 24(a), Art. I of the State Constitution, except 47 that a surviving spouse may view and copy a photograph or video recording or listen to or copy an audio recording of the 48 49 deceased spouse's autopsy. If there is no surviving spouse, then 50 the surviving parents or legal guardians shall have access to 51 such records. If there is no surviving spouse, or parent, or 52 legal guardian, then an adult child shall have access to such 53 records. 54 (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

#### Page 2 of 4

CODING: Words stricken are deletions; words underlined are additions.

SB 1850

20181850

13-01538C-18 20181850 59 on the matter. If there is no surviving spouse, then such notice 60 must be given to the parents or legal guardians of the deceased, and if the deceased has no surviving living parent or legal 61 62 guardian, then to the adult children of the deceased. 63 (6) (a) An autopsy report or a related written record that 64 personally identifies the deceased and that is held by a medical 65 examiner is confidential and exempt from s. 119.07(1) and s. 66 24(a), Art. I of the State Constitution for the earlier of 10 67 days after the date of death or immediately after law 68 enforcement notifies a surviving spouse, parent, legal guardian, 69 or adult child of the deceased of any request to obtain the 70 autopsy report, written record, or name of the deceased person. 71 (b) The exemption in paragraph (a) is subject to the Open 72 Government Sunset Review Act in accordance with s. 119.15 and 73 shall stand repealed on October 2, 2023, unless reviewed and 74 saved from repeal through reenactment by the Legislature. 75 (7) (a) (6) (a) Any custodian of an autopsy report or a 76 related written record that personally identifies the deceased, 77 or a photograph or video or audio recording of an autopsy, who 78 willfully and knowingly violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 79 80 775.083, or s. 775.084. 81 (b) Any person who willfully and knowingly violates a court 82 order issued pursuant to this section commits a felony of the 83 third degree, punishable as provided in s. 775.082, s. 775.083, 84 or s. 775.084. (9) (8) This exemption applies to records held before, on, 85 or after the effective date of this act shall be given 86 87 retroactive application.

#### Page 3 of 4

	13-01538C-18 20181850_
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.

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The Florida Senate

# **Committee Agenda Request**

То:	Senator Dana D. Young, Chair Committee on Health Policy
Subject:	Committee Agenda Request
Date:	January 16, 2018

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	
I       30       18         Meeting Date       Image: Comparison of the second comparis	
TOPIC RECORDS/PHOTOGRAPH, VIDEO, AUDIO RECORDING OF ANAUTI HELD BY AN MEDICAL EXAMINER	OPSY         Amendment Barcode (if applicable)
Name DAPHNEE SAINVIL	
Job Title POLICY ADVISOR	
Address 115 5. ANDREWS Street	Phone <u>954-253-7320</u>
FT. LAVDERDALE FL 33301 City State Zip	_ Email_ Email Ebrowerd, org
	Speaking: In Support Against hair will read this information into the record.)
Representing BROWARD COUNTY GOVT	
Appearing at request of Chair:       Yes       No       Lobbyist regis         While it is a Senate tradition to encourage public testimony, time may not permit a	stered with Legislature: Yes No

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.

#### 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.)

	Prepa	ared By: The	e Professional S	taff of the Committe	e on Health Poli	су
BILL:	SB 1862					
INTRODUCER:	Senator Br	coxson				
SUBJECT:	Physician	Fee Sharir	ıg			
DATE:	January 29	9, 2018	REVISED:			
ANAL	YST	STAFI	F DIRECTOR	REFERENCE		ACTION
1. Looke		Stovall		HP	Favorable	
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>

<sup>&</sup>lt;sup>1</sup> Licensed under ch. 458, F.S.

<sup>&</sup>lt;sup>2</sup> Licensed under ch. 459, F.S.

<sup>&</sup>lt;sup>3</sup> Section 456.053(2), F.S.

<sup>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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>&</sup>lt;sup>9</sup> Section 456.053(5)(b), F.S.

<sup>&</sup>lt;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>

<sup>&</sup>lt;sup>11</sup> Sections 456.053(5)(j) and 456.052, F.S.

<sup>&</sup>lt;sup>12</sup> Section 456.053(5)(f), F.S.

<sup>&</sup>lt;sup>13</sup> Section 456.053(5)(g), F.S.

<sup>&</sup>lt;sup>14</sup> Section 456.052(3), F.S.

<sup>&</sup>lt;sup>15</sup> Section 456.053(5)(c)-(e), F.S.

<sup>&</sup>lt;sup>16</sup> 42 U.S.C. s. 1395nn.

<sup>&</sup>lt;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 <u>http://oig.hhs.gov/compliance/physician-education/01laws.asp</u>, (last visited Jan. 24, 2018).

<sup>&</sup>lt;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>

<sup>&</sup>lt;sup>19</sup> See supra note 15.

<sup>&</sup>lt;sup>20</sup> 42 U.S.C. s. 1395nn(b).

<sup>&</sup>lt;sup>21</sup> 42 U.S.C. s. 1395nn(c).

<sup>&</sup>lt;sup>22</sup> 42 U.S.C. s. 1395nn(d).

<sup>&</sup>lt;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>&</sup>lt;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>&</sup>lt;sup>25</sup> 42 U.S.C. s. 1320a-7b(b)(2)(A).

<sup>&</sup>lt;sup>26</sup> Section 501.204, F.S.

<sup>&</sup>lt;sup>27</sup> Federal Trade Commission, *The Antitrust Laws*, available at: <u>https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws</u>, (last visited Jan. 24, 2018).

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.

<sup>&</sup>lt;sup>28</sup> Section 817.505, F.S., has a similar prohibition related to patient brokering.

<sup>&</sup>lt;sup>29</sup> See Crow v. Agency for Health Care Administration, 669 So. 2d 1160.

<sup>&</sup>lt;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.

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

**By** Senator Broxson

	1-00805A-18 20181862
1	A bill to be entitled
2	An act relating to physician fee sharing; amending ss.
3	458.331 and 459.015, F.S.; revising an exemption
4	relating to grounds for disciplinary action by the
5	Boards of Medicine and Osteopathic Medicine and the
6	Department of Health to authorize specified forms of
7	payment to a physician or osteopathic physician,
8	respectively; providing an effective date.
9	
10	Be It Enacted by the Legislature of the State of Florida:
11	
12	Section 1. Paragraph (i) of subsection (1) of section
13	458.331, Florida Statutes, is amended to read:
14	458.331 Grounds for disciplinary action; action by the
15	board and department
16	(1) The following acts constitute grounds for denial of a
17	license or disciplinary action, as specified in s. 456.072(2):
18	(i) Paying or receiving any commission, bonus, kickback, or
19	rebate, or engaging in any split-fee arrangement in any form
20	whatsoever with a physician, organization, agency, or person,
21	either directly or indirectly, for patients referred to
22	providers of health care goods and services, including, but not
23	limited to, hospitals, nursing homes, clinical laboratories,
24	ambulatory surgical centers, or pharmacies. <del>The provisions of</del>
25	This paragraph <u>may <del>shall</del> not be construed <u>to preclude a</u></u>
26	physician from entering into an alternative payment arrangement
27	that otherwise complies with federal and state law or to
28	<u>preclude</u> <del>prevent</del> a physician from receiving <u>one or more of the</u>
29	following forms of payment or compensation, as long as the forms

## Page 1 of 3

1-00805A-18 20181862 30 of payment or compensation comply with federal and state law: 31 1. A fee for professional consultation services; or 32 2. If the physician is an employee or independent 33 contractor of the entity compensating the physician, a share of: 34 a. Profits, collections, or revenues based on the 35 professional services provided by the physician, or on his or 36 her direct supervision of the provision of such professional 37 services, which are provided on behalf of the entity 38 compensating the physician; or 39 b. Overall profit or revenue of the entity compensating the 40 physician, provided that such share is not determined in a 41 manner that directly takes into account the volume or value of 42 services ordered by, but not performed by, or performed under 43 the direct supervision of, the physician. 44 Section 2. Paragraph (j) of subsection (1) of section 459.015, Florida Statutes, is amended to read: 45 46 459.015 Grounds for disciplinary action; action by the 47 board and department.-(1) The following acts constitute grounds for denial of a 48 49 license or disciplinary action, as specified in s. 456.072(2): (j) Paying or receiving any commission, bonus, kickback, or 50 51 rebate, or engaging in any split-fee arrangement in any form whatsoever with a physician, organization, agency, person, 52 53 partnership, firm, corporation, or other business entity, for patients referred to providers of health care goods and 54 services, including, but not limited to, hospitals, nursing 55 56 homes, clinical laboratories, ambulatory surgical centers, or 57 pharmacies. The provisions of This paragraph may shall not be 58 construed to preclude an osteopathic physician from entering

#### Page 2 of 3

I	1-00805A-18 20181862
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 <u>one or more of the following forms of</u>
62	payment or compensation, as long as the forms of payment or
63	compensation comply with federal and state law:
64	<u>1.</u> 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.
-	

## Page 3 of 3



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.

DaughButte

Senator Doug Broxson Florida Senate, District 1

THE FLORIDA SENATE	
APPEARANCE RECOR	<b>D</b>
(Deliver BOTH copies of this form to the Senator or Senate Professional Staf	f conducting the meeting) 1862
Meeting Date	Bill Number (if applicable)
Topic Fea-splitting	Amendment Barcode (if applicable)
Name Lester Perling	
Job Title Attorney Brood and Cassel	,
	Phone 954-745-5261
Street <u>Fort Londerdale</u> FL 33394 City State Zip	Email I perling cbroadand Cossel com
Speaking: For Against Information Waive Speaking: (The Chair	eaking: In Support Against will read this information into the record.)
Representing Advantist Health + Florida +	tospital
Appearing at request of Chair: Yes No Lobbyist register	red 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.

THE FLORIDA SENATE
APPEARANCE RECORD
(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meetiy g Date Bill Number (if applicable)
Topic <u>Fee Spl. Him</u> Amendment Barcode (if applicable)
Name Devid Christian
Job Title Director, Covernment Relations
Address <u>900 Nope Way</u> Street Phone <u>707/357-2453</u>
Longhood FL 32714 Emailderid. Christianocherion
City State Zip
Speaking: Against Information Waive Speaking: Information Against ( <i>The Chair will read this information into the record.</i> )
Representing November / New 142/ Florida, Nocp. 14/
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.

	RIDA SENATE	
APPEARAN         Jointon       (Second content of the second conte		
Topic Physician Fee Sharing Name Stephen R. Winn	·	Amendment Barcode (if applicable)
Job Title Exec. Director	2	
Address 2544 Blairstone Pines Street	Dr.	Phone \$50-878-7364
Tallahassee FL City State	32301 Zip	Emailwinnsr@earthlink.net
Speaking: For Against Information	Waive Sp (The Chai	eaking: D In Support D Against r will read this information into the record.)
Representing Florida Osteopathic	Medical	Association
Appearing at request of Chair: 🗌 Yes 📈 No	Lobbyist registe	ered 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.

Тн	e Florida Senate
<i>μ μ</i>	RANCE RECORD         Senator or Senate Professional Staff conducting the meeting)         SB 1862         Bill Number (if applicable)
Topic	Amendment Barcode (if applicable)
Name Jeff Scott	
Job Title	
Address 1430 Piedmout Dr. E. Street	Phone 50 224-6496
Talkhader R City State	32303 Email Jscott Offmedical ing
Speaking: For Against Information	Waive Speaking: In Support Against (The Chair will read this information into the record.)
Representing Floridg Medical As	ssullation
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.

## The Florida Senate BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(	This document is based	on the provisions contai	ined in the legislation a	as of the latest date	listed below.)
	Prepared By	: The Professional S	Staff of the Committe	ee on Health Po	licy
BILL:	CS/SB 1874				
INTRODUCER:	Health Policy Co	ommittee; and Sen	ators Passidomo	and Stargel	
SUBJECT:	Emergency Pow	er for Nursing Ho	me and Assisted	Living Facilit	ies
DATE:	January 30, 201	B REVISED:			
ANAL	YST S	STAFF DIRECTOR	REFERENCE		ACTION
. Looke	St	ovall	HP	Fav/CS	
•			AHS		
•			AP		
			RC		

## Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

### 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

<sup>&</sup>lt;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

<sup>&</sup>lt;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 <u>http://wusfnews.wusf.usf.edu/post/12-14-nursing-home-deaths-after-irma-ruled-homicides</u>, (last visited on Jan. 26, 2018).

<sup>&</sup>lt;sup>3</sup> See <u>https://www.flgov.com/2017/09/16/gov-scott-i-am-aggressively-fighting-to-keep-vulnerable-floridians-safe-during-emergencies/</u>, (last visited on Jan. 26, 2018).

<sup>&</sup>lt;sup>4</sup> Rule 59AER17-1, F.A.R.

<sup>&</sup>lt;sup>5</sup> Rule 58AER17-1, F.A.R.

<sup>&</sup>lt;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, 2017, 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

<sup>&</sup>lt;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>&</sup>lt;sup>8</sup> Case no. 1D17-4534.

<sup>&</sup>lt;sup>9</sup> Rule 59A-4.1265, F.A.R., for nursing homes and Rule 58A-5.036, F.A.R., for ALFs.

<sup>&</sup>lt;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>&</sup>lt;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>&</sup>lt;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

<sup>&</sup>lt;sup>13</sup> While nursing homes are federally regulated, the regulation of ALFs is delegated to the states.

<sup>&</sup>lt;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>&</sup>lt;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.

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

House

LEGISLATIVE ACTION

•

Senate	•
Comm: RCS	
01/30/2018	

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.

#### 10

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8 9 Florida Senate - 2018 Bill No. SB 1874



11	======================================
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
1	A bill to be entitled
2	An act relating to emergency power for nursing home
3	and assisted living facilities; amending s. 400.23,
4	F.S.; requiring the Agency for Health Care
5	Administration, in consultation with the Department of
6	Health and the Department of Elderly Affairs, to adopt
7	and enforce rules requiring each facility to have an
8	emergency power source and a supply of fuel which meet
9	certain criteria by a specified date; requiring the
10	agency to adopt rules establishing minimum criteria
11	for a comprehensive emergency management plan that
12	includes a plan to monitor residents and a plan to
13	transport them in certain situations to avoid
14	complications from heat exposure; amending s. 429.41,
15	F.S.; requiring the Department of Elderly Affairs, in
16	consultation with the agency, the Department of
17	Children and Families, and the Department of Health,
18	to adopt and enforce rules requiring each facility
19	maintain an emergency power source and a supply of
20	fuel which meet certain criteria by a specified date;
21	requiring the Department of Elderly Affairs to
22	establish minimum criteria for a comprehensive
23	emergency management plan that includes a plan to
24	monitor residents and transport them in certain
25	situations to avoid complications from heat exposure;
26	providing an effective date.
27	
28	Be It Enacted by the Legislature of the State of Florida:
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28-01306-18 20181874 30 Section 1. Paragraphs (d) and (g) of subsection (2) of 31 section 400.23, Florida Statutes, are amended to read: 32 400.23 Rules; evaluation and deficiencies; licensure 33 status.-34 (2) Pursuant to the intention of the Legislature, the 35 agency, in consultation with the Department of Health and the 36 Department of Elderly Affairs, shall adopt and enforce rules to 37 implement this part and part II of chapter 408, which shall include reasonable and fair criteria in relation to: 38 39 (d) The equipment essential to the health and welfare of 40 the residents, including an operational emergency power source and a supply of fuel sufficient to sustain the emergency power 41 42 source for at least 96 hours during a power outage. The 43 emergency power source must provide enough electricity to 44 consistently maintain an air temperature described in rule. Each 45 facility must be in compliance with this paragraph by no later 46 than June 1, 2018. 47 (g) The preparation and annual update of a comprehensive 48 emergency management plan, which must include provisions for 49 emergency power equipment. The agency shall adopt rules 50 establishing minimum criteria for the plan after consultation 51 with the Division of Emergency Management. At a minimum, the 52 rules must provide for plan components that address emergency 53 evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and 54 55 water; postdisaster transportation; supplies; staffing; 56 emergency equipment; individual identification of residents and 57 transfer of records; a plan to monitor residents to ensure they 58 do not experience complications from heat exposure during a

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28-01306-18 20181874 59 power outage; a plan to safely transport residents to an 60 appropriate facility if a facility's management knows it will be unable to maintain the residents in a safe temperature range; 61 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 noninstitutional in design or nature. It is further intended 83 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 facilities shall be established by the State Fire Marshal 87

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CODING: Words stricken are deletions; words underlined are additions.

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28-01306-18 20181874 88 pursuant to s. 633.206. The agency, in consultation with the 89 department, may adopt rules to administer the requirements of part II of chapter 408. In order to provide safe and sanitary 90 91 facilities and the highest quality of resident care 92 accommodating the needs and preferences of residents, the 93 department, in consultation with the agency, the Department of 94 Children and Families, and the Department of Health, shall adopt 95 rules, policies, and procedures to administer this part, which must include reasonable and fair minimum standards in relation 96 97 to: 98 (a) The requirements for and maintenance of facilities, not 99 in conflict with chapter 553, relating to plumbing, heating, 100 cooling, lighting, ventilation, living space, and other housing conditions, which will ensure the health, safety, and comfort of 101 residents suitable to the size of the structure. 102 103 1. Firesafety evacuation capability determination.-An 104 evacuation capability evaluation for initial licensure shall be 105 conducted within 6 months after the date of licensure.

106

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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          c. All licensed facilities must have an annual fire
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     inspection conducted by the local fire marshal or authority
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     having jurisdiction.
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          d. An assisted living facility that is issued a building
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     permit or certificate of occupancy before July 1, 2016, may at
     its option and after notifying the authority having
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123
     jurisdiction, remain under the provisions of the 1994 and 1995
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     editions of the National Fire Protection Association, Life
125
     Safety Code, NFPA 101, and NFPA 101A. The facility opting to
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     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
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     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
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     with all aspects of the uniform firesafety standards established
137
     under s. 633.206, and the Florida Fire Prevention Code, in
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     effect for assisted living facilities as adopted by the State
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     Fire Marshal.
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          3. Resident elopement requirements.-Facilities are required
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140 to conduct a minimum of two resident elopement prevention and 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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28-01306-18 146 the drills are conducted in a manner consistent with the 147 facility's resident elopement policies and procedures. 148 4. Emergency power sources for use during power outages.-149 Facilities are required to maintain an operational emergency 150 power source and a supply of fuel sufficient to sustain the 151 emergency power source for at least 96 hours during a power 152 outage. The emergency power source must provide enough 153 electricity to consistently maintain an air temperature 154 described in rule. Each facility must be in compliance with this 155 subparagraph by no later than June 1, 2018. 156 (b) The preparation and annual update of a comprehensive 157 emergency management plan. Such standards must be included in 158 the rules adopted by the department after consultation with the 159 Division of Emergency Management. At a minimum, the rules must 160 provide for plan components that address emergency evacuation 161 transportation; adequate sheltering arrangements; postdisaster 162 activities, including provision of emergency power, food, and 163 water; postdisaster transportation; supplies; staffing; 164 emergency equipment; individual identification of residents and 165 transfer of records; a plan to monitor residents to ensure they

167 power outage; a plan to safely transport residents to an 168 unable to maintain the residents in a safe temperature range; 169 170 communication with families; and responses to family inquiries. 171 172 and approval by the local emergency management agency. During 173 its review, the local emergency management agency shall ensure

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166 do not experience complications from heat exposure during a appropriate facility if a facility's management knows it will be The comprehensive emergency management plan is subject to review that the following agencies, at a minimum, are given the 174

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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.

Senator Kathleen Passidomo Florida Senate, District 28

THE FLOP	RIDA SENATE
(Deliver BOTH copies of this form to the Senator	r or Senate Professional Staff conducting the meeting)
Meeting Date	Bill Number (if applicable)
	Amendment Barcode (if applicable)
Name Bob Asztatos	
Job Title Chief Lobby15t	
Address 307 WP DVK Ave	Phone 850-224-3907
Street TALA hasse FL City State	32301 Email bASZALS@fhus.org
Speaking: 🗹 For 🗌 Against 📄 Information	Waive Speaking: In Support Against (The Chair will read this information into the record.)
Representing Florida Lealth	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.

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

THE FLORIDA SENATE APPEARANCE RECORD (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) Meeting Date Topic <u>EMERGENCY POWER NH'S & ALF'S</u> Amendment Barcode (if applicable) JACK MERAY Name Job Title W. GLLEGE ST. # 204 Phone  $f_{50-5}$ 7-510-1 Address 200 Street Email Uncray Qag-pior <u>32301</u> Zip 20 State For Speaking: Against Information Waive Speaking: 1/In Support Against (The Chair will read this information into the record.) Representing Lobbyist registered with Legislature:  $|\mathcal{L}|$ Appearing at request of Chair: Yes MO Yes lNo 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.

# **CourtSmart Tag Report**

**Room:** KN 412 Case No.: Caption: Senate Health Policy Committee Judge: 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 Joe McCan WIS 10:19:22 AM 10:19:27 AM Holly Parker Curry, speaks in support Brian Graham, QuitDoc Foundation, WIS 10:20:13 AM Laura Boehmer, WIS 10:20:23 AM 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 Sen Garcia 10:21:15 AM Michael Jackson, WIS 10:22:25 AM 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 Sen Bean 10:23:58 AM 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 Alicia Marie Cuttita, Student, WIS 10:26:52 AM Dshena Hall, Student, WIS 10:27:02 AM 10:27:08 AM Layne Smith, Mayo, WIS Jack McRay, AARP, WIS 10:27:13 AM 10:27:37 AM Oliver Oyama, USF Medicine, Speaks in support 10:30:31 AM **Rivers Buford III, WIS** Paul Lambert Florida Chiropractic Assoc., WIS 10:30:38 AM Chris Chaney, Associated Industries of FL WIS 10:30:43 AM 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

Type:

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 Sen Stewart explains AM 10:37:37 AM 10:38:12 AM AM 856288 Adopted 10:38:36 AM Daphnee Sainvill, Broward County, WIS Sen Stewart waives close 10:38:43 AM 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 Lester Perling, Adventist Health & FL Hospital, Speaks in support 10:41:59 AM 10:43:33 AM David Christian, FL Hospital, WIS 10:43:40 AM Steven Winn, FL Osteopathic Medical Assoc., WIS Jeff Scott, FL Medical Assoc., WIS 10:43:46 AM 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 Tab 4 SB 1128 10:46:04 AM Sen Stargell Explains 10:46:11 AM LF AM 446160 10:46:38 AM Stargel Explains Amendment 10:46:47 AM Sen Powell Question 10:47:45 AM 10:47:59 AM Sen Stargel Replies AM 446160 Adopted 10:48:50 AM 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 Sen Passidomo explains AM 10:51:39 AM AM 512420 Adopted 10:52:00 AM Sen Passidomo question for self from Book 10:52:25 AM 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 Chair Young clarification 11:00:40 AM Sen Brandes explains 11:01:15 AM Sen Powell Question 11:01:44 AM Sen Brandes Respond 11:02:11 AM Chair Young 11:02:27 AM Sen Brandes 11:02:32 AM 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 Practioners, WIS 11:03:49 AM Alison Carvajal, FL Nurse Practioner 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 CS SB 1590 Recorded Favorably 11:04:38 AM 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 Sen Grimsley explains AM 11:10:02 AM 11:10:12 AM AM Adopted 11:10:20 AM AM 470560 11:10:25 AM Sen Grimsely Explains 11:10:46 AM David Ramba .FL Optometric Assoc. WIS AM Adopted 11:10:53 AM AM 116652 11:11:02 AM Sen Grimsely Explains 11:11:05 AM Corinne Mixon, FL Mental Health Counselors Assoc, WIS 11:11:35 AM 11:11:48 AM AM 116652 Adopted 11:11:59 AM AM 971228 11:12:07 AM Sen Grimsley Explains AM 971228 Adopted 11:12:15 AM 11:12:50 AM **Hukill Question** Grimsley Responds 11:14:16 AM 11:14:20 AM **Hukill Question** 11:14:58 AM Paul Runk, Dept of Health, answers Hukill guestion Paul Runk, Dept of Health, WIS 11:15:27 AM 11:15:35 AM David Christian, Adventist Health Florida Hosptial, WIS Cynthia Henderson, Luxotica, WIS 11:15:47 AM 11:15:54 AM Sen Grimsely closes 11:16:05 AM Roll Call 11:16:22 AM SB 1486 Recorded Favorably 11:16:36 AM Adjourned **Recording Paused** 11:17:08 AM