

<b>Tab 1</b>	<b>CS/SB 16 by JU, Gruters;</b> (Similar to H 06015) Relief of Mitchell by the South Broward Hospital District						
<b>Tab 2</b>	<b>SB 858 by Torres (CO-INTRODUCERS) Wright, Avila, Brodeur, Simon, Powell, Stewart, Osgood, Thompson, Collins;</b> Military Corpsmen and Medics of Florida Program						
903060	D	S	RCS	HP, Torres	Delete everything after	04/04 02:11 PM	
<b>Tab 3</b>	<b>SB 1548 by Bradley;</b> (Similar to H 01503) Children's Medical Services Program						
367336	A	S	RCS	HP, Bradley	Delete L.940 - 947:	04/04 02:11 PM	
<b>Tab 4</b>	<b>SB 1580 by Trumbull;</b> (Similar to CS/H 01403) Protections of Medical Conscience						
<b>Tab 5</b>	<b>SB 1084 by Trumbull;</b> (Similar to H 00831) Long-term Managed Care Program						
<b>Tab 6</b>	<b>SB 1338 by Martin;</b> (Similar to CS/H 00615) Massage Establishments						
535992	D	S	RCS	HP, Martin	Delete everything after	04/04 02:11 PM	
<b>Tab 7</b>	<b>SB 1352 by Rouson (CO-INTRODUCERS) Davis;</b> (Compare to CS/H 01481) Medicaid Enrollees with Sickle Cell Disease						
<b>Tab 8</b>	<b>SB 1408 by Davis;</b> (Similar to CS/H 00247) Sickle Cell Program						
712732	A	S	RCS	HP, Davis	Delete L.19 - 52:	04/04 02:11 PM	
<b>Tab 9</b>	<b>SB 56 by Harrell;</b> (Similar to CS/H 00033) Psychology Interjurisdictional Compact						
138622	A	S	RCS	HP, Harrell	Delete L.670 - 671:	04/04 02:11 PM	
<b>Tab 10</b>	<b>SB 58 by Harrell;</b> (Similar to H 00035) Public Records and Meetings/Psychology Interjurisdictional Compact						
586238	A	S	RCS	HP, Harrell	Delete L.113:	04/04 02:11 PM	
<b>Tab 11</b>	<b>SB 1594 by Brodeur (CO-INTRODUCERS) Garcia;</b> (Similar to H 01579) Services for Persons with Disabilities						
859062	D	S	RCS	HP, Brodeur	Delete everything after	04/04 02:11 PM	
663310	AA	S	UNFAV	HP, Book	Delete L.212 - 216:	04/04 02:11 PM	
<b>Tab 12</b>	<b>SB 268 by Brodeur;</b> (Similar to CS/H 01413) Health Care Expenses						
<b>Tab 13</b>	<b>SB 252 by Burton;</b> (Similar to H 01013) Protection from Discrimination Based on Health Care Choices						
<b>Tab 14</b>	<b>SB 238 by Burton;</b> (Similar to H 01015) Public Records/COVID-19 Vaccination Mandates						
874238	A	S	RCS	HP, Burton	Delete L.73:	04/04 02:11 PM	

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

**HEALTH POLICY**  
**Senator Burton, Chair**  
**Senator Brodeur, Vice Chair**

**MEETING DATE:** Tuesday, April 4, 2023**TIME:** 8:30—10:30 a.m.**PLACE:** Pat Thomas Committee Room, 412 Knott Building**MEMBERS:** Senator Burton, Chair; Senator Brodeur, Vice Chair; Senators Albritton, Avila, Book, Broxson, Burgess, Calatayud, Davis, Garcia, Harrell, and Osgood

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 16</b> Judiciary / Gruters (Similar H 6015)	Relief of Mitchell by the South Broward Hospital District; Providing for the relief of Jamiyah Mitchell, Latricia Mitchell, and Jerald Mitchell by the South Broward Hospital District; providing an appropriation to compensate Latricia Mitchell and Jerald Mitchell, individually and as legal guardians of Jamiyah Mitchell, for injuries and damages sustained as a result of the negligence of the South Broward Hospital District; providing a limitation on the payment of compensation and attorney fees, etc.  SM JU 03/29/2023 Fav/CS HP 04/04/2023 Favorable RC	Favorable Yeas 12 Nays 0
2	<b>SB 858</b> Torres	Military Corpsmen and Medics of Florida Program; Establishing the Military Corpsmen and Medics of Florida (MCMF) Program; creating the MCMF Program Office of Veterans Advocacy within the Department of Health; requiring the MCMF Program, through the Department of Economic Opportunity, to assist certain veterans and their spouses with specified tasks; requiring Florida Is for Veterans, Inc., to collaborate with specified entities to implement the MCMF Program, etc.  HP 04/04/2023 Fav/CS AHS FP	Fav/CS Yeas 12 Nays 0
3	<b>SB 1548</b> Bradley (Similar H 1503)	Children's Medical Services Program; Deleting a requirement that the Department of Health consult with the Department of Education before prescribing certain newborn testing and screening requirements; authorizing the release of certain newborn screening results to licensed genetic counselors; revising newborn screening requirements for licensed birth centers; revising the purposes and functions of the Children's Medical Services program, etc.  HP 04/04/2023 Fav/CS AHS FP	Fav/CS Yeas 11 Nays 0



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Health Policy

Tuesday, April 4, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1580</b> Trumbull (Similar CS/H 1403, Compare H 1013)	Protections of Medical Conscience; Providing that health care providers and health care payors have the right to opt out of participation in or payment for certain health care services on the basis of conscience-based objections; providing requirements for a health care provider's notice and documentation of such objection; providing whistle-blower protections for health care providers and health care payors that take certain actions or disclose certain information relating to the reporting of certain violations; prohibiting boards, or the Department of Health if there is no board, from taking disciplinary action against or denying a license to an individual based solely on specified conduct, etc.  HP 04/04/2023 Favorable RC	Favorable Yeas 9 Nays 3
5	<b>SB 1084</b> Trumbull (Similar H 831)	Long-term Managed Care Program; Requiring the Agency for Health Care Administration to select, through a specified procurement process, a qualified long-term care plan to implement a pilot program in Miami-Dade County to provide coverage of comprehensive services for Medicaid recipients who have developmental disabilities; providing requirements for the pilot program and the selected qualified plan; requiring the agency to contract for an independent evaluation of the performance of the plan, etc.  HP 04/04/2023 Favorable AHS FP	Favorable Yeas 11 Nays 0
6	<b>SB 1338</b> Martin (Similar H 615)	Massage Establishments; Revising quorum requirements for the Board of Massage Therapy; requiring certain law enforcement agencies to notify the department within a specified timeframe after discovering certain violations by a massage therapist or massage establishment; prohibiting sexual activity and certain devices in massage establishments; revising advertising requirements for massage therapists and massage establishments; specifying additional conduct that constitutes sexual misconduct in the practice of massage therapy, etc.  HP 04/04/2023 Fav/CS AHS FP	Fav/CS Yeas 11 Nays 0

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>SB 1352</b> Rouson (Compare CS/H 1481)	Medicaid Enrollees with Sickle Cell Disease; Requiring the Agency for Health Care Administration to conduct a biennial review of Medicaid enrollees with sickle cell disease to determine if the available covered medications, treatment, and services are adequate to meet their needs; providing minimum requirements for the review; requiring the agency to submit a report of its findings to the Governor, the Legislature, the Office of Minority Health and Health Equity, and the Rare Disease Advisory Council by a specified date every 2 years, etc.  HP 04/04/2023 Favorable AHS FP	Favorable Yeas 12 Nays 0
8	<b>SB 1408</b> Davis (Similar CS/H 247)	Sickle Cell Program; Citing this act as the "Sickle Cell Prevention, Care, and Treatment Act"; requiring the Department of Health to establish a grant program for the prevention, care, and treatment of sickle cell disease and for certain educational programs; requiring the department to develop application criteria and standards of eligibility for grants under the program; requiring the department to ensure that grant funds are used for specified purposes, etc.  HP 04/04/2023 Fav/CS AHS FP	Fav/CS Yeas 11 Nays 0
9	<b>SB 56</b> Harrell (Similar CS/H 33, Compare H 35, Linked S 58)	Psychology Interjurisdictional Compact; Enacting the Psychology Interjurisdictional Compact; providing for recognition of psychologist licenses in compact states; providing that, while authority over a psychologist's license remains with the home state, receiving states and distant states may define the scope of and act on a psychologist's authority to practice in the receiving or distant state, as applicable, under the compact; requiring the Department of Health to report certain investigative information to the coordinated licensure information system, etc.  HP 04/04/2023 Fav/CS AHS FP	Fav/CS Yeas 12 Nays 0

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Tuesday, April 4, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	<b>SB 58</b> Harrell (Similar H 35, Compare CS/H 33, Linked S 56)	Public Records and Meetings/Psychology Interjurisdictional Compact; Providing an exemption from public records requirements for certain information held by the Department of Health or the Board of Psychology pursuant to the Psychology Interjurisdictional Compact; providing an exemption from public meeting requirements for certain meetings of the Psychology Interjurisdictional Compact Commission; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc.  HP 04/04/2023 Fav/CS AHS FP	Fav/CS Yeas 12 Nays 0
11	<b>SB 1594</b> Brodeur (Similar H 1579, Compare CS/H 1517)	Services for Persons with Disabilities; Revising provisions related to the application for services for persons with disabilities; revising timeframes within which the Agency for Persons with Disabilities must make certain eligibility determinations; requiring the agency to request additional documentation from applicants if it determines such documentation is necessary to make an eligibility determination; specifying requirements for the agency's eligibility determinations, etc.  CF 03/27/2023 Favorable HP 04/04/2023 Fav/CS RC	Fav/CS Yeas 11 Nays 0
12	<b>SB 268</b> Brodeur (Similar CS/H 1413)	Health Care Expenses; Establishing a 3-year statute of limitations for an action to collect medical debt for services rendered by a health care provider or facility; providing additional personal property exemptions from legal process for medical debts resulting from services provided in certain licensed facilities; requiring a licensed facility to post on its website a consumer-friendly list of standard charges for a minimum number of shoppable health care services; requiring each health insurer to provide an insured with an advance explanation of benefits after receiving a patient estimate from a facility for scheduled services, etc.  HP 04/04/2023 Favorable AHS FP	Favorable Yeas 11 Nays 0

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Tuesday, April 4, 2023, 8:30—10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
13	<b>SB 252</b> Burton (Similar H 1013, Compare H 1015, Linked S 238)	Protection from Discrimination Based on Health Care Choices; Repealing a provision relating to prohibiting public employers from imposing COVID-19 vaccination mandates; prohibiting business entities and governmental entities from requiring COVID-19 testing to gain access to, entry upon, or service from such entities; prohibiting such entities from requiring persons to provide certain documentation or requiring COVID-19 testing as a condition of contracting, hiring, promotion, or continued employment; prohibiting business and governmental entities from refusing to hire persons, discharging persons, depriving or attempting to deprive persons of employment opportunities, adversely affecting persons with respect to employment, or otherwise discriminating against any person based on knowledge or belief of a person's COVID-19 vaccination or postinfection recovery status or failure to take a COVID-19 test, etc.  HP 04/04/2023 Favorable FP	Favorable Yeas 11 Nays 0
14	<b>SB 238</b> Burton (Similar H 1015, Compare H 1013, Linked S 252)	Public Records/COVID-19 Vaccination Mandates; Providing an exemption from public records requirements for certain information held by the Department of Legal Affairs or the Department of Health; authorizing the disclosure of such information under certain circumstances; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  HP 04/04/2023 Fav/CS FP	Fav/CS Yeas 11 Nays 0
Other Related Meeting Documents			



## THE FLORIDA SENATE

### SPECIAL MASTER ON CLAIM BILLS

**Location**

404H The Capitol

**Mailing Address**

404 South Monroe Street  
Tallahassee, Florida 32399-1100  
(850) 487-5237

DATE	COMM	ACTION
3/24/23	SM	Favorable
3/28/23	JU	FAV/CS
4/3/23	HP	Favorable
	RC	

March 24, 2023

The Honorable Kathleen Passidomo  
President, The Florida Senate  
Suite 409, The Capitol  
Tallahassee, Florida 32399-1100

Re: **CS/SB 16** – Judiciary Committee and Senator Gruters  
**HB 6015** – Representative Busatta Barera  
Relief of Jamiyah Mitchell, Latricia Mitchell, and Jerald Mitchell

### SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR LOCAL FUNDS IN THE AMOUNT OF \$795,000, PAYABLE BY THE SOUTH BROWARD HOSPITAL DISTRICT BASED ON A SETTLEMENT AGREEMENT BETWEEN THE MITCHELLS AND THE HOSPITAL DISTRICT. THE SETTLEMENT AGREEMENT RESOLVED A CIVIL ACTION THAT AROSE FROM THE ALLEGED NEGLIGENCE OF THE HOSPITAL DISTRICT THAT CAUSED INJURY TO JAMIYAH MITCHELL.

#### FINDINGS OF FACT:

##### **General Overview of Labor and Delivery**

On October 8, 2008, in the late afternoon, Latricia Mitchell, who was pregnant with Jamiyah Mitchell, presented to Memorial Hospital West (the hospital), operated by the South Broward Hospital District (SBHD). She reported that she was experiencing pain and vaginal bleeding. She was triaged and subsequently connected to a fetal heart monitor by a labor and delivery nurse. The labor and delivery nurse performed an examination of Ms. Mitchell which revealed no vaginal bleeding. A stored fetal strip reflects that the fetal heart rate

was monitored beginning at 4:24 p.m. up until Dr. Facey was notified.<sup>1</sup>

Ms. Mitchell had previously established care with her private obstetrician/gynecologist, Sheryl Facey, M.D., for the prenatal care of a prior child, and continued that care for the prenatal care of Jamiyah. Dr. Facey provided prenatal care to Ms. Mitchell at her private practice, not at Memorial Hospital West, at all times prior to and during Ms. Mitchell's pregnancy with Jamiyah Mitchell.<sup>2</sup>

At 5:06 p.m., the labor and delivery nurse called Dr. Facey and reported the findings of the fetal heart rate and vaginal examination. Dr. Facey then ordered Ms. Mitchell to be admitted to the Labor and Delivery Unit at the hospital. Dr. Facey also ordered the administration of an IV bolus and oxygen. Ms. Mitchell was transported to the Labor and Delivery Unit at approximately 5:44 p.m. and a labor and delivery nurse reported that at 6:02 p.m. the IV bolus and oxygen had been started.

At 6:28 p.m., the labor and delivery nurse called Dr. Facey to report the fetal heart rate and variability as well as nonreactive tracing (meaning the baby's heart rate was not accelerating to a certain level within a specified timeframe).<sup>3</sup> The nurse was told that Dr. Facey was on her way to the hospital to care for Ms. Mitchell. At 7:00 p.m., there was a shift change and a new labor and delivery nurse assumed the care of Ms. Mitchell and her baby. The new nurse charted that Dr. Facey was at Ms. Mitchell's bedside and performing an evaluation at 7:01 p.m.

At 7:03 p.m., using her clinical judgment, Dr. Facey ruptured Ms. Mitchell's membranes ("broke her water"). She found blood-tinged amniotic fluid and thick meconium, indicating that the baby had defecated.<sup>4</sup> The nurse repositioned Ms. Mitchell. At 7:26 p.m., Dr. Facey ordered more medications for Ms. Mitchell. At 7:36 p.m., Dr. Facey placed a fetal scalp electrode on the baby's head (to monitor the fetal heart rate). At 7:52 p.m., Dr. Facey placed an intrauterine pressure catheter and started amnio-infusion (a treatment used to

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<sup>1</sup> Latricia Mitchell's Labor and Delivery Records, 161-165.

<sup>2</sup> See Respondent's Motion for Partial Summary Judgment, 3 (June 1, 2018).

<sup>3</sup> Proposed Stipulated Final Claim Bill Language for Senate Bill 12 (Nov. 11, 2019).

<sup>4</sup> Latricia Mitchell's Labor and Delivery Records at 24.

correct fetal heart rate changes caused by umbilical cord compression) for the baby.

At 8:00 p.m., following the nursing interventions and interventions by Dr. Facey, the fetal heart rate had not improved, now showing undetectable variability and no accelerations or decelerations. At 8:06 p.m., Dr. Facey called for a caesarean section for Ms. Mitchell. At 8:20 p.m., Ms. Mitchell was in the operating room with Dr. Facey and was given spinal anesthesia.

It was around this time, that claimants' expert witnesses allege that Jamiyah experienced acute distress resulting in perinatal asphyxia leading to an irreversible hypoxic (lacking oxygen in the blood moving through the body) brain injury<sup>5</sup> or to what others have diagnosed as perinatal asphyxia<sup>6</sup> (lacking oxygen at the tissue-level). Jamiyah's medical records reflect "abnormality in fetal heart rate rhythm" and "cord around neck, with compression, complicating labor and delivery."<sup>7</sup> Jamiyah had a tight nuchal cord (the mother's umbilical cord was wrapped 360 degrees around the fetus's neck) and the cord at the base had a hematoma (meaning the cord was ruptured and leaking blood into the amniotic fluid).<sup>8</sup>

At 8:40 p.m., the caesarian section procedure began. At 8:44 p.m., Jamiyah was born with a low heart rate of 60 and an APGAR score of 3 (on a scale from 1-10 that measures a newborn's health).<sup>9</sup> At 9:03 p.m. she was handed off to the NICU team at the hospital where she was intubated.<sup>10</sup> Jamiyah was later extubated and within two hours of being extubated, Jamiyah became apneic (meaning she temporarily stopped breathing) and seized.<sup>11</sup> Jamiyah's medical records from October 9, 2008, reflect a "slight asymmetry with hypodensity seen in the left parieto-occipital lobe" (of her brain) "likely representing infarct" (meaning a small localized area of dead tissue resulting from failure of blood supply).<sup>12</sup> Jamiyah was transferred to Joe DiMaggio Children's Hospital

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<sup>5</sup> Deposition, Robert Cullen, M.D., 24 and 51 (Aug. 29, 2017).

<sup>6</sup> Deposition, Carolyn Crawford, M.D., 88 (Feb. 28, 2018).

<sup>7</sup> Latricia Mitchell's Labor and Delivery Records at 6.

<sup>8</sup> Deposition, Carolyn Crawford, M.D., at 59; Jamiyah Mitchell's NICU Records at 33.

<sup>9</sup> *Id.* at 28.

<sup>10</sup> *Id.* at 33.

<sup>11</sup> Latricia Mitchell's Labor and Delivery Records at 24.

<sup>12</sup> Jamiyah Mitchell's NICU Records at 63.

on October 10, 2008.<sup>13</sup> Radiology performed at Joe DiMaggio Children's Hospital confirmed that Jamiyah's brain tissue had been damaged.<sup>14</sup> Jamiyah's newborn screening came back negative, suggesting that her injury was birth-related and not genetic.<sup>15</sup> Jamiyah's brain damage was again identified in a 2013 MRI scan.<sup>16</sup>

### **Jamiyah's Current Health**

Jamiyah is now 15 years of age and is able to walk, talk, and function in most everyday aspects of life, but suffers from attention-deficit/hyperactivity disorder, partial hearing loss, and a seizure disorder.<sup>17</sup> Jamiyah has an IQ of 63 which classifies her as having an intellectual disability.<sup>18</sup> The challenges and disabilities that Jamiyah now faces are consistent with and due to the brain injury that she experienced at her birth.<sup>19</sup>

In September 2019, Jamiyah was attending public school where she had an Individualized Education Program. Jamiyah has received speech therapy and, according to her father, she was receiving it twice a week in 2016.<sup>20</sup> It is unclear from the evidence presented whether Jamiyah is or is not currently receiving speech, occupational, or any other type of therapy. Jamiyah requires anti-seizure medicine and hearing aids.<sup>21</sup>

Jamiyah has a normal life expectancy. At the age of 18, Jamiyah will likely be eligible for social security disability and/or Medicaid and other government benefits. It is unlikely that she will be able to secure and maintain gainful employment or be able to live independently.

### **Dr. Facey as an Independent Contractor of the SBHD**

Dr. Facey was not an employee of or a hospital-based physician for the SBHD. Dr. Facey had staff privileges (also known as admitting privileges) at multiple hospitals, including Memorial Hospital West, operated by the SBHD. Dr. Facey

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<sup>13</sup> Latricia Mitchell's Labor and Delivery Records at 24.

<sup>14</sup> Jamiyah Mitchell's MRH Brain MRI (Oct. 12, 2008).

<sup>15</sup> Jamiyah Mitchell's NICU Records at 75-76.

<sup>16</sup> Jamiyah Mitchell's JDCH Brain MRI (Feb. 3, 2013). "Old infarct is identified."

<sup>17</sup> Deposition, Nancy Parsons, Ph.D., 187, 188, 197 (July 17, 2017).

<sup>18</sup> Deposition, Carolyn Crawford, M.D. at 71-72.

<sup>19</sup> *Id.*; Deposition, Robert Cullen, M.D. at 77-78; Deposition, Jerome Barakos, M.D., 140 (Oct. 11, 2017).

<sup>20</sup> Jerald Mitchell Direct Testimony from Trial, 34-37 (Aug. 2, 2018).

<sup>21</sup> Deposition, Nancy Parsons, Ph.D. at 90.



testified that there was not and had never been an employment agreement between herself and the SBHD.<sup>22</sup> The Patient Safety Initiative Training Participation Agreement dated April, 28, 2008, by and between the SBHD and Dr. Facey explicitly states that Dr. Facey is not an employee of the SBHD, but rather an “independent contractor.”<sup>23</sup>

### **Litigation History and Settlement<sup>24</sup>**

#### *Litigation History*

The underlying case was filed as a medical malpractice case by Latricia Mitchell and Jerald Mitchell, both individually and as legal guardians of Jamiyah Mitchell, a minor, against the SBHD and Dr. Facey in Dade County, Florida on or about October 10, 2013, and subsequently transferred to Broward County Circuit Court on March 14, 2014. During the litigation, it was discovered that Dr. Facey did not have medical malpractice insurance and had filed for Chapter 13 bankruptcy.<sup>25</sup> While Dr. Facey was dropped as a party defendant, she would likely have been included in a jury verdict as a Fabre defendant.

Claimants alleged that the SBHD was negligent in its care and treatment of Jamiyah and Latricia Mitchell, by and through its labor and delivery nurses and Dr. Facey, and that such negligence resulted in permanent injuries to Jamiyah. The respondent denied all allegations of negligence including proximate causation. On July 9, 2018, the Trial Court granted respondent's Motion for Partial Summary Judgment, finding that Dr. Facey was not an agent of the SBHD. A trial in the case was commenced in Broward County, Florida, beginning July 12, 2018. On August 3, 2018, the trial court granted a mistrial.

Counsel for claimants has indicated that she would have requested the jury award Jamiyah in “excess of \$15,000,000” in compensatory damages to fully compensate her for injuries sustained in this case.<sup>26</sup>

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<sup>22</sup> See Respondent's Motion for Partial Summary Judgment at 3 (June 1, 2018).

<sup>23</sup> Patient Safety Initiative Training Participation Agreement (attached as an exhibit to Respondent's Motion for Partial Summary Judgment (June 1, 2018)), 7.

<sup>24</sup> *Latricia Mitchell and Jerald Mitchell, individually and on behalf of Jamiyah Mitchell v. South Broward Hosp. District d/b/a/ Memorial Hosp. West, Sheryl Facey, M.D., Sheryl Facey, M.D., P.A.*, Case No. CACE 14-005044 (Fla. 17<sup>th</sup> Jud. Cir. Ct. 2014).

<sup>25</sup> Suggestion of Bankruptcy (filed Jun. 29, 2015); Special Master Hearing at 1:06:13-1:07:07.

<sup>26</sup> Special Master Hearing at 1:29:17-1:32:03.

#### *Settlement*<sup>27</sup>

The parties attended mediation on July 3, 2019, and entered into a settlement agreement resolving all claims that had been or could have been raised by claimants. The agreement clarifies that the SBHD's decision to resolve this matter is in no way an admission of liability. The settlement agreement provides for the entry of a consent judgment in the amount of \$995,000, which limits execution to \$795,000 pursuant to the statutory limit under section 768.28, Florida Statutes. The SBHD agreed to support and not oppose this claim bill. Counsel for respondent indicated that \$200,000 has already been tendered to the Special Needs Trust for the benefit of Jamiyah Mitchell, pursuant to the agreement.

#### CONCLUSIONS OF LAW:

A de novo hearing was held as the Legislature is not bound by settlements or jury verdicts when considering a claim bill, passage of which is an act of legislative grace.

Section 768.28, Florida Statutes, waives sovereign immunity for tort liability up to \$200,000 per person and \$300,000 for all claims or judgments arising out of the same incident. Sums exceeding this amount are payable by the State and its agencies or subdivisions by further act of the Legislature.

In this matter, the claimants allege negligence on behalf of the SBHD as a result of the actions of Dr. Facey and the hospital's labor and delivery nurses. The hospital is operated by the SBHD. The claimants seek for the Legislature to authorize payment of \$795,000 by the SBHD.

#### **Agency Liability**

There are three main types of agency liability in which a principal is responsible for the tortious conduct of its agent: *respondeat superior*, actual authority, and apparent authority.

#### *Respondeat Superior*

Under the doctrine of *respondeat superior*, an employer is liable for acts of employees performed within the course of their employment.<sup>28</sup>

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<sup>27</sup> See Settlement Agreement (July 2, 2019); see also Order Granting Motion to Approve Settlement (Oct, 15, 2019).

<sup>28</sup> *Dieas v. Assoc. Loan Co.*, 99 So.2d 279, 280-281 (Fla. 1957); *Stinson v. Prevatt*, 94 So. 656, 657 (Fla. 1922).

In this case, the labor and delivery nurses who cared for Ms. Mitchell during her labor and delivery of Jamiyah were employees of the SBHD. The SBHD is liable for negligent acts of their employees performed within the course of their employment.

Dr. Facey was the attending obstetrician responsible for the care of Ms. Latricia Mitchell and the delivery of her daughter, Jamiyah Mitchell. Dr. Facey was an independent contractor and has never been an employee of the SBHD.

*Actual Authority*

To establish actual authority, a plaintiff must prove acknowledgment by the principal that the agent will act for him, the agent's acceptance of the undertaking, and control by the principal over the actions of the agent.<sup>29</sup> Claimants did not allege that the hospital acknowledged Dr. Facey to act for it in the course of treatment provided to Ms. Mitchell and Jamiyah. Actions taken by Dr. Facey were made using her own clinical judgment.

*Apparent Authority*

"Our law is well settled that an apparent agency exists only if each of three elements are present: (a) a representation by the purported principal; (b) a reliance on that representation by a third party; and (c) a change in position by the third party in reliance on the representation."<sup>30</sup> Apparent authority exists only where the *principal* creates the appearance of an agency relationship.

To establish apparent authority, a plaintiff must prove: "(1) acknowledgment by the principal that the agent will act for him, (2) the agent's acceptance of the undertaking, and (3) control by the principal over the actions of the agent."

Courts have consistently held that "a hospital's granting of staff privileges to a particular health care provider, without more, is insufficient as a matter of law to create a jury question on whether the hospital impliedly represented to the public that the health care provider was the hospital's apparent agent."<sup>31</sup>

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<sup>29</sup> *Florida Power & Light Co. v. McRoberts*, 257 So. 3d 1023, 1026 (Fla. 4th DCA 2018).

<sup>30</sup> *Mobil Oil Corp. v. Bransford*, 648 So.2d 121 (Fla. 1995).

<sup>31</sup> *Jones v. Tallahassee Memorial Regional Healthcare, Inc.*, 923 So. 2d 1245, 1247 (Fla. 1st DCA 2006).

Florida courts have taken differing approaches on whether lack of patient choice as to a treating physician is enough to create a question of fact for the jury on the issue of a hospital's apparent authority over the physician.<sup>32</sup> In the case at hand, Ms. Mitchell did have a choice. Ms. Mitchell testified that within the confines of her husband's health insurance plan,<sup>33</sup> she "did some research on her own"<sup>34</sup> and selected Dr. Facey to treat her beginning in March 2007.<sup>35</sup> She later selected Dr. Facey to treat her for the prenatal care and delivery of Jamiyah.<sup>36</sup>

Claimants failed to show that a representation was made by the hospital that Dr. Facey was an agent of the SBHD. Dr. Facey was not acting with the apparent authority of the hospital.

#### *Agency Liability Findings*

Because claimants have failed to establish an agency relationship between Dr. Facey and the SBHD in this case, the SBHD is not liable for Dr. Facey's actions or negligence resulting from her care. The nurses were employed by and actual agents of the SBHD. Therefore, under the doctrine of *respondeat superior*, the SBHD is liable for the nurses' actions or negligence resulting from their care.

#### **Negligence**

There are four elements to a negligence claim: (1) duty—where the defendant has a legal obligation to protect others against unreasonable risks; (2) breach—which occurs when the defendant has failed to conform to the required standard of conduct; (3) causation—where the defendant's conduct is foreseeably and substantially the cause of the resulting damages; and (4) damages—actual harm.<sup>37</sup>

#### *Duty*

A health care provider generally has a duty when providing health care services, to provide such services in a non-negligent manner. This duty is known as the "standard of care." Section 766.102(1), Florida Statutes, establishes that

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<sup>32</sup> *Id.* at 1248.

<sup>33</sup> Deposition, Latricia Mitchell, 77 and 78 (Nov. 6, 2015).

<sup>34</sup> *Id.* at 62, 86.

<sup>35</sup> *Id.* at 79.

<sup>36</sup> *Id.* at 68.

<sup>37</sup> *Williams v. Davis*, 974 So.2d 1052, at 1056–1057 (Fla. 2007).

the prevailing professional standard of care in a medical malpractice claim against a health care provider is “that level of care, skill, and treatment which, in light of all relevant surrounding circumstances, is recognized as acceptable and appropriate by reasonably prudent similar health care providers.” The standard of care in medical malpractice cases is determined through consideration of expert testimony.<sup>38</sup>

#### *Breach*

Claimants rely on testimony from expert witness, Laura Mahlmeister, R.N., Ph.D., to prove that the labor and delivery nurses at the hospital had deviated from the standard of care during Ms. Mitchell’s labor and delivery of Jamiyah. Dr. Mahlmeister testified that she believed the labor and delivery nurses should have advocated, at multiple points throughout the evening of October 8, 2008, for Dr. Facey to schedule the cesarean section sooner than she did.<sup>39</sup> Dr. Mahlmeister goes on to say that it is not the nurse’s decision, but the doctor’s decision, to call for a cesarean section to be performed.<sup>40</sup>

#### *Causation*

Claimants have introduced evidence suggesting that if Jamiyah were delivered approximately twenty minutes earlier, Jamiyah would have avoided an acute event resulting in less substantial injury. Claimants have also introduced evidence suggesting that the decision of when to schedule the cesarean section is that of the doctor. It appears that Dr. Facey may have been making medical decisions in her treatment of Ms. Mitchell as early as 5:06 p.m. on October 8, 2008, before she called for a cesarean section at 8:06 p.m.<sup>41</sup>

On the other hand, there was evidence of fetal distress in the initial fetal monitoring strips obtained shortly after the mother arrived at the hospital. The hospital nurses could have and probably should have consulted a staff physician to determine if an emergency C-Section was warranted. The hospital nurses could have and probably should have had Ms. Mitchell and the surgical suite prepped for an immediate C-Section as soon as the fetal monitoring showed early signs of distress. Had the nurses acted promptly and diligently, Jamiyah may have been delivered by C-Section before significant distress

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<sup>38</sup> *Pate v. Threlkel*, 661 So.2d 278, 281 (Fla.1995).

<sup>39</sup> Deposition, Laura Mahlmeister, R.N., Ph.D., 114-115 (Dec. 2, 2016).

<sup>40</sup> *Id.* at 115-116.

<sup>41</sup> Proposed Stipulated Final Claim Bill Language for Senate Bill 12 (Nov. 11, 2019).

and the resultant cerebral injury. Instead, the nurses deferred to Dr. Facey who was then only available by telephone. A reasonable jury could find that the conduct of the labor and delivery nurses foreseeably and substantially caused or contributed to Jamiyah's birth injuries.

#### *Damages*

Through the provision of medical records and supporting evidence, claimants have established that Jamiyah suffered an irreversible injury during labor and delivery due to lack of oxygen. The challenges and disabilities that Jamiyah now faces are consistent with and caused by the birth injury that she experienced.

It is possible that inattentive care provided to Jamiyah, such as failing to administer seizure medication, to require her to wear hearing aids, or follow doctors' instructions may have an adverse effect on Jamiyah's conditions.

#### *Comparative Fault*

It was argued in the underlying case that Ms. Mitchell was comparatively negligent in contributing to Jamiyah's injury. The undersigned acknowledges it is possible that Ms. Mitchell may have been slightly comparatively negligent in her care of of infant Jamiyah, but makes no finding as to whether or not Ms. Mitchell's conduct contributed to Jamiyah's injury as Ms. Mitchel does not stand to benefit from the claim. Of course, there can be no comparative fault on the part of Jamiyah. On the other hand, the evidence strongly suggests that the employees of South Broward Hospital District and/or Dr. Facey's conduct contributed to Jamiyah's injury.

#### **Conclusion**

As stated above, the claimant's attorney intended to ask the jury for a verdict in excess of \$15 million. It is possible that the jury could have found the hospital district 100% at fault and for a \$15 million award. Because this is a settled claim, we do not have the benefit of a defense case. However, it appears from the tone and lines of questioning at the depositions (while the hospital district was still contesting the case) that the district would likely have tried to avoid liability by blaming Dr. Facey. There is evidence of negligence committed by both the hospital district and Dr. Facey, and it is entirely possible that a reasonable jury may have assigned much or even all of the

malpractice fault on Dr. Facey, thereby significantly diminishing the liability of the hospital district and thus the award to the claimant. Without hearing the defense witnesses, the Special Master cannot suggest what outcome is likely.

Based upon the arguments and documents provided before, during, and after the special master hearing, the undersigned believes that reasonable juries would come to different verdicts as to liability and damages in this case, and that the settlement represents a fair middle ground between a possible significant verdict against the hospital district and an equally possible minimal award, or perhaps even a defense verdict.

The settlement thus is a fair approximation of the risks, rewards, and costs had the parties conducted a second trial.

ATTORNEY FEES:

Language in the bill states that attorney fees may not exceed 25 percent of the amount awarded. Correspondence from the attorney for the claimant confirms that the attorney will comply with this limit.

RECOMMENDATIONS:

**Recommended Amendments**

Lines 82-83 of the bill should be amended so the full amount is payable to “the Special Needs Trust for the benefit of Jamiyah Mitchell,” pursuant to the parties’ settlement agreement.

**Recommendation on the Merits**

Based upon the arguments and documents provided before, during, and after the special master hearing, I find that the claimants meet the burden of proving that the SBHD or an agent of the SBHD was negligent, resulting in Jamiyah Mitchell’s birth injury. I recommend that Senate Bill 16 (2023) be reported FAVORABLY.

Respectfully submitted,

Nathan L. Bond  
Senate Special Master

cc: Tracey Cantella, Secretary of the Senate

**CS by Judiciary:**

The amendment changes the payee of the claim to the trustee of Jamiyah's special needs trust. This change has been agreed upon by the parties and is in the best interest of the child.





The Florida Senate

## Committee Agenda Request

**To:** Senator Colleen Burton, Chair  
Committee on Health Policy

**Subject:** Committee Agenda Request

**Date:** March 30, 2023

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I respectfully request that **Senate Bill # 16**, relating to Relief of Mitchell by the South Broward Hospital District, be placed on the:

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

A handwritten signature in black ink that reads "Joe Gruters".

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Senator Joe Gruters  
Florida Senate, District 22

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

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

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

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BILL: CS/SB 858

INTRODUCER: Committee on Health Policy and Senators Torres, and others

SUBJECT: Benefits, Training, and Employment for Veterans and Their Spouses

DATE: April 5, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	<b>Fav/CS</b>
2.	_____	_____	AHS	_____
3.	_____	_____	FP	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

**II. Present Situation:**

**United States Armed Forces**

The U.S. Armed Forces is made up of six military branches: Air Force, Army, Coast Guard, Marine Corps, Navy and, most recently, Space Force. The secretary of the U.S. Department of Defense (DoD) has control over the military and each branch, except the Coast Guard, which is under the Department of Homeland Security (DHS). With more than two million civilian and military employees, the U.S. DoD is the world's largest employer.<sup>1</sup>

**U.S. Reserves and National Guard**

The Guard and Reserve fill vital roles in the U.S., augmenting the active-duty military services and filling specific needs nationwide. The Guard and Reserve differ from the regular military in that active-duty military members work in the military full time, while regular Guard members and Reservists typically serve on a part-time basis. Both reservists and Guard members can serve on active-duty orders, known as Active Guard Reserve (AGR), or be deployed based on need.

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<sup>1</sup> Military.com, *What Are the Branches of the US Military?* available at <https://www.military.com/join-armed-forces/us-military-branches-overview.html> (last visited Apr. 2, 2023).

Each branch of the military has a Reserve component whose main purpose is to have trained units available for active duty as needed. The Guard includes the Army National Guard and Air National Guard in each state, U.S. territory and the District of Columbia. Guard units typically are controlled by the state, but they can be activated for federal duty (federalized) and deployed. Both Reserve and Guard units train about one weekend per month plus two weeks a year for “annual training.” Guard and Reserve members must serve a certain number of hours each year to make a “good year” to qualify for benefits and retirement.<sup>2</sup>

### **Florida Veterans**

Section 1.01(14), F.S., defines veteran as a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only, or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the U.S. Department of Veterans Affairs (U.S. DVA) on individuals discharged or released with other than honorable discharges.

### **Florida Department of Veterans’ Affairs (FDVA)**

The Legislature created the FDVA to assist all former, present, and future members of the U.S. Armed Forces and their dependents in preparing claims for and securing compensation, hospitalization, career training, and other benefits or privileges to which they are, or may become, entitled to under federal or state law by reason of their service in the U.S. Armed Forces. All services rendered under the FDVA must be without charge to the claimant.<sup>3</sup> There are 1,492,000 veterans currently live in Florida, making the state’s veteran population the third largest nationally.<sup>4</sup>

One of the duties of the FDVA is to conduct an ongoing study on the problems and needs of U.S. Armed Forces resident veterans and the problems and needs of their dependents. The study is required to include:

- A survey of existing state and federal programs available for resident veterans and their dependents that specifies the extent to which such programs presently are being implemented, with recommendations for the improved implementation, extension, or improvement of such programs;
- A survey of the needs of resident veterans and their dependents in the areas of social services, health care, education, and employment, and any other areas of determined need, with recommendations regarding federal, state, and community services that would meet those needs; and
- A survey of federal, state, public, and private moneys available that could be used to defray the costs of state or community services needed for resident veterans and their dependents.

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<sup>2</sup> Military.com, Join the Military, Services Choices, *National Guard and Military Reserves Explained*, available at <https://www.military.com/join-armed-forces/guard-reserve-explained.html> (last visited Apr. 4, 2023).

<sup>3</sup> Section 292.05(1), F.S.

<sup>4</sup> Florida Department of Veterans’ Affairs, *Our Veterans*, available at <http://floridavets.org/our-veterans/> (last visited April 4, 2023).

**Florida Is For Veterans, Inc. (FIFV)**

Section 295.21, F.S., created “Florida Is For Veterans, Inc.,” within the FDVA as a separate nonprofit corporation to help military veterans transition to civilian life or moving to Florida through career service initiatives. FIFV’s mission is to promote the value of military skill sets to businesses, assist in training veterans to match marketplace needs, and enhance entrepreneurial skills of veterans.

All agencies of the state are authorized and directed to provide technical assistance to FIFV and identify agency programs to provide assistance or benefits to veterans who are located in or considering relocation to the state. The FDVA may authorize the FIFV to use of FDVA property, facilities, and personnel services, as prescribed by contract.<sup>5</sup>

The purpose of the FIFV is to promote Florida as a veteran-friendly state that seeks to provide veterans with employment opportunities and that promotes the hiring of veterans by the business community. The FIFV must encourage retired and recently separated military personnel to remain in Florida or to make the state their permanent residence. The FIFV must promote the value of military skill sets to businesses in the state, assist in tailoring the training of veterans to match the needs of the employment marketplace, and enhance the entrepreneurial skills of veterans.<sup>6</sup>

***Florida Veterans Employment and Training Services Program (VETS)***

The Veterans Employment and Training Services Program (VETS) was created within the FDVA, and is administered by FIFV, to assist in linking veterans in search of employment with businesses seeking to hire dedicated, well-trained workers. The purpose of the program is to meet the workforce demands of businesses in the state by facilitating access to training and education in high-demand fields for veterans.

**Florida Supporting Veterans*****The Department of Economic Opportunity***

The Department of Economic Opportunity (DEO) assists the Governor in advancing Florida’s economy by championing the state’s economic development vision and by administering state and federal programs and initiatives to help visitors, citizens, businesses, and communities.

***Jobs for Veterans’ State Grant***

The Jobs for Veterans’ State Grant program is funded by the U.S. Department of Labor (U.S. DOL) and Veterans Employment and Training Service (VETS). The DEO administers it in coordination with 24 local workforce development boards to promote and maximize the employment of Florida’s veteran population. The Jobs for Veterans’ State Grant provides federal funding to support the staffing of the Disabled Veterans’ Outreach Program specialists, local veterans’ employment representatives, and consolidated positions throughout the DEO’s CareerSource Florida Career Center Network.

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<sup>5</sup> Section 295.21(1), F.S.

<sup>6</sup> Section 295.21(2), F.S.

The Jobs for Veterans' State Grant also supports the DEO's State Veterans' Program Office which is composed of the State Veterans Program coordinator, Regional Veterans Program coordinators, and Intensive Service coordinators. The State Veterans' Program Office seeks to ensure consistency and excellence in program service delivery through the provision of technical assistance, policy, training, and monitoring.

Florida's Jobs for Veterans' State Grant program prepares veterans, transitioning service members, and eligible spouses for meaningful careers through the development of a proactive employment plan and through connection to a career center and community resources to obtain and maintain employment.

The DEO Veterans' Employment Services and Programs include, but are not limited to the following services:

- Intensive case management services to veterans with significant barriers to employment including:
  - On-the-job training development;
  - Non-paid work experience;
  - Selective job placement;
  - Counseling;
  - Follow-up services;
  - Job-seeking skills training;
  - Job analysis; and
  - Labor market information.
- Outreach to employers to increase employment opportunities for veterans; and
- Priority enrollment and participation in all U.S. DOL funded employment and training programs, including technology-assisted activities.

The VA Veteran Readiness and Employment (VR&E) Program is an employment and training program to assist disabled veterans who are being trained/retrained and rehabilitated for new careers by the U.S. DVA. VR&E services include on-the-job training development, non-paid work experience, selective job placement, case management, counseling, follow-up services, provision of job-seeking skills training, job analysis, labor market information, etc.

The Military Family Employment Advocacy Program delivers employment assistance services, including interviewing, assessment, counseling, job search and placement assistance, labor market information, resume assistance, etc., through Military Family Employment Advocates co-located within selected career centers. Spouses and dependents of active-duty military personnel, Florida National Guard members, and military reservists are eligible for assistance through this program.

The DEO's Employ Florida Vets Portal is a function of the Employ Florida system and is tailored specifically to the needs and interests of veterans. One specific function is to translate military specialty codes, representing military employment classifications, into equivalent civilian job titles.

Section 456.024, F.S., provides that any U.S. Armed Forces member on active duty who, at the time of going on active duty, was in good standing with any health profession regulatory board, or the DOH if there is no board, and is entitled to practice or engage in his or her profession or vocation, must be kept in good standing without registering, paying dues or fees, or performing any other act as long as he or she is on active duty and for a period of six months after discharge from active duty, provided he or she is not engaged in his or her licensed profession or vocation in the private sector for profit.

Section 456.0241, F.S., provides temporary certificates for active duty military health care practitioners to practice in a regulated profession if the applicant:

- Submits proof that he or she will be practicing pursuant to a military platform;
- Submits a complete application and a nonrefundable application fee;
- Holds an active, unencumbered license to practice as a health care professional issued by another state, the District of Columbia, or a possession or territory of the United States or is a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required for practice in the U.S. Armed Forces and provides evidence of military training and experience substantially equivalent to the requirements for licensure in Florida in that profession;
- 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 U.S. DoD for reasons related to the practice of the profession for which he or she is applying;
- Has been determined to be competent in the profession for which he or she is applying; and
- Submits to background screening if required for the profession for which he or she is applying.

### **Florida's Department of Health (DOH)**

The Legislature created the DOH to protect and promote the health, safety, and welfare of all residents and visitors in the state.<sup>7</sup> The DOH is charged with the regulation of health practitioners for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA) is responsible for the regulatory boards<sup>8</sup> and professions within the DOH.<sup>9</sup>

### ***Health Care Practitioner Regulation***

The DOH, Division of MQA, provides health care practitioner regulation and support to health care regulatory boards and councils. Boards are responsible for approving or denying an applicant's license based upon:

- Reviewing applicant qualifications specified in statute;
- Reviewing continuing education courses and practitioners;
- Adopting administrative rules authorized by statute;
- Determining probable cause in cases resulting from complaints; and
- Disciplining practitioners found to be in violation of applicable laws.

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<sup>7</sup> Sections 20.43(1) and 456.003, F.S.

<sup>8</sup> Under s. 456.001(1), F.S., "board" is defined as any board, commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the DOH or, in some cases, within the MQA.

<sup>9</sup> Section 20.43(3), F.S.

The Division of MQA licenses and regulates seven types of health care facilities and more than 200 license types in over 40 professions, while partnering with 22 boards and four councils.<sup>10</sup>

### ***Health Care Practitioner Scope of Practice***

The scope of practice for a regulated health care profession includes activities and procedures that a person with a specified level of education, training, and competency is authorized to perform under laws and rules of the state in which the person practices. Scope of practice can also incorporate conditions that may limit the exercise of authorized activities and procedures.<sup>11</sup> Licensed health care practitioners<sup>12</sup> in Florida may only perform that which is authorized by the scope of practice for their profession. Individuals who perform functions outside of their scope of practice are subject to discipline. Individuals who perform tasks that are specific to a scope of practice identified in statute without required licensure may be considered to be performing unlicensed activities in violation of law.<sup>13</sup>

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

CS/SB 858 changes the title of the bill to, “An Act Relating to Benefits, Training, and Employment for Veterans and their Spouses.”

The bill amends s. 292.05, F.S., to broaden the duties of the FDVA to provide assistance to members of armed forces, dependents, veterans, and, under the bill, their spouses, in preparing claims for and securing compensation, hospitalization, career training, and other benefits or privileges to which any of them may become entitled. The bill amends s. 295.21, F.S., to add to Florida is for Veterans, Inc.(FIFV) duty to provide veterans with assistance in finding employment to, under the bill, include that same duty to their spouses. The bill amends s. 295.22, F.S., the Florida VETS, to assist veterans’ spouses to find employment. The bill adds the following new duties:

- Assisting veterans and their spouses in accessing training, education, and employment in health care professions; and

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<sup>10</sup> Department of Health, *2022 Agency Legislative Bill Analysis of CS/SB 466*, pg. 2 (Feb. 3, 2022) (on file with the Senate Committee on Health Policy).

<sup>11</sup> Federation of State Medical Boards, *Assessing Scope of Practice in Health Care Delivery: Critical Questions in Assuring Public Access and Safety* (April 2005) available at <https://www.fsmb.org/siteassets/advocacy/policies/assessing-scope-of-practice-in-health-care-delivery.pdf> The Federation of State Medical Boards is an association whose members include all medical licensing and disciplinary boards in the U.S. and U.S. territories. The Federation acts as a collective voice for 70 member medical boards in promoting high standards for medical licensure and practice. The Guidelines recommend that State regulators and legislators review various factors when considering scope of practice initiatives in the interest of public health and patient safety.

<sup>12</sup> Section 456.001, F.S., defines a “health care practitioner” to mean any person licensed under chapter 457 (acupuncture); chapter 458 (medical practice); chapter 459 (osteopathic medicine); chapter 460 (chiropractic medicine); chapter 461 (podiatric medicine); chapter 462 (naturopathy); chapter 463 (optometry); chapter 464 (nursing); chapter 465 (pharmacy); chapter 466 (dentistry, dental hygiene, and dental laboratories); chapter 467 (midwifery); part I, part II, part III, part V, part X, part XIII, or part XIV of chapter 468 (speech-language pathology, nursing home administration, occupational therapy, respiratory therapy, dietetics and nutrition practice, athletic trainers, orthotics, prosthetics, and pedorthics); chapter 478 (electrolysis); chapter 480 (massage therapy); part I, part II, or part III of chapter 483 (clinical laboratory personnel, medical physicists, genetic counseling); chapter 484 (dispensing of optical devices and hearing aids); chapter 486 (physical therapy practice); chapter 490 (psychological services); or chapter 491 (clinical, counseling, and psychotherapy).

<sup>13</sup> Section 456.072, F.S.

- Coordinating with the Office of Veteran Licensure Services within the DOH to assist veterans and their spouses in obtaining licensure pursuant to s. 456.024.

The bill amends s. 456.013, F.S. to relocate statutes relating to the waiver of all licensure fees for initial DOH licenses for veterans and their spouses to s. 456.024, F.S. The bill also amends s. 456.0241, F.S., to waive all temporary licensure fees for active duty military.

The bill amends s. 456.024, F.S., to make clear an active duty U.S. armed forces members, who is a health care practitioners in good standing, will not be required to pay renewal fees or complete continuing education requirements and will be kept in good standing while on active duty and for six months after discharge if he or she is not practicing in the private sector for profit.

The bill creates s. 456.0242, F.S., which establishes the office of Veterans Licensure Services (OVLS) in MQA, within the DOH, to assist active duty members of the U.S. Armed Forces, the Reserve, the Guard, veterans, and the spouses of veterans who seek to become a licensed health care practitioner in this state. The OVLS must be headed by an executive director, who must be a veteran designated by the DOH.

Under the bill, the OVLS must:

- Provide information, guidance, direction, and assistance with the licensure process;
- Coordinate with each health profession regulatory board, or the DOH if there is no board, to expedite all applications submitted;
- Refer an individual requesting assistance with resume writing and proofreading, job application completion, and interviewing skills and techniques to FIFV;
- Refer an individual requesting information about educational or employment opportunities in health care professions to FIFV;
- Submit a report by Veterans Day of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must categorize each individual as an active duty member, a veteran, or a veteran's spouse and must include, but is not limited to:
  - The number of individuals served;
  - The educational and training background of each individual seeking licensure;
  - Each health care license an individual holds in another state, irrespective of the current status of the license;
  - The number of licensure applications received;
  - The average number of calendar days required to license a qualified applicant; and
  - The number of referrals made for vocational assistance.

The bill authorizes the DOH to adopt rules necessary to implement the bill. The bill also contains an appropriation, which is outlined in Section V. of this analysis.

The bill provides an effective date of July 1, 2023.



**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

CS/SB 858, in part, is designed to address the shortage of health care professionals in this state, but the extent of that potential effect is indeterminate.

**C. Government Sector Impact:**

CS/SB 858 appropriates four full-time equivalent (FTE) positions with associated salary rate of \$223,879 and the sums of \$380,209 in recurring funds and \$19,356 in nonrecurring funds from the MQA Trust Fund to the DOH for the purpose of implementing the OVLS for the 2023-2024 state fiscal year.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The OVLS report required under s. 456.0242, F.S., does not include reporting on data relating to Reserve and Guard members who utilize the services of the OVLS.

**VIII. Statutes Affected:**

This bill creates section 456.242 of the Florida Statutes.

The bill substantially amends the following sections of the Florida Statutes: 288.0001, 292.05, 295.21, 295.22, 456.013, 456.024, and 456.0241.

**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 April 4, 2023:**

The CS:

- Changes the title of the bill to, “An Act Relating to Benefits, Training, and Employment for Veterans and their Spouses;”
- Increases the duties of:
  - The FDVA to include veterans spouses;
  - The FIFV to assist veterans’ spouses in finding employment; and
  - Florida VET program to work with veterans and their spouses to find employment and coordinate with the OVLS to assist veterans and their spouses in obtaining health care licenses.
- Moves statutory provisions relating to veteran health care practitioner fee waivers for initial licenses from s. 456.013, F.S., to s. 456.024, F.S., and adds veteran’s spouses to the waiver, and amends s. 456.0241, F.S., to waive all temporary licensure fees for active duty military.
- Creates the OVLS in MQA, within the DOH, to assist active duty members U.S. Armed Forces, Reserves, and Guard, veterans, and veterans’ spouses who seek to become licensed health care practitioners in this state.
- Requires the OVLS to perform specific functions and to file a report with the Governor, President of the Senate, and Speaker of the House by Veterans Day each year detailing certain information; and
- Appropriates four FTE positions with associated salary rate of 223,879 and the sums of \$380,209 in recurring funds and \$19,356 in nonrecurring funds from the MQA Trust Fund to the DOH for the purpose of implementing the OVLS for the 2023-2024 state fiscal year.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
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	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (d) of subsection (2) of section  
288.0001, Florida Statutes, is amended to read:

288.0001 Economic Development Programs Evaluation.—The  
Office of Economic and Demographic Research and the Office of  
Program Policy Analysis and Government Accountability (OPPAGA)  
shall develop and present to the Governor, the President of the



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Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees the Economic Development Programs Evaluation.

(2) The Office of Economic and Demographic Research and OPPAGA shall provide a detailed analysis of economic development programs as provided in the following schedule:

(d) By January 1, 2019, and every 3 years thereafter, an analysis of the program grant and entrepreneur initiative programs established under s. 295.22(2) ~~s. 295.22(3)(d) and (e)~~.

Section 2. Subsections (1) and (5) of section 292.05, Florida Statutes, are amended to read:

292.05 Duties of Department of Veterans' Affairs.—

(1) The Department of Veterans' Affairs shall provide assistance to all former, present, and future members of the Armed Forces of the United States and their spouses and dependents in preparing claims for and securing such compensation, hospitalization, career training, and other benefits or privileges to which such persons or any of them are or may become entitled under any federal or state law or regulation by reason of their service in the Armed Forces of the United States. All services rendered under this subsection shall be without charge to the claimant.

(5) The department shall conduct an ongoing study on the problems and needs of those residents of this state who are veterans of the Armed Forces of the United States and the problems and needs of their spouses and dependents. The study shall include, but not be limited to:

(a) A survey of existing state and federal programs available for such persons that specifies the extent to which



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such programs presently are being implemented, with recommendations for the improved implementation, extension, or improvement of such programs.

(b) A survey of the needs of such persons in the areas of social services, health care, education, and employment, and any other areas of determined need, with recommendations regarding federal, state, and community services that would meet those needs.

(c) A survey of federal, state, public, and private moneys available that could be used to defray the costs of state or community services needed for such persons.

Section 3. Subsection (2), paragraph (b) of subsection (3), paragraph (g) of subsection (4), and paragraph (a) of subsection (8) of section 295.21, Florida Statutes, are amended to read:

295.21 Florida Is For Veterans, Inc.—

(2) PURPOSE.—The purpose of the corporation is to promote Florida as a veteran-friendly state that seeks to provide veterans and their spouses with employment opportunities and that promotes the hiring of veterans and their spouses by the business community. The corporation shall encourage retired and recently separated military personnel to remain in the state or to make the state their permanent residence. The corporation shall promote the value of military skill sets to businesses in the state, assist in tailoring the training of veterans and their spouses to match the needs of the employment marketplace, and enhance the entrepreneurial skills of veterans and their spouses.

(3) DUTIES.—The corporation shall:

(b) Advise the Florida Tourism Industry Marketing



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Corporation, pursuant to s. 295.23, on:

1. The target market as identified in paragraph (a).

2. Development and implementation of a marketing campaign to encourage members of the target market to remain in the state or to make the state their permanent residence.

3. Methods for disseminating information to the target market that relates to the interests and needs of veterans and their spouses of all ages and facilitates veterans' knowledge of and access to benefits.

(4) GOVERNANCE.—

(g) A majority of the members of the board of directors constitutes a quorum. Board Council meetings may be held via teleconference or other electronic means.

(8) ANNUAL REPORT.—The corporation shall submit an annual progress report and work plan by December 1 to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must include:

(a) Status and summary of findings regarding the target market, veteran and spouse benefits, and any identified gaps in services.

Section 4. Subsections (1), (2), and (3) of section 295.22, Florida Statutes, are amended to read:

295.22 Veterans Employment and Training Services Program.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that the state has a compelling interest in ensuring that each veteran or his or her spouse who is a resident of the state finds employment that meets his or her professional goals and receives the training or education necessary to meet those goals. The Legislature also finds that connecting dedicated,



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well-trained veterans with businesses that need a dedicated, well-trained workforce is of paramount importance. The Legislature recognizes that veterans or their spouses may not currently have the skills to meet the workforce needs of Florida employers and may require assistance in obtaining additional workforce training or in transitioning their skills to meet the demands of the marketplace. It is the intent of the Legislature that the Veterans Employment and Training Services Program coordinate and meet the needs of veterans and their spouses and the business community to enhance the economy of this state.

(2) CREATION.—The Veterans Employment and Training Services Program is created within the Department of Veterans' Affairs to assist in linking veterans or their spouses in search of employment with businesses seeking to hire dedicated, well-trained workers. The purpose of the program is to meet the workforce demands of businesses in the state by facilitating access to training and education in high-demand fields for veterans or their spouses.

(3) ADMINISTRATION.—Florida Is For Veterans, Inc., shall administer the Veterans Employment and Training Services Program and perform all of the following functions:

(a) Conduct marketing and recruiting efforts directed at veterans or their spouses who reside in or who have an interest in relocating to this state and who are seeking employment. Marketing must include information related to how a veteran's military experience can be valuable to a business. Such efforts may include attending veteran job fairs and events, hosting events for veterans and their spouses or the business community, and using digital and social media and direct mail campaigns.



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The corporation shall also include such marketing as part of its main marketing campaign.

(b) Assist veterans or their spouses who reside in or relocate to this state and who are seeking employment. The corporation shall offer skills assessments to veterans or their spouses and assist them in establishing employment goals and applying for and achieving gainful employment.

1. Assessment may include skill match information, skill gap analysis, resume creation, translation of military skills into civilian workforce skills, and translation of military achievements and experience into generally understood civilian workforce skills.

2. Assistance may include providing the veteran or his or her spouse with information on current workforce demand by industry or geographic region, creating employment goals, and aiding or teaching general knowledge related to completing applications. The corporation may provide information related to industry certifications approved by the Department of Education under s. 1008.44 as well as information related to earning academic college credit at public postsecondary educational institutions for college-level training and education acquired in the military under s. 1004.096.

3. The corporation shall encourage veterans or their spouses to register with the state's job bank system and may refer veterans to local one-stop career centers for further services. The corporation shall provide each veteran with information about state workforce programs and shall consolidate information about all available resources on one website that, if possible, includes a hyperlink to each resource's website and





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contact information, if available.

4. Assessment and assistance may be in person or by electronic means, as determined by the corporation to be most efficient and best meet the needs of veterans or their spouses.

(c) Assist Florida businesses in recruiting and hiring veterans and veterans' spouses. The corporation shall provide services to Florida businesses to meet their hiring needs by connecting businesses with suitable veteran applicants for employment. Suitable applicants include veterans or veterans' spouses who have appropriate job skills or may need additional training to meet the specific needs of a business. The corporation shall also provide information about the state and federal benefits of hiring veterans.

(d) Create a grant program to provide funding to assist veterans in meeting the workforce-skill needs of businesses seeking to hire, promote, or generally improve specialized skills of veterans, establish criteria for approval of requests for funding, and maximize the use of funding for this program. Grant funds may be used only in the absence of available veteran-specific federally funded programs. Grants may fund specialized training specific to a particular business.

1. If grant funds are used to provide a technical certificate, a licensure, or a degree, funds may be allocated only upon a review that includes, but is not limited to, documentation of accreditation and licensure. Instruction funded through the program terminates when participants demonstrate competence at the level specified in the request but may not exceed 12 months. Preference shall be given to target industry businesses, as defined in s. 288.106, and to businesses in the



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defense supply, cloud virtualization, health care, or commercial aviation manufacturing industries.

2. Costs and expenditures shall be limited to \$8,000 per veteran trainee. Qualified businesses must cover the entire cost for all of the training provided before receiving reimbursement from the corporation equal to 50 percent of the cost to train a veteran who is a permanent, full-time employee. Eligible costs and expenditures include:

- a. Tuition and fees.
- b. Books and classroom materials.
- c. Rental fees for facilities.

3. Before funds are allocated for a request pursuant to this section, the corporation shall prepare a grant agreement between the business requesting funds and the corporation. Such agreement must include, but need not be limited to:

a. Identification of the personnel necessary to conduct the instructional program, instructional program description, and any vendors used to conduct the instructional program.

b. Identification of the estimated duration of the instructional program.

c. Identification of all direct, training-related costs.

d. Identification of special program requirements that are not otherwise addressed in the agreement.

e. Permission to access aggregate information specific to the wages and performance of participants upon the completion of instruction for evaluation purposes. The agreement must specify that any evaluation published subsequent to the instruction may not identify the employer or any individual participant.

4. A business may receive a grant under the Quick-Response



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Training Program created under s. 288.047 and a grant under this section for the same veteran trainee. ~~If a business receives funds under both programs, one grant agreement may be entered into with CareerSource Florida, Inc., as the grant administrator.~~

(e) Contract with one or more entities to administer an entrepreneur initiative program for veterans in this state which connects business leaders in the state with veterans seeking to become entrepreneurs.

1. The corporation shall award each contract in accordance with the competitive bidding requirements in s. 287.057 to one or more public or private entities that:

a. Demonstrate the ability to implement the program and the commitment of resources, including financial resources, to such programs.

b. Have a demonstrated experience working with veteran entrepreneurs.

c. As determined by the corporation, have been recognized for their performance in assisting entrepreneurs to launch successful businesses in the state.

2. Each contract must include performance metrics, including a focus on employment and business creation. The entity may also work with a university or college offering related programs to refer veterans or to provide services. The entrepreneur initiative program may include activities and assistance such as peer-to-peer learning sessions, mentoring, technical assistance, business roundtables, networking opportunities, support of student organizations, speaker series, or other tools within a virtual environment.



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(f) As the state's principal assistance organization under the United States Department of Defense's SkillBridge program for qualified businesses in this state and for transitioning servicemembers who reside in, or who wish to reside in, this state, the corporation shall:

1. Establish and maintain, as applicable, its certification for the SkillBridge program or any other similar workforce training and transition programs established by the United States Department of Defense;

2. Educate businesses, business associations, and transitioning servicemembers on the SkillBridge program and its benefits, and educate military command and personnel within the state on the opportunities available to transitioning servicemembers through the SkillBridge program;

3. Assist businesses in obtaining approval for skilled workforce training curricula under the SkillBridge program, including, but not limited to, apprenticeships, internships, or fellowships; and

4. Match transitioning servicemembers who are deemed eligible for SkillBridge participation by their military command with training opportunities offered by the corporation or participating businesses, with the intent of having transitioning servicemembers achieve gainful employment in this state upon completion of their SkillBridge training.

(g) Assist veterans and their spouses in accessing training, education, and employment in health care professions.

(h) Coordinate with the Office of Veteran Licensure Services within the Department of Health to assist veterans and their spouses in obtaining licensure pursuant to s. 456.024.



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Section 5. Subsection (13) of section 456.013, Florida Statutes, is amended to read:

456.013 Department; general licensing provisions.—

~~(13) The department shall waive the initial licensing fee, the initial application fee, and the initial unlicensed activity fee for a military veteran or his or her spouse at the time of discharge, if he or she applies to the department for an initial license within 60 months after the veteran is honorably discharged from any branch of the United States Armed Forces. The applicant must apply for the fee waiver using a form prescribed by the department and must submit supporting documentation as required by the department.~~

Section 6. Section 456.024, Florida Statutes, is amended to read:

456.024 Members of Armed Forces and veterans in good standing ~~with administrative boards or the department; spouses; licensure.—~~

(1) A Any member of the United States Armed Forces ~~of the United States now or hereafter~~ on active duty who, at the time of becoming such a member, was in good standing with a health care practitioner ~~any administrative board of the state, or the department when there is no board, and was entitled to practice a health care or engage in his or her profession or vocation in this the state shall be kept in good standing by such administrative board, or the department when there is no board,~~ without registering, paying ~~dues or fees,~~ or performing any other act ~~on his or her part to be performed,~~ as long as the member is ~~he or she is a member of the Armed Forces of the United States~~ on active duty and for ~~a period of 6 months after~~



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discharge and from active duty as a member of the Armed Forces  
of the United States, provided he or she is not practicing  
engaged in his or her licensed profession or vocation in the  
private sector for profit.

(2) The department shall waive the initial licensing fee,  
the initial application fee, and the initial unlicensed activity  
fee for a veteran or his or her spouse if the veteran is  
honorably discharged from any branch of the United States Armed  
Forces. The applicant must apply for the fee waiver using a form  
prescribed by the department and must submit supporting  
documentation as required by the department. The applicant may  
apply for a fee waiver up to 6 months before discharge.

(3) The boards listed in s. 20.43, or the department when  
there is no board, shall adopt rules exempting the spouses of  
members of the Armed Forces of the United States from licensure  
renewal provisions, but only in cases of absence from the state  
because of their spouses' duties with the Armed Forces.

(4) (a) ~~(3) (a)~~ A person is eligible for licensure as a health  
care practitioner in this state if he or she:

1. Serves or has served as a health care practitioner in  
the United States Armed Forces, the United States Reserve  
Forces, or the National Guard;

2. Serves or has served on active duty with the United  
States Armed Forces as a health care practitioner in the United  
States Public Health Service; or

3. Is a health care practitioner 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.



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The department shall develop an application form, and each board, or the department if there is no board, shall waive the application fee, licensure fee, and unlicensed activity fee for such applicants. For purposes of this subsection, "health care practitioner" means a health care practitioner as defined in s. 456.001 and a person licensed under part III of chapter 401 or part IV of chapter 468.

(b) The board, or the department if there is no board, shall issue a license to practice in this state to a person who:

1. Submits a complete application.

2. If he or she is a member of the United States Armed Forces, the United States Reserve Forces, or the National Guard, submits proof that he or she has received an honorable discharge within 6 months before, or will receive an honorable discharge ~~within 6 months~~ after, the date of submission of the application.

3.a. Holds an active, unencumbered license issued by another state, the District of Columbia, or a possession or territory of the United States and who has not had disciplinary action taken against him or her in the 5 years preceding the date of submission of the application;

b. Is a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required to practice in the United States Armed Forces, if he or she submits to the department evidence of military training or experience substantially equivalent to the requirements for licensure in this state in that profession and evidence that he or she has obtained a passing score on the appropriate



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examination of a national or regional standards organization if required for licensure in this state; or

c. Is the spouse of a person serving on active duty in the United States Armed Forces and is a health care practitioner in a profession for which licensure in another state or jurisdiction is not required, if he or she submits to the department evidence of training or experience substantially equivalent to the requirements for licensure in this state in that profession and evidence that he or she has obtained a passing score on the appropriate examination of a national or regional standards organization if required for licensure in this state.

4. Attests that he or she is not, at the time of submission of the application, the subject of a disciplinary proceeding in a jurisdiction in which he or she holds a license or by the United States Department of Defense for reasons related to the practice of the profession for which he or she is applying.

5. Actively practiced the profession for which he or she is applying for the 3 years preceding the date of submission of the application.

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

The department shall verify information submitted by the applicant under this subsection using the National Practitioner Data Bank.

(c) Each applicant who meets the requirements of this subsection shall be licensed with all rights and





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responsibilities as defined by law. The applicable board, or the department if there is no board, may deny an application if the applicant has been convicted of or pled guilty or nolo contendere to, regardless of adjudication, a ~~any~~ felony or misdemeanor related to the practice of a health care profession regulated by this state.

(d) An applicant for initial licensure under this subsection must submit the information required by ss. 456.039(1) and 456.0391(1) no later than 1 year after the license is issued.

(5)(a) ~~(4)(a)~~ The board, or the department if there is no board, shall issue a professional license to the spouse of an active duty member of the United States Armed Forces ~~of the United States~~ who submits all of the following to the department:

1. A completed application upon a form prepared and furnished by the department in accordance with the board's rules. ~~†~~

2. Proof that the applicant is married to a member of the United States Armed Forces ~~of the United States~~ who is on active duty. ~~†~~

3. Proof that the applicant holds a valid license for the profession issued by another state, the District of Columbia, or a possession or territory of the United States, ~~†~~ and is not the subject of any disciplinary proceeding in any jurisdiction in which the applicant holds a license to practice a profession regulated by this chapter. ~~†~~

4. Proof that the applicant's spouse is assigned to a duty station in this state pursuant to the member's official active



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duty military orders. ~~and~~

5. Proof that the applicant would otherwise be entitled to full licensure under the appropriate practice act, ~~and~~ and is eligible to take the respective licensure examination as required in Florida.

(b) The applicant must also submit to the Department of Law Enforcement a complete set of fingerprints. The Department of Law Enforcement shall conduct a statewide criminal history check and forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check.

(c) Each board, or the department if there is no board, shall review the results of the state and federal criminal history checks according to the level 2 screening standards in s. 435.04 when granting an exemption and when granting or denying the license.

(d) The applicant shall pay the cost of fingerprint processing. If the fingerprints are submitted through an authorized agency or vendor, the agency or vendor shall collect the required processing fees and remit the fees to the Department of Law Enforcement.

(e) The department shall waive the applicant's licensure application fee.

(f) An applicant for a license under this subsection is subject to ~~the requirements under~~ s. 456.013(3)(a) and (c).

(g) An applicant shall be deemed ineligible for a license pursuant to this section if the applicant:

1. Has been convicted of or pled nolo contendere to, regardless of adjudication, any felony or misdemeanor related to the practice of a health care profession;



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2. Has had a health care provider license revoked or suspended from another of the United States, the District of Columbia, or a United States territory;

3. Has been reported to the National Practitioner Data Bank, unless the applicant has successfully appealed to have his or her name removed from the data bank; or

4. Has previously failed the Florida examination required to receive a license to practice the profession for which the applicant is seeking a license.

(h) The board, or the department if there is no board, may revoke a license upon finding that the individual violated the profession's governing practice act.

(i) The board, or the department if there is no board, shall expedite all applications submitted by a spouse of an active duty member or veteran of the United States Armed Forces ~~of the United States~~ pursuant to this subsection and shall issue a license within 7 days after receipt of all required documentation for such application.

~~(6)-(5)~~ The spouse of a person serving on active duty with the United States Armed Forces shall have a defense to any citation and related cause of action brought under s. 456.065 if the following conditions are met:

(a) The spouse holds an active, unencumbered license issued by another state or jurisdiction to provide health care services for which there is no equivalent license in this state.

(b) The spouse is providing health care services within the scope of practice of the out-of-state license.

(c) The training or experience required by the out-of-state license is substantially similar to the license requirements to



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practice a similar health care profession in this state.

Section 7. Paragraph (b) of subsection (2) and subsection (6) of section 456.0241, Florida Statutes, are amended, and a new subsection (7) is added to that section, to read:

456.0241 Temporary certificate for active duty military health care practitioners.—

(2) The department may issue a temporary certificate to an active duty military health care practitioner to practice in a regulated profession in this state if the applicant:

(b) Submits a complete application ~~and a nonrefundable application fee.~~

The department shall verify information submitted by the applicant under this subsection using the National Practitioner Data Bank.

~~(6) The department shall, by rule, set an application fee not to exceed \$50 and a renewal fee not to exceed \$50.~~

(7) The department shall waive the temporary licensing fee.

Section 8. Section 456.0242, Florida Statutes, is created to read:

456.0242 Office of Veteran Licensure Services.—

(1) The Office of Veteran Licensure Services is established within the Division of Medical Quality Assurance. The office shall assist active duty members of the United States Armed Forces, the United States Reserve Forces, and the National Guard, veterans, and the spouses of veterans who seek to become a licensed health care practitioner in this state.

(2) The office shall be headed by an executive director, designated by the department, who must be a veteran.



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(3) The office shall:

(a) Provide information, guidance, direction, and assistance with the licensure process.

(b) Coordinate with each board, or the department if there is no board, to expedite all applications submitted pursuant to s. 456.024.

(c) Refer an individual requesting assistance with resume writing and proofreading, job application completion, and interviewing skills and techniques to Florida Is For Veterans, Inc.

(d) Refer an individual requesting information about educational or employment opportunities in health care professions to Florida Is For Veterans, Inc.

(e) Submit a report by November 11 of each year to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report must categorize each individual as an active duty member, a veteran, or a veteran's spouse and must include, but is not limited to:

1. The number of individuals served.

2. The educational and training background of each individual seeking licensure.

3. Each health care license an individual holds in another state, irrespective of the current status of such license.

4. The number of licensure applications received.

5. The average number of calendar days required to license a qualified applicant.

6. The number of referrals made for vocational assistance.

(4) The department may adopt rules necessary to implement this section.



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Section 9. For the 2023-2024 fiscal year, four full-time equivalent positions with associated salary rate of 223,879 are authorized and the sums of \$380,209 in recurring funds and \$19,356 in nonrecurring funds from the Medical Quality Assurance Trust Fund are appropriated to the Department of Health for the purpose of implementing this act.

Section 10. This act shall take effect July 1, 2023.

===== T I T L E   A M E N D M E N T =====  
And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to benefits, training, and employment for veterans and their spouses; amending s. 288.0001, F.S.; requiring the Economic Development Programs Evaluation to include a periodic analysis of the Veterans Employment and Training Services Program; amending ss. 292.05 and 295.21, F.S.; revising the duties of the Department of Veterans' Affairs and Florida Is For Veterans, Inc., respectively, to include provision of certain assistance to veterans' spouses; amending s. 295.22, F.S.; revising legislative findings and intent; revising the purpose and duties of the Veterans Employment and Training Services Program to include provision of certain assistance to veterans' spouses; requiring priority for the award of certain grants to be given to businesses in the health care industry; removing



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provisions authorizing grant administration by CareerSource Florida, Inc.; requiring Florida Is For Veterans, Inc., to assist veterans or their spouses in accessing employment and licensure in health care professions; amending s. 456.013, F.S.; deleting provisions relating to the waiver of certain fees for veterans or their spouses; amending s. 456.024, F.S.; requiring the Department of Health to waive certain fees for veterans and their spouses under certain circumstances; providing requirements for application for such waiver; deleting a limitation on the period in which a member of the United States Armed Forces must receive an honorable discharge from service in order to be issued a license to practice a health care profession in this state; requiring the appropriate board or the department to expedite health care licensure applications submitted by veterans and to issue a license within a specified period; amending s. 456.0241, F.S.; deleting provisions relating to application and renewal fees for temporary certification of an active duty military health care practitioner to practice in a regulated profession in this state; requiring the department to waive the temporary licensing fee; creating s. 456.0242, F.S.; establishing the Office of Veteran Licensure Services within the Division of Medical Quality Assurance; requiring the office to designate a veteran as executive director of the office; providing duties of the office; requiring an annual report to the Governor



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591       and Legislature; providing report requirements;  
592       authorizing the department to adopt rules; providing  
593       appropriations and authorizing positions; providing an  
594       effective date.



By Senator Torres

25-01713-23

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1 A bill to be entitled  
 2 An act relating to the Military Corpsmen and Medics of  
 3 Florida Program; creating s. 295.126, F.S.; providing  
 4 legislative intent; defining terms; establishing the  
 5 Military Corpsmen and Medics of Florida (MCMF)  
 6 Program; providing the purposes of the program;  
 7 providing the components of the program; creating the  
 8 MCMF Program Office of Veterans Advocacy within the  
 9 Department of Health; providing that the MCMF Program  
 10 Veterans' Advocate is the head of the office;  
 11 providing qualifications of the advocate; prescribing  
 12 duties of the advocate; requiring the MCMF Program,  
 13 through the Department of Economic Opportunity, to  
 14 assist certain veterans and their spouses with  
 15 specified tasks; requiring Florida Is For Veterans,  
 16 Inc., to coordinate with specified entities to fulfill  
 17 the program's purposes and recruit, establish, and  
 18 maintain a statewide list of participating health care  
 19 providers; requiring the department to waive certain  
 20 fees for specified veterans and their spouses;  
 21 authorizing the department to adopt rules; amending s.  
 22 295.22, F.S.; requiring Florida Is for Veterans, Inc.,  
 23 to collaborate with specified entities to implement  
 24 the MCMF Program; specifying duties of Florida Is For  
 25 Veterans, Inc., related to the program; creating s.  
 26 1004.0963, F.S.; defining the term "department  
 27 boards"; requiring the Board of Governors and the  
 28 State Board Of Education, in consultation with  
 29 specified entities, to adopt specified regulations and

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

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30 rules, respectively; requiring the Articulation  
 31 Coordinating Committee to convene a workgroup by a  
 32 specified date; providing responsibilities of the  
 33 workgroup; providing the membership of the workgroup;  
 34 requiring the Office of K-20 Articulation to provide  
 35 administrative support to the workgroup; requiring the  
 36 workgroup to establish a specified process for  
 37 prioritizing and determining certain course  
 38 equivalencies and minimum credit or clock hours  
 39 awarded to certain individuals; requiring the  
 40 workgroup to provide certain recommendations to the  
 41 Board of Governors and the State Board of Education by  
 42 a specified date; requiring the Articulation  
 43 Coordinating Committee to approve a specified list of  
 44 certain course equivalencies and credits and clock  
 45 hours for certain veterans; requiring the committee to  
 46 annually update the list; requiring specified entities  
 47 to annually adopt the updated list; providing  
 48 applicability; requiring specified entities to award  
 49 credit and clock hours for courses taken and training  
 50 received by certain veterans under specified  
 51 conditions; authorizing postsecondary institutions to  
 52 award additional credit or clock hours, if  
 53 appropriate; providing that certain credit or clock  
 54 hours earned by veterans under certain conditions are  
 55 guaranteed to transfer to specified entities;  
 56 authorizing the Articulation Coordinating Committee to  
 57 form a certain subcommittee; providing an effective  
 58 date.

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

Section 1. Section 295.126, Florida Statutes, is created to read:

295.126 Military Corpsmen and Medics of Florida (MCMF) Program.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to assist military-trained health care veterans and their spouses in finding employment in this state's health care and health care-related industries, occupations, and professions as they transition to civilian life and to offer educational credit to military-trained health care veterans for their service in the United States military, to be applied toward the education and training required in this state to attain a health care or health care-related license to enter a health care or health care-related industry, occupation, or profession.

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

(a) "Department" means the Department of Health.

(b) "License" has the same meaning as in s. 456.001.

(c) "Military-trained health care veteran" means a person who:

1. Has served within the preceding consecutive 12 months as an Army Combat Medic Specialist, a Navy or Fleet Marine Force Hospital Corpsman, an Air Force or Space Force Aerospace Medical Service Technician, or a Coast Guard Health Services Technician, or in other military positions similar to civilian X-ray technicians, dental assistants, medical assistants, or phlebotomists; and

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2. Was discharged or separated from military service under conditions other than dishonorable or whose discharge was upgraded to an honorable discharge.

(d) "Participating health care provider" means:

1. A physician licensed under chapter 458 or an osteopathic physician licensed under chapter 459;

2. A professional corporation or partnership of physicians licensed under chapter 458 or osteopathic physicians licensed under chapter 459;

3. A hospital or ambulatory surgical center licensed under chapter 395;

4. An office registered under s. 458.328 or s. 459.0138;

5. A commercial enterprise having medical facilities for its employees which are supervised by one or more physicians licensed under chapter 458 or osteopathic physicians licensed under chapter 459; or

6. A facility licensed under chapter 395 which offers medical services to the public and is supervised by one or more physicians licensed under chapter 458 or osteopathic physicians licensed under chapter 459.

(e) "Veteran" has the same meaning as in s. 1.01(14) and includes a former member of the Florida National Guard who was discharged or separated from service under conditions other than dishonorable or was upgraded to an honorable discharge.

(3) ESTABLISHMENT.—The department, in collaboration with the Department of Veterans' Affairs, Florida Is For Veterans, Inc., and the Department of Economic Opportunity, shall establish and administer the Military Corpsmen and Medics of Florida (MCMF) Program.

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117 (4) PURPOSES.—The purposes of the MCMF Program include, but  
 118 are not limited to, the following:

119 (a) Assisting military-trained health care veterans and  
 120 their spouses to identify and apply for health care-related  
 121 employment and health care licensure and certification and to  
 122 connect veterans who have military health care training and are  
 123 seeking employment in health care fields with health care  
 124 organizations seeking to hire dedicated, well-trained workers.

125 (b) Meeting the health care workforce demands of this state  
 126 by facilitating access to training and education in health care  
 127 and health care-related fields for veterans and their spouses  
 128 and by promoting the health care licensing and certification  
 129 programs provided by the state.

130 (c) Assisting military-trained health care veterans and  
 131 their spouses to identify health care and health care-related  
 132 industries, occupations, and professions within this state for  
 133 which they may be immediately qualified to apply or to apply for  
 134 licensure or certification based on previous civilian or  
 135 military health care training.

136 (d) Assisting military-trained health care veterans and  
 137 their spouses to identify health care and health care-related  
 138 education and training programs within this state which will  
 139 recognize veterans' and their spouses' medical skills and which  
 140 will allow such veterans and spouses to build on those skills in  
 141 order to gain employment and work toward obtaining appropriate  
 142 health care licensure or certification.

143 (e) Assisting military-trained health care veterans and  
 144 their spouses with licensure under ss. 456.024 and 456.0241, if  
 145 applicable.

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146 (5) PROGRAM COMPONENTS.—The MCMF Program consists of the  
 147 following components:

148 (a) Office of Veterans Advocacy.—

149 1. There is created within the department the MCMF Program  
 150 Office of Veterans Advocacy.

151 2. The department shall designate an MCMF Program Veterans'  
 152 Advocate, who shall serve on a full-time basis as the head of  
 153 the program and carry out the purposes and functions of the  
 154 office in accordance with state and federal law.

155 3. The MCMF Program Veterans' Advocate shall manage the  
 156 implementation and administration of the program through ongoing  
 157 collaboration with the United States Department of Defense, the  
 158 Department of Veterans' Affairs, the Department of Economic  
 159 Opportunity, Florida Is For Veterans, Inc., the Department of  
 160 Education, and any other identified stakeholders to further the  
 161 mission of the program.

162 4. The MCMF Program Veterans' Advocate must possess  
 163 significant advocacy skills and an understanding of the  
 164 following:

165 a. The Armed Services Vocational Aptitude Battery;

166 b. The Armed Forces Qualification Test;

167 c. United States military occupation specialty code (MOS)  
 168 categories;

169 d. The training received by veterans in various MOS  
 170 categories; and

171 e. The practice requirements of the various comparable  
 172 department-recognized, licensed occupations and professions.

173 5. The duties of the MCMF Program Veterans' Advocate  
 174 include, but are not limited to, the following:

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a. Providing information, guidance, direction, and assistance, as needed, with the licensure or certification application process or with expedited licensing or certification, as appropriate, to military-trained health care veterans and their spouses transitioning into civilian health care and health care-related industries, occupations, and professions;

b. Providing on the department's website and in pamphlet format specific information, including available statewide educational and training opportunities and resources for which military-trained health care veterans and their spouses may immediately qualify;

c. Providing guidance, direction, and assistance, as needed, including specific information on the department's website and in pamphlet format, for military-trained health care veterans and their spouses on additional education and training required to obtain licensure or certification for health care and health care-related occupations and professions and whether such veterans and spouses may qualify for expedited state licensure or certification in the following health care and health care-related occupations:

(I) Licensed registered or practical nurse under ss. 464.008, 464.009, 464.0095, and 456.024;

(II) Optician under s. 484.007;

(III) Certain radiological personnel under part IV of chapter 468;

(IV) Emergency medical technician under chapter 401;

(V) Paramedic under chapter 401; and

(VI) Any other health care license type for which the

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department finds a military-trained health care veteran or his or her spouse needs guidance, direction, and assistance; and

d. Referring any requests to the Department of Economic Opportunity to assist military-trained health care veterans and their spouses in resume writing and proofreading, job application completion, and interviewing skills and techniques.

(b) No veteran left behind.—Veterans who do not meet the definition of the term “military-trained health care veteran” but who have served in health care-related fields must receive assistance from the MCMF Program through the Department of Economic Opportunity in resume writing and proofreading, mentorship, and obtaining employment with participating health care providers.

(c) Health care leadership.—The MCMF Program, through the Department of Economic Opportunity, shall assist veterans and their spouses who have gained management experience or have completed an advanced degree in finding civilian health care leadership and management employment opportunities in a variety of health care and health care-related disciplines.

(d) Promote participating health care providers.—Florida Is For Veterans, Inc., in coordination with the Department of Economic Opportunity, the Department of Health, and the MCMF Program Office of Veterans Advocacy, shall work to fulfill the purposes of the program and to recruit, establish, and maintain a statewide list of the MCMF Program participating health care providers which it shall make available to the department, the MCMF Program, and veterans and their spouses upon request.

(6) FEES.—The department shall waive all application fees, certificate fees, and unlicensed activity fees for military-

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233 trained health care veterans and their spouses.

234 (7) RULEMAKING AUTHORITY.—The department may adopt rules

235 pursuant to ss. 120.536(1) and 120.54 to implement this section.

236 Section 2. Paragraph (g) is added to subsection (3) of

237 section 295.22, Florida Statutes, to read:

238 295.22 Veterans Employment and Training Services Program.—

239 (3) ADMINISTRATION.—Florida Is For Veterans, Inc., shall

240 administer the Veterans Employment and Training Services Program

241 and perform all of the following functions:

242 (g) Assist the Department of Health in fulfilling the

243 purposes of the Military Corpsmen and Medics of Florida (MCMF)

244 Program as set forth in s. 295.126(4). The corporation shall:

245 1. Recruit health care providers to participate in the MCMF

246 Program and establish and maintain a statewide list, by

247 geographical area, of such participating health care providers

248 as defined in s. 295.126(2) in furtherance of the Legislature's

249 intent to provide preference, priority, and available waivers to

250 military-trained health care veterans as defined in s.

251 295.126(2) and their spouses for certain educational

252 requirements in the hiring practices set forth in ss. 295.065,

253 295.07, 295.08, and 295.085. The corporation shall make the list

254 available to military-trained health care veterans and their

255 spouses upon request.

256 2. Assist participating health care providers in recruiting

257 and hiring military-trained health care veterans and their

258 spouses by connecting such health care providers with suitable

259 applicants for employment.

260 3. Assist a military-trained health care veteran

261 participating in the program, or the veteran's spouse, in

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262 identifying participating health care providers for potential

263 employment, including providing assistance with resume writing

264 and proofreading, application completion, and interviewing

265 skills. The corporation may consult and coordinate with the

266 Department of Economic Opportunity to make referrals for such

267 assistance.

268 4. Assist MCMF Program military-trained health care

269 veterans and their spouses who have gained management experience

270 or have completed an advanced degree in finding civilian health

271 care leadership and management employment in a variety of health

272 care and health care-related disciplines. The corporation may

273 consult and coordinate with the Department of Economic

274 Opportunity to make referrals for such assistance.

275 Section 3. Section 1004.0963, Florida Statutes, is created

276 to read:

277 1004.0963 Postsecondary credit for health care and health

278 care-related military training and education courses.—

279 (1) As used in this section, the term "department boards"

280 means any Department of Health board or the department if there

281 is no board.

282 (2) In consultation with the Department of Veterans'

283 Affairs and the Department of Health, the Board of Governors

284 shall adopt regulations, and the State Board of Education shall

285 adopt rules, to create a process that enables eligible military-

286 trained health care veterans as defined in s. 295.126(2) to earn

287 uniform postsecondary educational credit across all public

288 postsecondary educational institutions in this state for

289 college-level education and training acquired while serving in

290 the military. The regulations and rules must include procedures

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for credential evaluation and the uniform award of postsecondary educational credit and career education academic and clinical clock hours, including, but not limited to, equivalency and alignment of military coursework with appropriate postsecondary educational courses and course descriptions. The regulations and rules must provide for procedures to develop systematically coordinated educational course equivalencies to be included in the statewide articulation agreement required by s. 1007.23(1) which enable eligible military-trained health care veterans to earn uniform educational course credit and uniform academic and clinical clock hours across all public colleges, universities, training schools, and training programs in this state for education and training acquired in the military.

(3) The Articulation Coordinating Committee shall convene a workgroup by July 15, 2024, which is responsible for developing a process for determining postsecondary educational course equivalencies and the minimum postsecondary educational credit for career education and academic and clinical clock hours which must be awarded for courses taken and occupations performed by individuals during their service in the military.

(a) The workgroup shall be composed of the following members:

1. The chair of the Articulation Coordinating Committee or his or her designee, who shall serve as chair.

2. One member representing academic affairs administrators and faculty from state universities with expertise in health care and health care-related industries, occupations, and professions, appointed by the chair of the Board of Governors.

3. One member representing academic affairs administrators

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and faculty from Florida College System institutions with expertise in health care and health care-related industries, occupations, and professions, appointed by the chair of the State Board of Education.

4. One member representing faculty from career centers with expertise in health care and health care-related industries, occupations, and professions, appointed by the State Board of Education.

5. Two members representing veterans familiar with the Armed Services Vocational Aptitude Battery; the Armed Forces Qualification Test; the military occupation specialty code (MOS) categories; and the training received by veterans in various MOS categories, appointed by the executive director of the Department of Veterans' Affairs.

6. Four faculty members, appointed by the appropriate department boards, who represent, respectively, state universities, Florida College System institutions, career centers, training schools, and training programs in this state which train emergency medical technicians, opticians, paramedics, licensed practical nurses, registered nurses, and radiologic technologists, or other health care or health care-related industries, occupations, or professions as deemed appropriate by the Department of Health.

(b) The Office of K-20 Articulation shall provide administrative support to the workgroup.

(c) The workgroup shall establish a process for prioritizing and determining postsecondary educational course equivalencies and the minimum postsecondary educational credit or career education and academic and clinical clock hours that

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349 must be awarded for courses taken and training received for  
 350 occupations performed by individuals during their service in the  
 351 military. The workgroup shall provide recommendations to the  
 352 Board of Governors and the State Board of Education by December  
 353 1, 2025, for approval at the next meeting of each applicable  
 354 department board to allow for adequate public notice.

355 (d) Upon approval of the workgroup's recommendations, the  
 356 Articulation Coordinating Committee shall facilitate the review  
 357 of courses taken and occupations performed by individuals during  
 358 their service in the military for postsecondary educational  
 359 course equivalencies and the minimum postsecondary educational  
 360 credit or career education and academic and clinical clock hours  
 361 that must be awarded in accordance with the approved process.

362 (e) Within 1 year after approval of the workgroup's  
 363 recommendations, the Articulation Coordinating Committee shall  
 364 approve a prioritized list of systematically coordinated  
 365 postsecondary educational course equivalencies and the minimum  
 366 postsecondary educational credit for military career education  
 367 and training and academic and clinical clock hours that must be  
 368 awarded for courses taken and occupations performed by  
 369 individuals during their service in the military. The list must  
 370 be updated annually. The Board of Governors, the applicable  
 371 department boards, and the State Board of Education must timely  
 372 adopt the list approved by the Articulation Coordinating  
 373 Committee at the next meeting of each applicable board to allow  
 374 for adequate public notice. For the purpose of statewide  
 375 application, postsecondary educational course equivalencies and  
 376 the minimum postsecondary educational credit, career education,  
 377 and academic and clinical clock hours that must be awarded for

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378 courses taken and the training received for occupations  
 379 performed by individuals during service in the military must be  
 380 delineated by the State Board of Education and the Board of  
 381 Governors in the statewide articulation agreement required by s.  
 382 1007.23(1).

383 (f) State universities, Florida College System  
 384 institutions, career centers, training schools, and training  
 385 programs must award postsecondary educational credit and  
 386 academic and clinical clock hours for courses taken and training  
 387 received for occupations performed by individuals during service  
 388 in the military based on the list adopted by the Board of  
 389 Governors, the State Board of Education, and the applicable  
 390 department boards pursuant to paragraph (e) if the educational  
 391 credit or career education and academic and clinical clock hours  
 392 can be applied toward the student's degree or certificate.

393 (g) Postsecondary educational institutions may award  
 394 additional educational credit and academic and clinical clock  
 395 hours, if appropriate. Educational credit or academic and  
 396 clinical clock hours awarded in accordance with minimum  
 397 postsecondary educational credit and academic and clinical clock  
 398 hour requirements, respectively, are guaranteed to transfer to  
 399 other state universities, Florida College System institutions,  
 400 career centers, training schools, and training programs.

401 (h) The Articulation Coordinating Committee may form a  
 402 subcommittee to carry out the committee's duties under this  
 403 subsection.

404 Section 4. This act shall take effect July 1, 2023.



# 2022 AGENCY LEGISLATIVE BILL ANALYSIS

**AGENCY: Florida Department of Health**

<b><u>BILL INFORMATION</u></b>	
<b>BILL NUMBER:</b>	466
<b>BILL TITLE:</b>	Military Medics and Corpsmen of Florida Program
<b>BILL SPONSOR:</b>	Torres
<b>EFFECTIVE DATE:</b>	July 1, 2022

<b><u>COMMITTEES OF REFERENCE</u></b>
1) Health Policy
2) Military and Veterans Affairs, Space & Dom. Sec
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

<b><u>CURRENT COMMITTEE</u></b>
Click or tap here to enter text.

<b><u>SIMILAR BILLS</u></b>	
<b>BILL NUMBER:</b>	131
<b>SPONSOR:</b>	Woodson

<b><u>PREVIOUS LEGISLATION</u></b>	
<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.
<b>YEAR:</b>	Click or tap here to enter text.
<b>LAST ACTION:</b>	Click or tap here to enter text.

<b><u>IDENTICAL BILLS</u></b>	
<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

<b>Is this bill part of an agency package?</b>
No

<b><u>BILL ANALYSIS INFORMATION</u></b>	
<b>DATE OF ANALYSIS:</b>	February 3, 2022
<b>LEAD AGENCY ANALYST:</b>	Janet Hartman
<b>ADDITIONAL ANALYST(S):</b>	Click or tap here to enter text.
<b>LEGAL ANALYST:</b>	Louise St. Laurent
<b>FISCAL ANALYST:</b>	Madison Adkins

## **POLICY ANALYSIS**



## **1. EXECUTIVE SUMMARY**

The bill creates the Military Medics and Corpsman of Florida (MMACOF) program within the Department of Health in collaboration with Florida Is For Veterans, Inc., to offer clinical, nonclinical, and leadership career pathways to veterans seeking health care careers in Florida.

The bill requires Florida Is For Veterans, Inc. to recruit and review the military eligibility of veterans for acceptance into the MMACOF program established by the Department of Health. The bill requires the Department of Health and the Board of Medicine to establish a certification program for military veterans with civilian and military education, training, and practice skills in specified health care professions.

## **2. SUBSTANTIVE BILL ANALYSIS**

### **1. PRESENT SITUATION:**

#### **Florida Is For Veterans, Inc.**

The legislature created *Florida Is For Veterans, Inc.*, to promote Florida as a veteran-friendly state that seeks to provide veterans with employment opportunities and promotes the hiring of veterans by the business community. The corporation was established to encourage retired and recently separated military personnel to remain in the state or to make the state their permanent residence.

#### **Florida Department of Health (DOH)**

The Legislature created the DOH to protect and promote the health, safety and welfare of all residents and visitors in the state. The DOH is charged with the regulation of health practitioners for the preservation of the health, safety, and welfare of the public.

#### **Health Care Practitioner Regulation**

The DOH, Division of Medical Quality Assurance (MQA) provides health care practitioner regulation and support to health care licensure boards and councils. Boards are responsible for approving or denying an applicant's licensed based upon:

- The applicants' qualifications specified in statute;
- Reviewing and approving continuing education courses and practitioners;
- Promulgating administrative rules authorized by statute;
- Determining probable cause in cases resulting from complaints; and
- Disciplining practitioners found to be in violation of applicable laws.

The Division of MQA licenses and regulates seven types of health care facilities and more than 200 license types in over 40 professions, while partnering with 22 boards and four councils.

#### **Board of Medicine**

The Florida Board of Medicine was established to ensure that every physician practicing in this state meets minimum requirements for safe practice. The Board of Medicine is composed of 15 members appointed by the Governor and confirmed by the Senate. Twelve members of the board must be licensed physicians in good standing in this state who are residents of the state and who have been engaged in the active practice or teaching of medicine for at least 4 years immediately preceding their appointment.

One of the physicians must be on the full-time faculty of a medical school in this state, and one of the physicians must be in private practice and on the full-time staff of a statutory teaching hospital in this state as defined in section 408.07, Florida Statutes. At least one of the physicians must be a graduate of a foreign medical school. The remaining three members must be residents of the state who are not, and never have been, licensed health care practitioners. One member must be a health care risk manager. At least one member of the board must be 60 years of age or older. The Board of Medicine renders license application determinations and holds disciplinary hearings at regularly scheduled meetings six times per year.

## **Health Care Practitioner Scope of Practice**

The scope of practice for a regulated health care profession includes those activities and procedures that a person with a specified level of education, training, and competency is authorized to perform under the laws and rules of the state in which the person practices. Scope of practice can also incorporate conditions that may limit the exercise of authorized activities and procedures. Licensed health care practitioners in Florida may only perform that which is authorized by the scope of practice for their profession. Individuals who perform functions outside of their scope of practice are subject to discipline.

## **Qualifications for Licensure**

Protection of the public is incumbent upon the accurate determination that a health care professional is qualified to practice the health care profession for which they are seeking licensure. Florida Statutes delineate the minimum qualifications for each license based on the profession and the associated scope of practice. However, all professions have the same general categories of requirements for licensure, including:

- Minimum educational requirements. This requirement may also encompass an internship program or residency training.
- Successful examination completion. Most health care professions require the successful completion of a national examination to demonstrate competency.
- Criminal history evaluation. All applicants are required to disclose prior criminal history, professions identified in section 456.0135, Florida Statutes, require electronic fingerprint submission. Certain criminal activity reflected in the history may preclude licensure.
- Disciplinary history evaluation. Disciplinary history evaluation includes all prior licensure in any profession in any jurisdiction. Certain types of discipline may preclude licensure.
- Health history evaluation. Applicants are required to disclose health history, including evidence of impairment. Boards evaluate the disclosure to determine if the applicant is safe to practice prior to making a final licensure determination.

## **Administrative Procedures Act – Licensing**

Section 120.60, Florida Statutes, provides specific timelines and requirements for reviewing and rendering decisions on licensure regulated by the State of Florida. Upon receipt of a license application, the department is responsible for examining the application and, within 30 days after receipt, notifying the applicant of any apparent errors or omissions and request any additional information the department is authorized by law to require. An application is considered complete upon receipt of all requested information and correction of any error or omission for which the applicant was timely notified or when the time for such notification has expired. An application for a license must be approved or denied within 90 days after receipt of a completed application unless a shorter period of time for agency action is provided by law.

## **Certified Nursing Assistant**

Certified nursing assistants are certified and regulated by the Board of Nursing. In accordance with section 464.201(5), Florida Statutes, a Certified Nursing Assistant may provide care and assistance to persons with tasks related to the activities of daily living. This includes tasks associated with personal care, maintaining mobility, nutrition and hydration, 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, residents' or patients' rights, documentation of nursing-assistant services. Other tasks may be performed upon completion of training beyond the minimum qualifications for initial certification and upon validation of competence in that skill by a registered nurse.

Licensure for Certified Nursing Assistant, in accordance with section 464.203, Florida Statutes, includes the following minimum qualifications, education, and exam requirements:

- Completion of a high school diploma or its equivalent and achieve a minimum score, established by rule of the board, on the nursing assistant competency examination. The examination consists of a written portion and skills-demonstration portion approved by the board and administered at a site and by personnel approved by the department; or
- Successful completion of an approved training program and achieve a minimum score on the nursing assistant competency examination; or
- Completion of the curriculum developed under the Enterprise Florida Jobs and Education Partnership Grant and achieved a minimum score on the nursing assistant competency examination.

General supervision of certified nursing assistants requires a registered nurse or a licensed practical nurse currently licensed under Chapter 464, Florida Statutes, to authorize procedures being carried out by a certified nursing assistant with no requirement to be present when such procedures are performed. The certified nursing assistant must be able to contact the registered nurse or licensed practical nurse when needed for consultation and advice either in person or by communication devices. Direct supervision refers to the physical presence within the patient care unit of a healthcare facility or physical presence within a healthcare agency of a program instructor who assumes responsibility for the practice of the certified nursing assistant.

### **Dental Assistant**

Dental assistants are not issued health care practitioner licenses. In accordance with section 466.024, Florida Statutes, a dental assistant may be delegated tasks which pose no risk to the patient. Rule 64B5-16.005, Florida Administrative Code, outlines the tasks a dental assistant is authorized by the Board of Dentistry to perform based on completion of specific training and supervision requirements.

A dental assistant who has received on-the-job training can perform the following tasks under supervision of a dentist: retraction of lips, cheeks and tongue; irrigation and evacuation of debris not to include endodontic irrigation; placement and removal of cotton rolls; taking and recording a patient's blood pressure, pulse rate, respiration rate, case history and oral temperature; removing excess cement from orthodontic appliances with non-mechanical hand instruments only; instructing patients in oral hygiene care and supervising oral hygiene care; provide educational programs, faculty or staff programs, and other educational services which do not involve diagnosis or treatment of dental conditions; and fabricating temporary crowns or bridges in a laboratory.

Dental assistants who meet the following educational requirements, may perform all of tasks for which they have been trained:

- Completion of a dental assisting program that is either approved by the board or accredited by the Commission on Accreditation of the American Dental Association; or
- Dental Assisting programs approved by the Florida Board of Dentistry

Dental Assistants may also perform delegable restorative functions if they have completed a mandatory training course from an accredited dental or dental hygiene program that is accredited by a dental accrediting entity recognized by the United States Department of Education.

Section 466.003(8), Florida Statutes, defines direct supervision of a dental assistant whereby a dentist diagnoses the condition to be treated, a dentist authorizes the procedure to be performed, a dentist remains on the premises while the procedures are performed, and a dentist approves the work performed before dismissal of the patient.

### **Dental Hygienist**

Dental hygienists are licensed and regulated by the Board of Dentistry. In accordance with section 466.023, Florida Statutes, a dental hygienist may be delegated the task of removing calculus deposits, accretions, and stains from exposed surfaces of the teeth and from the gingival sulcus as well as performing root planing and curettage. In addition, dental hygienists may expose dental X-ray films; apply topical preventive or prophylactic agents; and perform all tasks

delegable by the dentist in accordance with section 466.024, Florida Statutes. Dental Hygienists may also perform delegable restorative functions if they have completed a mandatory training course from an accredited dental or dental hygiene program that is accredited by a dental accrediting entity recognized by the United States Department of Education.

Licensure for a dental hygienist is in accordance with section 466.007, Florida Statutes, and includes the following minimum education qualifications and exam requirements, with noted alternative methods to meet requirements:

- Graduation from an accredited dental hygiene college or school approved by the board or accredited by the Commission on Accreditation of the American Dental Association or its successor entity, if any, or any other dental hygiene program accrediting entity recognized by the United States Department of Education; or
- Graduation from a dental college or school accredited in accordance with section 466.006(2)(b), Florida Statutes, or a graduate of an unaccredited dental college or school, with submission of their credentials, which include, transcripts totaling 4 academic years of post-secondary education and a dental school diploma comparable to a DDS or DMD to the board for review; and
- Passed the ADEX Dental Hygiene Licensing Examination administered in Florida or in another jurisdiction other than Florida. ADEX scores are valid if taken on or after June 1, 2010; and
- Passed the Florida Laws and Rules Examination.

Dental hygienists may be certified by the Board of Dentistry to administer local anesthesia under direct supervision of a dentist so long as they have completed an approved 60 hour training course.

Section 466.003(8), Florida Statutes, defines direct supervision of dental hygienists whereby a dentist diagnoses the condition to be treated, a dentist authorizes the procedure to be performed, a dentist remains on the premises while the procedures are performed, and a dentist approves the work performed before dismissal of the patient.

### **Emergency Medical Technician**

Emergency medical technicians are certified and regulated by the Department of Health. In accordance with section 401.23, Florida Statutes, an Emergency Medical Technician may perform basic life support techniques. Basic life support includes the treatment of medical emergencies by a qualified person through the use of techniques such as patient assessment, cardiopulmonary resuscitation (CPR), splinting, obstetrical assistance, bandaging, administration of oxygen, application of medical antishock trousers, administration of a subcutaneous injection using a premeasured autoinjector of epinephrine to a person suffering an anaphylactic reaction, and other techniques described in the Emergency Medical Technician Basic Training Course Curriculum of the United States Department of Transportation.

Qualifications for Emergency Medical Technician are in accordance with section 401.27, Florida Statutes, and include the following minimum requirements:

- Out of state or military applicants trained in accordance with either the 1994 U.S. DOT EMT-Basic National Standard Curriculum or the January 2009 U.S. DOT National EMS Education Standards and currently hold a valid EMT certification from the National Registry of Emergency Medical Technicians (NREMT); or
- Completion of an emergency medical technician training course equivalent to the most recent emergency medical technician basic training course of the United States Department of Transportation and within 1 year after course completion have passed the examination; and
- Maintain either a current American Heart Association cardiopulmonary resuscitation course card or an American Red Cross cardiopulmonary resuscitation course card or its equivalent.

### **Paramedic**

Paramedics are certified and regulated by the Department of Health. Section 401.23(1), Florida Statutes, authorizes a certified paramedic to perform both Basic Life Support and Advanced Life Support. ALS includes the assessment or treatment by a certified paramedic qualified in the use of techniques such as endotracheal intubation, the administration of drugs or intravenous fluids, telemetry, cardiac monitoring, cardiac defibrillation, and other techniques

described in the EMT-Paramedic National Standard Curriculum or the National EMS Education Standards, pursuant to DOH administrative rules.

To be eligible for a paramedic certification in Florida, an applicant must:

- Possess a high school diploma or GED;
- Meet the required professional education by one of the following methods: successful completion of a Florida paramedic course from an approved program; submission of current NR-EMT certification; or a Florida licensed physician, physician assistant, dentist, or registered nurse who holds a current Florida emergency medical technician may challenge the paramedic exam.
- Maintain either a current American Heart Association cardiopulmonary resuscitation course card or an American Red Cross cardiopulmonary resuscitation course card or its equivalent.

Direct supervision for emergency medical technicians and paramedics is accomplished through a designated medical director. Each basic life support transportation service or advanced life support service must employ or contract with a medical director. The medical director must be a licensed physician; a corporation, association, or partnership composed of physicians; or physicians employed by any hospital that delivers in-hospital emergency medical services and employs or contracts with physicians specifically for that purpose. Such a hospital, physician, corporation, association, or partnership must designate one physician from that organization to be medical director at any given time. The medical director must supervise and assume direct responsibility for the medical performance of the emergency medical technicians and paramedics operating for that emergency medical services system. The medical director must perform duties including advising, consulting, training, counseling, and overseeing of services, including appropriate quality assurance but not including administrative and managerial functions.

### **Licensed Practical Nurse**

Licensed practical nurses are licensed and regulated by the Board of Nursing. In accordance with section 464.003(18), Florida Statutes, a Licensed Practical Nurse may perform selected acts, including the administration of treatments and medications, in the care of the ill, injured, or infirm; the promotion of wellness, maintenance of health, and prevention of illness of others under the direction of a registered nurse, a licensed physician, a licensed osteopathic physician, a licensed podiatric physician, or a licensed dentist; and the teaching of general principles of health and wellness to the public and to students other than nursing students.

Licensure for Licensed Practical Nurse (LPN) and Registered Nurse (RN) are in accordance with section 464.003, Florida Statutes, and include the following minimum education qualifications and exam requirements, with noted alternative methods to meet requirements:

- Graduation from a Florida approved, or accredited LPN or RN nursing education program as defined in section 464.003, Florida Statutes, or
- Graduation from an Accreditation Commission for Education in Nursing (ACEN) or Commission on Collegiate Nursing Education (CCNE) accredited LPN or RN nursing program that has been issued a National Council Licensure Examination (NCLEX) code by the National Council or State Boards of Nursing (NCSBN); or
- Graduation from a LPN or RN nursing education program that is approved or recognized by the jurisdiction in which it is based and that has been issued an NCLEX code by the NCSBN; or
- Graduation from a military nursing education program that has been issued an NCLEX code by NCSBN; or
- Graduation from a generic Master of Science in Nursing (MSN) or higher program that has been issued an NCLEX code by NCSBN; or
- Graduation from a non-NCSBN jurisdiction (e.g. Puerto Rico), or international nursing education program that the board determines to be equivalent to an approved program; or
- There are specific qualifications related to Canadian Registered Nurses who took the Canadian Nurses Association Testing Service (CNATS) Examination; or
- Successful completion of courses in a registered nursing education program that are equivalent to a practical nursing education program – Practical Nurse Examination based on practical nursing Equivalency (PNEQ).

## Registered Nurse

Registered nurses are licensed and regulated by the Board of Nursing. In accordance with section 464.003(19), Florida Statutes, a Registered Nurse may perform acts requiring substantial specialized knowledge, judgment, and nursing skill based upon applied principles of psychological, biological, physical, and social sciences which shall include, but not be limited to:

- The observation, assessment, nursing diagnosis, planning, intervention, and evaluation of care; health teaching and counseling of the ill, injured, or infirm; and the promotion of wellness, maintenance of health, and prevention of illness of others.
- The administration of medications and treatments as prescribed or authorized by a duly licensed practitioner authorized by the laws of this state to prescribe such medications and treatments.
- The supervision and teaching of other personnel in the theory and performance of any of the acts described in this subsection.

Licensed Practical Nurses and Registered Nurses may also qualify for licensure in Florida by meeting endorsement qualifications (holding a valid license in another state and meeting other minimum qualifications) or by Nurse Licensure Compact.

Supervision of licensed practical nurses and registered nurses during clinical training specifies one faculty member directly supervising every 12 students unless a written agreement permits additional students up to 18. Within a hospital setting, indirect supervision may occur only if there is direct supervision by an assigned clinical preceptor, a supervising program faculty member is available by telephone, and such arrangement is approved by the clinical facility. In community-based clinical experience settings that involve student participation in invasive or complex nursing activities, students must be directly supervised by a program faculty member or clinical preceptor and such arrangement must be approved by the community-based clinical facility.

## Laboratory Technologist

Clinical laboratory technologists are licensed and regulated by the Board of Clinical Laboratory Personnel. In accordance with Chapter 483, Part 1, Florida Statutes, the scope of practice for licensed clinical laboratory personnel includes specimen collecting, processing, storing, shipping and performing manual pretesting procedures. The scope of practice for licensed clinical laboratory technologists, supervisors and directors includes interpretation of clinical laboratory test results. Additional scope of practice conditions exist for each of the seven specialty areas (blood banking, cytology, cytogenetics, molecular pathology, andrology/embryology, histology, and histocompatibility).

Licensure for clinical laboratory technologist is in accordance with section 483.809, Florida Statutes, and include the following minimum education qualifications and exam requirements, with noted alternative methods to meet requirements:

- Florida licensed doctor of medicine, doctor of osteopathy, or doctor of podiatric medicine; or
- Earned a doctoral, master's, or bachelor's degree in a chemical, physical, biological or clinical laboratory science, or medical technology from an accredited institution; or
- Earned an associate degree in a laboratory science or medical laboratory technology from an accredited institution, or education and training that is equivalent; and
- Applicants must also meet additional requirements for their specialty area(s). A detailed matrix is provided in Rule 64B3-5.003, F.A.C.

As it relates to supervision requirements for licensed clinical laboratory technologist, clinical laboratory directors must be a physician licensed under chapter 458 or 459, Florida Statutes; Hold an earned doctoral degree in a chemical, physical, or biological science from a regionally accredited institution and maintain national certification requirements equal to those required by the federal Health Care Financing Administration; or for the subspecialty of oral pathology, be a physician or a dentist licensed under chapter 466, Florida Statutes.

## **Medical Assistant**

Medical assistants are not issued health care practitioner licenses. However, pursuant to section 458.3485, Florida Statutes, a Medical Assistant may be certified by a certification program accredited by the National Commission for Certifying Agencies, a national or state medical association, or an entity approved by the Board of Medicine.

Medical assistants aid with patient care management, execute administrative and clinical procedures, and often perform managerial and supervisory functions. Under the direct supervision and responsibility of a licensed physician, a medical assistant may perform clinical procedures, to include: performing aseptic procedures, taking vital signs; preparing patients for the physician's care; performing venipunctures and nonintravenous injections; observing and reporting patients' signs or symptoms. Medical assistants may also administer basic first aid; assist with patient examinations or treatments; operating office medical equipment; collecting routine laboratory specimens as directed by the physician; administering medication as directed by the physician; performing basic laboratory procedures; performing office procedures including all general administrative duties required by the physician; and performing dialysis procedures, including home dialysis.

## **Optician**

Opticians are licensed and regulated by the Board of Opticianry. In accordance with section 484.002(3), Florida Statutes, an optician may prepare and dispense lenses, spectacles, eyeglasses, contact lenses, and other optical devices upon the written prescription of a physician, osteopathic physician, or optometrist. The practice of opticianry also includes the duplication of lenses without a prescription. Opticians who have been board-certified pursuant to Rules 64B12-14.002 and 64B12-14.004, Florida Administrative Code, may also fill, adapt, or dispense contact lenses.

In order to become licensed as an Optician in the State of Florida, a person must meet the following basic requirements:

- Possess a high school diploma or GED; and
- Complete one of the following:

A total of 6,240 hours of training under the supervision of an approved sponsor is required. An apprentice optician may perform opticianry tasks only under the direct supervision and physical presence of a licensed optician, ophthalmologist, or optometrist licensed under the laws of this state.

## **Physician Assistant**

Physician assistants are licensed and regulated by the Board of Medicine. In accordance with sections 458.347 and 459.022, Florida Statutes, a physician assistant is an individual who is licensed to perform medical services delegated by a supervising physician. A physician assistant may only practice under the direct or indirect supervision of a physician or osteopathic physician with whom he or she has a clinical relationship. A supervising physician may only delegate tasks and procedures to a Physician Assistant that are within the supervising physician's scope of practice. Pursuant to sections 458.347 and 459.022, Florida Statutes, a supervising physician may delegate to a fully licensed Physician Assistant the authority to prescribe or dispense any medication used in the supervising physician's practice unless such medication is listed on a formulary created by the Council on Physician Assistants.

Pursuant to Rules 64B8-30.001 and 64B15-6.001, Florida Administrative Code, "direct supervision" refers to the physical presence of the supervising physician so that the physician is immediately available to the Physician Assistant when needed, and "indirect supervision" refers to the easy availability of the supervising physician to the Physician Assistant, which includes the ability to communicate by telecommunications. The supervising physician must be within reasonable physical proximity to the Physician Assistant.

Licensure for physician assistants is in accordance with sections 458.347 and 459.022, Florida Statutes, and includes the following minimum requirements:

- Graduation from an approved physician assistant program in the United States or territories accredited by the Accreditation Review Commission on Education for the physician assistant.

- Applicants who graduated after December 31, 2020, a master's degree in accordance with the Accreditation Review Commission on Education for the Physician Assistant or its equivalent or predecessor organization. Prior year graduates must meet the requirements for the timeframe in which they graduated.
- The Board of Medicine or the Board of Osteopathic Medicine may grant a license to an applicant who does not meet the educational requirement specified in statute but who has passed the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants before 1986.
- Achieve a passing score as established by the National Commission on Certification of Physician Assistants or its equivalent or successor organization and has been nationally certified.

Pursuant to Rules 64B8-30.012 and 64B15-6.010, Florida Administrative Code, a supervising physician decides whether to permit a Physician Assistant to perform a task or procedure under direct or indirect supervision based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. Pursuant to Rules 64B8-30.001 and 64B15-6.001, Florida Administrative Code, "direct supervision" refers to the physical presence of the supervising physician so that the physician is immediately available to the Physician Assistant when needed, and "indirect supervision" refers to the easy availability of the supervising physician to the Physician Assistant, which includes the ability to communicate by telecommunications. The supervising physician must be within reasonable physical proximity to the Physician Assistant.

### **Occupational Therapy Assistant**

Occupational therapy assistants are licensed and regulated by the Board of Occupational Therapy. In accordance with section 468.203(3) Florida Statutes, an occupational therapist is licensed to conduct assessments to identify purposeful activities or interventions to maximize independence and maintain the health of any individual limited by physical injury or illness, a cognitive impairment, a psychosocial dysfunction, a mental illness, a developmental or a learning disability, or an adverse environmental condition. Occupational therapists may conduct an assessment, provide treatment, and education of or consultation with the individual, family, or other persons; facilitate interventions directed toward developing daily living skills, work readiness or work performance, play skills or leisure capacities, or enhancing educational performance skills; and devise exercises for the development of: sensory-motor, perceptual, or neuromuscular functioning; range of motion; or emotional, motivational, cognitive, or psychosocial components of performance.

Licensure for occupational therapy assistants are in accordance with section 468.209 Florida Statutes, and include the following minimum education qualifications and exam requirements, with noted alternative methods to meet requirements:

- Graduation from an accredited occupational therapy assistant program accredited by the American Occupational Therapy Association (AOTA).
- Completion of 2 months of supervised fieldwork experience at a recognized educational institution or a training program approved by the education institution where you met the academic requirements; and
- Pass an examination approved by the National Board for Certification in Occupational Therapy (NBCOT) for occupational therapy assistants.

The Florida occupational therapy practice act does not address "supervision" specifically, only the definition of "supervision" is defined by statute. The statute allows and requires the supervising licensed occupational therapist the authority to determine what level of supervision is needed for each individual they agree to supervise, based on the individual's skills, education, and training. Therefore, any services provided by an occupational therapy assistant must be under the supervision of a licensed occupational therapist that provides initial direction and follow-up on the implementation of a plan of treatment to provide occupational therapy services.

### **Radiologic Technologist**

Radiologic technologists are certified and regulated by the Department of Health. Podiatric x-ray assistants are licensed and regulated by the Board of Podiatric Medicine. In accordance with section 468.302, Florida Statutes, a person holding



a certificate as a basic X-ray machine operator may perform general diagnostic radiographic and general fluoroscopic procedures, specifically excluding nuclear medicine and radiation therapy procedures. A person holding a certificate as a basic X-ray machine operator-podiatric medicine may perform only podiatric radiographic procedures. A person who is a general radiographer who receives additional training and skills in radiation therapy technology procedures may assist with managing patients undergoing radiation therapy treatments. Technologists must complete a training program in the following areas before assisting with radiation therapy technology duties: principles of radiation therapy treatment; biological effects of radiation; radiation exposure and monitoring; radiation safety and protection; evaluation and handling of radiographic treatment equipment and accessories; and patient positioning for radiation therapy treatment.

A person holding a certificate as a limited computed tomography technologist may perform only diagnostic computed tomography examinations. A person holding a certificate as a radiation therapy technologist may administer only X radiation and ionizing radiation emitted from particle accelerators and external beam teletherapy from sealed sources of radioactive material to human beings for therapeutic or simulation purposes. A person holding a certificate as a nuclear medicine technologist may only: conduct in vivo and in vitro measurements of radioactivity and administer radiopharmaceuticals to human beings for diagnostic and therapeutic purposes; administer X radiation from a combination nuclear medicine-computed tomography device if that radiation is administered as an integral part of a nuclear medicine procedure that uses an automated computed tomography protocol for the purposes of attenuation correction and anatomical localization and the person has received device-specific training on the combination device.

A person holding a certificate as a radiologist assistant may perform specific duties allowed for a radiologist assistant as defined by the department by rule consistent with guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists. However, radiologist assistants may not perform nuclear medicine or radiation therapy procedures unless currently certified and trained to perform those duties under the person's nuclear medicine technologist or radiation therapy technologist certificate; not interpret images; not make diagnoses; and not prescribe medications or therapies.

The minimum qualification for radiologic technologist includes demonstrating to the department a completion certificate or registration as a radiologist assistant granted by the American Registry of Radiologic Technologists.

Radiologic technologists work under the direct supervision and control of a licensed practitioner in that practitioner's office or in a hospital. General radiographers and radiation therapy technologists must perform radiation therapy services under the general supervision of a physician licensed under chapter 458 or chapter 459 who is trained and skilled in performing radiation therapy treatments. Certified podiatric x-ray technicians work under the direct supervision and control of a licensed podiatric physician. Podiatric physicians are licensed under chapter 461, Florida Statutes.

### **Respiratory Care or Therapy Technician**

Respiratory therapists are registered or supervised and regulated by the Board of Respiratory Care. In accordance with section 468.352(10), Florida Statutes, respiratory care services includes patient evaluation and disease management; diagnostic and therapeutic use of respiratory equipment, devices, or medical gas; administration of drugs, as duly ordered or prescribed by a physician licensed under chapter 458 or chapter 459 and in accordance with protocols, policies, and procedures established by a hospital or other health care provider or the board; initiation, management, and maintenance of equipment to assist and support ventilation and respiration; diagnostic procedures, research, and therapeutic treatment and procedures, including measurement of ventilatory volumes, pressures, and flows; specimen collection and analysis of blood for gas transport and acid/base determinations; pulmonary-function testing; and other related physiological monitoring of cardiopulmonary systems; cardiopulmonary rehabilitation; cardiopulmonary resuscitation, advanced cardiac life support, neonatal resuscitation, and pediatric advanced life support, or equivalent functions; insertion and maintenance of artificial airways and intravascular catheters; education of patients, families, the public, or other health care providers, including disease process and management programs and smoking prevention and cessation programs; and initiation and management of hyperbaric oxygen.

Licensure for certified respiratory therapist or registered respiratory therapist is in accordance with section 468.355, Florida Statutes, and includes the following minimum education qualifications and exam requirements:

- The applicant holds the Certified Respiratory Therapist or the Registered Respiratory Therapist credential issued by the National Board for Respiratory Care (NBRC), or an equivalent credential acceptable to the Board; or
- The applicant holds certification, or the equivalent, to deliver respiratory care in another state and such certification was granted pursuant to requirements determined to be equivalent to, or more stringent than, the requirements in Florida.

Certified respiratory therapists and registered respiratory therapists perform health care services under the order of a physician licensed pursuant to chapter 458 or chapter 459, in accordance with protocols established by a hospital or other health care provider or the board; and who functions in situations of unsupervised patient contact requiring individual judgment.

### **Pharmacy Technician**

Pharmacy technicians are registered and regulated by the Board of Pharmacy. Section 465.014, Florida Statutes, authorizes a licensed pharmacist to delegate to pharmacy technicians who are registered pursuant to this section those duties, tasks, and functions that do not fall within the purview of section 465.003(13), Florida Statutes. A registered pharmacy technician, under the supervision of a pharmacist, may initiate or receive communications with a practitioner, on behalf of a patient, regarding refill authorization requests.

Licensure for Registered Pharmacy Technicians is in accordance with section 464.014, Florida Statutes, and must meet one of the following minimum education qualification requirements:

- Pharmacy technician training program accredited by a regional or national accrediting agency; a regional or national institutional accrediting agency; or a specialized accrediting agency recognized by the Secretary of the United States Department of Education; or
- Pharmacy technician training program accredited by an accrediting agency whose accreditation establishes eligibility to participate in the Title IV student financial assistance program administered by United States Department of Education; or
- Pharmacy technician training programs within the public-school system of the State of Florida that comply with the Florida Department of Education Curriculum Framework for Pharmacy Technician (2018-2019), program number H170500; which is incorporated herein by reference and which can be obtained at <https://www.flrules.org/Gateway/reference.asp?No=Ref-10356> or <http://www.fl DOE.org/core/fileparse.php/18567/urlt/H170500-1819.rtf>.
- Pharmacy technician training program provided by a branch of the federal armed services shall be whether the curriculum of such course was developed on or before June 1, 2018.
- Pharmacy technician training programs accredited by the American Society of Health-System Pharmacists.
- Pharmacy technician training programs at institutions accredited by the Southern Association of Colleges and Schools.
- Pharmacy technician training programs at institutions accredited by the Council on Occupational Education.
- Pharmacy technician training programs approved by the Florida Commission for Independent Education (CIE).
- Employer based Register Pharmacy Technicians verified by visiting [www.flhealthsource.gov](http://www.flhealthsource.gov).

All delegated acts by pharmacy technicians must be performed under the direct supervision of a licensed pharmacist who is responsible for all acts performed. Rule 64B16-27.4001, F.A.C., defines direct supervision as supervision by a pharmacist who is readily and immediately available at all times the delegated tasks are being performed; who is aware of delegated tasks being performed; and who provides personal assistance, direction, and approval throughout the time the delegated tasks are being performed. Readily and immediately available means the pharmacist and technician(s) are on the same physical premises, or if not, technology is used to enable real time, two-way communications between the pharmacist and technician. A licensed pharmacist may not supervise more than one registered pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one pharmacy technician.

## **Physical Therapist Assistant**

Physical therapy assistants are licensed and regulated by the Board of Physical Therapy. In accordance with section 486.021(6) Florida Statutes, a physical therapist assistant is a person who is licensed to perform patient-related activities, including the use of physical agents, under the direction of a physical therapist.

Licensure for physical therapist assistant is in accordance with section 486.031 Florida Statutes, and includes the following minimum education qualifications and exam requirements:

- Degree as a physical therapist assistant from an institution that has been approved for the training of physical therapy assistants by the Commission on Accreditation for Physical Therapy Education (CAPTE).
- Passing Score on the National Physical Therapy Examination (NPTE).
- Passing Score in Florida Laws and Rules course.

Patient-related activities performed by a physical therapist assistant for a board-certified orthopedic physician or physiatrist licensed pursuant to chapter 458 or chapter 459 or a practitioner licensed under chapter 460 shall be under the general supervision of a physical therapist but shall not require onsite supervision by a physical therapist. Patient-related activities performed for all other health care practitioners licensed under chapter 458 or chapter 459 and those patient-related activities performed for practitioners licensed under chapter 461 or chapter 466 shall be performed under the onsite supervision of a physical therapist.

## **Physical Therapist**

Physical therapists are licensed and regulated by the Board of Physical Therapy. In accordance with section 486.021(11) Florida Statutes, the practice of physical therapy includes 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 health condition, and the rehabilitation of such disability, injury, disease, or other health condition by alleviating impairments, functional movement limitations, and disabilities by designing, implementing, and modifying treatment interventions through therapeutic exercise; functional movement training in self-management and in-home, community, or work integration or reintegration; manual therapy; massage; airway clearance techniques; maintaining and restoring the integumentary system and wound care; physical agent or modality; mechanical or electrotherapeutic modality; patient-related instruction; the use of apparatus and equipment in the application of such treatment, prevention, or rehabilitation; the performance of tests of neuromuscular functions as an aid to the diagnosis or treatment of any human condition; or the performance of electromyography as an aid to the diagnosis of any human condition in compliance with the criteria set forth by the Board of Medicine.

Licensure for physical therapy is in accordance with section 486.031, Florida Statutes, and includes the following minimum education qualifications and exam requirements:

- Graduation from a school of physical therapy approved for the educational preparation of physical therapists by the appropriate accrediting agency recognized by the Commission on Recognition of Postsecondary Accreditation or the United States Department of Education; or
- Diploma from a program in physical therapy in a foreign country and have educational credentials deemed equivalent to those required for the educational preparation of physical therapists in the United States, and have passed to the satisfaction of the Board of Physical Therapy, an examination to determine qualification for practice; or
- Passing score on National Physical Therapy Examination (NPTE); and
- Passing Score in Florida Laws and Rules course.

A physical therapist who is practicing under a temporary permit must do so under the direct supervision of a licensed physical therapist. A supervising physical therapist shall supervise only one permittee at any given time.

## **Florida's Impaired Practitioners Program**

In accordance with section 456.076, Florida Statutes, the impaired practitioner program is established by the Department by contract with one or more consultants to serve impaired and potentially impaired practitioners for the protection of the health, safety, and welfare of the public. The DOH contracts with the Professionals Resource Network (PRN) and the Intervention Project for Nurses (IPN) to perform the statutorily required functions of the impaired practitioner program in Florida. Total current costs for these contracts are \$38,864,212.72.

## **Special Provisions for Active Military, Veterans, And Spouses**

The Department has implemented numerous programs and provisions to assist military personnel, veterans, and military spouses in becoming licensed health care practitioners and to assist them after licensure. These programs include:

- Expedited Licensure
- Temporary Certificate to Practice in an Area of Critical Need
- Temporary Certificate for Active Duty Military
- Fee Waivers
- Renewal Exemptions
- Veteran and Military Family Opportunity Act
- Spouses of Military Personnel

In accordance with section 456.024(3), Florida Statutes, Florida offers expedited license processing to military personnel who are pursuing licensure in a health care profession. To qualify, the applicant must apply for a license six months before or six months after an honorable discharge and must hold an active, unencumbered license in a jurisdiction of the United States or serve as a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required to practice in the United States Armed Forces. There is no application fee, license fee, or unlicensed activity fee assessed for veterans who qualify.

As provided in section 458.3151, Florida Statutes, active duty personnel or veterans who have served at least ten years in the United States Armed Forces may be eligible to receive a temporary certificate to practice in an area of critical need. This certificate limits a physician's practice to designated areas of critical need and is only available to physicians who have a license in another jurisdiction of the United States. There is no application fee or license fee assessed for physicians seeking this certificate. This certificate is limited to physicians who will be employed in a county health department, correctional facility, DVA clinic, community health center, or other agency or institution approved by the State Surgeon General to provide health care services to meet the needs of underserved populations in the state.

As provided in section 456.0241, Florida Statutes, Florida offers a temporary certificate to military health care practitioners who serve on active duty in the military or a person who serves on active duty in the United States Armed Forces and serves in the United States Public Health Service. To qualify, the applicant must practice pursuant to a military platform and hold an active, unencumbered license in a jurisdiction of the United States or serve as a military health care practitioner in a profession for which licensure in a state or jurisdiction is not required to practice in the United States Armed Forces. A "military platform" is a military training agreement with a nonmilitary health care provider that is designed to develop and support medical, surgical, or other health care treatment opportunities in a non-military health care provider setting to authorize a military health care practitioner to develop and maintain the technical proficiency necessary to meet the present and future health care needs of the military.

Fee waivers for military veterans are authorized for all health care professions in accordance with section 456.013, Florida Statutes. Applications must be submitted within 60 months after an honorable discharge from any branch of the military. The initial license fee, initial application fee, and initial unlicensed activity fee will be waived for veterans returning from service, provided that the veteran applies for licensure within 60 months of being honorably discharged. This waiver does not include examination fees.

Active duty members of the United States Armed Forces who hold a Florida license as a health care practitioner that is in good standing and who were entitled to practice or engage in a licensed profession prior to joining the service, may be eligible for exemption from certain license renewal requirements in accordance with section 456.024, Florida Statutes. If exempt, the active duty member would not be required to renew his or her license, pay license renewal fees, update his or her address, or perform any other act necessary to maintain licensure, such as the requirement to complete continuing education, provided the licensee does not practice the profession in the private sector for profit. The exemption extends for the duration of active duty service and for a period of six months after discharge.

The Veteran and Military Family Opportunity Act provides assistance to members of the Florida National Guard or the United States Armed Forces Reserves who is seeking licensure or qualification for a trade, occupation, or profession who is ordered to active duty that interrupts or prevents the start of the member's training, study, apprenticeship, or practical experience is entitled to licensure or qualification under the laws in effect at the time of his or her entrance into active duty. Training and practical experience received while in the Florida National Guard or the United States Armed Forces Reserves will be accepted in place of the interrupted or delayed periods of training, study, apprenticeship, or practical experience if the board finds the standard and type of work or training performed to be substantially the same as the standard and type required under the laws of this state. The member must request licensure within six months after release from active duty with the Florida National Guard or the United States Armed Forces Reserves (See section 250.483, Florida Statutes).

Spouses of active duty military personnel may be required to relocate frequently due to deployment assignments. Florida law provides authority to assist the spouses of active military and veterans, including expedited licensure, temporary licensure, fee waiver, and renewal exemptions.

## **2. EFFECT OF THE BILL:**

The bill creates the Military Medics and Corpsman of Florida (MMACOF) program to offer clinical, nonclinical, and leadership career pathways to veterans seeking health care careers in Florida. The MMACOG is designated to be established and administered by the Department of Health in collaboration with Florida Is For Veterans, Inc. The program is designed to consist of three components: MMACOF qualified, No Veteran Left Behind, and Health Care Leadership.

The bill requires Florida Is For Veterans, Inc., to recruit and review the eligibility of veterans to participate in the MMACOF program pursuant to general requirements for acceptance into the program. The bill requires Florida Is For Veterans, Inc., to assist veterans in completing MMACOF Health Care Certification program application forms. Florida Is For Veterans, Inc., is also required to recruit, establish, and maintain a statewide list of MMACOF Health Care Certification program participating health care providers.

Participating health care provider is defined in the bill as any of the following:

A physician or osteopathic physician licensed in Florida;

- A professional corporation or partnership of physicians or osteopathic physicians;
- A hospital or ambulatory surgical center;
- An office registered under section 458.325 or 459.03198, Florida Statutes;
- A commercial enterprise having medical facilities for its employees which are supervised by one or more physicians or osteopathic physicians; or
- A facility that is licensed under chapter 395, Florida Statutes, which offers medical services to the public and that is supervised by one or more licensed physicians or osteopathic physicians.

Physicians, osteopathic physicians, and office surgery centers are regulated by the Florida Department of Health. However, hospitals, ambulatory surgical centers, and other medical facilities are regulated by the Agency for Health Care Administration.

## **MMACOF Qualified**

The bill delineates eligibility requirements to participate in the MMACOF and specifies the individual must be a medically trained veteran. A medically trained veteran is defined in the bill as a person who has served within the preceding 12 months as one of the following: a medic in the United States Army, a medical technician in the United States Air Force, a hospital corpsman in the United States Navy, or a health services technician in the United States Coast Guard who was discharged or separated from service under conditions other than dishonorable. The bill excludes from the program the U.S. Marine Corp, which uses Navy trained hospital corpsman who are Marines, and the Space Force, which currently uses aerospace medical service technicians (AMST) trained by the Air Force. This additional clarification may be required to ensure all veterans from all branches of the military are included in the benefits of the program.

In order to become MMACOF certified, the bill requires the medically trained veteran to apply for MMACOF Health Care Program Qualified Status, enroll in an approved and accredited Florida health care education and training program specific to the health care field for which the applicant has received qualified status, and apply for MMACOF Health Care Program Status.

The bill establishes a MMACOF Health Care Certification form to be developed by the department and each board, or the department if there is no board. Lines 175-207 of the bill specifies 17 individual health care professions which are regulated by 7 separate regulatory boards, and the department. As drafted, it is unclear if the legislative intent is for the development of 8 separate applications based on the scope of the regulatory board of each profession and the department; if one standard application is permissible; or if only the Board of Medicine and the department are required to create forms. The department performs administrative functions on behalf of the regulatory boards. If the bill is adopted, the department would be required to create a paper application as well as an electronic application within the licensing system maintained by the department. The licensing system will require an update to accommodate a new qualification and certification process to ensure expedited consideration and a streamlined process for each received application.

## **Impact to Information Technology Infrastructure**

The Department will experience a non-recurring increase in workload and costs, in both expense and contracted services, associated with updating the Licensing and Enforcement Information Database System (LEIDS), Online Service and Data Download Portals, Cognitive Virtual Agent, Continuing Education Tracking System, Licensure Verification and other search sites, MQA Business Intelligence Portal, and the Department and board websites to create and support registration of persons completing military training for licensure in Florida. The Department will experience some recurring costs associated with establishing and maintaining additional transactions in LEIDS and Versa Online. Updates to fully integrate this bill are estimated to take six months. This reflects a minimum of 852 hours of initial staff time at a cost of \$91,732 and annual recurring system maintenance costs of \$5,100.

## **MMACOF Minimum Qualifications and Forms Implementation**

The bill specifies that the MMACOF Health Care Certification form is required to include the individual's civilian and military education; health care education and training; a list of practice skills regularly performed in the military; and other health care-related education or experience as a civilian or active duty service member. The language does not specify relevant documentation requirements necessary to validate the information provided to the department and for the Board of Medicine to make an eligibility determination.

Additionally, the MMACOF Health Care Certification form is specified to include a disclosure by the applicant on the status of application or participation in an approved and accredited Florida health care education and training program. If the applicant has not yet enrolled in an educational program, the bill states that the applicant may simply request consideration for a program of study in which the applicant seeks to pursue. Coupled with the lack of specificity on the qualifications and documentation requirements necessary to make an eligibility determination, it is unclear how the Board of Medicine can make approval or denial determinations of the program status. There is no specification that the

health care practice that is of interest to the applicant must be correlated to the applicant's past experience in health care.

The bill explicitly waives the application fee, certificate fee, and unlicensed activity fee for applicants. The bill does not waive the \$5 nursing loan forgiveness fee specified by section 1009.66(6), Florida Statutes, to be collected upon initial licensure or renewal of nursing licensure. If it is the intent of the legislature to waive all fees, it may be necessary to clarify this section to specifically state no fees of any type are authorized for collection.

### **Review of Applications for MMACOF Health Care Certification**

The bill establishes the Board of Medicine as the regulatory body to review, in consultation with other boards, the program application and render a determination within 30 days. As drafted, the bill does not specify when the 30 day period is initiated, it must be assumed that the time frame begins upon receipt of a completed application. The Board of Medicine is comprised of 12 practicing physicians and three consumer members. The Board meets six times a year, every 60 days on average, to render licensure determinations, conduct disciplinary hearings, and to conduct other Board business. Based on the timeline established in this bill, the Board would be required to hold meetings every 29 days, at a minimum, to review applications and provide a determination for which health care practice area the applicant is authorized to practice while enrolled in a health care education program.

This timeline will significantly increase costs associated with an additional 6 meetings per year. The additional meetings will create an additional workload for the 12 practicing Board of Medicine members who would be required to take additional time away from their respective practices to review application materials and to attend meetings to render determinations. If other boards and the department are required to also be consulted on individual applications, this will also increase the requirement for board meetings by the 7 other affected boards to provide recommendations. An increase in applications for consideration, an increase in preparation of application materials for board member review, and noticing requirements to conduct public meetings of the individual boards will significantly impact the staffing requirements of the board offices.

Section 120.60, Florida Statutes, requires that applicants receive a notification of deficiencies in an application within 30 days, and that a licensing decision be finalized by the department or board within 90 days. It is recommended that the bill language comport with this statute to provide consistency in the licensing requirements provided by law.

As previously detailed, the 17 health care professions identified in the bill are regulated by 7 separate regulatory boards and the department, which have a specified scope of practice delineated in law and rule. The bill requires that the Board of Medicine delineate the practice skills that the individual military-trained health care veteran is permitted to perform under the direct supervision of a "health care practitioner" in the field in which the veteran is to practice. This section is in conflict with lines 158-169 of the bill which specifies that the participant perform health care skills under the direct supervision of a licensed "health care provider."

"Health care provider" is defined by the bill as a physician, osteopathic physician, a hospital or ambulatory surgical center, an office surgery center, a commercial enterprise having medical facilities supervised by physicians or osteopathic physicians, and a facility licensed under chapter 395, Florida Statutes under the direction of a physician or osteopathic physician. The term "health care practitioner" as defined in section 456.001, Florida Statutes, includes any person licensed under chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part II, part III, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; part I, part II, or part III of chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491, Florida Statutes. It is unclear if the legislative intent is for the applicant to be approved to work under the direct supervision of a "health care provider" or a "health care practitioner."

### **Direct Supervision Requirements and Limitations**

Section 459.015(hh), Florida Statutes, provides a penalty for osteopathic physicians who fail to supervise adequately the activities of physician assistants, paramedics, emergency medical technicians, advanced practice registered nurses,

anesthesiologist assistants, or other persons acting under the supervision of the osteopathic physician. Section 458.331(dd), Florida Statutes, also provides a penalty for physicians who fail to supervise adequately the activities of physician assistants, paramedics, emergency medical technicians, advanced practice registered nurses, or anesthesiologist assistants acting under the supervision of the physician.

Section 458.347(3), Florida Statutes further regulates physician supervision to include that each physician or group of physicians supervising a licensed physician assistant must be qualified in the medical areas in which the physician assistant is to perform and shall be individually or collectively responsible and liable for the performance and the acts and omissions of the physician assistant. A physician may not supervise more than 10 currently licensed physician assistants at any one time. A physician supervising a physician assistant pursuant to this section may not be required to review and cosign charts or medical records prepared by such physician assistant.

Many licensed health care professions have specific direct supervision requirements. The direct supervision by a health care provider specified in the bill may be in conflict with the scope of practice for certain licensed professions.

As it relates to pharmacy, section 465.014(1), Florida Statutes, specifies that a person other than a licensed pharmacist or pharmacy intern may not engage in the practice of the profession of pharmacy, except that a licensed pharmacist may delegate to pharmacy technicians who are registered pursuant to this section those duties, tasks, and functions that do not fall within the purview of section 465.003(13), Florida Statutes. The law further specifies that all such delegated acts must be performed under the direct supervision of a licensed pharmacist who is responsible for all such acts performed by persons under supervision. A registered pharmacy technician, under the supervision of a pharmacist, may initiate or receive communications with a practitioner, on behalf of a patient, regarding refill authorization requests. Additionally, there are specific supervision limitations, including that a licensed pharmacist may not supervise more than one registered pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The certification identified by this bill is not equivalent to that of a registered pharmacy technician, and as such, pharmacists are not authorized to delegate tasks to the certificate holder participating in the MMACOF program.

As it relates to dentistry, section 466.023(4), Florida Statutes, provides that the board by rule may limit the number of dental hygienists or dental assistants to be supervised by a dentist if they perform expanded duties requiring direct or indirect supervision pursuant to the provisions of this chapter. The purpose of the limitation shall be to protect the health and safety of patients and to ensure that procedures which require more than general supervision be adequately supervised.

As it relates to physical therapy, section 486.0715(3), Florida Statutes, provides that an applicant for a temporary permit may not work as a physical therapist until a temporary permit is issued by the board. The law does not contemplate certificates issued as a component of the MMACOF program. If a temporary permit was issued to a certificate holder, a physical therapist who is practicing under a temporary permit must do so under the direct supervision of a licensed physical therapist. The law limits the number of temporary permit holders a supervising physical therapist shall supervise to only one permittee at any given time. The law also specifies that the supervising physical therapist must be licensed for a minimum of 6 months before the supervision period begins and must cosign all patient records produced by the physical therapist who is practicing under a temporary permit. The law does not contemplate nor authorize the direct supervision of a certificate holder in the MMACOF program under direct supervision by a physician or osteopathic physician.

### **Licensure Considerations**

It is important to note that not all of the professions identified by the bill require licensure to be employed in the health care field. Medical assistant and dental assistant are not regulated health care professions. As such, the bill may be misconstrued as establishing a regulatory process specifically for veterans where one does not presently exist for any other person in the state. Additionally, most veterans who were formally health care trained in the military already meet the minimum requirements to be fully licensed as an emergency medical technician or licensed practical nurse and many have already passed the national examination required for these professions. Any person in the state, with a high school diploma, regardless of experience, may challenge the certified nursing assistant examination to obtain licensure. Due to these particular considerations, the MMACOF program may unintentionally establish a delay in employment for



professions that are not regulated, and a barrier to licensure for those in which the veteran already qualifies and can be fully licensed without delay.

While it may remain imperative for Florida Is For Veterans, Inc., to establish employment pathways for discharged veterans in these fields, including them in the list of professions for the Board of Medicine to render a skills assessment determination may result in unnecessary confusion and an unnecessary licensure burden for veterans who are ready to work in the health care field without additional training, but may believe they are required to obtain some form of authorization to do so that is not also required of the general public. As an alternative, it is recommended that the department work collaboratively with Florida Is For Veterans, Inc. to develop communication tools to identify health care professions that do not require licensure or for which they are already qualified to encourage veterans to enter those professions.

### **Regulatory Board Jurisdiction**

While the bill provides legislative authority for the Board of Medicine to render a determination of the specific skills that are authorized to be performed by a qualified applicant, the Board of Medicine regulates only one of the 17 professions identified, and will be required to make certification determinations for other fields of practice for which they do not presently have jurisdiction. Requiring the Board of Medicine to make determinations regarding scope of practice for other professions may cause confusion between the regulatory boards. If experts or members from other regulatory boards would be required to assist with the determinations, that may increase costs as well.

### **Notification of Status, Certification, and Renewal Considerations**

Lines 208-222 of the bill requires the notification of the application status, a list of practice skills the Board of Medicine has determined the applicant is qualified to perform under direct supervision, and instructions on how the applicant may obtain a MMACOF Health Care Certification within 14 days.

The bill provides an 18 month period for which the MMACOF Health Care Program Qualified status is active and does not provide a provision to extend or renew the qualified status. There are no specific definitions or explanations that clearly differentiate MMACOF “qualified” and “certified.” Due to the lack of clarification, there is inherent confusion on how an individual is deemed “qualified” rather than “certified” and if there are differences in the manner in which the veteran is authorized to practice under this authorization. It is recommended that there be a clear delineation between the designations to ensure clarity in the scope of skills that are authorized. While the participating veteran and the participating health care provider are required to be provided a documented list of skills authorized to be performed, patients receiving care may not clearly understand the licensure status. This is particularly important when a member of the public seeks to verify the health care provider’s licensure status in the public health practitioner portal.

Based on the authorization to practice under supervision issued, it is assumed that the department would include the approved certification in the health care provider portal. Due to the general nature of the status and certification, it is unclear if all of the skills would be required to be listed individually since the certification issued is limited in scope. The department will be required to amend an existing contract with the license printing contractor to accommodate an officially issued certificate to practice.

The bill requires that the applicant reengage with the department when enrolled in an approved and accredited Florida health care education and training program. This will require the department to establish another form to validate the education documentation submission. It is assumed that if the “qualified” veteran does not provide program enrollment verification that the issued “qualification” will expire, and the prior approval is null and void.

Within the same section, the bill specifies that the department “may” issue a MMACOF Health Care Certificate that qualifies the “unlicensed” veteran for employment. Section 456.001, Florida Statutes, defines the term “license” to mean “any permit, registration, certificate, or license, including a provisional license, issued by the department”. The bill is unclear if the status change from “qualified” to “certified” is intended as a designation of a form of licensure.

The bill provides authorization for rulemaking to establish an annual renewal of military-trained health care veterans' MMACOF Program Health Care Certifications. An annual renewal provision would be overly burdensome and costly to the department to implement. In accordance with section 456.038, Florida Statutes, the department is required to forward a licensure renewal notification to an active or inactive status licensee at the last known address of record with the department. Section 456.004, Florida Statutes, provides the department with the authority to renew licenses on a biennial basis or every 4-years notwithstanding any other provisions of law to the contrary.

The bill requires that the certificate holder provide follow-up information to the department within ten days regarding the practice location as well as the health care provider responsible for supervision. This will require another administrative process to receive documentation to update the certificate holder's file. The bill also requires notification of the termination of employment or failure to maintain active enrollment in a health care program. The specification of a time frame establishes a potential violation if the certificate holder does not contact the department timely. The bill also requires that the health care provider notify the department of employment. This appears to duplicate the intent of providing the practice location information and establishes an unenforceable penalty. The bill also requires the health care provider to provide a reason for termination, but doesn't specify the purpose of providing the information, nor if the department is obligated to take specific action dependent upon the termination reason.

The bill requires reporting by the health care education and training program to the department within a specified period of time. This provision establishes a potential violation if the educational program does not timely notify the department; however, educational programs are not regulated by the Department.

The number of veterans who will apply for the program is presently indeterminate. However, it is anticipated that a significant number of retiring veterans will choose Florida as their home. Based on an anticipated significant increase in applications; the number of times the bill requires that a participant, the employer, and the training school to communicate with the department; and the increase in the number of board meetings conducted to manage the process within the timeframes prescribed, a processing team is necessary to implement and maintain this program. At a minimum, staffing requirements would include a program supervisor and four regulatory specialists to process the applications and maintain the licensure file requirements prescribed.

### **Grounds for Denial or Disciplinary Action**

The bill establishes grounds for denial of a certificate or disciplinary action and provides the Board of Medicine the authority to establish penalty guidelines. The violation related to "engaging in unprofessional conduct" does not provide specificity of what type of conduct is considered "unprofessional." The ambiguous language may result in an inconsistency in application of the penalty or an inability to prosecute based on this allegation. The standard established for a standard of care violation, that of a "military-trained healthcare veteran under an MMACOF Health Care Certificate" is very narrowly defined and, in practice, would be nearly impossible to prove. A more suitable standard may be that of a practitioner of the profession which the veteran is engaging. Additionally, the violation related to engaging or attempting to engage in the illegal possession, sale, or distribution of any illegal or controlled substance would be more concise and consistent with other health care profession penalties if it also included a reference to chapter 893, Florida Statutes.

Subparagraph b of lines 306-378, related to "Having an MMACOF Health Care Certificate" disciplined in another jurisdiction, is unenforceable as worded, as the MMACOF certificate is unique to Florida and would not be issued in any other jurisdiction. Practice acts for many other Department-licensed professions simply provide for discipline for having any healthcare license disciplined by another jurisdiction. Subparagraph h establishes that willfully failing to report violations of various practice acts; however, it does not include chapter 456, which is applicable to all healthcare practitioners and contains critical requirements whose violation is required to be reported. This subparagraph also does not specify that these violations should be reported to the Department. Additionally, subparagraph h does not include part IV of chapter 468, relating to radiologic technologists, and as this is one of the professions covered by this bill, should be included. Subparagraph I provides for discipline for delegating "military-trained healthcare skills" to an unqualified person. This subparagraph would be clearer if it were re-worded to mirror the language in most of the healthcare professions' practice acts, which provide that delegating tasks to any unqualified person constitutes a violation.

The grounds for denial of a certificate and disciplinary action also appears to establish a framework for evaluation of skill and safety to practice without impairment. The department has established contracts to evaluate impairment with the Professionals Resource Network and Intervention Project for Nurses. This provision would require the department to expand the contract to also include certificate holders. It appears that subsections n., q., and r. are related to impaired practice, but the provisions in subsections o. and p. appear unrelated. Organization of the provisions collectively would facilitate a greater understanding of the violations. It is unclear if the provisions of subsection s. related to the prohibition of use of the orders issued by the board for any other proceeding includes the use of the information to render future determinations for health care practitioner licensure. Furthermore, subsections q, r, and s are structured as grounds for discipline; however, these subsections do not actually describe disciplinable conduct by a licensee but are rather descriptions of associated procedures, and as such, should be restructured in a different section.

While the impact of the program is yet undetermined, it is assumed that additional resources in enforcement of the provisions of the bill are necessary. A need for at least one position in complaint intake and one attorney position to prosecute cases specific to these provisions is anticipated.

### **No Veteran Left Behind**

The bill includes the establishment of the “No Veteran Left Behind” MMACOF program, specifying that any veteran who does not meet the definition of “medically trained veteran” but “who, in the course of their military service, gained management experience or completed advanced degrees has served in health care-related specialties shall receive assistance in resume writing, mentorship, and obtaining employment with participating health care providers. The bill directs the responsibility for implementing this provision to the MMACOF program. The MMACOF program is specified as being implemented by the Department of Health in cooperation with Florida Is For Veterans, Inc. The department does not have existing resources to provide guidance on resume writing, mentorship, or providing employment assistance to any health care practitioner. The original bill directed this responsibility to the Department of Veterans Affairs in the established program. Clarity that this function is retained by Florida Is For Veterans, Inc., rather than to the MMACOF program would remedy this conflict.

### **Healthcare Leadership**

The bill includes the establishment of the “Healthcare Leadership” MMACOF program requiring the MMACOF program to provide assistance in finding employment in civilian health care leadership and management to any veteran who gained management experience or completed an advanced degree during the course of military service. The department does not have existing resources to establish a health care leadership program and would defer to the expertise of Florida Is For Veterans, Inc.

### **3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☒ N ☐**

If yes, explain:	The bill authorizes the Board of Medicine to establish rules for implementation.
Is the change consistent with the agency's core mission?	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

### **4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?** Y ☐ N ☒

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?** Y ☐ N ☒

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

## FISCAL ANALYSIS

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?** Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	N/A
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	N/A

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?** Y ☒ N ☐

Revenues:	None
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Expenditures:	<p>8 full-time equivalent (FTE) positions will be needed to implement the provisions of this bill. Salary is computed at base of the position plus 43% for benefits.</p> <p>DOH/MQA will experience a recurring increase in workload associated with processing applicants to the Military Medics and Corpsman of Florida (MMACOF) program. It is anticipated that 1,100 military medical personnel will transition to Florida per year. The workload increase will be substantial and cannot be absorbed within existing resources. It is anticipated that a minimum of 4 FTE positions will be required to implement the provisions of this legislation. 1 Regulatory Supervisor Consultant (PG 420) and 3 Regulatory Specialist IIIs (PG 19), no travel, is requested. Based on the LBR standards, the total FTE cost is \$230,007 (\$179,698/Salary \$49,088/Expense \$1,221/HR).</p> <p>DOH/MQA will experience a recurring increase in workload associated with the additional complaints and prosecutions due to the MMACOF Program. The workload increase will be substantial and cannot be absorbed within existing resources. It is anticipated that a minimum of 2 FTE positions will be required to implement the provisions of this legislation. 1 Government Analyst II (PG 26) and 1 Senior Attorney (PG 230), no travel, is requested. Based on the LBR standards, the total FTE cost is \$165,307 (\$140,152/Salary \$24,544/Expense \$611/HR).</p> <p>DOH/MQA will experience a recurring increase in workload associated with processing annual renewals due to the MMACOF Program. The workload increase will be substantial and cannot be absorbed within existing resources. It is anticipated that a minimum of 2 FTE positions will be required to implement the provisions of this legislation. 1 Systems Project Consultant (PG 25) and 1 Government Operations Consultant II (PG 23), no travel, is requested. Based on the LBR standards, the total FTE cost is \$142,655 (\$117,500/Salary \$24,544/Expense \$611/HR).</p> <p>MQA anticipates holding six, one day meetings per year with twelve Board of Medicine members. The average travel cost for professions licensed under chapter 491, F.S. is \$450 per day for a total cost of \$32,400. The average cost for meeting rooms and equipment is \$1,875 per day for a total cost of \$11,250. The cost for board member compensation at \$50 per day for each board member totals \$3,600. Total estimated meeting cost is \$47,250 (\$43,650/Expense \$3,600/OPS).</p> <p>DOH/MQA will experience a recurring increase in costs associated with notifying each applicant of renewals on an annual basis. An annual renewal provision would be costly to the department to implement. The annual renewal provision would require additional contracted services authority. However, the impact is indeterminate; therefore, the fiscal impact cannot be calculated at this time.</p> <p>The Department will experience a non-recurring increase in workload and costs, in both expense and contracted services, associated with updating the Licensing and Enforcement Information Database System (LEIDS), Online Service and Data Download Portals, Cognitive Virtual Agent, Continuing Education Tracking System, Licensure Verification and other search sites,</p>
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	<p>MQA Business Intelligence Portal, and the Department and board websites to create and support registration of persons completing military training for licensure in Florida. The Department will experience some recurring costs associated with establishing and maintaining additional transactions in LEIDS and Versa Online. Updates to fully integrate this bill are estimated to take six months. This reflects a minimum of 852 of initial contracted hours at a cost of \$91,732 and annual recurring system maintenance costs of \$5,100. Total estimated increase in workload and cost is \$96,832 in Contracted Services.</p> <p>DOH/MQA will incur non-recurring costs for rulemaking, which current budget authority is adequate to absorb.</p> <p>The total estimated cost for the first year is \$682,051 in the following categories:</p> <p>Annual Estimated Cost  Salary - \$437,350/Recurring  Expense - \$104,634/Recurring \$37,192/Non-Recurring</p> <p>OPS - \$3,600  Contracted Services - \$5,100/Recurring \$91,732/Non-Recurring  Human Resources - \$2,443/Recurring</p>
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?**Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Other:	N/A

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?**Y ☐ N ☒

If yes, explain impact.	N/A
Bill Section Number:	N/A

**TECHNOLOGY IMPACT**

1. **DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	<p>The Department will experience a non-recurring increase in workload and costs, in both expense and contracted services, associated with updating the Licensing and Enforcement Information Database System (LEIDS), Online Service and Data Download Portals, Cognitive Virtual Agent, Continuing Education Tracking System, Licensure Verification and other search sites, MQA Business Intelligence Portal, and the Department and board websites to create and support registration of persons completing military training for licensure in Florida.</p> <p>The Department will experience some recurring costs associated with establishing and maintaining additional transactions in LEIDS and Versa Online. Updates to fully integrate this bill are estimated to take six months. This reflects a minimum of 852 hours of initial staff time at an estimated cost of \$91,732 and minimum annual recurring system maintenance estimated costs of \$5,100.</p>
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**FEDERAL IMPACT**

1. **DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	N/A
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**ADDITIONAL COMMENTS**

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**LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

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Issues/concerns/comments:	No legal issues, concerns or comments identified at this time.
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The Florida Senate

## Committee Agenda Request

**To:** Senator Colleen Burton, Chair  
Committee on Health Policy

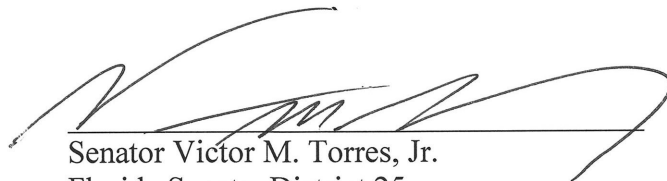
**Subject:** Committee Agenda Request

**Date:** March 14, 2023

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I respectfully request that **Senate Bill #858**, relating to Military Corpsmen and Medics of Florida Program, be placed on the:

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

A handwritten signature in black ink, appearing to read "Victor M. Torres, Jr.", is written over a horizontal line.

Senator Victor M. Torres, Jr.  
Florida Senate, District 25

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

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

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

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BILL: CS/SB 1548

INTRODUCER: Committee on Health Policy and Senator Bradley

SUBJECT: Children's Medical Services Program

DATE: April 5, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	<b>Fav/CS</b>
2.	_____	_____	AHS	_____
3.	_____	_____	FP	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1548 transfers certain aspects of Children's Medical Services (CMS) from the Department of Health (DOH) to the Agency for Health Care Administration (AHCA), including Medicaid and Children's Health Insurance Program (CHIP) provider and operational contracting duties and responsibilities. The bill seeks to streamline the provider and contractor payment process, effective October 24, 2024.

Under the bill, the DOH will retain responsibility for clinical eligibility determinations and must provide ongoing consultation to the AHCA on services to children and youth with special health care needs. The bill requires the AHCA to competitively procure one or more specialty plan contracts for services to children with special health care needs enrolled in Medicaid and CHIP beginning in the 2024-2025 plan year and requires the DOH to assist the AHCA with this transfer of the procurement process.

The bill makes the following changes to the Newborn Screening Program (NSP):

- Updates language to include testing blood samples for multiple conditions, not just phenylketonuria;
- Removes the requirement that the NSP coordinate with the Department of Education (DOE) for consultation; and
- Authorizes licensed genetic counselors to receive newborn screening results.

The bill makes the following changes to the Newborn Hearing Screening Program (NHSP):

- Defines the term “toddler;”
- Provides standardized requirements for hearing screening at hospitals, licensed birth facilities, and birthing centers; and
- Requires all newborn hearing screening providers, audiologists, and early childhood programs conducting hearing screening or diagnostic testing to send specimens directly to the Bureau of Public Health Laboratories, Newborn Screening Laboratory (state laboratory) and to report results to the NHSP for infants and toddlers up to 36 months of age.

The bill provides an effective date of July 1, 2023, except as otherwise expressly provided.

## **II. Present Situation:**

### **Agency for Health Care Administration (AHCA)**

The AHCA was created by ch. 20, F.S., as the chief health policy and planning entity for the state. The AHCA is primarily responsible for the state’s Medicaid program, financed by federal and state funds; the licensure and regulation of the state’s 48,500 health care facilities; and the sharing of health care data through the Florida Center for Health Information and Policy Analysis.<sup>1</sup>

### **The Department of Health (DOH)**

The DOH has been responsible for the administration of the CMS Network since the program’s inception in 1978. CMS was a provider-based, fee-for-service program until August 2014.

### **Florida Medicaid**

Medicaid is the medical assistance program that provides access to health care for low-income families and individuals. Medicaid also assists the elderly and people with disabilities with the costs of nursing facility care and other medical and long-term care expenses.<sup>2</sup>

The structure of each state’s Medicaid program varies, and what states must pay for is largely determined by the federal government, as a condition of receiving federal funds.<sup>3</sup> Federal law sets the amount, scope, and duration of services offered in the program, among other requirements. Federal requirements create an entitlement that comes with constitutional due process protections. The federal government sets the minimum mandatory populations to be included in every state Medicaid program. The federal government also sets the minimum mandatory benefits to be covered in every state Medicaid program.<sup>4</sup> States can add benefits, with federal approval. Florida has added many optional benefits, including prescription drugs, adult dental services, and dialysis.<sup>5</sup>

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<sup>1</sup> Agency for Health Care Administration, *About*, available at <https://ahca.myflorida.com/about> (last visited Mar. 29, 2023).

<sup>2</sup> Agency for Health Care Administration, *Medicaid*, available at <https://ahca.myflorida.com/medicaid> (last visited Mar. 29, 2023).

<sup>3</sup> Title 42 U.S.C. ss. 1396-1396w-5; Title 42 C.F.R. Part 430-456 (ss. 430.0-456.725) (2016).

<sup>4</sup> Section 409.905, F.S.

<sup>5</sup> Section 409.906, F.S.

States have some flexibility in the provision of Medicaid services. Section 1915(b) of the Social Security Act provides authority for the Secretary of the U.S. Department of Health and Human Services (HHS) to waive requirements to the extent that he or she, “finds it to be cost-effective and efficient and not inconsistent with the purposes of this title.”

Section 1115 of the Social Security Act allows states to implement demonstrations of innovative service delivery systems that improve care, increase efficiency, and reduce costs. These laws allow HHS to waive federal requirements to expand populations or services or to try new ways of service delivery.

Florida has operated under Section 1115 waiver to use a comprehensive managed care delivery program model for primary and acute care services since 2014, with the Statewide Medicaid Managed Care (SMMC) and Managed Medical Assistance (MMA) program.<sup>6</sup> Florida also has a waiver under Sections 1915(b) and (c) of the Social Security Act to operate the SMMC Long-Term Care (LTC) program.<sup>7</sup>

The Florida Medicaid program covers over 5.5 million low-income individuals, including approximately 2.5 million children, or 54 percent, of the children in Florida.<sup>8</sup>

### **Children’s Medical Services Network**

The CMS Network was established to provide children with special health care needs a family-centered, comprehensive, and coordinated statewide managed system of care and to provide essential preventative, evaluative, and early intervention services for children at risk for or having special health care needs. Originally, the CMS Network, was a fee-for-service program serving children with special health care needs who were enrolled in either Medicaid or the children’s Health Insurance Program (CHIP).

In August 2014, the CMS Network was transitioned to a managed care model within the AHCA and became known as the Children’s Medical Services Managed Care Plan (CMS). The DOH remains responsible for administering CMS. The AHCA contracts with the DOH to administer CMS. The DOH conducts the clinical eligibility determination for CMS and subcontracts with private vendors for aspects of the plan’s operation and provides vendor oversight in the areas of clinical operations, compliance, performance management, family level grievance remedies, and provider technical assistance.

The DOH then sends the contractors’ and vendors’ invoices for services to the AHCA for payment, often causing delays. The CMS must meet requirements of health plans for participation in the managed medical assistance program established in s. 409.974, F.S., except for the requirement to be competitively procured by the AHCA. Current law has not been updated to reflect the change from the CMS Network to the CMS Managed Care Plan.

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<sup>6</sup> Section 409.964, F.S.

<sup>7</sup> Id.

<sup>8</sup> House of Representatives Staff Analysis, *House Bill 1503, 2023 Legislative Session* (Mar. 28, 2023) referencing Agency for Health Care Administration, Presentation to the House Healthcare Regulation Subcommittee, Jan. 18, 2023, (on file in the Senate Committee on Health Policy).

Enrollment in the CMS Network has continually increased, as families choose the value and quality of care the CMS Health Plan offers. In December 2022, the CMS Health Plan provided services to 96,937 Medicaid enrollees and 7,167 members enrolled in CHIP.<sup>9</sup>

### ***CMS Programs***

CMS is a compilation of programs that serve children and youth with special health care needs (CYSHCN). Each program is responsible to either provide a managed system of care; preventive, evaluative, or early intervention services; or statewide children's services. Programs within CMS include:<sup>10</sup>

- Child Abuse Death Review;
- Child Protection Team and Special Technologies;
- Children's Medical Services Managed Care Plan;
- Children's Multidisciplinary Assessment Team;
- Early Steps;
- Medical Foster Care;
- Newborn Screening;
- Poison Information Center Network;
- Regional Perinatal Intensive Care Centers;
- Safety Net;
- Sexual Abuse Treatment Program;
- Specialty Contracts, including Statewide and Regional Networks for Access and Quality;
- State Systems Development Initiative; and
- Title V for CYSHCN.

Current law does not expressly name all of these programs nor include any powers or duties for the effective operation of some of the CMS programs. For example, s. 391.028, F.S., requires the CMS to implement a program to determine the level of care and medical complexity for pediatric long-term care services. This is a reference to the functions of the Children's Multidisciplinary Assessment Team, which is not expressly mentioned in law. Another example is s. 391.026(13), F.S., which allows the DOH to administer the Children and Youth with Special Health Care Needs portion of the Maternal Child Health block grant, in accordance with Title V of the Social Security Act.<sup>11</sup>

Additional CMS programs or functions administered by the DOH which are not expressly provided for in law include the Medical Foster Care program (MFC),<sup>12</sup> the Safety Net program, CMS Clinical Eligibility Screening, Networks for Access and Quality (referred to as Specialty Contracts), the Child Protection Teams, the Child Abuse Death Review program, and the Sexual

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<sup>9</sup> Department of Health, 2023 Agency Legislative Bill Analysis, *House Bill 1503* (Feb. 24, 2023) (on file with the Senate Committee on Health Policy).

<sup>10</sup> *Id.*

<sup>11</sup> Section 383.14, F.S.

<sup>12</sup> CMS is responsible for administering the MFC program which includes recruitment, training, assessment, and facilitating admission of eligible children into the program and designated MFC parent home. Current law does not include language for MFC program. The MFC program is a coordinated effort between CMS, AHCA, and the Department of Children and Families (DCF).

Abuse Treatment program,<sup>13</sup> as well as research and evaluation projects to improve the delivery of services to CYSHCN and conducting clinical screening to determine the medical eligibility of CYSHCN for programs such as Medicaid, CHIP, and Safety Net.<sup>14</sup>

### ***CMS Network Advisory Council and Technical Panels***

Sections 391.221 and 391.223, F.S., establish the Statewide CMS Network Advisory Council and technical advisory panels, respectively. These bodies serve to advise the State Surgeon General on the operations of the CMS Network as a fee-for-service program. The CMS Managed Care Plan conformity with the requirements in ch. 409, F.S., in effect renders the role and responsibilities of councils and panels for the operation of the CMS Managed Care Plan duplicative and obsolete. In accordance with s. 20.43(6), F.S., the State Surgeon General retains the authority to implement ad hoc advisory committees, as needed, without the need for this provision specifically for the CMS.

### ***Newborn Screening Program (NSP)***

Florida's NBS Program was established in 1965, within the DOH, to promote the screening of all newborns for metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect.<sup>15</sup> The NSP also promotes the identification and screening of all newborns in this state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services.<sup>16</sup> The NBS processes are governed by ss. 383.14 and 383.145, F.S.

The Legislature established the Florida Genetics and Newborn Screening Advisory Council (GNSAC) to advise the DOH about which disorders to include in the NSP panel of screened disorders and the procedures for collecting and transmitting specimens.<sup>17</sup> Newborn Screening began with screening for phenylketonuria (PKU)<sup>18</sup> and now screens for 58 conditions prior to discharge. Of the conditions screened, 55 conditions are screened through the collection of blood spots. Screening of the three remaining conditions – hearing deficiencies, critical congenital heart defect (CCHD), and congenital cytomegalovirus (cCMV) targeted screening – are completed at a birthing facility through point-of-care testing.<sup>19</sup>

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<sup>13</sup> Id.

<sup>14</sup> Department of Health, 2023 Agency Legislative Bill Analysis, *House Bill 1503* (Feb. 24, 2023) (on file with the Senate Committee on Health Policy).

<sup>15</sup> S. 383.14(1), F.S.

<sup>16</sup> Id.

<sup>17</sup> Section 383.14(5), F.S.

<sup>18</sup> See Mayo Clinic, Patient Care & Health Information Diseases & Conditions, *Phenylketonuria (PKU)*, available at [https://www.mayoclinic.org/diseases-conditions/phenylketonuria/symptoms-causes/syc-20376302#:~:text=Phenylketonuria%20\(fen%2Dul%2Dkey,needed%20to%20break%20down%20phenylalanine](https://www.mayoclinic.org/diseases-conditions/phenylketonuria/symptoms-causes/syc-20376302#:~:text=Phenylketonuria%20(fen%2Dul%2Dkey,needed%20to%20break%20down%20phenylalanine). (last visited Mar. 29, 2023) Phenylketonuria (fen-ul-key-toe-NU-ree-uh), also called PKU, is a rare inherited disorder that causes an amino acid called phenylalanine to build up in the body. PKU is caused by a change in the phenylalanine hydroxylase (PAH) gene. This gene helps create the enzyme needed to break down phenylalanine. Without the enzyme necessary to break down phenylalanine, a dangerous buildup develops when a person with PKU eats foods that contain protein or eats aspartame, an artificial sweetener. Without treatment this can lead to severe brain damage.

<sup>19</sup> Department of Health, 2023 Agency Legislative Bill Analysis, *House Bill 1503* (Feb. 24, 2023) (on file with the Senate Committee on Health Policy).

The GNSAC coordinates with the Bureau of Public Health Laboratories (BPHL) and CMS as provided in s. 383.14(5), F.S. Historically, the NBS Program has not collaborated with the DOE; however, other programs in this statute, such as Healthy Start, have a longstanding relationship with DOE.<sup>20</sup>

Florida law specifies to whom the NBS Program may release NBS screening results. In 2021, the Florida Legislature passed a measure creating initial licensure and renewal for genetic counselors. Currently, the NBS Program is not permitted to release specimen results to genetic counselors, a situation that can prolong the time before an infant receives treatment.<sup>21</sup>

The NBS Program has set quality benchmarks for collecting specimens and shipping NBS specimens to the state laboratory.<sup>22</sup>

Quality benchmarks for blood spot collection require:

- Less than 1 percent of specimens received by the state laboratory are unsatisfactory for testing; and
- At least 80 percent of specimens should be received at BPHL-Jacksonville no later than three days after collection. To achieve this, specimens should be shipped within 24 hours of collection to the state laboratory via overnight delivery.

Quality benchmarks for CCHD screening require at least 90 percent of specimens submitted must have appropriate CCHD screening data included on the specimen card.

Quality benchmarks for hearing screening require:

- A hearing screening no later than one month of age;
- A diagnosis no later than three months of age; and
- Entry into early intervention services no later than six months of age.

These benchmarks were created using national standards and guidelines established by the Advisory Committee on Heritable Disorders in Newborns and Children, the HHS, and the Joint Committee on Infant Hearing (JCIH). State statutes currently gives the NBS Program authority to create rules.<sup>23</sup>

Florida Administrative Code Rules 64C-7(2022), requires the submitting entity to ensure that a satisfactory newborn screening has been collected. A review of data between 2018-2020 identified 5.5 percent (14,981) of specimens submitted to the state laboratory were unsatisfactory, which means the specimen cannot be tested and the family must return to the hospital, midwife, or pediatrician for another screening. Reviewing the same three years, 21

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<sup>20</sup> Id.

<sup>21</sup> Florida Newborn Screening, *What is Newborn Screening?*, available at <https://floridanewbornscreening.com/parents/what-isnewborn-screening/> (last visited March 26, 2023). See also *Specimen Collection Card*, available at <http://floridanewbornscreening.com/wp-content/uploads/Order-Form.png> (last visited Mar. 26, 2023).

<sup>22</sup> Id.

<sup>23</sup> Id.

percent (56,664) of the specimens were received at the state laboratory after three days of collection. Both concerns resulted in a delay in receiving potentially lifesaving treatment.<sup>24</sup>

Section 383.14(2) and (3), F.S., require the office of the inspector general to certify the annual costs of the newborn screening program.

### ***Newborn and Infant Hearing Screening (NBHS)***

The DOH NBHS program supports a comprehensive statewide hearing screening and follow-up referral system. The NBHS Program is funded through donations trust and federal grants from the Centers for Disease Control and Prevention (CDC) and the Health Resources and Services Administration (HRSA). In 2022, the Florida Legislature mandated that a hospital or other state-licensed birthing facility test newborns for cCMV should the newborn fail his or her screening for hearing loss before the newborn is 21 days old or before discharge, whichever is earlier. Statewide targeted cCMV screening began on January 1, 2023. CMV screening must be completed prior to 21 days of age to differentiate between congenital and acquired CMV. Newborns with congenital CMV may have birth defects and developmental disabilities. Individuals with acquired CMV typically have mild or no symptoms.<sup>25</sup>

Section 383.145, F.S., requires a newborn hearing screening for all newborns in hospitals before the newborn is discharged from the hospital or other state-licensed birthing facility, unless objected to by the parent or legal guardian. The newborn must be screened for hearing loss to prevent the consequences of unidentified disorders. However, if the screening is not completed before discharge due to scheduling or temporary staffing limitations, the screening must be completed within 21 days after the birth. Before a newborn is discharged from a licensed birth center, such facility must refer the newborn to a licensed audiologist, physician, or hospital for screening for detection of hearing loss and referral for appointment must be made within 30 days after discharge. If the birth is a home birth, the health care provider in attendance must provide a referral to a licensed audiologist, hospital, or other newborn hearing screening provider and the referral for appointment must be made within seven days after the birth.<sup>26</sup>

All screenings must be conducted by a licensed audiologist, a licensed physician, or appropriately supervised individual who has completed documented training specifically for newborn hearing screening. When ordered by the treating physician, screening of a newborn's hearing must include auditory brainstem responses, evoked otoacoustic emissions, or appropriate technology as approved by the federal Food and Drug Administration (FDA).<sup>27</sup>

A child who is diagnosed with a permanent hearing impairment must be referred by the licensee or individual who conducted the screening to the primary care physician for medical management, treatment, and follow-up services. Any child, from birth to 36 months of age who is diagnosed with a hearing impairment that requires ongoing special hearing services must be referred to the CMS's Early Intervention Program by the licensee or individual who conducted

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<sup>24</sup> Id.

<sup>25</sup> Department of Health, 2023 Agency Legislative Bill Analysis, *House Bill 1503* (Feb. 24, 2023) (on file with the Senate Committee on Health Policy).

<sup>26</sup> Id.

<sup>27</sup> Id.



the screening. Any person who is not covered through health insurance and cannot afford the costs for testing, must be given a list of newborn hearing screening providers who provide the necessary testing free-of-charge.<sup>28</sup>

Section 391.055(4), F.S., requires newborns with abnormal screenings be referred to the CMS local programs for additional testing and services. With the transition of the CMS Network to the CMS medical managed care, newborns with abnormal screenings are served by the NBS program.

### **Florida KidCare**

Sections 409.810 - 409.821, F.S., are cited as the Florida KidCare Act and provide for Florida's low-cost health insurance for children. The program was created through Title XXI of the Social Security Act and reauthorized in 2009 to provide a defined set of health benefits to uninsured, low-income children through the establishment of a variety of affordable health benefits coverage options from which families may select coverage and through which families may contribute financially to the health care of their children.<sup>29</sup>

Through KidCare's four partners, the program covers children from birth through age 18.<sup>30</sup> The four partners are:

- Florida Healthy Kids Corporation (FHKC) – The FHKC administers Florida Health Kids program for children ages 5 through 18. FHKC determines the eligibility for the non-Medicaid parts of the program, collects monthly premiums, and manages the Florida KidCare customer service call center.
- AHCA – The AHCA administers Medicaid's MediKids program for children ages 1 through 4 and works with the federal government to make sure Florida KidCare follows all federal laws and rules.
- Department of Children and Families (DCF) – The DCF determines eligibility for the Medicaid program and administers the Behavioral Health Network for children ages 5 through 18 with serious emotional disturbances.
- DOH – The DOH administers the CMS Health Plan for children with special health care needs from birth through age 18 and chairs Florida KidCare Coordinating Council.

Currently, more than 2.4 million Florida children are enrolled in Florida KidCare.<sup>31</sup>

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

**Section 1.** amends s. 383.14, F.S., to remove obsolete language and update the statutes to current practices in the NBS program to:

- Remove the DOE from parties with whom DOH, CMS and GNSAC must consult about the time and manner that screening and blood tests are to be performed;

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<sup>28</sup> Id.

<sup>29</sup> Section 409.9812, F.S.

<sup>30</sup> HealthyKids, A Florida KidCare Partner, *What is Florida KidCare?* available at <https://www.healthykids.org/kidcare/what/> (last visited Mar. 29, 2023).

<sup>31</sup> Id.

- Update language to authorize the taking of a blood sample before one week of age for “screening,” remove the limiting language that the sample be subject to testing for phenylketonuria, because the DOH NBS program now tests for over 55 conditions and abnormalities;
- Add genetic counselors to practitioners who can receive newborn screening test results;
- Authorize the DOH NBS program to implement systemic improvements for diagnostic reporting and submission of NBS point-of-care specimens and screening results;
- Delete the duplicitous requirement that the DOH, as part of its annual budget, submit a certification by the DOH inspector general, or the director of auditing within the inspector general’s office, the annual costs of the uniform testing and reporting procedures of the NBS program; and
- Require all health care practitioners or providers who administer the NBS program screening to send all NBS program specimen cards directly to the state laboratory to avoid delays in testing and results.

**Section 2.** amends s. 383.145, F.S., which authorizes the NHSP to remove obsolete practices, update for legislative changes, and update to current practice standards, to:

- Define the term “toddler” as child from 12 months to 36 months of age, to comply with federal Health Resources and Services Administration (HRSA) grant requirements for the collection of hearing screening data on infants and toddlers;
- Require licensed birth centers providing maternity and newborn care services to ensure that all newborns are screened for the detection of hearing loss before discharge;
- Require birth centers to ensure that all newborns who do not pass the hearing screen are referred for a test to screen for congenital cytomegalovirus before the newborn becomes 21 days of age;
- Delete the requirement for providers to refer to audiologist or hospital for hearing screening; and
- Require early childhood programs screening infants and toddlers for hearing loss to report screening results to the DOH CMS program within seven days.

**Section 3.** amends s. 391.016, F.S., to expand the purpose of the CMS programs to include youth and delete the requirement that CMS coordinate and maintain a consistent medical home for participating children.

**Section 4.** amends s. 391.021, F.S., to rename “Children’s Medical Services Network,” to “Children’s Medical Services Managed Care Plan (CMS MCP).”

**Section 5.** amends s. 391.025, F.S., to expand the scope of CMS to include the following:

- The addition of toddlers to the Newborn and Infant Hearing Screening Program;
- The CMS MCP;
- The Children’s Multidisciplinary Assessment Team;
- The Medical Foster Care Program;
- The Title V program for children and youth with special health care needs;
- The Safety Net Program;
- The Networks for Access and Quality;

- Child Protection Teams and sexual abuse treatment programs established under s. 39.303, F.S.; and
- The State Child Abuse Death Review Committee and local child abuse death review committees established in s. 383.402, F.S.

**Section 6.** amends s. 391.026, F.S., to:

- Specify DOH powers, duties and responsibilities to serve as a provider and principal case manager for children with special health care needs under Titles XIX and XXI of the Social Security Act;
- Authorize the DOH to administer the Medical Foster Care program, including the following:
  - Recruitment, training, assessment, and monitoring for the program;
  - Monitoring access and facilitating admissions of eligible children and youth to the program and designated Medical Foster Care homes; and
  - Coordination with the DCF and the AHCA, or their designees.

**Section 7.** amends s. 391.028, F.S., to delete the following program activities under physician supervision on a statewide basis:

- Case management services for network participants;
- Develop treatment plans; and
- Delete the requirement that each CMS area office be directed by a physician who has specialized training and experience in the provision of health care to children and be appointed by the director from the active panel of CMS physician consultants.

**Section 8.** amends 391.029, F.S., to authorize additional individuals who are eligible to receive CMS program services to include:

- Related to the Regional Perinatal Intensive Care Centers (RIPCC), a high-risk pregnant female who is enrolled in Medicaid;
- Youth from birth to age 21 enrolled in Medicaid;
- Youth with serious special health care needs from birth to 19 years of age who are enrolled in a program under Title XXI of the Social Security Act;
- Youth, subject to available funds, with serious special health care needs from birth to 21 years of age who do not qualify for Medicaid or Title XXI of the Social Security Act but are unable to access, due to lack of providers or lack of financial resources, specialized services that are medically necessary or essential family support services; and
- Youth, subject to available funds, with special health care needs from birth to 21 years of age, as provided in Title V of the Social Security Act.

**Section 9.** amends s. 391.0315, F.S., to require that benefits under CMS MCPs be equivalent to mandatory Medicaid benefits required under s. 409.905, F.S., and optional Medicaid benefits under s. 409.906, F.S.

**Sections 10.** repeals s. 391.035, F.S., relating to CMS provider qualifications.

**Section 11.** amends s. 391.045, F.S., to include non-Medicaid recipient youth with special health care needs who participate in the Florida KidCare program services as CMS reimbursable services.

**Section 12.** amends s. 391.055, F.S., to:

- Delete network components for CMS service delivery systems;
- Authorize CMC MCPs to contract with school districts;
- Delete the requirement that newborns with abnormal screening results for metabolic or other hereditary and congenital disorders must be referred to CMS for additional testing, medical management, early intervention services, or medical referral.

**Section 13.** amends s. 391.097, F.S., to authorize the DOH to initiate, fund, and conduct research to improve delivery of CMS.

**Section 14.** repeals ss. 391.221 and 391.223, F.S., eliminating the CMS Statewide Network Advisory Council and Technical advisory panels.

**Section 15.** requires the transfer of the procurement and contracting operations of the CMS MCP from the DOH to the AHCA starting the 2024-2025 plan year.

**Section 16.** requires the transfer of all procurement and contracting operations of the CMS MCP from the DOH to the AHCA, effective October 1, 2024.

**Section 17.** requires that by November 1, 2023, the AHCA and the DOH must submit to each substantive and fiscal committee of the Legislature having jurisdiction, a report specifying any legislative and administrative changes needed to effectively transfer operations of the CMS MCP from the DOH to the AHCA.

**Section 18.** amends s. 409.974, F.S., to require the AHCA to competitively procure one or more vendors to provide services for children with special health care needs who are enrolled in Medicaid and children with special health care needs who are enrolled in CHIP for the 2024-2025 plan year. The DOH CMS program must do all the following:

- Assist the AHCA in developing specifications for use in the procurement of vendors and the model contract, including provisions relating to referral, enrollment, disenrollment, access, quality-of-care, network adequacy, care coordination, and service integration;
- Conduct clinical eligibility screening for children with special health care needs who are eligible for or are enrolled in Medicaid or CHIP; and
- Collaborate with the AHCA in the care of children with special health care needs.

**Section 19.** amends s. 409.166, F.S., effective October 1, 2024, to delete CMS from the list of services providers not covering medical, surgical, hospital, or related services of an adoptive child that were incurred as a result of a physical or mental condition of the child before the adoption, triggering the DOH's authorization to provide to the adoptive parents assistance after the adoption. The bill also amends s. 409.166, F.S., to substitute CMS services for a specialty plan under contract with the AHCA to serve children with special health care needs.

**Sections 20 through 27.** amend ss. 409.811, 409.813, 409.8134, 409.814, 409.815, 409.8177, 409.818, 409.912, 409.9126, F.S., effective October 1, 2024, with technical changes to reflect the transfer of all operations of the CMS MCP from the DOH to the AHCA, effective October 1, 2024.

**Section 28.** amends s. 409.9126, F.S., deleting the DOH's ability to contract with the AHCA to provide services to children with special health care needs effective October 1, 2024.

**Sections 29 through 31.** amend ss. 409.9131, 409.920, and 409.962, F.S., effective October 1, 2024, relating to Medicaid overpayments, Medicaid fraud and Medicaid eligible plans, and deletes references to Children's Medical Services Network.

**Section 31.** Provides an effective date of July 1, 2023, except as otherwise expressly provided.

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

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

The bill is designed to streamline the payment and reimbursement process for venders, providers, and the AHCA.

**C. Government Sector Impact:**

The bill is designed to streamline the vender, provider and operational procurement, and contracting for CMS MCP and Medicaid for the care of Florida's children with special health care needs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 383.14, 383.145, 391.016, 391.021, 391.025, 391.026, 391.028, 391.029, 391.0315, 391.045, 391.055, 391.097, 409.974, 409.166, 409.811, 409.813, 409.8134, 409.814, 409.815, 409.8177, 409.818, 409.912, 409.9126, 409.9131, 409.920, and 409.962.

This bill repeals the following sections of the Florida Statutes: 391.035, 391.221, and 391.223.

**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 April 4, 2023:**

The CS revises the bill's placement of children who meet clinical CMS eligibility within the Kidcare program by providing that such children will be assigned to and may opt-out of a specialty plan under contract with the AHCA to serve children with special health care needs, instead of being assigned to the CMS Managed Care Plan or the CMS Network as provided under the bill and current law, respectively. The CS makes a similar revision to a separate statutory provision relating to a requirement to complete an application and a clinical screening.

**B. Amendments:**

None.



367336

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
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The Committee on Health Policy (Bradley) recommended the following:

**Senate Amendment**

Delete lines 940 - 947  
and insert:  
shall be assigned to and may opt out of a specialty plan under contract with the agency to serve children with special health care needs ~~the Children's Medical Services Network.~~

(10) In determining the eligibility of a child, an assets test is not required. Each applicant shall provide documentation during the application process and the redetermination process,



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11 including, but not limited to, the following:

12 (c) To enroll in a specialty plan under contract with the  
13 agency to serve children with special health care needs ~~the~~  
14 ~~Children's Medical Services Network~~, a completed application,  
15 including a clinical



By Senator Bradley

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1 A bill to be entitled  
 2 An act relating to the Children's Medical Services  
 3 program; amending s. 383.14, F.S.; deleting a  
 4 requirement that the Department of Health consult with  
 5 the Department of Education before prescribing certain  
 6 newborn testing and screening requirements;  
 7 authorizing the release of certain newborn screening  
 8 results to licensed genetic counselors; requiring that  
 9 newborns have a blood specimen collected for newborn  
 10 screenings before they reach a specified age; deleting  
 11 a requirement that newborns be subjected to a certain  
 12 test; conforming provisions to changes made by the  
 13 act; revising requirements related to a certain  
 14 assessment for hospitals and birth centers; deleting a  
 15 requirement that the department submit a certain  
 16 annual cost certification as part of its annual  
 17 legislative budget request; requiring certain health  
 18 care practitioners and health care providers to  
 19 prepare and send all newborn screening specimen cards  
 20 to the State Public Health Laboratory; amending s.  
 21 383.145, F.S.; defining the term "toddler"; revising  
 22 newborn screening requirements for licensed birth  
 23 centers; requiring that a certain referral for newborn  
 24 screening be made before the newborn reaches a  
 25 specified age; requiring early childhood programs and  
 26 entities that screen for hearing loss to report the  
 27 screening results to the department within a specified  
 28 timeframe; amending s. 391.016, F.S.; revising the  
 29 purposes and functions of the Children's Medical

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

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30 Services program; amending s. 391.021, F.S.; revising  
 31 definitions; amending s. 391.025, F.S.; revising the  
 32 scope of the program; amending s. 391.026, F.S.;  
 33 revising the powers and duties of the Department of  
 34 Health to conform to changes made by the act; amending  
 35 s. 391.028, F.S.; revising activities within the  
 36 purview of the program; deleting a requirement that  
 37 every office of the program be under the direction of  
 38 a licensed physician; amending s. 391.029, F.S.;  
 39 revising program eligibility requirements; amending s.  
 40 391.0315, F.S.; conforming provisions to changes made  
 41 by the act; repealing s. 391.035, F.S., relating to  
 42 provider qualifications; amending s. 391.045, F.S.;  
 43 conforming provisions to changes made by the act;  
 44 amending s. 391.055, F.S.; conforming provisions to  
 45 changes made by the act; deleting specifications for  
 46 the components of the program; deleting certain  
 47 requirements for newborns referred to the program  
 48 through the newborn screening program; amending s.  
 49 391.097, F.S.; conforming a provision to changes made  
 50 by the act; repealing part II of chapter 391, F.S.,  
 51 relating to Children's Medical Services councils and  
 52 panels; providing legislative findings and intent;  
 53 transferring operation of the Children's Medical  
 54 Services Managed Care Plan from the department to the  
 55 Agency for Health Care Administration, effective on a  
 56 specified date; providing construction as to judicial  
 57 and administrative actions pending as of a specified  
 58 date and time; requiring the department's Children's

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Medical Services program to collaborate with and assist the agency in specified activities; requiring the department to conduct certain clinical eligibility screenings; requiring the agency and the department to submit a report to the Legislature by a specified date; providing requirements for the report; amending s. 409.974, F.S.; requiring the agency to competitively procure one or more vendors to provide services for certain children with special health care needs; requiring the department's Children's Medical Services program to assist the agency in developing certain specifications for the vendor contract; requiring the department to conduct clinical eligibility screenings for services for such children and collaborate with the agency in the care of such children; conforming a provision to changes made by the act; amending ss. 409.166, 409.811, 409.813, 409.8134, 409.814, 409.815, 409.8177, 409.818, 409.912, 409.9126, 409.9131, 409.920, and 409.962, F.S.; conforming provisions to changes made by the act; providing effective dates.

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

Section 1. Section 383.14, Florida Statutes, is amended to read:

383.14 Screening for metabolic disorders, other hereditary and congenital disorders, and environmental risk factors.—

(1) SCREENING REQUIREMENTS.—To help ensure access to the

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maternal and child health care system, the Department of Health shall promote the screening of all newborns born in Florida for metabolic, hereditary, and congenital disorders known to result in significant impairment of health or intellect, as screening programs accepted by current medical practice become available and practical in the judgment of the department. The department shall also promote the identification and screening of all newborns in this state and their families for environmental risk factors such as low income, poor education, maternal and family stress, emotional instability, substance abuse, and other high-risk conditions associated with increased risk of infant mortality and morbidity to provide early intervention, remediation, and prevention services, including, but not limited to, parent support and training programs, home visitation, and case management. Identification, perinatal screening, and intervention efforts shall begin prior to and immediately following the birth of the child by the attending health care provider. Such efforts shall be conducted in hospitals, perinatal centers, county health departments, school health programs that provide prenatal care, and birthing centers, and reported to the Office of Vital Statistics.

(a) *Prenatal screening*.—The department shall develop a multilevel screening process that includes a risk assessment instrument to identify women at risk for a preterm birth or other high-risk condition. The primary health care provider shall complete the risk assessment instrument and report the results to the Office of Vital Statistics so that the woman may immediately be notified and referred to appropriate health, education, and social services.

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117 (b) *Postnatal screening*.—A risk factor analysis using the  
 118 department's designated risk assessment instrument shall also be  
 119 conducted as part of the medical screening process upon the  
 120 birth of a child and submitted to the department's Office of  
 121 Vital Statistics for recording and other purposes provided for  
 122 in this chapter. The department's screening process for risk  
 123 assessment shall include a scoring mechanism and procedures that  
 124 establish thresholds for notification, further assessment,  
 125 referral, and eligibility for services by professionals or  
 126 paraprofessionals consistent with the level of risk. Procedures  
 127 for developing and using the screening instrument, notification,  
 128 referral, and care coordination services, reporting  
 129 requirements, management information, and maintenance of a  
 130 computer-driven registry in the Office of Vital Statistics which  
 131 ensures privacy safeguards must be consistent with the  
 132 provisions and plans established under chapter 411, Pub. L. No.  
 133 99-457, and this chapter. Procedures established for reporting  
 134 information and maintaining a confidential registry must include  
 135 a mechanism for a centralized information depository at the  
 136 state and county levels. The department shall coordinate with  
 137 existing risk assessment systems and information registries. The  
 138 department must ensure, to the maximum extent possible, that the  
 139 screening information registry is integrated with the  
 140 department's automated data systems, including the Florida On-  
 141 line Recipient Integrated Data Access (FLORIDA) system. Tests  
 142 and screenings must be performed by the State Public Health  
 143 Laboratory, in coordination with Children's Medical Services, at  
 144 such times and in such manner as is prescribed by the department  
 145 after consultation with the Genetics and Newborn Screening

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146 Advisory Council ~~and the Department of Education~~.

147 (c) *Release of screening results*.—Notwithstanding any law  
 148 to the contrary, the State Public Health Laboratory may release,  
 149 directly or through the Children's Medical Services program, the  
 150 results of a newborn's ~~hearing and metabolic tests or~~ screenings  
 151 to the newborn's health care practitioner, the newborn's parent  
 152 or legal guardian, the newborn's personal representative, or a  
 153 person designated by the newborn's parent or legal guardian. As  
 154 used in this paragraph, the term "health care practitioner"  
 155 means a physician or physician assistant licensed under chapter  
 156 458; an osteopathic physician or physician assistant licensed  
 157 under chapter 459; an advanced practice registered nurse,  
 158 registered nurse, or licensed practical nurse licensed under  
 159 part I of chapter 464; a midwife licensed under chapter 467; a  
 160 speech-language pathologist or audiologist licensed under part I  
 161 of chapter 468; ~~or~~ a dietician or nutritionist licensed under  
 162 part X of chapter 468; or a genetic counselor licensed under  
 163 part III of chapter 483.

164 (2) RULES.—

165 (a) After consultation with the Genetics and Newborn  
 166 Screening Advisory Council, the department shall adopt and  
 167 enforce rules requiring that every newborn in this state must  
 168 ~~shall~~:

169 1. Before becoming 1 week of age, have a blood specimen  
 170 collected for newborn screenings ~~be subjected to a test for~~  
 171 ~~phenylketonuria~~;

172 2. Be tested for any condition included on the federal  
 173 Recommended Uniform Screening Panel which the council advises  
 174 the department should be included under the state's screening

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

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175 program. After the council recommends that a condition be  
 176 included, the department shall submit a legislative budget  
 177 request to seek an appropriation to add testing of the condition  
 178 to the newborn screening program. The department shall expand  
 179 statewide screening of newborns to include screening for such  
 180 conditions within 18 months after the council renders such  
 181 advice, if a test approved by the United States Food and Drug  
 182 Administration or a test offered by an alternative vendor is  
 183 available. If such a test is not available within 18 months  
 184 after the council makes its recommendation, the department shall  
 185 implement such screening as soon as a test offered by the United  
 186 States Food and Drug Administration or by an alternative vendor  
 187 is available; and

188 3. At the appropriate age, be tested for such other  
 189 metabolic diseases and hereditary or congenital disorders as the  
 190 department may deem necessary from time to time.

191 (b) After consultation with the Department of Education,  
 192 the department shall adopt and enforce rules requiring every  
 193 newborn in this state to be screened for environmental risk  
 194 factors that place children and their families at risk for  
 195 increased morbidity, mortality, and other negative outcomes.

196 (c) The department shall adopt such additional rules as are  
 197 found necessary for the administration of this section and s.  
 198 383.145, including rules providing definitions of terms, rules  
 199 relating to the methods used and time or times for testing as  
 200 accepted medical practice indicates, rules relating to charging  
 201 and collecting fees for the administration of the newborn  
 202 screening program authorized by this section, rules for  
 203 processing requests and releasing test and screening results,

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204 and rules requiring mandatory reporting of the results of tests  
 205 and screenings for these conditions to the department.

206 (3) DEPARTMENT OF HEALTH; POWERS AND DUTIES.—The department  
 207 shall administer and provide certain services to implement the  
 208 provisions of this section and shall:

209 (a) Assure the availability and quality of the necessary  
 210 laboratory tests and materials.

211 (b) Furnish all physicians, county health departments,  
 212 perinatal centers, birthing centers, and hospitals forms on  
 213 which environmental screening and the results of tests for  
 214 ~~phenylketonuria and such other~~ disorders for which testing may  
 215 be required from time to time shall be reported to the  
 216 department.

217 (c) Promote education of the public about the prevention  
 218 and management of metabolic, hereditary, and congenital  
 219 disorders and dangers associated with environmental risk  
 220 factors.

221 (d) Maintain a confidential registry of cases, including  
 222 information of importance for the purpose of follow-up ~~followup~~  
 223 services to prevent intellectual disabilities, to correct or  
 224 ameliorate physical disabilities, and for epidemiologic studies,  
 225 if indicated. Such registry shall be exempt from the provisions  
 226 of s. 119.07(1).

227 (e) Supply the necessary dietary treatment products where  
 228 practicable for diagnosed cases of ~~phenylketonuria and other~~  
 229 metabolic diseases for as long as medically indicated when the  
 230 products are not otherwise available. Provide nutrition  
 231 education and supplemental foods to those families eligible for  
 232 the Special Supplemental Nutrition Program for Women, Infants,

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and Children as provided in s. 383.011.

(f) Promote the availability of genetic studies, services, and counseling in order that the parents, siblings, and affected newborns may benefit from detection and available knowledge of the condition.

(g) Have the authority to charge and collect fees for the administration of the newborn screening program. ~~authorized in this section, as follows:~~

~~1. A fee not to exceed \$15 will be charged for each live birth, as recorded by the Office of Vital Statistics, occurring in a hospital licensed under part I of chapter 395 or a birth center licensed under s. 383.305 per year. The department shall calculate the annual assessment for each hospital and birth center, and this assessment must be paid in equal amounts quarterly. Quarterly, The department shall generate and send mail to each hospital and birth center a statement of the amount due.~~

~~2. As part of the department's legislative budget request prepared pursuant to chapter 216, the department shall submit a certification by the department's inspector general, or the director of auditing within the inspector general's office, of the annual costs of the uniform testing and reporting procedures of the newborn screening program. In certifying the annual costs, the department's inspector general or the director of auditing within the inspector general's office shall calculate the direct costs of the uniform testing and reporting procedures, including applicable administrative costs. Administrative costs shall be limited to those department costs which are reasonably and directly associated with the~~

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~~administration of the uniform testing and reporting procedures of the newborn screening program.~~

(h) Have the authority to bill third-party payors for newborn screening tests.

(i) Create and make available electronically a pamphlet with information on screening for, and the treatment of, preventable infant and childhood eye and vision disorders, including, but not limited to, retinoblastoma and amblyopia.

All provisions of this subsection must be coordinated with the provisions and plans established under this chapter, chapter 411, and Pub. L. No. 99-457.

(4) OBJECTIONS OF PARENT OR GUARDIAN.—The provisions of this section shall not apply when the parent or guardian of the child objects thereto. A written statement of such objection shall be presented to the physician or other person whose duty it is to administer and report tests and screenings under this section.

(5) SUBMISSION OF NEWBORN SCREENING SPECIMEN CARDS.—Any physician, advanced practice registered nurse, licensed midwife, or other licensed health care practitioner or other health care provider whose duty it is to administer screenings under this section shall prepare and send all newborn screening specimen cards to the State Public Health Laboratory in accordance with rules adopted under this section.

(6) ADVISORY COUNCIL.—There is established a Genetics and Newborn Screening Advisory Council made up of 15 members appointed by the State Surgeon General. The council shall be composed of two consumer members, three practicing

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pediatricians, at least one of whom must be a pediatric hematologist, a representative from each of four medical schools in this state, the State Surgeon General or his or her designee, one representative from the Department of Health representing Children's Medical Services, one representative from the Florida Hospital Association, one individual with experience in newborn screening programs, one individual representing audiologists, and one representative from the Agency for Persons with Disabilities. All appointments shall be for a term of 4 years. The chairperson of the council shall be elected from the membership of the council and shall serve for a period of 2 years. The council shall meet at least semiannually or upon the call of the chairperson. The council may establish ad hoc or temporary technical advisory groups to assist the council with specific topics which come before the council. Council members shall serve without pay. Pursuant to the provisions of s. 112.061, the council members are entitled to be reimbursed for per diem and travel expenses. It is the purpose of the council to advise the department about:

(a) Conditions for which testing should be included under the screening program and the genetics program. Within 1 year after a condition is added to the federal Recommended Uniform Screening Panel, the council shall consider whether the condition should be included under the state's screening program.

(b) Procedures for collection and transmission of specimens and recording of results.

(c) Methods whereby screening programs and genetics services for children now provided or proposed to be offered in

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the state may be more effectively evaluated, coordinated, and consolidated.

Section 2. Section 383.145, Florida Statutes, is amended to read:

383.145 Newborn, ~~and~~ infant, and toddler hearing screening.—

(1) LEGISLATIVE INTENT.—It is the intent of the Legislature to provide a statewide comprehensive and coordinated interdisciplinary program of early hearing loss screening, identification, and follow-up care for newborns. The goal is to screen all newborns for hearing loss in order to alleviate the adverse effects of hearing loss on speech and language development, academic performance, and cognitive development. It is further the intent of the Legislature that this section only be implemented to the extent that funds are specifically included in the General Appropriations Act for carrying out the purposes of this section.

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

(a) "Audiologist" means a person licensed under part I of chapter 468 to practice audiology.

(b) "Department" means the Department of Health.

(c) "Hearing loss" means a hearing loss of 30 dB HL or greater in the frequency region important for speech recognition and comprehension in one or both ears, approximately 500 through 4,000 hertz.

(d) "Hospital" means a facility as defined in s. 395.002(13) and licensed under chapter 395 and part II of chapter 408.

(e) "Infant" means an age range from 30 days through 12

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months.

(f) "Licensed health care provider" means a physician or physician assistant licensed under chapter 458; an osteopathic physician or physician assistant licensed under chapter 459; an advanced practice registered nurse, a registered nurse, or a licensed practical nurse licensed under part I of chapter 464; a midwife licensed under chapter 467; or a speech-language pathologist or an audiologist licensed under part I of chapter 468.

(g) "Management" means the habilitation of the child with hearing loss.

(h) "Newborn" means an age range from birth through 29 days.

(i) "Physician" means a person licensed under chapter 458 to practice medicine or chapter 459 to practice osteopathic medicine.

(j) "Screening" means a test or battery of tests administered to determine the need for an in-depth hearing diagnostic evaluation.

(k) "Toddler" means a child from 12 months to 36 months of age.

(3) REQUIREMENTS FOR SCREENING OF NEWBORNS, INFANTS, AND TODDLERS; INSURANCE COVERAGE; REFERRAL FOR ONGOING SERVICES.—

(a) Each hospital or other state-licensed birthing facility that provides maternity and newborn care services shall ensure that all newborns are, before discharge, screened for the detection of hearing loss to prevent the consequences of unidentified disorders. If a newborn fails the screening for the detection of hearing loss, the hospital or other state-licensed

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birthing facility must administer a test approved by the United States Food and Drug Administration or another diagnostically equivalent test on the newborn to screen for congenital cytomegalovirus before the newborn becomes 21 days of age or before discharge, whichever occurs earlier.

(b) Each licensed birth center that provides maternity and newborn care services shall ensure that all newborns are, before discharge, screened for the detection of hearing loss. The licensed birth center must ensure that all newborns who do not pass the hearing screening are referred to an audiologist, a hospital, or another newborn hearing screening provider for a test to screen for congenital cytomegalovirus before the newborn becomes 21 days of age screening for the detection of hearing loss to prevent the consequences of unidentified disorders. The referral for appointment must be made within 7 days after discharge. Written documentation of the referral must be placed in the newborn's medical chart.

(c) If the parent or legal guardian of the newborn objects to the screening, the screening must not be completed. In such case, the physician, midwife, or other person attending the newborn shall maintain a record that the screening has not been performed and attach a written objection that must be signed by the parent or guardian.

(d) For home births, the health care provider in attendance is responsible for coordination and referral to an audiologist, a hospital, or another newborn hearing screening provider. The health care provider in attendance must make the referral for appointment within 7 days after the birth. In cases in which the home birth is not attended by a health care provider, the

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407 newborn's primary health care provider is responsible for  
408 coordinating the referral.

409 (e) For home births and births in a licensed birth center,  
410 if a newborn is referred to a newborn hearing screening provider  
411 and the newborn fails the screening for the detection of hearing  
412 loss, the newborn's primary health care provider must refer the  
413 newborn for administration of a test approved by the United  
414 States Food and Drug Administration or another diagnostically  
415 equivalent test on the newborn to screen for congenital  
416 cytomegalovirus before the newborn becomes 21 days of age.

417 (f) All newborn and infant hearing screenings must be  
418 conducted by an audiologist, a physician, or an appropriately  
419 supervised individual who has completed documented training  
420 specifically for newborn hearing screening. Every hospital that  
421 provides maternity or newborn care services shall obtain the  
422 services of an audiologist, a physician, or another newborn  
423 hearing screening provider, through employment or contract or  
424 written memorandum of understanding, for the purposes of  
425 appropriate staff training, screening program supervision,  
426 monitoring the scoring and interpretation of test results,  
427 rendering of appropriate recommendations, and coordination of  
428 appropriate follow-up services. Appropriate documentation of the  
429 screening completion, results, interpretation, and  
430 recommendations must be placed in the medical record within 24  
431 hours after completion of the screening procedure.

432 (g) The screening of a newborn's hearing must be completed  
433 before the newborn is discharged from the hospital. However, if  
434 the screening is not completed before discharge due to  
435 scheduling or temporary staffing limitations, the screening must

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436 be completed within 21 days after the birth. Screenings  
437 completed after discharge or performed because of initial  
438 screening failure must be completed by an audiologist, a  
439 physician, a hospital, or another newborn hearing screening  
440 provider.

441 (h) Each hospital shall formally designate a lead physician  
442 responsible for programmatic oversight for newborn hearing  
443 screening. Each birth center shall designate a licensed health  
444 care provider to provide such programmatic oversight and to  
445 ensure that the appropriate referrals are being completed.

446 (i) When ordered by the treating physician, the hearing  
447 screening of a newborn, infant, or toddler ~~newborn's hearing~~  
448 must include auditory brainstem responses, or evoked otoacoustic  
449 emissions, or appropriate technology as approved by the United  
450 States Food and Drug Administration.

451 (j) Early childhood programs or entities screening infants  
452 and toddlers for hearing loss must report screening results to  
453 the department within 7 days after completing the screening in  
454 an effort to identify late-onset hearing loss not identified  
455 during the newborn hearing screening process.

456 (k) The results of any test conducted pursuant to this  
457 section, including, but not limited to, newborn hearing loss  
458 screening, congenital cytomegalovirus testing, and any related  
459 diagnostic testing, must be reported to the department within 7  
460 days after receipt of such results.

461 (l) ~~(k)~~ The initial procedure for screening the hearing of  
462 the newborn or infant and any medically necessary follow-up  
463 reevaluations leading to diagnosis shall be a covered benefit  
464 for Medicaid patients covered by a fee-for-service program. For



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Medicaid patients enrolled in HMOs, providers shall be reimbursed directly by the Medicaid Program Office at the Medicaid rate. This service may not be considered a covered service for the purposes of establishing the payment rate for Medicaid HMOs. All health insurance policies and health maintenance organizations as provided under ss. 627.6416, 627.6579, and 641.31(30), except for supplemental policies that only provide coverage for specific diseases, hospital indemnity, or Medicare supplement, or to the supplemental policies, shall compensate providers for the covered benefit at the contracted rate. Nonhospital-based providers are eligible to bill Medicaid for the professional and technical component of each procedure code.

(m)~~(1)~~ A child who is diagnosed as having permanent hearing loss must be referred to the primary care physician for medical management, treatment, and follow-up services. Furthermore, in accordance with Part C of the Individuals with Disabilities Education Act, Pub. L. No. 108-446, Infants and Toddlers with Disabilities, any child from birth to 36 months of age who is diagnosed as having hearing loss that requires ongoing special hearing services must be referred to the Children's Medical Services Early Intervention Program serving the geographical area in which the child resides.

Section 3. Subsection (1) of section 391.016, Florida Statutes, is amended to read:

391.016 Purposes and functions.—The Children's Medical Services program is established for the following purposes and authorized to perform the following functions:

(1) Provide to children and youth with special health care

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needs a family-centered, comprehensive, and coordinated statewide ~~managed~~ system of care that links community-based health care with multidisciplinary, regional, and tertiary pediatric specialty care. ~~The program shall coordinate and maintain a consistent medical home for participating children.~~

Section 4. Subsections (1), (2), and (4) of section 391.021, Florida Statutes, are amended to read:

391.021 Definitions.—When used in this act, the term: (2)~~(1)~~ "Children's Medical Services Managed Care Plan network" or "plan network" means a statewide managed care service system that includes health care providers, as defined in this section.

(1)~~(2)~~ "Children and youth with special health care needs" means those children younger than 21 years of age who have chronic and serious physical, developmental, behavioral, or emotional conditions and who require health care and related services of a type or amount beyond that which is generally required by children.

(4) "Eligible individual" means a child or youth with a special health care need or a female with a high-risk pregnancy, who meets the financial and medical eligibility standards established in s. 391.029.

Section 5. Subsection (1) of section 391.025, Florida Statutes, is amended to read:

391.025 Applicability and scope.—

(1) The Children's Medical Services program consists of the following components:

(a) The newborn screening program established in s. 383.14 and the newborn, infant, and toddler hearing screening program

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523 established in s. 383.145.

524 (b) The regional perinatal intensive care centers program

525 established in ss. 383.15-383.19.

526 (c) The developmental evaluation and intervention program,

527 including the Early Steps Program established in ss. 391.301-

528 391.308.

529 (d) The Children's Medical Services Managed Care Plan

530 network.

531 (e) The Children's Multidisciplinary Assessment Team.

532 (f) The Medical Foster Care Program.

533 (g) The Title V program for children and youth with special

534 health care needs.

535 (h) The Safety Net Program.

536 (i) The Networks for Access and Quality.

537 (j) Child Protection Teams and sexual abuse treatment

538 programs established under s. 39.303.

539 (k) The State Child Abuse Death Review Committee and local

540 child abuse death review committees established in s. 383.402.

541 Section 6. Section 391.026, Florida Statutes, is amended to

542 read:

543 391.026 Powers and duties of the department.—The department

544 shall have the following powers, duties, and responsibilities:

545 (1) To provide or contract for the provision of health

546 services to eligible individuals.

547 (2) To provide services to abused and neglected children

548 through Child Protection Teams pursuant to s. 39.303.

549 (3) To determine the medical and financial eligibility of

550 individuals seeking health services from the program.

551 (4) To coordinate a comprehensive delivery system for

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552 eligible individuals to take maximum advantage of all available

553 funds.

554 (5) To coordinate with programs relating to children's

555 medical services in cooperation with other public and private

556 agencies.

557 (6) To initiate and coordinate applications to federal

558 agencies and private organizations for funds, services, or

559 commodities relating to children's medical programs.

560 (7) To sponsor or promote grants for projects, programs,

561 education, or research in the field of children and youth with

562 special health care needs, with an emphasis on early diagnosis

563 and treatment.

564 (8) To oversee and operate the Children's Medical Services

565 Managed Care Plan network.

566 (9) To establish reimbursement mechanisms for the

567 Children's Medical Services Managed Care Plan network.

568 (10) To establish Children's Medical Services Managed Care

569 Plan network standards and, if applicable, credentialing

570 requirements for health care providers and health care services.

571 ~~(11) To serve as a provider and principal case manager for~~

572 ~~children with special health care needs under Titles XIX and XXI~~

573 ~~of the Social Security Act.~~

574 ~~(12)~~ To monitor the provision of health services in the

575 program, including the utilization and quality of health

576 services.

577 ~~(12)-(13)~~ To administer the Children and Youth with Special

578 Health Care Needs program in accordance with Title V of the

579 Social Security Act.

580 ~~(13)-(14)~~ To establish and operate a grievance resolution

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581 process for participants and health care providers.  
 582 ~~(14)-(15)~~ To maintain program integrity in the Children's  
 583 Medical Services program.  
 584 ~~(15)-(16)~~ To receive and manage health care premiums,  
 585 capitation payments, and funds from federal, state, local, and  
 586 private entities for the program. The department may contract  
 587 with a third-party administrator for processing claims,  
 588 monitoring medical expenses, and other related services  
 589 necessary to the efficient and cost-effective operation of the  
 590 Children's Medical Services Managed Care Plan network. The  
 591 department is authorized to maintain a minimum reserve for the  
 592 Children's Medical Services Managed Care Plan network in an  
 593 amount that is the greater of:  
 594 (a) Ten percent of total projected expenditures for Title  
 595 XIX-funded and Title XXI-funded children; or  
 596 (b) Two percent of total annualized payments from the  
 597 Agency for Health Care Administration for Title XIX and Title  
 598 XXI of the Social Security Act.  
 599 ~~(16)-(17)~~ To provide or contract for peer review and other  
 600 quality-improvement activities.  
 601 ~~(17)-(18)~~ To adopt rules pursuant to ss. 120.536(1) and  
 602 120.54 to administer the Children's Medical Services Act.  
 603 ~~(18)-(19)~~ To serve as the lead agency in administering the  
 604 Early Steps Program pursuant to part C of the federal  
 605 Individuals with Disabilities Education Act and part III of this  
 606 chapter.  
 607 (19) To administer the Medical Foster Care Program,  
 608 including all of the following:  
 609 (a) Recruitment, training, assessment, and monitoring for

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610 the Medical Foster Care Program.  
 611 (b) Monitoring access and facilitating admissions of  
 612 eligible children and youth to the program and designated  
 613 medical foster care homes.  
 614 (c) Coordination with the Department of Children and  
 615 Families and the Agency for Health Care Administration or their  
 616 designees.  
 617 Section 7. Section 391.028, Florida Statutes, is amended to  
 618 read:  
 619 391.028 Administration.—  
 620 (1) The Director of Children's Medical Services must be a  
 621 physician licensed under chapter 458 or chapter 459 who has  
 622 specialized training and experience in the provision of health  
 623 care to children and youth and who has recognized skills in  
 624 leadership and the promotion of children's health programs. The  
 625 director shall be the deputy secretary and the Deputy State  
 626 Health Officer for Children's Medical Services and is appointed  
 627 by and reports to the State Surgeon General. The director may  
 628 appoint such other staff as necessary for the operation of the  
 629 program subject to the approval of the State Surgeon General.  
 630 (2) The director shall provide for an operational system  
 631 using such department staff and contract providers as necessary.  
 632 The program shall implement all of the following program  
 633 activities under physician supervision on a statewide basis:  
 634 (a) ~~Case management services for network participants,~~  
 635 ~~(b)~~ Management and oversight of statewide local program  
 636 activities.†  
 637 (b)(c) Medical and financial eligibility determination for  
 638 the program in accordance with s. 391.029.†

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639 ~~(c)(d)~~ Determination of a level of care and medical  
 640 complexity for long-term care services.~~+~~  
 641 ~~(d)(e)~~ Authorizing services in the program and developing  
 642 spending plans.~~+~~  
 643 ~~(f) Development of treatment plans; and~~  
 644 ~~(e)(g)~~ Resolution of complaints and grievances from  
 645 participants and health care providers.  
 646 ~~(3) Each Children's Medical Services area office shall be~~  
 647 ~~directed by a physician licensed under chapter 458 or chapter~~  
 648 ~~459 who has specialized training and experience in the provision~~  
 649 ~~of health care to children. The director of a Children's Medical~~  
 650 ~~Services area office shall be appointed by the director from the~~  
 651 ~~active panel of Children's Medical Services physician~~  
 652 ~~consultants.~~  
 653 Section 8. Subsections (2) and (3) of section 391.029,  
 654 Florida Statutes, are amended to read:  
 655 391.029 Program eligibility.—  
 656 (2) The following individuals are eligible to receive  
 657 services through the program:  
 658 (a) Related to the regional perinatal intensive care  
 659 centers, a high-risk pregnant female who is enrolled in  
 660 Medicaid.  
 661 (b) Children and youth with serious special health care  
 662 needs from birth to 21 years of age who are enrolled in  
 663 Medicaid.  
 664 (c) Children and youth with serious special health care  
 665 needs from birth to 19 years of age who are enrolled in a  
 666 program under Title XXI of the Social Security Act.  
 667 (3) Subject to the availability of funds, the following

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668 individuals may receive services through the program:  
 669 (a) Children and youth with serious special health care  
 670 needs from birth to 21 years of age who do not qualify for  
 671 Medicaid or Title XXI of the Social Security Act but who are  
 672 unable to access, due to lack of providers or lack of financial  
 673 resources, specialized services that are medically necessary or  
 674 essential family support services. Families shall participate  
 675 financially in the cost of care based on a sliding fee scale  
 676 established by the department.  
 677 (b) Children and youth with special health care needs from  
 678 birth to 21 years of age, as provided in Title V of the Social  
 679 Security Act.  
 680 (c) An infant who receives an award of compensation under  
 681 s. 766.31(1). The Florida Birth-Related Neurological Injury  
 682 Compensation Association shall reimburse the Children's Medical  
 683 Services Managed Care Plan Network the state's share of funding,  
 684 which must thereafter be used to obtain matching federal funds  
 685 under Title XXI of the Social Security Act.  
 686 Section 9. Section 391.0315, Florida Statutes, is amended  
 687 to read:  
 688 391.0315 Benefits.—Benefits provided under the Children's  
 689 Medical Services Managed Care Plan ~~program for children with~~  
 690 ~~special health care needs~~ shall be equivalent to benefits  
 691 provided to children as specified in ss. 409.905 and 409.906.  
 692 The department may offer additional benefits through Children's  
 693 Medical Services programs for early intervention services,  
 694 respite services, genetic testing, genetic and nutritional  
 695 counseling, and parent support services, if such services are  
 696 determined to be medically necessary.

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697 Section 10. Section 391.035, Florida Statutes, is repealed.

698 Section 11. Section 391.045, Florida Statutes, is amended  
699 to read:

700 391.045 Reimbursement.—

701 (1) The department shall reimburse health care providers  
702 for services rendered through ~~the~~ Children's Medical Services  
703 Managed Care Plan network using cost-effective methods,  
704 including, but not limited to, capitation, discounted fee-for-  
705 service, unit costs, and cost reimbursement. Medicaid  
706 reimbursement rates shall be utilized to the maximum extent  
707 possible, where applicable.

708 (2) Reimbursement to the Children's Medical Services  
709 program for services provided to children and youth with special  
710 health care needs who participate in the Florida Kidcare program  
711 and who are not Medicaid recipients shall be on a capitated  
712 basis.

713 Section 12. Section 391.055, Florida Statutes, is amended  
714 to read:

715 391.055 Service delivery systems.—

716 (1) The program shall apply managed care methods to ensure  
717 the efficient operation of the Children's Medical Services  
718 Managed Care Plan network. Such methods include, but are not  
719 limited to, capitation payments, utilization management and  
720 review, prior authorization, and case management.

721 (2) ~~The components of the network are:~~

722 ~~(a) Qualified primary care physicians who shall serve as~~  
723 ~~the gatekeepers and who shall be responsible for the provision~~  
724 ~~or authorization of health services to an eligible individual~~  
725 ~~who is enrolled in the Children's Medical Services network.~~

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726 ~~(b) Comprehensive Specialty care arrangements that meet the~~  
727 ~~requirements of s. 391.035 to provide acute care, specialty~~  
728 ~~care, long-term care, and chronic disease management for~~  
729 ~~eligible individuals.~~

730 ~~(c) Case management services.~~

731 ~~(3)~~ The Children's Medical Services Managed Care Plan  
732 network may contract with school districts participating in the  
733 certified school match program pursuant to ss. 409.908(21) and  
734 1011.70 for the provision of school-based services, as provided  
735 for in s. 409.9071, for Medicaid-eligible children who are  
736 enrolled in the Children's Medical Services Managed Care Plan  
737 network.

738 ~~(4) If a newborn has an abnormal screening result for~~  
739 ~~metabolic or other hereditary and congenital disorders which is~~  
740 ~~identified through the newborn screening program pursuant to s.~~  
741 ~~383.14, the newborn shall be referred to the Children's Medical~~  
742 ~~Services program for additional testing, medical management,~~  
743 ~~early intervention services, or medical referral.~~

744 Section 13. Section 391.097, Florida Statutes, is amended  
745 to read:

746 391.097 Research and evaluation.—

747 (1) The department may initiate, fund, and conduct research  
748 and evaluation projects to improve the delivery of children's  
749 medical services. The department may cooperate with public and  
750 private agencies engaged in work of a similar nature.

751 (2) The Children's Medical Services Managed Care Plan  
752 network shall be included in any evaluation conducted in  
753 accordance with the provisions of Title XXI of the Social  
754 Security Act as enacted by the Legislature.

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Section 14. Part II of chapter 391, Florida Statutes, consisting of ss. 391.221 and 391.223, Florida Statutes, is repealed, and part III of that chapter is redesignated as part II.

Section 15. Legislative findings and intent.—

(1) The Legislature finds that:

(a) In August 2014, the Department of Health's Children's Medical Services Network, which was a fee-for-service program serving children with special health care needs who were enrolled in Medicaid under Title XIX of the Social Security Act and children with special health care needs who were enrolled in the Children's Health Insurance Program under Title XXI of the Social Security Act, was transitioned to the Children's Medical Services Managed Care Plan.

(b) The Agency for Health Care Administration serves as the lead agency for Statewide Medicaid Managed Care for the state of Florida, and the Agency for Health Care Administration contracts with the Department of Health to provide Medicaid services through the Children's Medical Services Managed Care Plan.

(c) The Department of Health subcontracts with a private provider to operate various components of the Children's Medical Services Managed Care Plan, including services for children with special health care needs enrolled in Medicaid and children with special health care needs enrolled in the Children's Health Insurance Program.

(d) The administrative requirements of this intermediary relationship can be addressed by transitioning the operations of the Children's Medical Services Managed Care Plan to the Agency for Health Care Administration. This transition shall include

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children with special health care needs enrolled in Medicaid and children with special health care needs enrolled in the Children's Health Insurance Program.

(e) The Department of Health's Children's Medical Services program has a longstanding history of successfully and compassionately caring for children with special health care needs and their families. This knowledge, skill, and ability can be used to collaborate with the Agency for Health Care Administration in the care of children with special health care needs.

(2) It is the intent of the Legislature that the Agency for Health Care Administration shall, in consultation with the Department of Health, competitively procure and operate one or more specialty plan contracts for children and youth with special health care needs beginning with the 2024-2025 plan year.

Section 16. Transfer of operation of the Children's Medical Services Managed Care Plan.—

(1) Effective October 1, 2024, all statutory powers, duties, functions, records, personnel, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the operation of the Department of Health's Children's Medical Services Managed Care Plan, except those powers, duties, and personnel retained by the Department of Health in chapter 391, Florida Statutes, are transferred to the Agency for Health Care Administration.

(2) The transfer of operations of the Children's Medical Services Managed Care Plan does not affect the validity of any

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813 judicial or administrative action pending as of 11:59 p.m. on  
 814 the day before the effective date of the transfer to which the  
 815 Department of Health's Children's Medical Services Managed Care  
 816 Plan is at that time a party, and the Agency for Health Care  
 817 Administration shall be substituted as a party in interest in  
 818 any such action.

819 (3) The Department of Health's Children's Medical Services  
 820 program shall use its knowledge, skill, and ability to  
 821 collaborate with the Agency for Health Care Administration in  
 822 the care of children with special health care needs. The  
 823 Department of Health's Children's Medical Services program shall  
 824 do all of the following:

825 (a) Assist the agency in developing specifications for use  
 826 in the procurement of vendors and the model contract, including  
 827 provisions relating to referral, enrollment, disenrollment,  
 828 access, quality-of-care, network adequacy, care coordination,  
 829 and service integration.

830 (b) Conduct clinical eligibility screening for children  
 831 with special health care needs who are eligible for or enrolled  
 832 in Medicaid or the Children's Health Insurance Program.

833 (c) Collaborate with the agency in the care of children  
 834 with special health care needs.

835 Section 17. By November 1, 2023, the Agency for Health Care  
 836 Administration and the Department of Health shall submit to each  
 837 substantive and fiscal committee of the Legislature having  
 838 jurisdiction a report specifying any legislative and  
 839 administrative changes needed to effectively transfer operations  
 840 of the Children's Medical Services Managed Care Plan from the  
 841 department to the agency.

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842 Section 18. Subsection (4) of section 409.974, Florida  
 843 Statutes, is amended to read:

844 409.974 Eligible plans.—

845 (4) CHILDREN'S MEDICAL SERVICES NETWORK.—The Agency for  
 846 Health Care Administration shall competitively procure one or  
 847 more vendors to provide services for children with special  
 848 health care needs who are enrolled in Medicaid and children with  
 849 special health care needs who are enrolled in the Children's  
 850 Health Insurance Program for the 2024-2025 plan year. The  
 851 Department of Health's Children's Medical Services program shall  
 852 do all of the following:

853 (a) Assist the agency in developing specifications for use  
 854 in the procurement of vendors and the model contract, including  
 855 provisions relating to referral, enrollment, disenrollment,  
 856 access, quality-of-care, network adequacy, care coordination,  
 857 and service integration.

858 (b) Conduct clinical eligibility screening for children  
 859 with special health care needs who are eligible for or are  
 860 enrolled in Medicaid or the Children's Health Insurance Program.

861 (c) Collaborate with the agency in the care of children  
 862 with special health care needs ~~Participation by the Children's~~  
 863 ~~Medical Services Network shall be pursuant to a single,~~  
 864 ~~statewide contract with the agency that is not subject to the~~  
 865 ~~procurement requirements or regional plan number limits of this~~  
 866 ~~section. The Children's Medical Services Network must meet all~~  
 867 ~~other plan requirements for the managed medical assistance~~  
 868 ~~program.~~

869 Section 19. Effective October 1, 2024, paragraph (f) of  
 870 subsection (4) and paragraph (b) of subsection (5) of section

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871 409.166, Florida Statutes, are amended to read:  
 872 409.166 Children within the child welfare system; adoption  
 873 assistance program.—  
 874 (4) ADOPTION ASSISTANCE.—  
 875 (f) The department may provide adoption assistance to the  
 876 adoptive parents, subject to specific appropriation, for medical  
 877 assistance initiated after the adoption of the child for  
 878 medical, surgical, hospital, and related services needed as a  
 879 result of a physical or mental condition of the child which  
 880 existed before the adoption and is not covered by Medicaid,  
 881 ~~Children's Medical Services,~~ or Children's Mental Health  
 882 Services. Such assistance may be initiated at any time but must  
 883 ~~shall~~ terminate on or before the child's 18th birthday.  
 884 (5) ELIGIBILITY FOR SERVICES.—  
 885 (b) A child who is handicapped at the time of adoption is  
 886 ~~shall be~~ eligible for services through a specialty plan under  
 887 contract with the agency to serve children with special health  
 888 care needs the Children's Medical Services network established  
 889 under part I of chapter 391 if the child was eligible for such  
 890 services before ~~prior to~~ the adoption.  
 891 Section 20. Subsection (7) of section 409.811, Florida  
 892 Statutes, is amended to read:  
 893 409.811 Definitions relating to Florida Kidcare Act.—As  
 894 used in ss. 409.810-409.821, the term:  
 895 (7) "Children's Medical Services Managed Care Plan Network"  
 896 or "plan network" means a statewide managed care service system  
 897 as defined in s. 391.021 ~~s. 391.021(1)~~.  
 898 Section 21. Effective October 1, 2024, subsection (1) of  
 899 section 409.813, Florida Statutes, is amended to read:

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

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900 409.813 Health benefits coverage; program components;  
 901 entitlement and nonentitlement.—  
 902 (1) The Florida Kidcare program includes health benefits  
 903 coverage provided to children through the following program  
 904 components, which shall be marketed as the Florida Kidcare  
 905 program:  
 906 (a) Medicaid;  
 907 (b) Medikids as created in s. 409.8132;  
 908 (c) The Florida Healthy Kids Corporation as created in s.  
 909 624.91;  
 910 (d) Employer-sponsored group health insurance plans  
 911 approved under ss. 409.810-409.821; and  
 912 (e) A specialty plan under contract with the agency to  
 913 serve children with special health care needs ~~The Children's~~  
 914 ~~Medical Services network established in chapter 391.~~  
 915 Section 22. Effective October 1, 2024, subsection (3) of  
 916 section 409.8134, Florida Statutes, is amended to read:  
 917 409.8134 Program expenditure ceiling; enrollment.—  
 918 (3) Upon determination by the Social Services Estimating  
 919 Conference that there are insufficient funds to finance the  
 920 current enrollment in the Florida Kidcare program within current  
 921 appropriations, the program shall initiate disenrollment  
 922 procedures to remove enrollees, except those children enrolled  
 923 in a specialty plan under contract with the agency to serve  
 924 children with special health care needs ~~the Children's Medical~~  
 925 ~~Services Network~~, on a last-in, first-out basis until the  
 926 expenditure and appropriation levels are balanced.  
 927 Section 23. Subsection (3) and paragraph (c) of subsection  
 928 (10) of section 409.814, Florida Statutes, are amended to read:

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



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929 409.814 Eligibility.—A child who has not reached 19 years  
 930 of age whose family income is equal to or below 200 percent of  
 931 the federal poverty level is eligible for the Florida Kidcare  
 932 program as provided in this section. If an enrolled individual  
 933 is determined to be ineligible for coverage, he or she must be  
 934 immediately disenrolled from the respective Florida Kidcare  
 935 program component.

936 (3) A Title XXI-funded child who is eligible for the  
 937 Florida Kidcare program who is a child with special health care  
 938 needs, as determined through a medical or behavioral screening  
 939 instrument, is eligible for health benefits coverage from and  
 940 shall be assigned to and may opt out of the Children's Medical  
 941 Services Managed Care Plan Network.

942 (10) In determining the eligibility of a child, an assets  
 943 test is not required. Each applicant shall provide documentation  
 944 during the application process and the redetermination process,  
 945 including, but not limited to, the following:

946 (c) To enroll in the Children's Medical Services Managed  
 947 Care Plan Network, a completed application, including a clinical  
 948 screening.

949 Section 24. Effective October 1, 2024, paragraph (t) of  
 950 subsection (2) of section 409.815, Florida Statutes, is amended  
 951 to read:

952 409.815 Health benefits coverage; limitations.—

953 (2) BENCHMARK BENEFITS.—In order for health benefits  
 954 coverage to qualify for premium assistance payments for an  
 955 eligible child under ss. 409.810-409.821, the health benefits  
 956 coverage, except for coverage under Medicaid and Medikids, must  
 957 include the following minimum benefits, as medically necessary.

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958 (t) *Enhancements to minimum requirements.*—

959 1. This section sets the minimum benefits that must be  
 960 included in any health benefits coverage, other than Medicaid or  
 961 Medikids coverage, offered under ss. 409.810-409.821. Health  
 962 benefits coverage may include additional benefits not included  
 963 under this subsection, but may not include benefits excluded  
 964 under paragraph (r).

965 2. Health benefits coverage may extend any limitations  
 966 beyond the minimum benefits described in this section.

967  
 968 Except for a specialty plan under contract with the agency to  
 969 serve children with special health care needs ~~the Children's~~  
 970 ~~Medical Services Network~~, the agency may not increase the  
 971 premium assistance payment for either additional benefits  
 972 provided beyond the minimum benefits described in this section  
 973 or the imposition of less restrictive service limitations.

974 Section 25. Effective October 1, 2024, paragraph (i) of  
 975 subsection (1) of section 409.8177, Florida Statutes, is amended  
 976 to read:

977 409.8177 Program evaluation.—

978 (1) The agency, in consultation with the Department of  
 979 Health, the Department of Children and Families, and the Florida  
 980 Healthy Kids Corporation, shall contract for an evaluation of  
 981 the Florida Kidcare program and shall by January 1 of each year  
 982 submit to the Governor, the President of the Senate, and the  
 983 Speaker of the House of Representatives a report of the program.  
 984 In addition to the items specified under s. 2108 of Title XXI of  
 985 the Social Security Act, the report shall include an assessment  
 986 of crowd-out and access to health care, as well as the

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following:

(i) An assessment of the effectiveness of the Florida Kidcare program, including Medicaid, the Florida Healthy Kids program, Medikids, and the specialty plans under contract with the agency to serve children with special health care needs ~~Children's Medical Services network~~, and other public and private programs in the state in increasing the availability of affordable quality health insurance and health care for children.

Section 26. Effective October 1, 2024, subsection (4) of section 409.818, Florida Statutes, is amended to read:

409.818 Administration.—In order to implement ss. 409.810-409.821, the following agencies shall have the following duties:

(4) The Office of Insurance Regulation shall certify that health benefits coverage plans that seek to provide services under the Florida Kidcare program, except those offered through the Florida Healthy Kids Corporation ~~or the Children's Medical Services Network~~, meet, exceed, or are actuarially equivalent to the benchmark benefit plan and that health insurance plans will be offered at an approved rate. In determining actuarial equivalence of benefits coverage, the Office of Insurance Regulation and health insurance plans must comply with the requirements of s. 2103 of Title XXI of the Social Security Act. The department shall adopt rules necessary for certifying health benefits coverage plans.

Section 27. Effective October 1, 2024, subsection (11) of section 409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients

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in the most cost-effective manner consistent with the delivery of quality medical care. To ensure that medical services are effectively utilized, the agency may, in any case, require a confirmation or second physician's opinion of the correct diagnosis for purposes of authorizing future services under the Medicaid program. This section does not restrict access to emergency services or poststabilization care services as defined in 42 C.F.R. s. 438.114. Such confirmation or second opinion shall be rendered in a manner approved by the agency. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services. The agency shall contract with a vendor to monitor and evaluate the clinical practice patterns of providers in order to identify trends that are outside the normal practice patterns of a provider's professional peers or the national guidelines of a provider's professional association. The vendor must be able to provide information and counseling to a provider whose practice patterns are outside the norms, in consultation with the agency, to improve patient care and reduce inappropriate utilization. The agency may mandate prior authorization, drug therapy management, or disease management participation for certain populations of Medicaid beneficiaries, certain drug classes, or

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1045 particular drugs to prevent fraud, abuse, overuse, and possible  
 1046 dangerous drug interactions. The Pharmaceutical and Therapeutics  
 1047 Committee shall make recommendations to the agency on drugs for  
 1048 which prior authorization is required. The agency shall inform  
 1049 the Pharmaceutical and Therapeutics Committee of its decisions  
 1050 regarding drugs subject to prior authorization. The agency is  
 1051 authorized to limit the entities it contracts with or enrolls as  
 1052 Medicaid providers by developing a provider network through  
 1053 provider credentialing. The agency may competitively bid single-  
 1054 source-provider contracts if procurement of goods or services  
 1055 results in demonstrated cost savings to the state without  
 1056 limiting access to care. The agency may limit its network based  
 1057 on the assessment of beneficiary access to care, provider  
 1058 availability, provider quality standards, time and distance  
 1059 standards for access to care, the cultural competence of the  
 1060 provider network, demographic characteristics of Medicaid  
 1061 beneficiaries, practice and provider-to-beneficiary standards,  
 1062 appointment wait times, beneficiary use of services, provider  
 1063 turnover, provider profiling, provider licensure history,  
 1064 previous program integrity investigations and findings, peer  
 1065 review, provider Medicaid policy and billing compliance records,  
 1066 clinical and medical record audits, and other factors. Providers  
 1067 are not entitled to enrollment in the Medicaid provider network.  
 1068 The agency shall determine instances in which allowing Medicaid  
 1069 beneficiaries to purchase durable medical equipment and other  
 1070 goods is less expensive to the Medicaid program than long-term  
 1071 rental of the equipment or goods. The agency may establish rules  
 1072 to facilitate purchases in lieu of long-term rentals in order to  
 1073 protect against fraud and abuse in the Medicaid program as

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1074 defined in s. 409.913. The agency may seek federal waivers  
 1075 necessary to administer these policies.  
 1076 (11) The agency shall implement a program of all-inclusive  
 1077 care for children. The program of all-inclusive care for  
 1078 children shall be established to provide in-home hospice-like  
 1079 support services to children diagnosed with a life-threatening  
 1080 illness ~~and enrolled in the Children's Medical Services network~~  
 1081 to reduce hospitalizations as appropriate. The agency, in  
 1082 consultation with the Department of Health, may implement the  
 1083 program of all-inclusive care for children after obtaining  
 1084 approval from the Centers for Medicare and Medicaid Services.  
 1085 Section 28. Effective October 1, 2024, subsection (1) of  
 1086 section 409.9126, Florida Statutes, is amended to read:  
 1087 409.9126 Children with special health care needs.—  
 1088 (1) Except as provided in subsection (4), children eligible  
 1089 for Children's Medical Services who receive Medicaid benefits,  
 1090 and other Medicaid-eligible children with special health care  
 1091 needs, are ~~shall be~~ exempt from the provisions of s. 409.9122  
 1092 ~~and shall be served through the Children's Medical Services~~  
 1093 ~~network established in chapter 391.~~  
 1094 Section 29. Effective October 1, 2024, paragraph (a) of  
 1095 subsection (5) of section 409.9131, Florida Statutes, is amended  
 1096 to read:  
 1097 409.9131 Special provisions relating to integrity of the  
 1098 Medicaid program.—  
 1099 (5) DETERMINATIONS OF OVERPAYMENT.—In making a  
 1100 determination of overpayment to a physician, the agency must:  
 1101 (a) Use accepted and valid auditing, accounting,  
 1102 analytical, statistical, or peer-review methods, or combinations

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1103 thereof. Appropriate statistical methods may include, but are  
 1104 not limited to, sampling and extension to the population,  
 1105 parametric and nonparametric statistics, tests of hypotheses,  
 1106 other generally accepted statistical methods, review of medical  
 1107 records, and a consideration of the physician's client case mix.  
 1108 Before performing a review of the physician's Medicaid records,  
 1109 however, the agency shall make every effort to consider the  
 1110 physician's patient case mix, including, but not limited to,  
 1111 patient age ~~and whether individual patients are clients of the~~  
 1112 ~~Children's Medical Services Network established in chapter 391.~~  
 1113 In meeting its burden of proof in any administrative or court  
 1114 proceeding, the agency may introduce the results of such  
 1115 statistical methods and its other audit findings as evidence of  
 1116 overpayment.

1117 Section 30. Effective October 1, 2024, paragraph (e) of  
 1118 subsection (1) of section 409.920, Florida Statutes, is amended  
 1119 to read:

1120 409.920 Medicaid provider fraud.—

1121 (1) For the purposes of this section, the term:

1122 (e) "Managed care plans" means a health insurer authorized  
 1123 under chapter 624, an exclusive provider organization authorized  
 1124 under chapter 627, a health maintenance organization authorized  
 1125 under chapter 641, ~~the Children's Medical Services Network~~  
 1126 ~~authorized under chapter 391,~~ a prepaid health plan authorized  
 1127 under this chapter, a provider service network authorized under  
 1128 this chapter, a minority physician network authorized under this  
 1129 chapter, and an emergency department diversion program  
 1130 authorized under this chapter or the General Appropriations Act,  
 1131 providing health care services pursuant to a contract with the

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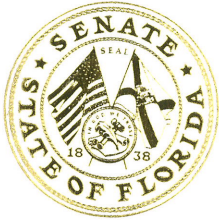
1132 Medicaid program.

1133 Section 31. Effective October 1, 2024, subsection (7) of  
 1134 section 409.962, Florida Statutes, is amended to read:

1135 409.962 Definitions.—As used in this part, except as  
 1136 otherwise specifically provided, the term:

1137 (7) "Eligible plan" means a health insurer authorized under  
 1138 chapter 624, an exclusive provider organization authorized under  
 1139 chapter 627, a health maintenance organization authorized under  
 1140 chapter 641, or a provider service network authorized under s.  
 1141 409.912(1) or an accountable care organization authorized under  
 1142 federal law. For purposes of the managed medical assistance  
 1143 program, the term also includes ~~the Children's Medical Services~~  
 1144 ~~Network authorized under chapter 391~~ and entities qualified  
 1145 under 42 C.F.R. part 422 as Medicare Advantage Preferred  
 1146 Provider Organizations, Medicare Advantage Provider-sponsored  
 1147 Organizations, Medicare Advantage Health Maintenance  
 1148 Organizations, Medicare Advantage Coordinated Care Plans, and  
 1149 Medicare Advantage Special Needs Plans, and the Program of All-  
 1150 inclusive Care for the Elderly.

1151 Section 32. Except as otherwise expressly provided in this  
 1152 act, this act shall take effect July 1, 2023.



**SENATOR JENNIFER BRADLEY**  
6th District

## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations Committee on Criminal  
and Civil Justice, *Chair*  
Criminal Justice, *Vice Chair*  
Appropriations  
Appropriations Committee on Health  
and Human Services  
Children, Families, and Elder Affairs  
Community Affairs  
Regulated Industries

### SELECT COMMITTEE:

Select Committee on Resiliency

March 13, 2023

Senator Colleen Burton, Chair  
Senate Committee on Health Policy  
318 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Burton:

I respectfully request that Senate Bill 1548 be placed on the committee's agenda at your earliest convenience. This bill relates to a children's medical services program.

Thank you for your consideration.

Sincerely,

Jennifer Bradley

cc: Allen Brown, Staff Director  
Daniel Looke, Deputy Staff Director  
Anhar Al-Asadi, Administrative Assistant

### REPLY TO:

- ☐ 1845 East West Parkway, Suite 5, Fleming Island, Florida 32003 (904) 278-2085
- ☐ 410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

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

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

04/04/23

Meeting Date

1548

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name Matias Villalobos

Phone 954 8602480

Address 13990 Bartram Park Blvd #806

Street

Email

Jacksonville FL 32258

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

Kids who ARE deaf

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
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04/04/23  
Meeting Date

Health Policy  
Committee

1548

Bill Number or Topic

Amendment Barcode (if applicable)

Name Fabiola Bracho

Phone (954) 860 2480

Address 13990 Bartram Park Blv, 806  
Street

Email fabybracho84@gmail.com

Jacksonville FL 32258  
City State Zip

Speaking:

☒ For

☐ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

Moms of Kids who ARE Deaf

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

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4/4/23  
Meeting Date  
Health Policy  
Committee

1548

Bill Number or Topic

Amendment Barcode (if applicable)

Name THERESA BULGER Phone 904 880 9063  
Address 253 Hayden St. Email tb@DeafKidsCan  
Tallahassee, FL 32303  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:  
1.) DEAF Kids Can

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

2.) SERTOMA Foundation  
3.) FL. Academy of Audio logists

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)



**APPEARANCE RECORD**

4/4/23

Meeting Date

1548

Bill Number or Topic

Health Policy

Committee

Deliver both copies of this form to  
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Amendment Barcode (if applicable)

Name MARK SPENCERPhone 727 916 1474Address 1507 EL PARDO DR  
StreetEmail markspencerlaw@outlook.comTRINITY FL 34655  
City State ZipSpeaking: ☐ For ☐ Against ☐ Information**OR**Waive Speaking: ☒ In Support ☐ Against**PLEASE CHECK ONE OF THE FOLLOWING:**☒ I am appearing without  
compensation or sponsorship.☐ I am a registered lobbyist,  
representing:☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

**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: SB 1580

INTRODUCER: Senator Trumbull

SUBJECT: Protections of Medical Conscience

DATE: April 2, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	<b>Favorable</b>
2.			RC	

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**I. Summary:**

SB 1580 establishes rights of conscience for health care providers and payors. The bill provides that a provider or payor has the right to opt-out of participation in or payment for a health care service on the basis of a conscience-based objection (CBO). The bill establishes notification requirements for opting-out and prohibits a payor from opting-out of paying for a service it is contractually obligated to cover during a plan year. The bill also specifies that CBOs are limited to specific health care services and that the bill may not be construed to waive or modify any duty a provider or payor may have for other health care services that do not violate a provider's or payor's conscience.

The bill prohibits any person, governmental entity, business entity, or educational institution from discriminating against a provider or payor for declining to participate in a health care service based on a CBO. The bill also provides whistle-blower protections for providers or payors in specific situations and specifies that the bill may not be construed to override any requirement to provide emergency medical treatment in accordance with federal or state law.

Additionally, the bill prohibits a board,<sup>1</sup> or the Department of Health (DOH) if there is no board, from taking disciplinary action against a health care practitioner solely because he or she has spoken or written publicly about a health care service, including on a social media platform, as long as the speech or written communication does not provide advice or treatment to a specific patient or patients and does not separately violate any other applicable law or rule.

The bill provides that its provisions are severable and provides an effective date of July 1, 2023.

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<sup>1</sup> Under s. 456.001(1), F.S., a "board" is any board or commission, or other statutorily created entity, to the extent such entity is authorized to exercise regulatory or rulemaking functions within the Department of Health or the department's Division of Medical Quality Assurance. Most of Florida's licensed health care professions have a board.

## II. Present Situation:

### Medical Conscience

#### *The Church Amendments*

The conscience provisions contained in 42 U.S.C. 300a-7 (collectively known as the “Church Amendments”) were enacted at various times during the 1970s in response to debates over whether receipt of federal funds required the recipients of such funds to perform abortions or sterilizations. The first conscience provision in the Church Amendments, 42 U.S.C. 300a-7(b), provides that “[t]he receipt of any grant, contract, loan, or loan guarantee under [certain statutes implemented by the Department of Health and Human Services] by any individual or entity, does not authorize any court or any public official or other public authority to require:”

- The individual to perform or assist in a sterilization procedure or an abortion, if it would be contrary to his or her religious beliefs or moral convictions;
- The entity to make its facilities available for sterilization procedures or abortions, if the performance of sterilization procedures or abortions in the facilities is prohibited by the entity on the basis of religious beliefs or moral convictions; or
- The entity to provide personnel for the performance or assistance in the performance of sterilization procedures or abortions, if it would be contrary to the religious beliefs or moral convictions of such personnel.

The second conscience provision in the Church Amendments, 42 U.S.C. 300a-7(c)(1), prohibits any entity that receives a grant, contract, loan, or loan guarantee under certain statutes from discriminating against any physician or other health care personnel in employment, promotion, termination of employment, or the extension of staff or other privileges because the individual “performed or assisted in the performance of a lawful sterilization procedure or abortion, because he refused to perform or assist in the performance of such a procedure or abortion on the grounds that his performance or assistance in the performance of the procedure or abortion would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions respecting sterilization procedures or abortions.”

The third conscience provision, contained in 42 U.S.C. 300a-7(c)(2), prohibits any entity that receives a grant or contract for biomedical or behavioral research under any program administered by the U.S. Department of Health and Human Services (HHS) from discriminating against any physician or other health care personnel in employment, promotion, termination of employment, or extension of staff or other privileges “because he performed or assisted in the performance of any lawful health service or research activity, because he refused to perform or assist in the performance of any such service or activity on the grounds that his performance or assistance in the performance of such service or activity would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions respecting any such service or activity.”

The fourth conscience provision, 42 U.S.C. 300a-7(d), provides that “[n]o individual shall be required to perform or assist in the performance of any part of a health service program or research activity funded in whole or in part under a program administered by [the HHS] if his performance or assistance in the performance of such part of such program or activity would be contrary to his religious beliefs or moral convictions.”

The final conscience provision contained in the Church Amendments, 42 U.S.C. 300a-7(e), prohibits any entity that receives a grant, contract, loan, loan guarantee, or interest subsidy under certain Departmentally-implemented statutes from denying admission to, or otherwise discriminating against, “any applicant (including applicants for internships and residencies) for training or study because of the applicant's reluctance, or willingness, to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to or consistent with the applicant's religious beliefs or moral convictions.”<sup>2</sup>

### ***Public Health Service Act Section 245***

Enacted in 1996, section 245 of the Public Health Service Act (PHS Act) prohibits the federal government and any state or local government receiving federal financial assistance from discriminating against any health care entity on the basis that the entity:

- “Refuses to undergo training in the performance of induced abortions, to require or provide such training, to perform such abortions, or to provide referrals for such training or such abortions;”
- Refuses to make arrangements for such activities; or
- “Attends (or attended) a post-graduate physician training program, or any other program of training in the health professions, that does not (or did not) perform induced abortions or require, provide, or refer for training in the performance of induced abortions, or make arrangements for the provision of such training.”

For the purposes of this protection, the statute defines “financial assistance” as including, “with respect to a government program,” “governmental payments provided as reimbursement for carrying out health-related activities.” In addition, PHS Act Sec. 245 requires that, in determining whether to grant legal status to a health care entity (including a state's determination of whether to issue a license or certificate), the federal government and any state or local government receiving federal financial assistance must deem accredited any post-graduate physician training program that would be accredited, but for the reliance on an accrediting standard that, regardless of whether such standard provides exceptions or exemptions, requires an entity:

- To perform induced abortions; or
- To require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training.<sup>3</sup>

### ***Medicare and Medicaid***

Federal Medicare and Medicaid law includes certain conscience provisions as well. In particular, the Balanced Budget Act of 1997, Public Law 105-33, 111 Stat. 251 (1997), prohibits Medicaid managed care organizations and Medicare Advantage plans from prohibiting or restricting a physician from informing a patient about his or her health and full range of treatment options. However, it also provides that Medicaid managed care organizations and Medicare Advantage

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<sup>2</sup> Safeguarding the Rights of Conscience as Protected by Federal Statutes: A Proposed Rule by the HHS, 1/5/23, available at <https://www.federalregister.gov/documents/2023/01/05/2022-28505/safeguarding-the-rights-of-conscience-as-protected-by-federal-statutes>, (last visited April 1, 23).

<sup>3</sup> *Id.*

plans are not required to provide, reimburse for, or cover a counseling or referral service if the organization or plan objects to the service on moral or religious grounds. Such organization or plan must, however, provide sufficient notice of its moral or religious objections to prospective enrollees.<sup>4</sup>

### ***Weldon Amendment***

The Weldon Amendment, originally adopted as section 508(d) of the Labor-HHS Division (Division F) of the 2005 Consolidated Appropriations Act,<sup>5</sup> has been readopted (or incorporated by reference) in each subsequent legislative measure appropriating funds to HHS.

The Weldon Amendment provides that “[n]one of the funds made available in this Act [making appropriations for the Departments of Labor, Health and Human Services, and Education] may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.” It also defines “health care entity” to include “an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.”<sup>6</sup>

### ***The Patient Protection and Affordable Care Act (ACA)***

Section 1553 of the federal ACA provides that the federal government, any state or local government, and any health care provider that receives federal funding under the ACA, or any health plan created under the ACA, may not subject an individual or health care entity to discrimination on the grounds that the individual or entity does not provide services for the purpose of causing or assisting in the death of any individual, including through assisted suicide, euthanasia, and mercy killing.

Section 1303 provides that a state may choose to prohibit abortion coverage in its qualified health plans and that such a plan is not required to provide abortion coverage as part of its “essential health benefits.” However, a qualified health plan that declines to provide abortion coverage must provide notice of this exclusion to potential enrollees, and no qualified health plan may discriminate against any health care provider or facility because it refuses to provide, pay for, cover, or refer for abortions. Section 1303 also states that nothing in the ACA shall be construed to preempt state laws on abortion or federal laws on conscience protection, willingness or refusal to provide abortion, and discrimination based on that willingness or refusal to provide, pay for, cover, or refer for abortion or to provide or participate in training to provide abortion, or to relieve health care providers of their obligations to provide emergency services under federal or state laws, including the Emergency Medical Treatment and Labor Act.<sup>7</sup>

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<sup>4</sup> *Supra* note 2.

<sup>5</sup> Public Law 108-447, 118 Stat. 2809, 3163 (Dec. 8, 2004)

<sup>6</sup> *Supra* note 2.

<sup>7</sup> *Supra* note 2.

## State Medical Conscience Laws

According to the Guttmacher Institute:

- Forty-six states allow some health care providers to refuse to provide abortion services.
  - All of these states permit individual health care providers to refuse to provide abortion services.
  - Forty-four states allow health care institutions to refuse to provide abortion services;
  - Thirteen limit the exemption to private health care institutions; and
  - One state allows only religious health care entities to refuse to provide such services.
- Twelve states allow some health care providers to refuse to provide services related to contraception.
  - Nine states allow individual health care providers to refuse to provide services related to contraception.
  - Six states explicitly permit pharmacists to refuse to dispense contraceptives. (Six additional states have broad refusal clauses that do not specifically include pharmacists, but may apply to them.)
  - Eight states allow health care institutions to refuse to provide services related to contraception; and
  - Five states limit the exemption to private entities.
- Eighteen states allow some health care providers to refuse to provide sterilization services.
  - Seventeen states allow individual health care providers to refuse to provide sterilization services.
  - Sixteen states allow health care institutions to refuse to provide sterilization services;
  - Four limit the exemption to private entities.<sup>8</sup>

## Freedom of Speech

“Congress shall make no law ... abridging the freedom of speech.”<sup>9</sup>

The First Amendment of the U.S. Constitution protects the right to freedom of expression from government interference. The First Amendment is applicable to the states through the Due Process Clause of the Fourteenth Amendment.<sup>10</sup> “[T]he First Amendment assures the broadest tolerable exercise of free speech, free press, and free assembly, not merely for religious purposes, but for political, economic, scientific, news, or informational ends as well.”<sup>11</sup>

It is well established that a government regulation based on the content of speech is presumptively invalid and will be upheld only if it is necessary to advance a compelling governmental interest, precisely tailored to serve that interest, and is the least restrictive means

<sup>8</sup> For details, please see: Refusing to Provide Health Services, Guttmacher Institute, Updated March 1, 2023, available at <https://www.guttmacher.org/state-policy/explore/refusing-provide-health-services>, (last visited April 1, 2023).

<sup>9</sup> U.S. CONST. amend. I.

<sup>10</sup> See *De Jonge v. Oregon*, 299 U.S. 353, 364–65 (1937) (incorporating right of assembly); *Gitlow v. New York*, 268 U.S. 652, 666 (1925) (incorporating right of freedom of speech).

<sup>11</sup> *Douglas v. City of Jeannette (Pennsylvania)*, 319 U.S. 157, 179, (1943) (Jackson, J., concurring in result).

available for establishing that interest.<sup>12</sup> The government bears the burden of demonstrating the constitutionality of any such content-based regulation.<sup>13</sup> The U.S. Supreme Court has noted that

Even when considering some instances of defamation and fraud, moreover, the Court has been careful to instruct that falsity alone may not suffice to bring the speech outside the First Amendment. The statement must be a knowing or reckless falsehood.<sup>14</sup>

With regard to speech made on Internet platforms, the Supreme Court has stated, “We agree with [the District Court’s] conclusion that our cases provide no basis for qualifying the level of First Amendment scrutiny that should be applied to this medium.”<sup>15</sup>

### ***Professional Speech***

In 2018, the U.S. Supreme Court issued an opinion underscoring the concept that professional speech is not a separate category of speech that falls outside the protection of First Amendment freedom of speech. The Court stated that the professional speech of individuals who perform personalized services that require a professional license from the state is not exempt from the rule that content-based regulations of speech are subject to strict scrutiny.<sup>16</sup> Justice Clarence Thomas delivered the opinion of the court, writing

The dangers associated with content-based regulations of speech are also present in the context of professional speech. As with other kinds of speech, regulating the content of professionals’ speech poses the inherent risk that the Government seeks not to advance a legitimate regulatory goal, but to suppress unpopular ideas or information. ... When the government polices the content of professional speech, it can fail to preserve an uninhibited marketplace of ideas in which truth will ultimately prevail.<sup>17</sup>

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

### **Medical Conscience Provisions**

SB 1580 creates s. 381.00321, F.S., to provide rights of conscience for health care providers and health care payors.

### ***Definitions***

The bill defines the following terms:

- “Adverse action” to mean the discharge, transfer, demotion, discipline, suspension, exclusion, revocation of privileges, withholding of bonuses, or reduction in salary or benefits; any action that may negatively impact the advancement or graduation of a student,

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<sup>12</sup> *Ashcroft v. Am. Civil Liberties Union*, 542 U.S. 656, 665-66 (2004).

<sup>13</sup> *Id.* at 660.

<sup>14</sup> See *U.S. v. Alvarez*, 567 U.S. 709, 719 and *New York Times v. Sullivan*, 376 U.S. 254 (1964).

<sup>15</sup> *Reno v. Am. Civil Liberties Union*, 521 U.S. 844, 870 (1997).

<sup>16</sup> *Nat’l Inst. of Family & Life Advocates v. Becerra*, 138 S. Ct. 2361, 2365 (2018).

<sup>17</sup> *Id.* at 234.

including, but not limited to, the withholding of scholarship funds; or any other negative action taken against a health care provider.

- “Agency” to mean the Agency for Health Care Administration (AHCA).
- “Business entity” has the same meaning as provided in s. 606.03, F.S. The term also includes a charitable organization as defined in s. 496.404, F.S., and a corporation not for profit as defined in s. 617.01401, F.S.
- “Conscience-based objection” to mean an objection based on a sincerely held religious, moral, or ethical belief. Conscience with respect to entities is determined by reference to the entities’ governing documents; any published ethical, moral, or religious guidelines or directives; mission statements; constitutions; articles of incorporation; bylaws; policies; or regulations.
- “Department” to mean the Department of Health (DOH).
- “Educational institution” to mean a public or private school, college, or university.
- “Governmental entity” to mean the state or any political subdivision thereof, including the executive, legislative, and judicial branches of government; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; and any agencies that are subject to chapter 286, F.S., including, but not limited to, the department and any boards under the jurisdiction of the department.
- “Health care payor” to mean a health insurer, an employer, a health care sharing organization, a health plan, a health maintenance organization, a management services organization, or any other entity that pays for, or arranges for the payment of, any health care service, whether such payment is in whole or in part.
- “Health care provider” means:
  - Any person or entity licensed under chs. 394, 400, 401, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 478, 480, 483, 484, 486, 490, or 491, F.S.
  - Parts I, II, III, IV, V, X, XIII, or XIV of chapter 468;
  - Any provider as defined in s. 408.803;
  - A continuing care facility licensed under chapter 651;
  - A pharmacy permitted under chapter 465; or
  - Any student enrolled in an educational institution who is seeking to become a health care provider.
- “Health care service” to mean medical research or medical procedures, medical care, or medical services provided to any patient at any time over the entire course of treatment, including, but not limited to, testing; diagnosis; referral; dispensing or administering any drug, medication, or device; psychological therapy or counseling; research; prognosis; therapy; record-making procedures; notes related to treatment; set up or performance of a surgery or procedure; or any other care or services performed or provided by any health care provider.
- “Participate” or “participation” to mean to pay for or take part in any way in providing or facilitating any health care service or any part of such service.

### ***Right to Opt-out***

The bill provides that a health care provider or health care payor has the right to opt-out of participation in or payment for any health care service on the basis of a conscience-based objection (CBO). A health care provider must, at the time of the CBO or as soon as practicable thereafter, provide written notice of his or her CBO to the health care provider’s supervisor or



employer, if applicable, or document his or her CBO to a particular health care service in the patient's medical file. A health care provider who is a student must provide written notice of his or her CBO to the educational institution at the time the CBO is made or as soon as practicable thereafter.

The bill limits the exercise of the right of medical conscience to CBOs to a specific health care service and prohibits a health care payor from declining to pay for a health care service it is contractually obligated to cover during a plan year. The bill specifies that these provisions may not be construed to waive or modify any duty a health care provider or health care payor may have to provide or pay for other health care services that do not violate the rights of conscience or any duty to provide any informed consent required by law.

### ***Prohibition on Discrimination***

The bill prohibits a person, a governmental entity, a business entity, or an educational institution from discriminating against any health care provider or health care payor because the health care provider or health care payor declined to participate in or pay for a health care service on the basis of a CBO.

### ***Whistleblower Protections***

The bill also prohibits a health care provider or health care payor from being discriminated against with respect to:

- Providing or causing to be provided, or intending to provide or cause to be provided, information relating to any violation of or any act or omission the health care provider or health care payor reasonably believes to be a violation of any provision of the bill to his or her employer, the Attorney General, the DOH, any other state agency charged with protecting health care rights of conscience, the HHS, the Office of Civil Rights, or any other federal agency charged with protecting health care rights of conscience;
- Testifying or intending to testify in a proceeding concerning such violation; or
- Assisting or participating in or intending to assist or participate in such a proceeding.

Under the bill, unless the disclosure is specifically prohibited by law, a health care provider or health care payor may not be discriminated against in any manner for disclosing information that the health care provider or health care payor reasonably believes constitutes:

- A violation of any law, rule, or regulation;
- A violation of any ethical guidelines for the provision of any medical procedure or service; or
- A practice or method of treatment that may put patient health at risk or present a substantial and specific danger to public health or safety.

### ***Emergency Treatment***

The bill specifies that nothing in these provisions may be construed to override any requirement to provide emergency medical treatment in accordance with federal or state law.

**Free Speech Provisions**

SB 1580 creates s. 456.61, F.S., to prohibit a board, or the DOH if there is no board, from taking disciplinary action against a health care practitioner's license, or denying a license to an individual, solely because the individual has spoken or written publicly about a health care service, including, but not limited to, speech through the use of a social media platform as defined in s. 501.2041, F.S., provided that the individual is not using such speech or written communication to provide medical advice or treatment to a specific patient or patients, and provided that such speech or written communication does not separately violate any other applicable law or rule.

**Severability**

The bill provides that if any provision of the bill, once enacted, or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end the provisions of the bill are severable.

**Effective Date**

The bill provides an effective date of July 1, 2023.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 381.00321 and 456.61.

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

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

None.

**B. Amendments:**

None.

By Senator Trumbull

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A bill to be entitled

An act relating to protections of medical conscience; creating s. 381.00321, F.S.; defining terms; providing that health care providers and health care payors have the right to opt out of participation in or payment for certain health care services on the basis of conscience-based objections; providing requirements for a health care provider's notice and documentation of such objection; providing construction; prohibiting health care payors from declining to cover any health care service they are obligated to cover during the plan year; prohibiting persons, governmental entities, business entities, and educational institutions from discriminating against health care providers and health care payors that exercise such right; providing whistle-blower protections for health care providers and health care payors that take certain actions or disclose certain information relating to the reporting of certain violations; providing construction; creating s. 456.61, F.S.; prohibiting boards, or the Department of Health if there is no board, from taking disciplinary action against or denying a license to an individual based solely on specified conduct; providing construction; providing severability; providing an effective date.

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

Section 1. Section 381.00321, Florida Statutes, is created

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

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to read:

381.00321 Rights of conscience of health care providers and health care payors.—

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

(a) "Adverse action" means the discharge, transfer, demotion, discipline, suspension, exclusion, revocation of privileges, withholding of bonuses, or reduction in salary or benefits; any action that may negatively impact the advancement or graduation of a student, including, but not limited to, the withholding of scholarship funds; or any other negative action taken against a health care provider.

(b) "Agency" means the Agency for Health Care Administration.

(c) "Business entity" has the same meaning as provided in s. 606.03. The term also includes a charitable organization as defined in s. 496.404 and a corporation not for profit as defined in s. 617.01401.

(d) "Conscience-based objection" means an objection based on a sincerely held religious, moral, or ethical belief. Conscience with respect to entities is determined by reference to the entities' governing documents; any published ethical, moral, or religious guidelines or directives; mission statements; constitutions; articles of incorporation; bylaws; policies; or regulations.

(e) "Department" means the Department of Health.

(f) "Educational institution" means a public or private school, college, or university.

(g) "Governmental entity" means the state or any political subdivision thereof, including the executive, legislative, and

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judicial branches of government; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; and any agencies that are subject to chapter 286, including, but not limited to, the department and any boards under the jurisdiction of the department.

(h) "Health care payor" means a health insurer, an employer, a health care sharing organization, a health plan, a health maintenance organization, a management services organization, or any other entity that pays for, or arranges for the payment of, any health care service, whether such payment is in whole or in part.

(i) "Health care provider" means:

1. Any person or entity licensed under chapter 394; chapter 400; chapter 401; chapter 457; chapter 458; chapter 459; chapter 460; chapter 461; chapter 462; chapter 463; chapter 464; chapter 465; chapter 466; chapter 467; part I, part II, part III, part IV, part V, part X, part XIII, or part XIV of chapter 468; chapter 478; chapter 480; chapter 483; chapter 484; chapter 486; chapter 490; or chapter 491; or

2. Any provider as defined in s. 408.803, a continuing care facility licensed under chapter 651, or a pharmacy permitted under chapter 465.

This term includes any student enrolled in an educational institution who is seeking to become a health care provider.

(j) "Health care service" means medical research or medical procedures, medical care, or medical services provided to any patient at any time over the entire course of treatment, including, but not limited to, testing; diagnosis; referral;

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dispensing or administering any drug, medication, or device; psychological therapy or counseling; research; prognosis; therapy; recordmaking procedures; notes related to treatment; set up or performance of a surgery or procedure; or any other care or services performed or provided by any health care provider.

(k) "Participate" or "participation" means to pay for or take part in any way in providing or facilitating any health care service or any part of such service.

(2) RIGHTS OF CONSCIENCE.—

(a) A health care provider or health care payor has the right to opt out of participation in or payment for any health care service on the basis of a conscience-based objection. A health care provider must, at the time of the conscience-based objection or as soon as practicable thereafter, provide written notice of his or her conscience-based objection to the health care provider's supervisor or employer, if applicable, or document his or her conscience-based objection to a particular health care service in the patient's medical file. A health care provider who is a student must provide written notice of his or her conscience-based objection to the educational institution at the time the conscience-based objection is made or as soon as practicable thereafter.

(b) The exercise of the right of medical conscience is limited to conscience-based objections to a specific health care service. This section may not be construed to waive or modify any duty a health care provider or health care payor may have to provide or pay for other health care services that do not violate the rights of conscience or any duty to provide any

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informed consent required by law. Additionally, a health care payor may not decline to pay for a health care service it is contractually obligated to cover during the plan year.

(c) A person, a governmental entity, a business entity, or an educational institution may not discriminate against any health care provider or health care payor because the health care provider or health care payor declined to participate in or pay for a health care service on the basis of a conscience-based objection.

(3) SPEECH AND WHISTLE-BLOWER PROTECTIONS.—

(a) A health care provider or health care payor may not be discriminated against or suffer any adverse action in any manner with respect to:

1. Providing or causing to be provided, or intending to provide or cause to be provided, information relating to any violation of or any act or omission the health care provider or health care payor reasonably believes to be a violation of any provision of this act to his or her employer, the Attorney General, the department, any other state agency charged with protecting health care rights of conscience, the United States Department of Health and Human Services, the Office of Civil Rights, or any other federal agency charged with protecting health care rights of conscience;

2. Testifying or intending to testify in a proceeding concerning such violation; or

3. Assisting or participating in or intending to assist or participate in such a proceeding.

(b) Unless the disclosure is specifically prohibited by law, a health care provider or health care payor may not be

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discriminated against in any manner for disclosing information that the health care provider or health care payor reasonably believes constitutes:

1. A violation of any law, rule, or regulation;

2. A violation of any ethical guidelines for the provision of any medical procedure or service; or

3. A practice or method of treatment that may put patient health at risk or present a substantial and specific danger to public health or safety.

(4) REQUIREMENT TO PROVIDE EMERGENCY MEDICAL TREATMENT.—

This section may not be construed to override any requirement to provide emergency medical treatment in accordance with federal or state law.

Section 2. Section 456.61, Florida Statutes, is created to read:

456.61 Use of free speech by a health care practitioner; prohibition.—A board, or the department if there is no board, may not take disciplinary action against a health care practitioner's license or deny a license to an individual solely because the individual has spoken or written publicly about a health care service, including, but not limited to, speech through the use of a social media platform as defined in s. 501.2041, provided that the individual is not using such speech or written communication to provide medical advice or treatment to a specific patient or patients, and provided that such speech or written communication does not separately violate any other applicable law or rule.

Section 3. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity

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175 does not affect other provisions or applications of the act  
176 which can be given effect without the invalid provision or  
177 application, and to this end the provisions of this act are  
178 severable.

179       Section 4. This act shall take effect July 1, 2023.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Commerce and Tourism, *Chair*  
Appropriations Committee on Transportation, Tourism,  
and Economic Development, *Vice Chair*  
Appropriations Committee on Agriculture, Environment,  
and General Government  
Banking and Insurance  
Fiscal Policy  
Judiciary  
Transportation

### SELECT COMMITTEE:

Select Committee on Resiliency

### SENATOR JAY TRUMBULL

2nd District

March 29, 2023

Re: SB 1580

Dear Chair Burton,

I am respectfully requesting Senate Bill 1580, related to Protections of Medical Conscience, be placed on the agenda for the next Health Policy committee.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in black ink, appearing to read "J. Trumbull", with a long, sweeping horizontal line extending to the right.

Senator Jay Trumbull  
District 2

### REPLY TO:

- ☐ 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- ☐ 320 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

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

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore



Tab 4

The Florida Senate

APPEARANCE RECORD

3-4-23

Meeting Date

Health Policy

Committee

1580

Bill Number or Topic

Amendment Barcode (if applicable)

Name

DR. Diane Gowski, MD

Phone

727-480-7574

Address

1383 Temple St

Email

dianetg@aol.com

Street

Clearwater

FL

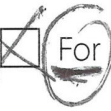
33756

City

State

Zip

Speaking:



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without compensation or sponsorship.



I am a registered lobbyist, representing:



I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

President,  
Florida Catholic Medical Association

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

4/4/23

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

5 1580

Bill Number or Topic

HEALTH CARE

Committee

Amendment Barcode (if applicable)

Name PAUL ARONS MD

Phone 850-545-8997

Address 1706 BEECHWOOD CIR. N

Street

Email paronsmd@gmail.com

TALLAHASSEE FL 32301

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

**OR**

Waive Speaking: ☐ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4-04-2023

Meeting Date

1580

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Jordanos Molla

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐ For

☒ Against

☐ Information

**OR**

Waive Speaking:

☐ In Support

☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

4/4/23

Meeting Date

Health Policy

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1580

Bill Number or Topic

Amendment Barcode (if applicable)

Name Steve Cain, FJA

Phone 305 458 8544

Address 218 S. Monroe Street

Email Scain@S+Flaw.com

Tallahassee FL 32301

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

**APPEARANCE RECORD**

4/4/23

Meeting Date

1580

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Huy Nguyen, MD

Phone

681-318-0790

Address

Street

Email

huynguyen@gmail.com

City

State

Zip

Speaking:

☒ For☐ Against☐ Information**OR**

Waive Speaking:

☐ In Support☐ Against**PLEASE CHECK ONE OF THE FOLLOWING:**☐I am appearing without  
compensation or sponsorship.☐I am a registered lobbyist,  
representing:☐I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

**APPEARANCE RECORD**

1580

Meeting Date

Bill Number or Topic

4/4/23  
Health Policy CommitteeDeliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

John Labriola (Christian Family Coalition)

Phone

Address

PO Box 650216

Email

JFLABRIOLA@gmail.com

Street

Miami

City

FL

State

33265

Zip

Speaking:

☒

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**☐I am appearing without  
compensation or sponsorship.☐I am a registered lobbyist,  
representing:☒I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

The Florida Senate

**APPEARANCE RECORD**

SB 1580

Bill Number or Topic

4 4 2023

Meeting Date

Health

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

D.D. Raj Bendre

Phone

850 524 7679

Address

537 William St.

Email

dbendre@gmail.com

Street

Tallahassee FL

3203

City

State

Zip

Speaking:



For



Against



Information

**OR**

Waive Speaking:



In Support



Against

**PLEASE CHECK ONE OF THE FOLLOWING:**



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

4/4/2023

Meeting Date

Committee on Health Policy

Committee

The Florida Senate

## APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1580

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Sophie Silver**

Phone **850-242-3234**

Address **2221 Orange Ave E, Apt. No 1234**

Email **sophiesilver@gmail.com**

Street

**Tallahassee**

**Florida**

**32312**

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

### PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)



The Florida Senate

**APPEARANCE RECORD**

April 3, 2023

Meeting Date

1580

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Robert Muniz

Phone

954-270-7508

Address

117 Royal Palm Dr #4E

Email

BrowardDem004@mail.com

Street

Oakland Park FL 33309

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☐ In Support ☒ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☒

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

Dolphin Democrats

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

4/4/2023

Meeting Date

Senate Health Policy Committee

Committee

The Florida Senate

## APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1580

Bill Number or Topic

Amendment Barcode (if applicable)

Name Annalise Galbraith

Phone (727)-519-3516

Address 415 Chapel Dr.  
Street

Email ang21d@fsu.edu

Tallahassee

FL

32304

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

### PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

SB 1580

Bill Number or Topic

Amendment Barcode (if applicable)

4/4/23

Meeting Date

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee on Health Policy

Committee

Name Russell Cole

Phone 850-766-1397

Address 1445 Mitchell Ave

Street

Email russcole3@gmail.com

Tallahassee

City

FL

State

32303

Zip

Speaking:



For



Against



Information

**OR**

Waive Speaking:



In Support



Against

**PLEASE CHECK ONE OF THE FOLLOWING:**



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

4/4/23

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1580

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Jeff Scott

Phone

850 224-6496

Address

1430 Piedmont Dr. E.

Email

j.scott@flmedical.org

Street

Tallahassee

FL

32308

City

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☒

I am a registered lobbyist,  
representing:

Florida Medical Association

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/4/2023  
Meeting Date

Health Policy  
Committee

SB 1580

Bill Number or Topic

Amendment Barcode (if applicable)

Name Mary Winn

Phone (850) 766-2612

Address 1006 Brookwood Dr.  
Street

Email kathywinn980@gmail.com

Tallahassee FL 32308  
City State Zip

Speaking: ☒ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

representing League of Women Voters  
of Florida

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

4/4/23

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1580

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

JOE SAUNDERS

Phone

Address

Street

MIAMI BEACH FL 33139

City

State

Zip

Email

Speaking:

☐

For



Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:

EQUALITY FLORIDA

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)



4/4/2023

## APPEARANCE RECORD

1580

Meeting Date

Health Policy

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Dr. Carolyn Zouia

Phone

850-714-3793

Address

620 Flatwoods Forest loop

Email

ZouiaCarolyn@fla.senate.gov

Street

Santa Rosa Beach FL 32459

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☒I am appearing without  
compensation or sponsorship.☐I am a registered lobbyist,  
representing:☐I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

8:30 AM  
Meeting Date

SB 1588  
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Barbara Grimm

Phone 386 717-3407

Address 1605 W. French Ave  
Street

Email barbaragrimm@briighthouse

Orange City FL 32763  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☐ In Support ☒ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)



The Florida Senate

APPEARANCE RECORD

4/4/23

Meeting Date

1580

Bill Number or Topic

Health Policy

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Michael Barrett

Phone (850) 222-3803

Address 201 W. Park Ave.  
Street

Email mbarrett@flcch.org

Tallahassee  
City

FL  
State

32301  
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:  
Florida Conference of  
Catholic Bishops

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

April 4, 2023

Meeting Date

Health Policy

Committee

The Florida Senate

## APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1580

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Steve Winn**

Phone **878-7364**

Address **2544 Blairstone Pines Dr.**

Email **winnsr@earthlink.net**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

### PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

**Florida Osteopathic Medical  
Association**

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

04/4/23

Meeting Date

Health Policy

Committee

SB  
1008 1580

Bill Number or Topic

Amendment Barcode (if applicable)

Name Aaron DiPietro

Phone 904-608-4471

Address 4853 S. Orange Ave

Street

Email aaronnd@flfamily.org

Orlando

City

FL

State

32806

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

Florida Family Policy  
Council

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/4/23

Meeting Date

Health Policy

Committee

SB 1580

Bill Number or Topic

Amendment Barcode (if applicable)

Name

LESLIE HOLTON

Phone

386 846-5123

Address

13 Cunningham Dr.

Street

Email

lgfryes7@gmail.com

New Smyrna Beach FL 32168

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB1580

Bill Number or Topic

Amendment Barcode (if applicable)

4/4/23  
Meeting Date  
Health Policy  
Committee

Name Nancy Olson Phone 3868461415

Address 13 Cunningham Dr. Email Olsonnancy90@  
Street New Smyrna Beach, FL 32168  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☐ In Support ☒ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

## HEARING APPEARANCE RECORD

4 April 2023

1580

Meeting Date

Deliver both copies of this form to

Bill Number or Topic

Health Policy

Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Chris Stranburg

Phone

813-767-9667

Address

107 E College Ave

Email

cstranburg@afph.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☐I am appearing without  
compensation or sponsorship.☒I am a registered lobbyist,  
representing:Americans for  
Prosperity☐I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

APRIL 4, 2023

Meeting Date

SD 1580 -

Bill Number or Topic

SENATE HEALTH POLICY

Committee

Amendment Barcode (if applicable)

Name DR. YVETTE EDGILL SPANO

Phone 240-505-0125

Address 22 WOOD CENTER LANE  
Street

Email ymspano@gmail.com

PALM COAST

City

FL

State

32164

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking:

☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1580

Bill Number or Topic

Amendment Barcode (if applicable)

4-4-23  
Meeting Date  
Health Policy  
Committee

Name Stephanie Nichols

Phone (501) 288-2927

Address 53 CR 133  
Street

Email snichols@adfflegal.org

Bono  
City

AR  
State

72416  
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

with cause of action added

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☒ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

Alliance Defending Freedom

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



April 3, 2023  
Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

SB1580  
Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee \_\_\_\_\_  
Name Jacqueline Moore Phone 407 963 8574  
Address 2750 Maureen Dr Email mpellowgrey@aol.com  
Deltona FL 32725  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4-4-2022

Meeting Date

1580  
Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

BILL MCKAY

Phone

410-231-0994

Address

1034 BRYCE LA

Email

Street

MELBOURNE

FL

32904

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☒

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

4/4/23

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1580

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Mason Manion

Phone

Address

338 Cottage Ave

Email

mason@equalityflorida.org

Street

City

Tam

State

FL

Zip

32208

Speaking:

☐ For

☒ Against

☐ Information

**OR**

Waive Speaking:

☐ In Support

☒ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☒

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/4/2023

Meeting Date

1580

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Carys Mullins

Phone

Address

Street

Email

Carys.m.mullins@gmail.com

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☒

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☒

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

4/4/23  
Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1580  
Bill Number or Topic

Committee

Name Jeffrey Fix

Amendment Barcode (if applicable)

Phone 904 810 8907

Address 220 N Churchill Dr.

Email jefffix67@gmail.com

Street

St. Augustine FL 32086

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☐ In Support ☒ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

4/4/23

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1580

Bill Number or Topic

Committee

Name

Elijah Manley

Phone

954-203-3124

Amendment Barcode (if applicable)

Address

1205 NW 23rd Ave

Email

elijahmanley1@gmail.com

Street

H. Landersdale FL 33311

City

State

Zip

Speaking:

☐ For

☐ Against

☐ Information

**OR**

Waive Speaking:

☐ In Support

☒ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

4 / 4 / 23

Meeting Date

1580

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Erick Vera

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☒

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

4-4-2023

Meeting Date

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1580

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Miriam E. Delgado

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For



Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☒

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**



I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

04/04/23

Meeting Date

Health policy

Committee

SB 1580

Bill Number or Topic

Amendment Barcode (if applicable)

Name Sabrina Javellana

Phone 754-230-2729

Address 810 WE 27 Ave

Email Sabrina.jave@gmail.com

Hallandale

City

FL

State

33009

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☐ In Support ☒ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Apr 4, 2023  
Meeting Date  
SB 1580  
Committee

SB 1580  
Bill Number or Topic

Name Kyle Turner Phone 919 257 9165  
Address 1680 NE 48th CT Email Kyleturner63@aol.com  
OAKLAND PARK FL 33334  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

4/4/23

Meeting Date

# The Florida Senate APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1580

Bill Number or Topic

Committee

Name

Niffany Ariagus

Phone

954-588-8715

Amendment Barcode (if applicable)

Address

3404 Bimini Lane # L-4

Email

tariagus5@gmail.com

Street

Coconut Creek, FL 33066

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☒

Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/4/23

Meeting Date

SB 1580

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Robyn Raymond

Phone

954-383-6636

Address

2713 Edgewater Ct

Email

bluetide257@gmail.com

Street

Weston

FL

33332

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☒

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

04/04/23

Meeting Date

SB 1580

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name MICHAEL BERMAN

Phone 917-930-9023

Address 2301 WILTON DR  
Street

Email MICHAELBERMAN  
@GMAIL.COM

WILTONMARERS FL 33305  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

4/4/2023  
Meeting Date

Health  
Committee

Name Todd Delmay

Address  
Street

City State Zip

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB580  
Bill Number or Topic

Amendment Barcode (if applicable)

Phone 954-559-1893

Email

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

- ☒ I am appearing without compensation or sponsorship.
- ☐ I am a registered lobbyist, representing:
- ☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

4/4/23

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1580

Bill Number or Topic

Committee

Name

Ashet Sachaczewski

Phone

954-716-4124

Amendment Barcode (if applicable)

Address

~~SW~~ SW 31st Ave

Street

Email

ashsach@gmail.com

Fort Lauderdale FL 33312

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**



I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

4/4/23

Meeting Date

The Florida Senate

# APPEARANCE RECORD

SB1580

Bill Number or Topic

Health

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Elizabeth Ruiz

Phone 786-877-7370

Address 6990 Silver Oak Dr.  
Street

Email e1210v@aol.com

Miami Lakes FL  
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



The Florida Senate

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4-4-023

Meeting Date

JB 1580

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name JANET ANDERSON

Phone 954-667-5563

Address 259 SE 1st AV #2

Email GYDA OF MORA GICLOND

Street

Pompano Bch FL 33060

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/4/2023

Meeting Date

SB 1580

Bill Number (if applicable)

Topic Medical Conscience

Amendment Barcode (if applicable)

Name Phil Gold

Job Title Attorney

Address 9155 S. Oadeland Blvd. Suite 1216

Phone 305-567-2525

Street

Miami

City

FL

State

33156

Zip

Email pgold@goldlaupa.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Gold & Gold, P.A.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1580

Bill Number or Topic

Amendment Barcode (if applicable)

4/4/2023  
Health Policy  
Meeting Date

Health Policy  
Committee

Name Yenisbel Vilorio

Phone 786-419-6049

Address \_\_\_\_\_  
Street

Email \_\_\_\_\_

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☒

I am a registered lobbyist,  
representing:

State Innovation Exchange Action

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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

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

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

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BILL: SB 1084

INTRODUCER: Senator Trumbull

SUBJECT: Long-term Managed Care Program

DATE: April 2, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Brown	HP	<b>Favorable</b>
2.			AHS	
3.			FP	

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## I. Summary:

SB 1084 amends s. 409.981, F.S., to create a Medicaid long-term care managed care pilot program in Miami-Dade County to integrate Medicaid's health care services, long-term care services, and home and community-based services for persons with developmental disabilities, under one package, to be delivered by one managed care plan that must be a provider service network meeting certain qualifications. The bill requires an evaluation of the pilot program to be submitted by October 1, 2024.

The bill is likely to have a significant negative fiscal impact. The Agency for Health Care Administration (AHCA), which operates the state's Medicaid program, has not submitted an estimate of the bill's potential fiscal impact. See Section V. of this analysis.

The bill takes effect upon becoming law.

## II. Present Situation:

### The Florida Medicaid Program

Florida Medicaid is the health care safety net for low-income Floridians. The national Medicaid program is a partnership of federal and state governments established to provide coverage for health services for eligible persons. Florida's program is financed through state and federal funds.<sup>1</sup>

The AHCA is the single state agency responsible for the administration of the Florida Medicaid program, authorized under Title XIX of the Social Security Act (SSA). This authority includes establishing and maintaining a Medicaid state plan approved by the federal Centers for Medicare

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<sup>1</sup> Section 20.42, F.S.

& Medicaid Services (CMS) and maintaining any Medicaid waivers needed to operate the Florida Medicaid program as directed under the Florida Statutes,<sup>2</sup> the General Appropriations Act (GAA), and other legislation accompanying the GAA.

A Medicaid state plan is an agreement between a state and the federal government describing how that state administers its Medicaid programs. The state plan establishes groups of individuals covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements. State Medicaid programs may request from CMS a formal waiver of the requirements codified in the SSA. Federal waivers give states flexibility not afforded through their Medicaid state plan.

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

In Florida, a large majority of Medicaid recipients receive their services through a managed care plan contracted with the AHCA under the Statewide Medicaid Managed Care (SMMC) program.<sup>3</sup> Other recipients who are not eligible for managed care, are not subject to mandatory managed care enrollment, or are not yet enrolled in a plan, are provided services directly from health care practitioners or facilities, and in those cases, providers are paid on a fee-for-service basis.

SMMC has three components:

- Managed Medical Assistance (MMA), under which the AHCA makes payments for primary and acute medical treatments and related services using a managed care model;
- Long-term Care Managed Care (LTCMC), under which the AHCA makes payments for long-term care, including home and community-based services, using a managed care model; and
- The Medicaid Prepaid Dental Health Program (Prepaid Dental), under which the AHCA makes payments for dental services for children and adults using a managed care model.

SMMC benefits are authorized through federal waivers and are specifically required by the Florida Legislature in ss. 409.973 and 409.98, F.S. SMMC benefits cover primary, acute, preventive, behavioral health, prescribed drugs, long-term care, and dental services.

Florida Medicaid does not cover all low-income Floridians. Current eligibility prioritizes low-income children, disabled persons, and elders, and sets income eligibility by reference to the annual federal poverty level. For some groups, clinical eligibility provisions apply, as well.

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<sup>2</sup> See parts III and IV of ch. 409, F.S.

<sup>3</sup> As of January 31, 2023, Florida Medicaid's total enrollment comprised 5,696,638 persons. Eighty-seven percent were enrolled in a Medicaid managed care plan. See: [https://ahca.myflorida.com/medicaid/Finance/data\\_analytics/enrollment\\_report/docs/ENR\\_202301.xls](https://ahca.myflorida.com/medicaid/Finance/data_analytics/enrollment_report/docs/ENR_202301.xls) (last visited March 9, 2023).

The Florida Medicaid program covers:<sup>4</sup>

- More than 5.5 million low-income individuals, including approximately 2.5 million children, or 54 percent of the children in Florida;
- More than 54 percent of the births occurring in Florida in calendar year 2020; and
- More than 60 percent of the nursing home days in Florida.

### ***Types of Comprehensive Medicaid Managed Care Plans***

Comprehensive services in SMMC are managed by two types of managed care plans: traditional managed care organizations and provider service networks (PSNs). Traditional managed care organizations are usually health insurers or health maintenance organizations (HMOs). PSNs are managed care plans that are owned or are majority-controlled by health care providers, such as physician groups or hospitals.

All managed care plans in SMMC, including PSNs, are reimbursed as prepaid plans. That is, they are paid capitated rates (prospective, per-member, per-month payments) by the AHCA in advance for any particular month and are expected to provide medically necessary services to their respective members during that month, using the dollars within that month's capitation. Medically necessary services are required to be provided regardless of whether the capitation includes all the dollars necessary to provide those services.<sup>5</sup>

The AHCA contracts with managed care plans on a statewide and regional basis, in sufficient numbers to ensure choice. The cyclical Medicaid procurement process ensures plans offer competitive benefit designs and prices. In addition, plans compete for consumer choice. That is, while Medicaid requires a basic benefit package, and regulates the adequacy of plans' provider networks, plans can add to their benefit packages and offer provider networks attractive to Medicaid recipients when choosing a plan.

The AHCA began the next procurement process in 2022 for implementation in the 2025 plan year and intends to issue the procurement solicitation documents imminently.<sup>6</sup>

### ***Medicaid Long-Term Care***

Federal Medicaid law establishes coverage for institutional care, such as nursing home care and residential institutions for people with developmental disabilities, but does not allow federal dollars to be spent on alternatives to such care. Those alternatives include home and community-based services designed to keep people in their homes and communities instead of going into an institution when they need higher levels of care. This federal spending limitation creates a bias toward institutional care, and toward acute care, rather than allowing the non-acute supports that prevent institutionalization.

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<sup>4</sup> Agency for Health Care Administration, Presentation to the Senate Health Policy Committee, Jan. 23, 2023.

<sup>5</sup> See s. 409.968(1) and (2), F.S.

<sup>6</sup> *Supra* note 4.

Florida obtained a federal waiver to allow the state Medicaid program to cover other kinds of long-term care services for elders and people with disabilities, to prevent admission into a nursing home. Those non-institutional, often non-acute, long-term care benefits are listed below.

<b>SMMC Long-Term Care Mandatory Benefits</b>	
Services provided in an ALF	Physical therapy
Hospice services	Intermittent and skilled nursing
Adult day care	Medication administration
Personal care	Medication management
Home accessibility adaption	Nutritional assessment and risk reduction
Behavior management	Caregiver training
Home-delivered meals	Respite care
Case management	Personal emergency response system
Occupational therapy	Transportation
Speech therapy	Medical equipment and supplies
Respiratory therapy	

### **Medicaid Home and Community-Based Waiver for Persons with Developmental Disabilities**

Under federal law, fee-for-service Medicaid provides coverage for health care services to cure or ameliorate diseases. Generally, Medicaid does not cover services that will not cure or mitigate a medical diagnosis. However, people with developmental disabilities, while certainly requiring traditional medical services, need other kinds of services to maintain their independence and avoid institutionalization. Home and community-based services (HCBS) are an alternative to institutionalizing people with developmental disabilities.

To obtain federal Medicaid funding for HCBS, Florida obtained a Medicaid waiver.<sup>7</sup> This allows coverage of non-medical services to avoid institutionalization and allows the state to limit the scope of the program to the number of enrollees deemed affordable by the state. In this way, the HCBS waiver is not an entitlement; it is a first-come, first-served, slot-limited program.

Under the HCBS waiver, known as iBudget Florida, serves eligible<sup>8</sup> persons with developmental disabilities. Eligible diagnoses include disorders or syndromes attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome. The disorder must manifest before the age of 18, and it must constitute a substantial handicap that can reasonably be expected to continue indefinitely.<sup>9</sup>

<sup>7</sup> Florida Developmental Disabilities Individual Budgeting Waiver (0867.R02.00), March 4, 2011, authorized under s. 1915b of the Social Security Act.

<sup>8</sup> The HCBS waiver retains the Medicaid requirement that enrollees be low-income, but measures only the developmentally disabled person's income; not the income generated by the whole household.

<sup>9</sup> Section 393.063(12), F.S.



The Agency for Persons with Disabilities (APD) administers the iBudget program, offering 27 supports and services delivered by contracted service providers to assist individuals to live in their community. Examples of waiver services are residential habilitation, behavioral services, companion, adult day training, employment services, and physical therapy.<sup>10</sup>

While providers and individual support coordinators each have a role in helping the iBudget enrollee assess and coordinate their care, the program essentially operates as a fee-for-service program, with no comprehensive care management in the traditional sense. HCBS services are not integrated with Medicaid acute medical services or behavioral health services, as those services are administered for iBudget enrollees by the AHCA, usually through the fee-for service model, not through SMMC.

Historically, despite the utilization management tools authorized by law and the entitlement flexibilities provided by the federal waiver, and despite legislative funding increases, APD has frequently been unable to manage the waiver program within the budget appropriated by the legislature, resulting in significant deficit spending.<sup>11</sup>

In 2019, the Legislature directed the APD to implement better monitoring and accounting procedures and to take corrective action when deficits are projected to develop. Additionally, APD was required to develop a plan to redesign the program if a deficit were to reoccur in the 2018-2019 fiscal year.<sup>12</sup> The APD did generate a deficit that year; however, the submitted redesign plan promised to stay within the appropriated budget only if that budget were significantly increased.<sup>13</sup>

For FY 2022-2023, the Legislature appropriated \$1,871,531,214 to APD for the iBudget waiver program, of which \$742,997,892 are state funds.<sup>14</sup> Currently, the program serves over 35,300 enrolled people.<sup>15</sup>

### ***iBudget Waiver Waitlist***

The APD maintains a waitlist of people who would like to enroll in the waiver. Currently, the waitlist includes 22,535 people. About 660 of those receive other, limited, services from APD, and over 9,000 people on the waitlist are otherwise eligible for, and receive, Medicaid coverage for medical care. About 13,500 people on the waiver waitlist receive no APD or Medicaid services.<sup>16</sup>

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<sup>10</sup> Agency for Persons with Disabilities, *Quarterly Report on Agency Services to Floridians with Developmental Disabilities and Their Costs: First Quarter Fiscal Year 2022-2023*, Nov. 15, 2023, available at: <https://apd.myflorida.com/publications/reports/docs/FY%202023%20Quarterly%20Report%201st%20Quarter%20report.pdf> (last viewed Mar. 24, 2023).

<sup>11</sup> For example, the legislature made retroactive appropriations to address APD deficits that occurred in FY 17-18 (\$56,895,137), FY 2018-2019 (\$107,848,988), and FY 2019-2020 (\$133,505,542). See Sections 30, 30, and 29, respectively, of the respective General Appropriations Acts in those years.

<sup>12</sup> Chapter 2019-116, s. 26, Laws of Fla.

<sup>13</sup> Agency for Persons with Disabilities and Agency for Health Care Administration, 2029 iBudget Waiver Redesign, Sept. 30, 2019.

<sup>14</sup> Chapter 2022-156, Laws of Fla., Specific Appropriation 245.

<sup>15</sup> *Supra*, note 10.

<sup>16</sup> *Id.*



As new funding becomes available, APD enrolls people from the waitlist in a statutory order of priority in seven categories:<sup>17</sup>

- Category 1 – Clients deemed to be in crisis.
- Category 2 – Specified children from the child welfare system.<sup>18</sup>
- Category 3 – Includes, but is not limited to, clients:
  - Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;
  - Who are at substantial risk of incarceration or court commitment without supports;
  - Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or
  - Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available.
- Category 4 – Includes, but is not limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available;
- Category 5 – Includes, but is not limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain or maintain competitive employment, or to pursue an accredited program of postsecondary education to which they have been accepted.
- Category 6 – Clients 21 years of age or older who do not meet the criteria for categories 1-5.
- Category 7 – Clients younger than 21 years of age who do not meet the criteria for categories 1-4.<sup>19</sup>

APD rarely moves beyond Category 1 in enrolling people off the wait list. In Fiscal Years 2020-2021 and 2021-2022, for example, APD enrolled a total of 2,646 new enrollees in the waiver program. Of those, 1,841 (70%) were Category 1 enrollees.<sup>20</sup>

### **Medicaid Coverage for iBudget Enrollees**

iBudget waiver benefits include Medicaid coverage for medical services, administered by the AHCA. The vast majority of full-coverage Medicaid recipients receive services through the SMMC managed care model, in which the recipient can choose from different health plans to provide their care. However, under current law, using the managed care model is an option for iBudget enrollees – not a requirement. iBudget participants may opt to use the traditional fee-for-service model of service delivery.<sup>21</sup>

Because clinical services and HCBS are provided by two different programs in two different state agencies, these services are not integrated or managed holistically for enrollees.

<sup>17</sup> Section 393.065(5), F.S.

<sup>18</sup> See s. 393.065(5)(b), F.S., for specific criteria.

<sup>19</sup> Section 393.065(5), F.S.

<sup>20</sup> *Supra* note 10. Of the 2,646 new enrollees, 182 were in Category 2 (children aging out of the child welfare system); the remainder were in special categories authorized by the legislature to jump the queue (military dependents, people with Phelan-McDermid Syndrome, and people in ICFs or nursing facilities), see s. 393.064(6), (7), F.S.

<sup>21</sup> Section 409.972(1)(e), F.S.

## HCBS and Managed Care Models

Some states use managed care models for HCBS for persons with developmental disabilities, in varying forms.

Iowa and Kansas use a long-term care managed care model to provide developmental disability services. These states use a single, risk-bearing, managed care plan to coordinate all services for this population, including primary care, acute care, behavioral health, and long-term care services. Tennessee takes a similar approach, but its managed care plans do not bear risk.<sup>22</sup>

New York obtained a federal waiver to transition the Medicaid developmental disability population into managed care based on a phased-in model, beginning with integrated care coordination under a single, comprehensive plan. In addition, New York operates a service delivery model that fully integrates with Medicare coverage, for persons eligible for both programs, offering primary, acute, long-term care, and habilitation services.<sup>23</sup>

Using managed care for the developmental disability population requires careful adaptation of acute care models to address factors that differentiate this population from a typical long-term care population. These factors include: the longer length of time individuals will require these services, often for a lifetime; the role of community services and supports and the need to integrate them into the model; and the unique developmental disability provider community, composed of smaller organizations exclusively dependent on government funding and inexperienced at navigating a managed care environment; among other differentiating factors.<sup>24</sup>

Florida does not use a risk-based managed care model for HCBS services, and the Medicaid managed care model is rarely used by iBudget enrollees. Medicaid acute care services and HCBS services are not integrated, or coordinated, by any single entity for individual enrollees.

### III. Effect of Proposed Changes:

SB 1084 amends the LTCMC statutes in s. 409.981, F.S., to create a pilot program in Miami-Dade County, establishing a managed care model for integrating medical care and long-term care services with HCBS for persons with developmental disabilities who volunteer to participate and are selected to do so.

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<sup>22</sup> National Association of States United for Aging and Disabilities, MLTSS Institute, “MLTSS for People with Intellectual and Developmental Disabilities: Strategies for Success (2018), available at:

[http://www.advancingstates.org/sites/nasuad/files/2018%20MLTSS%20for%20People%20with%20IDD-%20Strategies%20for%20Success\\_0.pdf](http://www.advancingstates.org/sites/nasuad/files/2018%20MLTSS%20for%20People%20with%20IDD-%20Strategies%20for%20Success_0.pdf) (last viewed Mar. 24, 2023).

<sup>23</sup> Center for Health Care Strategies, “Enrolling Individuals in Intellectual/Developmental Disabilities in Managed Care: A strategy for Strengthening Long-Term Services and Supports”, March 2019, available at: [https://www.chcs.org/media/Integration-Strategy-3-Strengthening-LTSS-Toolkit\\_032019.pdf](https://www.chcs.org/media/Integration-Strategy-3-Strengthening-LTSS-Toolkit_032019.pdf) (last viewed March 24, 2023).

<sup>24</sup> *Id.*

The bill requires the AHCA to contract with one long-term care managed care plan, which must be a PSN meeting certain criteria, in Miami-Dade County to integrate medical services and HCBS, under the same coverage umbrella. Benefits are to include health care benefits described in s. 409.973, F.S., LTCMC benefits described in s. 409.98, F.S., and the HCBS benefits typically provided through the iBudget waiver.

The bill requires the AHCA to utilize the “invitation to negotiate” (ITN) process under s. 287.057(1)(c), F.S., to procure a single managed care plan for the pilot project and requires that the entity awarded a contract must be a PSN, the owners of which must include licensed health care providers with experience serving iBudget clients. Other types of managed care plans with experience serving iBudget clients are not eligible for the contract.

The bill requires the PSN that wins the contract to establish an individualized care plan for each enrollee, evaluate and update it at least quarterly, or as changes in conditions and circumstances warrant, and provide services in accordance with that care plan.

The selected PSN is to be compensated based on a risk-adjusted capitated rate. The bill requires the PSN to submit financial reports and requires the PSN to participate in the achieved savings rebate program,<sup>25</sup> consistent with the SMMC requirements for other Medicaid managed care plans.

Under the bill, the maximum number of voluntary enrollees who may be selected to participate will be limited to the amount specified in the GAA, if any.

Finally, the bill requires the AHCA to contract for an independent evaluation of the selected PSN’s performance based on specific metrics of access to care, care quality, and cost. The AHCA must submit the evaluation to the President of the Senate and the Speaker of the House of Representatives by October 1, 2024.

The bill takes effect upon becoming a law.

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

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

None.

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

None.

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<sup>25</sup> The achieved savings rebate program requires plans to share savings with the state, and authorizes plans to retain statutorily-defined portions of savings, some increments of which are tied to achieving AHCA-defined quality measures. S. 409.967(3)(f), F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who enroll in the pilot will experience an increase in HCBS and/or traditional Medicaid benefits.

A PSN awarded a contract under the pilot program will benefit financially from the bill's implementation, if that PSN is able to successfully manage services rendered to the program's enrollees. The AHCA has not provided an analysis of the bill; therefore, the number of PSNs, if any, who currently meet the bill's qualifications, or could potentially be created to meet those qualifications, is unknown.

C. Government Sector Impact:

The bill limits enrollee participation in the Miami-Dade pilot program to individuals on the waitlist for iBudget waiver services. The bill provides that enrollee participation is limited to the maximum number of enrollees specified in the GAA, but the AHCA has not provided an estimate of the number of potential enrollees who might be eligible in that county under the bill nor an estimate of how many dollars would be necessary to provide such enrollees with all the services required under the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill provides that enrollee participation in the Miami-Dade pilot is voluntary and that participants “will be selected” from individuals who are on the waitlist for iBudget waiver services. However, the bill does not specify who will do the selecting.

The bill also provides that participation is limited to the maximum number of enrollees specified in the GAA, if any. In the event that the number of the volunteers exceeds the GAA’s maximum number of enrollees, the bill does not provide a process or criteria to determine which individuals will be selected and which will be excluded. The bill also does not grant the AHCA rulemaking authority to develop selection criteria.

In terms of benefits, it is unclear whether the PSN that wins the contract under the pilot program will be required to provide coverage for dental services. The bill requires coverage to include benefits “described in” s. 409.973, F.S. SMMC dental services are provided under s. 409.973(5), F.S., but are usually provided under the Prepaid Dental Health Program, separate from other health care services. The bill references s. 409.973, F.S., but is silent on whether the AHCA should include dental services in the pilot’s PSN contract.

It is unclear how quickly the pilot program will be operational. It is not unusual for procurements conducted via the ITN process to take a significant amount of time to be concluded. For example, as reported earlier in this analysis, the AHCA began the next SMMC procurement process in 2022 for implementation in the 2025 plan year. It is unclear whether the bill’s evaluation of the pilot which is required to be submitted by October 1, 2024, will have any meaningful data or results worthy of being evaluated. The bill does not provide for any evaluations to be submitted beyond October 1, 2024, in the event the pilot program endures past that date.

**VIII. Statutes Affected:**

This bill substantially amends section 409.981 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.

By Senator Trumbull

2-01342A-23

20231084

A bill to be entitled

An act relating to the long-term managed care program; amending s. 409.981, F.S.; requiring the Agency for Health Care Administration to select, through a specified procurement process, a qualified long-term care plan to implement a pilot program in Miami-Dade County to provide coverage of comprehensive services for Medicaid recipients who have developmental disabilities; providing requirements for the pilot program and the selected qualified plan; requiring the agency to contract for an independent evaluation of the performance of the plan; providing requirements for the evaluation; requiring the agency to submit the results of the evaluation to the Legislature by a specified date; providing an effective date.

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

Section 1. Subsection (6) is added to section 409.981, Florida Statutes, to read:

409.981 Eligible long-term care plans.—

(6) INTEGRATED PLAN FOR PERSONS WITH DEVELOPMENTAL DISABILITIES.—The agency shall select, pursuant to s. 287.057(1)(c), a single qualified plan to implement a pilot program in Miami-Dade County which provides coverage of comprehensive services for Medicaid recipients as defined in s. 409.962 who have a developmental disability as defined in s. 393.063.

(a) Comprehensive coverage includes benefits described in

Page 1 of 2

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

2-01342A-23

20231084

s. 409.973, community-based services described in s. 393.066(3), and long-term care plan benefits described in s. 409.98.

(b) Participation in the pilot program is voluntary and limited to the maximum number of enrollees specified in the General Appropriations Act. Potential participants will be selected from individuals on the waitlist for iBudget waiver services.

(c) The selected plan shall be paid a risk-adjusted capitation rate.

(d) A qualified plan must be a provider service network as defined in s. 409.962, the owners of which include licensed health care providers with experience serving iBudget clients.

(e) The selected plan must provide all categories of benefits through a single, integrated model of care.

(f) The selected plan must document revenues and expenditures related to the pilot program and submit periodic financial reports to the agency. Pretax income may be subject to the income sharing ratios established in s. 409.967(3)(f).

(g) Services must be provided to enrollees in accordance with an individualized care plan that is evaluated and updated at least quarterly or as warranted by changes in an enrollee's circumstances.

(h) The agency shall contract for an independent evaluation of the performance of the integrated plan based on specific measures of access, quality, and cost. The agency shall submit the results of the evaluation to the President of the Senate and the Speaker of the House of Representatives by October 1, 2024.

Section 2. This act shall take effect upon becoming a law.

Page 2 of 2

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Commerce and Tourism, *Chair*  
Appropriations Committee on Transportation, Tourism,  
and Economic Development, *Vice Chair*  
Appropriations Committee on Agriculture, Environment,  
and General Government  
Banking and Insurance  
Fiscal Policy  
Judiciary  
Transportation

### SELECT COMMITTEE:

Select Committee on Resiliency

**SENATOR JAY TRUMBULL**

2nd District

March 6, 2023

Re: SB 1084

Dear Chair Burton,

I am respectfully requesting that Senate Bill 1084, related to Long Term Managed Care Programs, be placed on the agenda for your Health Policy committee.

I appreciate your consideration of this bill. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

*Pls*

Senator Jay Trumbull  
District 2

The Florida Senate

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Tab 4

4-4-23

Meeting Date

Committee on Health Policy

Committee

SB 1084

Bill Number or Topic

Name Kimberly A. Boddeger

Phone 517-240-0110

Amendment Barcode (if applicable)

Address 3180 Beck Blvd E51

Email theconservativemamabear@gmail.com

Naples FL 34114

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without compensation or sponsorship.

☐ I am a registered lobbyist, representing:

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)



The Florida Senate

APPEARANCE RECORD

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4/4/2023

Meeting Date

1084

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name Audrey Brown

Phone (850) 559-3905

Address 1574 Village Square Blvd. Ste 200

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Email audrey@fahp.net

Tallahassee

City

FL

State

32309

Zip

Speaking: ☒ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

Florida Association of  
Health Plans

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
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While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

04/04/23

Meeting Date

HEALTH

Committee

The Florida Senate

## APPEARANCE RECORD

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SB1084

Bill Number or Topic

Amendment Barcode (if applicable)

Name

AUSON HOLMES

Phone

407-405-2210

Address

1620 RIDGE AVENUE

Email

HOLMESA@YAHOO.COM

Street

LONGWOOD

City

State

FL

32750

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

### PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

04/04/23

Meeting Date

HEALTH

Committee

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB1084

Bill Number or Topic

Amendment Barcode (if applicable)

Name JJ HOLMES

Phone 407-405-2210

Address 1620 RIDGE AVENUE

Street

LONGWOOD

City

FL

State

32750

Zip

Email HOLMESASSENAD@FLHDO.COM

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

4-4-23

SB 1084

Meeting Date

Bill Number or Topic

Health and Human Svcs

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

Chair-ASSOC. of Support  
Coordination Agencies

Amendment Barcode (if applicable)

Name

Ryan Chandler

Phone

904-477-4750

Address

2136 Herschel St

Email

chandler-support-services@gmail.com

Street

Jacksonville FL

32204

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☒

Against

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☐

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☐

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

SB 1084

Bill Number or Topic

2/21-2023

Meeting Date

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Health Policy

Committee

Amendment Barcode (if applicable)

Name

Margaret S. Hooper

Phone

850-294-0052

Address

124 Marriott Drive # 203

Email

MargaretD@FDPC.org

Street

Tallahassee FL 32301

City

State

Zip

Speaking:

☐ For

☒ Against

☐ Information

**OR**

Waive Speaking:

☐ In Support

☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☒

I am a registered lobbyist,  
representing:

Florida Developmental  
Disabilities Council

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

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

S-001 (08/10/2021)



**APPEARANCE RECORD**

SB1084

Bill Number or Topic

Apr 4, 2023

Meeting Date

Committee on Health Policy

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Brian K Carey

Phone

941-451-0024

Address

1258 Barbara

Email

bk+carey@gmail.com

Street

Venice

City

FL

State

34285

Zip

Speaking:

☐

For

☒

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☐

Against

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The Florida Senate

**APPEARANCE RECORD**

4/4/2023

Meeting Date

Health & Human Svcs

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB1084

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Onika Monge

Phone

813-619-7725

Address

5309 Lapis place Apt 102

Street

Riverview

City

FL

State

33578

Zip

Email

Speaking:

☐ For



☒ Against

☐ Information

**OR**

Waive Speaking:

☐ In Support

☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**



☒ I am appearing without  
compensation or sponsorship.



☐ I am a registered lobbyist,  
representing:



☐ I am not a lobbyist, but received  
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This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/4/202

Meeting Date

Health & Human Svs

Committee

SB 1084

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Melissa Mazacdo

Phone

941 809 3134

Address

7430 Century Oak Dr

Street

Email

mmazacdo@jardinsci.com

Sarasota

City

FL

State

34241

Zip

Speaking:

☐ For



Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

## PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
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This form is part of the public record for this meeting.

S-001 (08/10/2021)



The Florida Senate

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/4/2023

Meeting Date

SB1084

Bill Number or Topic

HH5

Committee

Amendment Barcode (if applicable)

Name

9057 Pin Charleston Gonzalez

Phone

813-619-7725

Address

9057 Pinebreeze Dr.

Email

Charcharlotine@gmail.com

Street

Riverview

State

FL

Zip

33578

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

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

S-001 (08/10/2021)

## APPEARANCE RECORD

4-4-2023

SB1084

Meeting Date

Health

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

FINO RANDAZZO

Phone

407-843-2777

Address

4700 L.B. McLeod Rd

Email

Fino@fhhes.com

Street

Orlando FL 32811

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

## PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without  
compensation or sponsorship.I am a registered lobbyist,  
representing:I am not a lobbyist, but received  
something of value for my appearance  
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sponsored by:

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

S-001 (08/10/2021)

April 4, 2023

Meeting Date

Health Policy

Committee

The Florida Senate

## APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1084

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Carol Gormley**

Phone **786-385-5803**

Address **201 East Park Avenue, Suite 400B**

Email **cgormley@ilshealth.com**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

### PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

**Independent Living Systems**

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so  
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*Part of the public record for this meeting.*

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

04/04/2023

Meeting Date

Health Policy

Committee

SB1084

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Anay Abraham**

Phone **786-422-4676**

Address **1550 Douglas Rd. Ste 280**

Email **anayabraham3@hotmail.com**

Street

**Miami**

City

**FL**

State

**33134**

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
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**APPEARANCE RECORD**4/4/23

Meeting Date

SB1084

Bill Number or Topic

Health Policy

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Jewel S DicksonPhone 386-717-4344Address 601 N Amelia Ave  
StreetEmail jeweldickson@mac.comDeLand, FL 32724  
City State ZipSpeaking: ☐ For ☐ Against ☐ Information**OR**Waive Speaking:☐ In Support ☒ Against**PLEASE CHECK ONE OF THE FOLLOWING:**☒ I am appearing without  
compensation or sponsorship.☐ I am a registered lobbyist,  
representing:☐ I am not a lobbyist, but received  
something of value for my appearance  
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This form is part of the public record for this meeting.

S-001 (08/10/2021)

SPREAD

# APPEARANCE RECORD

SB 1084

Meeting Date

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Jacqueline Moore

Phone

407 963-8574

Address

2750 Maureen Dr

Email

myellowguy@aol.com

Street

Deltona FL

State

32720

Zip

City

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without  
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☐

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☐

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S-001 (08/10/2021)

## APPEARANCE RECORD

SB1084

4/4/23

Meeting Date

Health Policy

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Nancy Olson

Phone

386 846 1415

Address

13 Cunningham Dr.

Street

Email

olsonnancy90@gmail.com

New Smyrna Beach

City

State

Zip

FL 32168

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

## PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)



## APPEARANCE RECORD

SB 1084

Meeting Date

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

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S-001 (08/10/2021)



The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

APRIL 4, 2023

Meeting Date

SENATE HEALTH POLICY

Committee

SB1084

Bill Number or Topic

Amendment Barcode (if applicable)

Name DR. YVETTE EDGILL SPANO - DEMOCRATIC WOMEN'S Phone 240-585-0125  
CUTS OF FLAGLER COUNTY

Address 22 WOOD CENTER LANE Email j. ymspano@gmail.com  
Street

PAUM COAST FL 32164  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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compensation or sponsorship.

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representing:

☐ I am not a lobbyist, but received  
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This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1084

Bill Number or Topic

Meeting Date

4-4  
Health Policy

Committee

Amendment Barcode (if applicable)

Name

Barb Grimm

Phone

386-717-3407

Address

1605 W. French Ave

Email

Street

Orange City FL 32763

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☒

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
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This form is part of the public record for this meeting.

S-001 (08/10/2021)

**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 1338

INTRODUCER: Health Policy Committee and Senator Martin

SUBJECT: Massage Establishments

DATE: April 5, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto Van Winkle	Brown	HP	<b>Fav/CS</b>
2.			AHS	
3.			FP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1338 amends s. 456.074, F.S., to authorize the Department of Health (DOH) to issue an emergency suspension order (ESO) to suspend the license of massage therapists (MTs) and massage establishments (MEs) if the MT or certain individuals connected to the ME are arrested for committing, attempting, soliciting, conspiring, or convicted or found guilty of, or enter criminal pleas to, specified violations in the ME.

The bill amends the massage therapy and ME practice act to redefine the term “designated establishment owner” and to create new definitions for “advertising media,” “employee,” and “sexual activity.” The bill permits code enforcement officers and law enforcement officers to inspect MEs for violations and to submit affidavits to the DOH with photos and documentation under certain circumstances within certain time frames, which then requires the DOH to inspect the ME within a certain time frame for specified violations and to initiate disciplinary proceedings if violations are discovered. If a law enforcement officer arrests a MT for violations of ch. 480, F.S., or finds that a ME is operating in violation of an ESO or an emergency restriction order (RO), the law enforcement agency must notify the DOH within five business days.

The bill creates new requirements and prohibitions for MEs. The bill amends the definition of an unlicensed ME for purposes of crimes to include employees or attendants who are licensed MTs.

The bill requires the Board of Massage Therapy (BMT) to adopt rules governing the operation of MEs and their facilities, employees, safety and sanitary requirements, financial responsibility, insurance coverage, and the license application and granting process.

The bill provides an effective date of July 1, 2023.

## **II. Present Situation:**

### **Massage Establishments**

The BMT, in conjunction with the DOH, regulates the practice of massage therapy and MEs pursuant to ch. 480, F.S.

### **Board of Massage Therapy**

The BMT consists of seven members, who are appointed by the Governor, and confirmed by the Senate, for four year terms. Five members of the BMT must be licensed MTs and have been engaged in the practice of MT at least five consecutive years prior to their appointment. Two members must be laypersons. Each BMT member must be a U.S. citizen, a Florida resident for at least five years, and a high school graduate or have a high school equivalency diploma (GED). The BMT must meeting at least once during the year for an annual meeting, and as necessary thereafter. A quorum for the BMT requires at least four BMT members. The BMT has authority to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement the provisions of ch. 480, F.S.<sup>1</sup>

### ***Definitions Relevant to Massage Establishments***

A “massage establishment (ME)” is a site or premises, wherein a MT practices massage therapy.<sup>2</sup>

A message “establishment owner” is a person who has an ownership interest in a ME. The term includes an individual who holds a ME license, a general partner of a partnership, an owner or officer of a corporation, and a member of a limited liability company and its subsidiaries who holds a ME license.<sup>3</sup>

A “designated establishment manager” is a MT who holds a clear and active, unrestricted massage therapy license, and who is responsible for the operation of a ME, and designated as the manager of the practices at the ME.<sup>4</sup>

A massage “ownership entity” is an entity to whom a ME license is issued and may be a sole proprietor, a partnership, a limited liability company, or another entity formed under the law of the jurisdiction in which the entity resides.<sup>5</sup>

---

<sup>1</sup> Section 480.035, F.S.

<sup>2</sup> Section 480.033(7), F.S.

<sup>3</sup> Section 480.033(8), F.S.

<sup>4</sup> Section 480.033(6), F.S.

<sup>5</sup> Fla. Admin. Code R. 64B7-26.001(2022).

For purposes of the crimes of obscenity, under ch. 847, F.S., an “adult entertainment establishment” is, among other things, an “unlicensed massage establishment” which is any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. The term “unlicensed massage establishment” does not include a ME licensed under s. 480.043, F.S., which routinely provides medical services by licensed health care practitioners and MTs licensed under s. 480.041, F.S.<sup>6</sup>

### ***Licensure of Massage Establishments***

Each ME must obtain a license from the DOH by submitting a DOH form and a fee set by the BMT, along with proof of property damage and bodily injury liability insurance for the proposed ME.<sup>7</sup> A ME license may not be issued until the ME passes a DOH inspection which demonstrates that the proposed ME is to be used for “massage” and that the proposed ME is in compliance with the requirements of chs. 456 and 480, F.S., and the rules of the BMT.<sup>8</sup>

A ME owner must undergo a Federal Bureau of Investigations (FBI) background screening, which includes electronically submitting finger prints to the Florida Department of Law Enforcement (FDLE).<sup>9</sup> If a corporation submits proof of having more than \$250,000 in business assets in Florida, the DOH must require the ME owner, the designated ME manager, and each individual directly involved in the management of the ME to comply with the background screening requirements.<sup>10</sup> The DOH must provide all investigative services required in carrying out the provisions of ch. 480, F.S.<sup>11</sup>

### ***Massage Establishment Operations***

The Legislature requires the BMT to adopt rules to govern the operation of MEs and their facilities, personnel, safety and sanitary requirements, financial responsibility, insurance coverage, and the license application and granting process.<sup>12</sup>

Florida Administrative Code Rule 64B7-26.003(2022), requires each ME to:

- Carry current property damage and bodily injury liability insurance, and a copy of the policy must be kept at the ME;
- Comply with all municipal building and zoning requirements;
- Maintain all equipment used to administer massage therapy treatment in a safe and sanitary condition;
- Conspicuously display the current ME license in the ME in open public view;
- Conspicuously display, in open public view, the license or a photocopy, of each MT practicing in the ME;

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<sup>6</sup> Section 847.001(2)(d), F.S.

<sup>7</sup> Section 480.043(1), F.S.; Fla. Admin. Code R. 64B7-26.002(2022).

<sup>8</sup> Section 480.043, F.S.

<sup>9</sup> See 456.0135, F.S. for general background screen details.

<sup>10</sup> Section 480.043(2), F.S.

<sup>11</sup> Section 480.039, F.S.

<sup>12</sup> Section 480.043(3), F.S.

- Conspicuously display the required human trafficking signage in compliance with ss. 456.0341(3) and 480.043(13), F.S., which requires a sign at least 11 inches by 15 inches, printed in a clearly legible font and in at least a 32-point type, which substantially states in English and Spanish the following:

“If you or someone you know is being forced to engage in an activity and cannot leave, whether it is prostitution, housework, farm work, factory work, retail work, restaurant work, or any other activity, call the National Human Trafficking Resource Center at 888-373-7888 or text INFO or HELP to 233-733 to access help and services. Victims of slavery and human trafficking are protected under United States and Florida law.”

- Have a procedure for reporting suspected human trafficking to the National Human Trafficking Hotline or to a local law enforcement agency and have a sign posted in a conspicuous place which is accessible to employees with the relevant reporting procedures posted.<sup>13</sup>

A massage establishment must provide restrooms facilities that include:<sup>14</sup>

- One functioning toilet and one sink with running water;
- Toilet tissue;
- Soap dispenser with soap or other hand sanitizing agent;
- Sanitary towels for hand drying, or other hand drying device, such as a wall-mounted electric blow dryer; and
- One waste receptacle; or
- A centralized restroom facility within 300 feet of the ME for MTs who reside in buildings that are so equipped.

There are additional requirements for ME with whirlpool baths, sauna, steam cabinet or steam room, (including wet, dry and infrared), which include shower facilities with further specification. Lavatory facilities are required within 20 feet of each treatment room and must include either:

- A sink with running water, soap dispenser with soap, and sanitary towels for hand drying or another hand drying device, such as a wall-mounted electric blow dryer; or
- Hand sanitizer or another chemical germicidal designed to disinfect without the use of running water.<sup>15</sup>

Massage establishment facilities must be kept in good repair, be well-lit and properly ventilated. Each ME must:<sup>16</sup>

- Maintain a fire extinguisher on premises;
- Provide for safe storage and removal of flammable materials;
- Provide for the removal of refuse; and
- Provide pest control.

<sup>13</sup> See ss. 456.0341(3) and 480.043(13), F.S.

<sup>14</sup> Fla. Admin. Code R. 64B7-26.003(2) (2022).

<sup>15</sup> Id.

<sup>16</sup> Id.

Massage establishment required equipment and supplies includes:<sup>17</sup>

- Massage table(s) made of, or covered by, a non-porous, non-absorbent material that is free from rips or tears;
- Disinfect;
- Massage table coverings for each patient; and
- Sufficient quantity of sheets, towels, or clean drapes for each patient.

For massage establishments where massage therapists perform colonic irrigation, the ME must:<sup>18</sup>

- Maintain colonic irrigation equipment in safe and sanitary condition; and
- Maintain sterilization equipment if non-disposable colonic attachments are used.

### **Massage Establishment Advertising**

Section 480.0465, F.S., and Florida Administrative Code Rule 64B7-33.001 (2022), require that all MEs advertising in a newspaper, on the airways, in telephone directory listings other than in a column listing consisting of only a name, address, and telephone number, computer transmission, business card, handbill, flyer, or sign, or other advertising medium, must include:

- The license number of each licensed MT and each licensed ME whose name appears in the advertisement, though the license number of a licensed MT who is an owner or principal officer may be used in lieu of the ME's license number; and
- Pending licensure of a new ME, the license number of a licensed MT who is an owner or principal officer of the ME may be used in lieu of the license number for the ME.

### **Documents Required While Working in a Massage Establishment**

A person employed by a ME, and any person performing massage therapy in an ME, must have with them while in the ME a valid government identification (ID). A valid government ID includes:

- A valid, unexpired U.S. driver license;
- A valid, unexpired U.S. ID card;
- A valid, unexpired U.S. passport;
- A naturalization certificate issued by the U.S. Department of Homeland Security (DHS);
- A valid, unexpired alien registration receipt card (green card); or
- A valid, unexpired employment authorization card issued by the U.S. DHS.<sup>19</sup>

A person operating a ME must:

- Immediately present, upon the request of a DOH investigator or a law enforcement officer:
  - A valid government identification while in the ME; and
  - A copy of a U.S. driver's license for each employee and any person performing massage therapy in the ME; and

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<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup> Section 480.0535, F.S.

- Ensure that each employee and any person performing massage therapy in the ME is able to immediately present, upon the request of a DOH investigator or law enforcement officer, a valid government ID while in the ME.<sup>20</sup>

A person who violates the work documents requirement in s. 480.0535, F.S., commits:

- A misdemeanor of the second degree for a first violation, punishable as provided in s. 775.082 or s. 775.083;
- A misdemeanor of the first degree for a second violation, punishable as provided in s. 775.082 or s. 775.083; or
- A felony of the third degree for a third or any subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.<sup>21</sup>

### **Prohibited Practices in a Massage Establishment**

A person may not operate a ME between the hours of midnight and 5:00 a.m.; unless the ME is:

- Located on the premises of a health care facility;<sup>22</sup>
- A health care clinic;<sup>23</sup>
- A hotel, motel, or bed and breakfast inn;<sup>24</sup>
- A time share property;<sup>25</sup>
- A public airport;<sup>26</sup>
- A pari-mutuel facility;<sup>27</sup>

<sup>20</sup> Id.

<sup>21</sup> Id.

<sup>22</sup> Section 408.07, F.S., defines a “health care facility” as an ambulatory surgical center, a hospice, a nursing home, a hospital, a diagnostic-imaging center, a freestanding or hospital-based therapy center, a clinical laboratory, a home health agency, a cardiac catheterization laboratory, a medical equipment supplier, an alcohol or chemical dependency treatment center, a physical rehabilitation center, a lithotripsy center, an ambulatory care center, a birth center, or a nursing home component licensed under ch. 400, F.S., within a continuing care facility licensed under ch. 651, F.S.

<sup>23</sup> Section 400.9905(4), F.S., defines “health care clinic” as an entity where health care services are provided to individuals and which tenders charges for reimbursement for such services, including a mobile clinic and a portable equipment provider.

<sup>24</sup> Section 509.242, F.S., defines: 1) a “hotel” as any public lodging establishment containing sleeping room accommodations for 25 or more guests and providing the services generally provided by a hotel and recognized as a hotel in the community in which it is situated or by the industry; 2) a “motel” as a public lodging establishment which offers rental units with an exit to the outside of each rental unit, daily or weekly rates, off street parking for each unit, a central office on the property with specified hours of operation, a bathroom or connecting bathroom for each rental unit, and at least six rental units, and which is recognized as a motel in the community in which it is situated or by the industry; or 3) a bed and breakfast inn as a family home structure, with no more than 15 sleeping rooms, which has been modified to serve as a transient public lodging establishment, which provides the accommodation and meal services generally offered by a bed and breakfast inn, and which is recognized as a bed and breakfast inn in the community in which it is situated or by the hospitality industry.

<sup>25</sup> Section 721.05(40), F.S., defines a “time share property” as one or more timeshare units subject to the same timeshare instrument, together with any other property or rights to property appurtenant to those timeshare units. Notwithstanding anything to the contrary contained in chs. 718 or 719, F.S., the timeshare instrument for a timeshare condominium or cooperative may designate personal property, contractual rights, affiliation agreements of component sites of vacation clubs, exchange companies, or reservation systems, or any other agreements or personal property, as common elements or limited common elements of the timeshare condominium or cooperative.

<sup>26</sup> Section 330.27, F.S., defines an “airport” as an area of land or water used for, or intended to be used for, landing and takeoff of aircraft, including appurtenant areas, buildings, facilities, or rights-of-way necessary to facilitate such use or intended use; and a “public airport” as an airport, publicly or privately owned, which is open for use by the public.

<sup>27</sup> Section 550.002, F.S., defines “pari-mutuel facility” as the grounds or property of a cardroom, racetrack, fronton, or other facility used by a licensed permitholder.



- The MT is acting under the prescription of an allopathic or osteopathic physician, chiropractic physician, a podiatric physician an advanced practice registered nurse (APRN), physician assistant, or dentist; or
- The ME is operating during a special event if the county or municipality in which the ME operates has approved such operation during the special event.<sup>28</sup>

A person operating a ME may not use or permit the ME to be used as a principal domicile unless the ME is zoned for residential use under a local ordinance.<sup>29</sup>

A person who violates the provisions s. 480.0475, F.S., commits:

- A misdemeanor of the first degree, for a first violation, punishable as provided in s. 775.082 or s. 775.083; or
- A felony of the third degree for a second or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Sexual misconduct in the practice of massage therapy is prohibited.<sup>30</sup>

### **Emergency Suspension Orders and Restrictive Orders**

Emergency Suspension Orders (ESOs) and Emergency Restriction Orders (EROs) are exclusively issued by the DOH and State Surgeon General. The State Surgeon General can either accept or disregard the preceding investigation based on recommendation made by Prosecution Services Unit attorneys. The emergency action process is applicable to any licensed Florida health care professional who poses an immediate and serious danger to the public health, safety or welfare.<sup>31</sup>

Section 456.074(4), F.S., authorizes the DOH, State Surgeon General, to issue an ESO suspending the license of a massage therapist or a ME upon receipt of information that the massage therapist, a person with an ownership interest in the ME, or, the owner, officer, or individual of a corporation that has more than \$250,000 of business assets in this state, that is directly involved in the management of the ME that has been convicted or found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, to owning, establishing, maintaining, or operating a ME in any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution<sup>32</sup> or a felony offense under any of the following provisions or a similar provision in another jurisdiction:<sup>33</sup>

- Section 787.01, F.S., relating to kidnapping;
- Section 787.02, F.S., relating to false imprisonment;
- Section 787.025, F.S., relating to luring or enticing a child;

<sup>28</sup> Section 480.0475, F.S.

<sup>29</sup> Id.

<sup>30</sup> Section 480.0485, F.S.

<sup>31</sup> Department of Health, *A Quick Guide to the MQA Disciplinary Process Discretionary Emergency Orders – 3 Things to Know*, available at <https://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/documents/a-quick-guide-to-the-mqa-disciplinary-process-discretionary-emergency-orders.pdf> (last visited Apr. 4, 2023).

<sup>32</sup> See s. 456.074(7), F.S.

<sup>33</sup> Section 456.074(4), F.S.

- Section 787.06, F.S., relating to human trafficking;
- Section 787.07, F.S., relating to human smuggling;
- Section 794.011, F.S., relating to sexual battery;
- Section 794.08, F.S., relating to female genital mutilation;
- Former s. 796.03, F.S., relating to procuring a person under the age of 18 for prostitution;
- Former s. 796.035, F.S., relating to the selling or buying of minors into prostitution;
- Section 796.04, F.S., relating to forcing, compelling, or coercing another to become a prostitute;
- Section 796.05, F.S., relating to deriving support from the proceeds of prostitution;
- Section 796.07(4)(a)3., F.S., relating to a felony of the third degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts;
- Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age;
- Section 825.1025(2)(b), F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person;
- Section 827.071, F.S., relating to sexual performance by a child;
- Section 847.0133, F.S., relating to the protection of minors;
- Section 847.0135, relating to computer pornography;
- Section 847.0138, F.S., relating to the transmission of material harmful to minors to a minor; and
- Section 847.0145, relating to the selling or buying of minors.

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

CS/SB 1338 changes the terminology for ch. 480, F.S., violations from a “summary suspension” to an “emergency suspension order” (ESO) or RO to align with ch. 120, F.S.

The bill amends s. 456.074(4), F.S., to add the designated ME manager and an employee of the ME to the persons the DOH, State Surgeon General, must issue an ESO to suspending his or her license. The bill requires the DOH, State Surgeon General to enter an ESO on information that a designated massage ME manager, or a ME employee, has been arrested for committing or attempting, soliciting, or conspiring to commit, or being convicted or found guilty or pleading guilty or nolo contendere to any of the listed offenses.

The bill adds to the actions of an owner, officer, or individual directly involved in the management of a ME owned by a corporation that has more than \$250,000 of business assets in this state, that require the DOH, State Surgeon General, to issue an ESO, “being arrested, committing, or attempting, soliciting, or conspiring to commit,” to being convicted or found guilty of, or has entered a plea of guilty or nolo contendere to a violation of s. 796.07, F.S.

CS/SB 1338 amends criminal statute s. 847.0145, F.S., relating to the selling or buying of minors, to require the DOH, State Surgeon General, to issue an ESO suspending the license of any licensee upon a finding by the State Surgeon General that probable cause exists to believe that the licensee has committed sexual misconduct as defined and prohibited in s. 456.063(1), F.S., or the applicable practice act, and that such acts related to the selling or buying of minors constitutes an immediate danger to the public.

The bill creates the following definitions for the massage therapy and ME practice act in ch. 480, F.S.:

- “Advertising media” is any newspaper; airwave or computer transmission; telephone directory listing, other than an in-column listing consisting only of a name, physical address, and telephone number; business card; handbill; flyer; sign, other than a building directory listing all building tenants and their room or suite numbers; or other form of written or electronic advertisement;
- “Employee” is any person, including independent contractors or lessees of the massage establishment, whose duties involve any aspect of the massage establishment regardless of whether such person is compensated for the performance of such duties. The term does not include a person exclusively engaged in the repair or maintenance of the massage establishment or the delivery of goods to the massage establishment; and
- “Sexual activity” is any direct or indirect contact by any employee or person, or between any employees or persons, with the intent to abuse, humiliate, harass, degrade, or arouse, or gratify the sexual desire of, any employee or person, or which is likely to cause such abuse, humiliation, harassment, degradation, or arousal, or sexual gratification:
  - With or without the consent of the employee or person;
  - With or without verbal or nonverbal communication that the sexual activity is undesired;
  - With or without the use of any device or object;
  - With or without the occurrence of penetration, orgasm, or ejaculation;
  - Including, but not limited to, intentional contact with the genitalia and numerous enumerated body parts; and
  - Including, but not limited to, the intentional removal of any drape without written specific informed consent of the patient.

The bill amends the definition of “designated establishment manager” to add acupuncturists, allopathic, osteopathic, and chiropractic physicians.

The bill redefines a quorum for the BMT meetings from four members to a majority of the current BMT members present.

CS/SB 1338 amends s. 480.039, F.S., to add code enforcement officers to persons who may perform inspections of a ME’s compliance with amended s. 480.043(14)(a), (b), and (c), F.S.; and a law enforcement officer to persons who may perform inspections and investigations regarding a ME’s compliance with amended ss. 480.043(12) and (14)(a)-(f), 480.0465(3), 480.0475(1) and (2), and 480.0535, F.S.; in addition to the DOH.

The bill requires code enforcement officers, and permits law enforcement officers, to submit to the DOH an executed affidavit with photos, evidence and documentation obtained during an inspection or investigation within five business days after the inspection or investigation that finds there is a violation of amended ss. 480.043(12) or (14)(a), (b), (c), (d), (e), or (f), 480.0465(3), 480.0475(1) or (2), or 480.0535, F.S. Within 20 business days after receipt of the affidavit, the DOH must issue an ESO of the ME’s license under ss. 120.60(6),<sup>34</sup> 456.073(8) or

<sup>34</sup> Section 120.60(6), F.S., requires that if an agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension, restriction, or limitation of a license, the agency may take such action by any

456.0734(4), F.S. Within 30 business days of receipt of the executed affidavit, the DOH must inspect the ME to ensure the ME is in compliance with ch. 480, F.S.; and, if the ME is not in compliance, the DOH must initiate disciplinary proceedings.

The bill provides that if a law enforcement officer arrests a MT for any violation of ch. 480, F.S., or determines that a ME continues to operate following the issuance of an ESO or RO, the officer's employing law enforcement agency must notify the DOH within five business days after the arrest or determination of unlawful continued operation.

CS/SB 1338 amends s. 480.043, F.S., to add prohibited acts. Section 480.043(14)(a), F.S., as amended, indicates that sexual activity in a ME is prohibited; and a ME owner or employee may not engage in, or allow, any person to engage in sexual activity in the ME or use the ME to make arrangements to engage in sexual activity in another location. Prophylactic devices are prohibited in a ME.

The bill amends s. 480.043(14)(b), F.S., to require that if there is an outside window or windows into the ME's reception area, the outside window or windows must allow for at least 35 percent light penetration, and no more than 50 percent of the outside window or windows may be obstructed with signage, blinds, curtains or other obstructions, thus allowing the public to see the ME's reception area. A sign must be posted on the front window of the ME and include the name of the ME, its license number, and the telephone number that has been provided to the DOH as part of the licensing of the ME. This paragraph does not apply to a ME that is:

- Located within a public lodging establishment;
- Located within a county or municipality that has an ordinance that prescribes requirements related to business window light penetration or signage limitations if compliance with this paragraph would result in noncompliance with such ordinance;

The bill amends s. 480.043(14)(c), F.S., to require all employees within the ME to be fully clothed, and all clothing must be fully opaque and made of nontransparent material.

The bill amends s. 480.043(14)(d), F.S., to require a ME to maintain a complete set of legible records in English or Spanish, which must include:

- Each employee's start date of employment;
- Full legal name;
- Date of birth;
- Home address;
- Telephone number;

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procedure that is fair under the circumstances if: a) The procedure provides at least the same procedural protection as is given by other statutes, the State Constitution, or the United States Constitution; b) The agency takes only that action necessary to protect the public interest under the emergency procedure; and c) The agency states in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. The agency's findings of immediate danger, necessity, and procedural fairness are judicially reviewable. Summary suspension, restriction, or limitation may be ordered, but a suspension or revocation proceeding pursuant to ss. 120.569 and 120.57, F.S., must also be promptly instituted and acted on. Section 456.073(8), F.S., require that any proceeding for the purpose of summary suspension of a license, or for the restriction of the license, of a licensee pursuant to s. 120.60(6), F.S., must be conducted by the State Surgeon General or his or her designee, as appropriate, who must issue the final summary order.

- Employment position; and
- A copy of the employee's government identification required under s. 480.0535, F.S. All information required under this paragraph must be recorded before the employee may provide any service or treatment to a customer or patient.

The bill amends s. 480.043(14)(e), F.S., to require a ME to conspicuously display a 2-inch by 2-inch photo for each employee, which, for MTs, must be attached to the MT's license. Such display must also include the employee's full legal name and employment position. All information required to be displayed must be displayed before the employee may provide any service or treatment to a customer or patient. A ME within a public lodging establishment may satisfy this requirement by displaying the photos and required information in an employee break room or other room that is used by employees but is not used by customers or patients.

The bill amends s. 480.043(14)(f), F.S., to require a ME to maintain a complete set of legible records in English or Spanish, which must include the date, time, and type of service or treatment provided, the full legal name of the employee who provided the service or treatment, and the full legal name, home address, and telephone number of the customer or patient. A copy of the customer's or patient's photo identification may be used to provide the full legal name and home address of the customer or patient. The required records must be maintained for at least one year after the provision of the service or treatment. All required information must be collected and recorded before the provision of any service or treatment to a customer or patient. The ME must confirm the identification of the customer or patient before the provision of any service or treatment to the customer or patient.

The bill amends s. 480.043(14)(3), F.S., to require the BMT to adopt rules governing the operation of MEs and their facilities, personnel, safety and sanitary requirements, financial responsibility, insurance coverage, and license application and granting process.

The bill amends s. 480.043(15), F.S., to exempt acupuncturists, allopathic, osteopathic, and chiropractic physicians from S. 480.043(13), F.S., when they employ licensed MTs to perform massage therapy on the practitioner's patients at his or her place of practice; but the exemption does not restrict the investigations by the DOH for violations of chs. 456 or 480, F.S.

CS/SB 1338 amends s. 480.0465, F.S., to address advertising media, to add the Internet to the currently listed medium. The bill requires advertisements to include the physical address of the ME, and the telephone number provided to the DOH as part of the licensing of the ME. The inclusion of the physical address and telephone number is not required for an advertisement by a ME whose ME owner operates more than five locations in this state.

The bill amends s. 480.0465, F.S., to prohibit a ME owner or employee from placing, publishing, or distributing, or causing to be placed, published, or distributed, any advertisement in any advertising medium that states prostitution services, escort services, or sexual services are available, and prohibits a MT or a ME or its employees from placing, publishing, or distributing, or causing to be placed, published, or distributed, in any online advertisement on any website known for advertising prostitution services, escort services, or sexual services.

The bill amends s. 480.0475, F.S., to prohibit a ME from operating from midnight to 5:00 a.m., and prohibits massage services from being performed after 10:00 p.m. and before 5:00 a.m. The bill prohibits the ME from being used for a shelter, harbor, or as sleeping quarters for any person. The bill amends s. 480.0476, F.S., to add an additional penalty for violations of summary suspension of the ME's license under in ss. 120.60(6) or 456.073(8), F.S.

The bill amends s. 480.0485, F.S., to add that sexual misconduct in the practice of massage therapy includes requiring patient nudity as part of any massage service or any other service in the ME or the intentional removal of any drape without the written specific informed consent of the patient.

CS/SB 1338 amends s. 480.0535, F.S., to require a DOH investigator to examine the valid government identifications from all employees, client records, and employee records. The bill adds summary suspension under ss. 120.60(6) or 456.073(8), F.S., for failure to provide the required documents under s. 480.0535, F.S., and requires the DOH to notify a federal immigration office if a person operating a ME, an employee, or any person performing massage therapy in a ME fails to provide a valid government identification as required.

The bill amends s. 847.001, F.S., to add to the definition of an unlicensed MEs, for purposes of crimes, the employees, or attendants who are licensed MTs.

The bill provides an effective date of July 1, 2023.

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

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Unknown. The bill could result in local law enforcement agencies and/or the DOH incurring additional costs to implement the bill's new regulations and enforcement actions. Such effects depend on how often enforcement takes place.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 456.074, 480.033, 480.035, 480.039, 480.043, 480.0465, 480.0475, 480.0485, 480.0535, 847.001, and 847.0145, F.S.

**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 April 4, 2023:**

The CS:

- Adds to whom the DOH is required to issue an ESO for a license, the designated ME manager and an employee of the ME, upon receipt of information that they have been arrested for committing or attempting to commit soliciting, conspiring to commit, or been convicted or found guilty or plead guilty or nolo contender to any of the listed offenses;
- Adds to the list of criminal offenses the DOH is required to issue an ESO for a license of a massage therapist and ME on a finding of the Surgeon General that probable cause exists to believe the licensee has committed sexual misconduct under ch. 456, F.S., or the licensee's applicable practice act, and that violation constitutes an immediate danger to the public;

- Revises the definition of a designated ME manager to describe an acupuncturist as a health care practitioner, rather than a physician, and makes clear that the definition of employee only applies to ch. 480, F.S.;
- Changes terminology for violations from a “summary suspension” to an ESO to align with ch. 120, F.S.; changes from 20 days to 30 days the time the DOH has after receiving an affidavit with photos, evidence and documentation of a specific violation from a code enforcement officer or law enforcement officer to perform an inspection; and if the violation persists, to initiate disciplinary proceedings.
- Requires the law enforcement agency who arrests a massage therapist, or finds a ME still operating after an ESO or Restive Order (RO) has issued, not just after summary suspension but also after an RO, to notify DOH within five days.
- Add blinds, curtains and other obstructions to signage that is prohibited if it obstructs more than 50 percent of outside windows; and deletes the DOH rule making authority and summary suspension as a penalty for non-compliance.
- Delete summary suspension for violations of a ME’s prohibited acts and for a ME’s violation of documents required by person’s working in an ME. Deletes the severability clause.

B. Amendments:

None.





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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
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The Committee on Health Policy (Martin) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (4) of section 456.074, Florida  
Statutes, is amended, and subsection (7) is added to that  
section, to read:

456.074 Certain health care practitioners; immediate  
suspension of license.—

(4) The department shall issue an emergency order



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11 suspending the license of a massage therapist and ~~or~~  
12 establishment as those terms are defined in chapter 480 upon  
13 receipt of information that the massage therapist, the  
14 designated establishment manager as defined in chapter 480, an  
15 employee of the establishment, a person with an ownership  
16 interest in the establishment, or, for a corporation that has  
17 more than \$250,000 of business assets in this state, the owner,  
18 officer, or individual directly involved in the management of  
19 the establishment has been arrested for committing or  
20 attempting, soliciting, or conspiring to commit, or convicted or  
21 found guilty of, or has entered a plea of guilty or nolo  
22 contendere to, regardless of adjudication, a violation of s.  
23 796.07 ~~s. 796.07(2)(a) which is reclassified under s. 796.07(7)~~  
24 or a felony offense under any of the following provisions of  
25 state law or a similar provision in another jurisdiction:  
26 (a) Section 787.01, relating to kidnapping.  
27 (b) Section 787.02, relating to false imprisonment.  
28 (c) Section 787.025, relating to luring or enticing a  
29 child.  
30 (d) Section 787.06, relating to human trafficking.  
31 (e) Section 787.07, relating to human smuggling.  
32 (f) Section 794.011, relating to sexual battery.  
33 (g) Section 794.08, relating to female genital mutilation.  
34 (h) Former s. 796.03, relating to procuring a person under  
35 the age of 18 for prostitution.  
36 (i) Former s. 796.035, relating to the selling or buying of  
37 minors into prostitution.  
38 (j) Section 796.04, relating to forcing, compelling, or  
39 coercing another to become a prostitute.



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(k) Section 796.05, relating to deriving support from the proceeds of prostitution.

(l) Section 796.07(4)(a)3., relating to a felony of the third degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.

(m) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.

(n) Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.

(o) Section 827.071, relating to sexual performance by a child.

(p) Section 847.0133, relating to the protection of minors.

(q) Section 847.0135, relating to computer pornography.

(r) Section 847.0138, relating to the transmission of material harmful to minors to a minor by electronic device or equipment.

(s) Section 847.0145, relating to the selling or buying of minors.

(7) The department shall issue an emergency order suspending the license of any licensee upon a finding of the State Surgeon General that probable cause exists to believe that the licensee has committed sexual misconduct as defined and prohibited in s. 456.063(1), or the applicable practice act, and that such violation constitutes an immediate danger to the public.

Section 2. Present subsections (1) through (6) and (7) through (12) of section 480.033, Florida Statutes, are



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redesignated as subsections (2) through (7) and (9) through (14), respectively, new subsections (1) and (8) and subsection (15) are added to that section, and present subsection (6) of that section is amended, to read:

480.033 Definitions.—As used in this act:

(1) "Advertising medium" means any newspaper; airwave or computer transmission; telephone directory listing, other than an in-column listing consisting only of a name, physical address, and telephone number; business card; handbill; flyer; sign, other than a building directory listing all building tenants and their room or suite numbers; or other form of written or electronic advertisement.

(7) ~~(6)~~ "Designated establishment manager" means a massage therapist, a health care practitioner licensed under chapter 457, or a physician licensed under chapter 458, chapter 459, or chapter 460 who holds a clear and active license without restriction, who is responsible for the operation of a massage establishment in accordance with the provisions of this chapter, and who is designated the manager by the rules or practices at the establishment.

(8) "Employee" means any person, including independent contractors or lessees of the massage establishment, whose duties involve any aspect of the massage establishment regardless of whether such person is compensated for the performance of such duties. The term does not include a person exclusively engaged in the repair or maintenance of the massage establishment or the delivery of goods to the massage establishment. This definition applies to chapter 480 only.

(15) "Sexual activity" means any direct or indirect contact



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by any employee or person, or between any employees or persons,  
with the intent to abuse, humiliate, harass, degrade, or arouse,  
or gratify the sexual desire of, any employee or person, or  
which is likely to cause such abuse, humiliation, harassment,  
degradation, or arousal, or sexual gratification:

(a) With or without the consent of the employee or person;

(b) With or without verbal or nonverbal communication that  
the sexual activity is undesired;

(c) With or without the use of any device or object;

(d) With or without the occurrence of penetration, orgasm,  
or ejaculation;

(e) Including, but not limited to, intentional contact with  
the genitalia, groin, femoral triangle, anus, buttocks, gluteal  
cleft, breast or nipples, mouth, or tongue; and

(f) Including, but not limited to, the intentional removal  
of any drape without written specific informed consent of the  
patient.

Section 3. Subsection (5) of section 480.035, Florida  
Statutes, is amended to read:

480.035 Board of Massage Therapy.—

(5) The board shall hold such meetings during the year as  
it may determine to be necessary, one of which shall be the  
annual meeting. The chair of the board shall have the authority  
to call other meetings at her or his discretion. A quorum of the  
board shall consist of not less than a majority of the current  
membership of the board ~~four members~~.

Section 4. Section 480.039, Florida Statutes, is amended to  
read:

480.039 Investigative services; reporting.—



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(1) The department shall provide all investigative services required in carrying out ~~the provisions of~~ this act. A code enforcement officer may perform inspections regarding a massage establishment's compliance with s. 480.043(14)(a), (b), and (c), and a law enforcement officer may perform inspections and investigations regarding a massage establishment's compliance with ss. 480.043(12) and (14)(a)-(f), 480.0465(3), 480.0475(1) and (2), and 480.0535. Code enforcement officers shall, and law enforcement officers may, submit to the department an executed affidavit with photos and any other evidence or documentation obtained during the inspection or investigation within 5 business days after the inspection or investigation that finds there is a violation of s. 480.043(12) or (14)(a), (b), (c), (d), (e), or (f), s. 480.0465(3), s. 480.0475(1) or (2), or s. 480.0535. For violations of s. 480.043(14)(a) or (f), s. 480.0465(3), s. 480.0475(2), or s. 480.0535, within 20 business days after receipt of such executed affidavit, the department shall issue an emergency order suspending the license of the massage establishment. For violations of s. 480.043(12) or (14)(b), (c), (d), or (e) or s. 480.0475(1), within 30 business days after receipt of an executed affidavit, the department shall inspect the massage establishment to ensure the massage establishment's compliance with this chapter, and, if the massage establishment is not in compliance with this chapter, the department shall initiate a disciplinary proceeding.

(2) If a law enforcement officer arrests a massage therapist for any violation of this chapter or determines that a massage establishment continues to operate following the issuance of an emergency suspension or restriction by the



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department, the officer's employing law enforcement agency shall notify the department within 5 business days after the arrest or determination of unlawful continued operation.

Section 5. Present subsection (14) of section 480.043, Florida Statutes, is redesignated as subsection (15) and amended, a new subsection (14) is added to that section, and subsection (3) of that section is amended, to read:

480.043 Massage establishments; requisites; licensure; inspection; human trafficking awareness training and policies; prohibited acts.—

(3) The board shall adopt rules governing the operation of establishments and their facilities, employees ~~personnel~~, safety and sanitary requirements, financial responsibility, insurance coverage, and the license application and granting process.

(14) (a) Sexual activity in any massage establishment is prohibited. An establishment owner or employee may not engage in or allow any person to engage in sexual activity in the massage establishment or use the establishment to make arrangements to engage in sexual activity in another location. Prophylactic devices are prohibited in a massage establishment.

(b) If there is an outside window or windows into the massage establishment's reception area, the outside window or windows must allow for at least 35 percent light penetration, and no more than 50 percent of the outside window or windows may be obstructed with signage, blinds, curtains, or other obstructions, thus allowing the public to see the massage establishment's reception area. A sign must be posted on the front window of the massage establishment and include the name of the massage establishment, its license number, and the



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185 telephone number that has been provided to the department as  
186 part of the licensing of the massage establishment. This  
187 paragraph does not apply to a massage establishment within a  
188 public lodging establishment as defined in s. 509.013(4). This  
189 paragraph does not apply to a massage establishment located  
190 within a county or municipality that has an ordinance that  
191 prescribes requirements related to business window light  
192 penetration or signage limitations if compliance with this  
193 paragraph would result in noncompliance with such ordinance.

194 (c) All employees within the massage establishment must be  
195 fully clothed and such clothing must be fully opaque and made of  
196 nontransparent material that does not expose the employee's  
197 genitalia, undergarments, or lingerie.

198 (d) A massage establishment must maintain a complete set of  
199 legible records in English or Spanish, which must include each  
200 employee's start date of employment, full legal name, date of  
201 birth, home address, telephone number, and employment position  
202 and a copy of the employee's government identification required  
203 under s. 480.0535. All information required under this paragraph  
204 must be recorded before the employee may provide any service or  
205 treatment to a customer or patient.

206 (e) A massage establishment must conspicuously display a 2-  
207 inch by 2-inch photo for each employee, which, for massage  
208 therapists, must be attached to the massage therapist's license.  
209 Such display must also include the employee's full legal name  
210 and employment position. All information required under this  
211 paragraph must be displayed before the employee may provide any  
212 service or treatment to a customer or patient. A massage  
213 establishment within a public lodging establishment as defined





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in s. 509.013(4) may satisfy this requirement by displaying the  
photos and required information in an employee break room or  
other room that is used by employees but is not used by  
customers or patients.

(f) A massage establishment must maintain a complete set of  
legible records in English or Spanish, which must include the  
date, time, and type of service or treatment provided; the full  
legal name of the employee who provided the service or  
treatment; and the full legal name, home address, and telephone  
number of the customer or patient. Medical records may satisfy  
this requirement if the records include the specified  
information. A copy of the customer's or patient's photo  
identification may be used to provide the full legal name and  
home address of the customer or patient. Records required under  
this paragraph must be maintained for at least 1 year after the  
provision of the service or treatment. All information required  
under this paragraph must be collected and recorded before the  
provision of any service or treatment to a customer or patient.  
The massage establishment must confirm the identification of the  
customer or patient before the provision of any service or  
treatment to the customer or patient.

(15)(14) Except for the requirements of subsection (13),  
this section does not apply to a practitioner ~~physician~~ licensed  
under chapter 457 or a physician licensed under~~7~~ chapter 458,  
chapter 459, or chapter 460 who employs a licensed massage  
therapist to perform massage therapy on the practitioner's or  
physician's patients at the his or her ~~physician's~~ place of  
practice. This subsection does not restrict investigations by  
the department for violations of chapter 456 or this chapter.



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Section 6. Section 480.0465, Florida Statutes, is amended to read:

480.0465 Advertisement; prohibitions.—

(1) Each massage therapist or massage establishment licensed under this act shall include the number of the license in any advertisement of massage therapy services appearing in any advertising medium, including a newspaper, airwave transmission, telephone directory, Internet, or other advertising medium. Pending licensure of a new massage establishment under s. 480.043(7), the license number of a licensed massage therapist who is an owner or principal officer of the establishment may be used in lieu of the license number for the establishment. The advertisement must also include the physical address of the massage establishment and the telephone number that has been provided to the department as part of the licensing of the massage establishment. However, the inclusion of the physical address and telephone number is not required for an advertisement by a massage establishment whose establishment owner operates more than five locations in this state.

(2) An establishment owner or employee may not place, publish, or distribute, or cause to be placed, published, or distributed, any advertisement in any advertising medium which states prostitution services, escort services, or sexual services are available.

(3) A massage therapist or a massage establishment or its employees may not place, publish, or distribute, or cause to be placed, published, or distributed, any online advertisement on any website known for advertising prostitution services, escort services, or sexual services.



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Section 7. Section 480.0475, Florida Statutes, is amended to read:

480.0475 Massage establishments; prohibited practices; penalties.—

(1) A massage establishment may only be operated ~~person may not operate a massage establishment~~ between the hours of 5 a.m. and midnight and all customer and patient services and treatment must be performed between the hours of 5 a.m. and 10 p.m. This subsection does not apply to a massage establishment:

(a) Located on the premises of a health care facility as defined in s. 408.07; a health care clinic as defined in s. 400.9905(4); a hotel, motel, or bed and breakfast inn, as those terms are defined in s. 509.242; a timeshare property as defined in s. 721.05; a public airport as defined in s. 330.27; or a pari-mutuel facility as defined in s. 550.002;

(b) In which every massage performed between the hours of 10 p.m. midnight and 5 a.m. is performed by a massage therapist acting under the prescription of a physician or physician assistant licensed under chapter 458, an osteopathic physician or physician assistant licensed under chapter 459, a chiropractic physician licensed under chapter 460, a podiatric physician licensed under chapter 461, an advanced practice registered nurse licensed under part I of chapter 464, or a dentist licensed under chapter 466; or

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

(2) A person operating a massage establishment may not use or permit the establishment to be used as a principal domicile



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for, to shelter or harbor, or as sleeping quarters for any person unless the establishment is zoned for residential use under a local ordinance.

(3) A person violating ~~the provisions of~~ this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A second or subsequent violation of this section is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 8. Section 480.0485, Florida Statutes, is amended to read:

480.0485 Sexual misconduct in the practice of massage therapy.—The massage therapist-patient relationship is founded on mutual trust. Sexual misconduct in the practice of massage therapy means violation of the massage therapist-patient relationship through which the massage therapist uses that relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity outside the scope of practice or the scope of generally accepted examination or treatment of the patient. Sexual misconduct in the practice of massage therapy includes requiring patient nudity as part of any massage service or any other service in the massage establishment or the intentional removal of any drape without the written specific informed consent of the patient. Sexual misconduct in the practice of massage therapy is prohibited.

Section 9. Section 480.0535, Florida Statutes, is amended to read:

480.0535 Documents required while working in a massage establishment; penalties; reporting requirement.—



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(1) In order to provide the department and law enforcement agencies the means to more effectively identify, investigate, and arrest persons engaging in human trafficking, an employee a ~~person employed by a massage establishment~~ and any person performing massage therapy in a massage establishment therein must immediately present, upon the request of an investigator of the department or a law enforcement officer, valid government identification while in the establishment. An investigator of the department must request valid government identification from all employees while in the establishment. A valid government identification for the purposes of this section is:

(a) A valid, unexpired driver license issued by any state, territory, or district of the United States;

(b) A valid, unexpired identification card issued by any state, territory, or district of the United States;

(c) A valid, unexpired United States passport;

(d) A naturalization certificate issued by the United States Department of Homeland Security;

(e) A valid, unexpired alien registration receipt card (green card); or

(f) A valid, unexpired employment authorization card issued by the United States Department of Homeland Security.

(2) A person operating a massage establishment must:

(a) Immediately present, upon the request of an investigator of the department or a law enforcement officer:

1. Valid government identification while in the establishment.

2. A copy of the documentation specified in paragraph

(1) (a) for each employee and any person performing massage



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therapy in the establishment.

3. A copy of the documents required under s. 480.043(14) (d) and (f).

(b) Ensure that each employee and any person performing massage therapy in the massage establishment is able to immediately present, upon the request of an investigator of the department or a law enforcement officer, valid government identification while in the establishment.

(3) A person who violates ~~any provision of~~ this section commits:

(a) For a first violation, a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) For a second violation, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) For a third or subsequent violation, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) The department shall notify a federal immigration office if a person operating a massage establishment, an employee, or any person performing massage therapy in a massage establishment fails to provide a valid government identification as required under this section.

Section 10. Paragraph (d) of subsection (2) of section 847.001, Florida Statutes, is amended to read:

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

(2) "Adult entertainment establishment" means the following terms as defined:

(d) "Unlicensed massage establishment" means any business or enterprise that offers, sells, or provides, or that holds



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itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, including employees or attendants who are massage therapists licensed under s. 480.041, by hand or by any electrical or mechanical device, on or off the premises. The term "unlicensed massage establishment" does not include an establishment licensed under s. 480.043 which routinely provides medical services by state-licensed health care practitioners and massage therapists licensed under s. 480.041.

Section 11. This act shall take effect July 1, 2023.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to massage establishments; amending s. 456.074, F.S.; authorizing the Department of Health to immediately suspend the license of massage therapists and massage establishments if the massage therapist or certain individuals connected to the massage establishment are arrested for, convicted or found guilty of, or enter criminal pleas to specified violations; amending s. 480.033, F.S.; providing and revising definitions; amending s. 480.035, F.S.; revising quorum requirements for the Board of Massage Therapy; amending s. 480.039, F.S.; authorizing



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specified enforcement officers to perform inspections and investigations of massage establishments for specified purposes; requiring code enforcement officers, and authorizing law enforcement officers, to submit affidavits with specified photos and other evidence and documentation to the department within a specified timeframe; requiring certain law enforcement agencies to notify the department within a specified timeframe after discovering certain violations by a massage therapist or massage establishment; requiring the department to inspect a massage establishment within a specified timeframe for specified violations and to initiate disciplinary proceedings if violations are discovered; amending s. 480.043, F.S.; revising certain rules the board is required to adopt; prohibiting sexual activity and certain devices in massage establishments; specifying prohibited conduct by massage establishment owners and employees; providing requirements for outside windows and signs in massage establishments; providing exceptions; providing employee dress code requirements; requiring establishments to maintain certain employment records in English and Spanish; requiring that specified information be recorded before an employee may provide services or treatment; requiring massage establishments to conspicuously display a photo and specified information for each employee; requiring that such photos and information be displayed before an employee may provide services or treatment;





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providing for such requirements in massage establishments within public lodging establishments; requiring massage establishments to maintain customer and patient records for services and treatment provided in the massage establishment in English and Spanish; providing that medical records satisfy this requirement if they contain specified information; requiring massage establishments to maintain such records for a specified timeframe; requiring massage establishments to collect and record specified information and confirm the identification of a customer or patient before providing services or treatment; amending s. 480.0465, F.S.; revising advertising requirements for massage therapists and massage establishments; amending s. 480.0475, F.S.; revising hours during which a massage establishment may operate; requiring that all customer and patient services and treatment be performed within specified hours; prohibiting establishments from sheltering or harboring, or being used as sleeping quarters for, any person; providing criminal penalties; amending s. 480.0485, F.S.; specifying additional conduct that constitutes sexual misconduct in the practice of massage therapy; amending s. 480.0535, F.S.; requiring department investigators to request valid government identification from all employees while in a massage establishment; specifying additional documents a person operating a massage establishment must immediately present, upon request, to department



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475 investigators and law enforcement officers; requiring  
476 the department to notify a federal immigration office  
477 if specified persons fail to provide valid government  
478 identification; amending s. 847.001, F.S.; revising  
479 the definitions of the terms "adult entertainment  
480 establishment" and "unlicensed massage establishment"  
481 for purposes of certain criminal conduct; providing an  
482 effective date.

By Senator Martin

33-00568C-23

20231338\_\_

1 A bill to be entitled  
 2 An act relating to massage establishments; amending s.  
 3 480.033, F.S.; providing and revising definitions;  
 4 amending s. 480.035, F.S.; revising quorum  
 5 requirements for the Board of Massage Therapy;  
 6 amending s. 480.039, F.S.; authorizing specified  
 7 enforcement officers to perform inspections and  
 8 investigations of massage establishments for specified  
 9 purposes; requiring code enforcement officers, and  
 10 authorizing law enforcement officers, to submit  
 11 affidavits with specified photos and other evidence to  
 12 the Department of Health within a specified timeframe;  
 13 requiring the department to issue a summary suspension  
 14 of a massage establishment license within a specified  
 15 timeframe after an investigation finds that a  
 16 specified violation occurred; requiring certain law  
 17 enforcement agencies to notify the department within a  
 18 specified timeframe after discovering certain  
 19 violations by a massage therapist or massage  
 20 establishment; amending s. 480.043, F.S.; prohibiting  
 21 sexual activity and certain devices in massage  
 22 establishments; specifying prohibited conduct by  
 23 massage establishment owners and employees; providing  
 24 requirements for outside windows and signs in massage  
 25 establishments; providing exceptions; providing  
 26 employee dress code requirements; requiring  
 27 establishments to maintain certain employment records  
 28 in English and Spanish; requiring specified  
 29 information be recorded before an employee may provide

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30 services or treatment; requiring massage  
 31 establishments to conspicuously display a photo and  
 32 specified information for each employee; providing  
 33 that such photos and information must be displayed  
 34 before an employee may provide services or treatment;  
 35 providing for such requirements in massage  
 36 establishments within public lodging establishments;  
 37 requiring massage establishments to maintain customer  
 38 and patient records for services and treatment  
 39 provided in the massage establishment in English and  
 40 Spanish; providing that medical records satisfy this  
 41 requirement if they contain specified information;  
 42 requiring massage establishments to maintain such  
 43 records for a specified timeframe; requiring massage  
 44 establishments to collect and record specified  
 45 information and confirm the identification of a  
 46 customer or patient before providing services or  
 47 treatment; requiring the board to adopt certain rules;  
 48 providing for summary suspension of massage  
 49 establishment licenses under certain circumstances;  
 50 amending s. 480.0465, F.S.; revising advertising  
 51 requirements for massage therapists and massage  
 52 establishments; amending s. 480.0475, F.S.; revising  
 53 hours during which a massage establishment may  
 54 operate; requiring all customer and patient services  
 55 and treatment to be performed within specified hours;  
 56 prohibiting establishments from sheltering or  
 57 harboring, or being used as sleeping quarters for, any  
 58 person; providing criminal penalties; providing for

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59 summary suspension of massage establishment licenses  
 60 under certain circumstances; amending s. 480.0485,  
 61 F.S.; specifying additional conduct that constitutes  
 62 sexual misconduct in the practice of massage therapy;  
 63 amending s. 480.0535, F.S.; requiring department  
 64 investigators to request valid government  
 65 identification from all employees while in a massage  
 66 establishment; specifying additional documents a  
 67 person operating a massage establishment must  
 68 immediately present, upon request, to department  
 69 investigators and law enforcement officers; providing  
 70 for summary suspension of massage establishment  
 71 licenses under certain circumstances; requiring the  
 72 department to notify a federal immigration office if  
 73 specified persons fail to provide valid government  
 74 identification; amending s. 847.001, F.S.; revising  
 75 the definitions of the terms "adult entertainment  
 76 establishment" and "unlicensed massage establishment"  
 77 for purposes of certain criminal conduct; providing  
 78 severability; providing an effective date.

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

81  
 82 Section 1. Present subsections (1) through (6) and (7)  
 83 through (12) of section 480.033, Florida Statutes, are  
 84 redesignated as subsections (2) through (7) and (9) through  
 85 (14), respectively, new subsections (1) and (8) and subsection  
 86 (15) are added to that section, and present subsection (6) of  
 87 that section is amended, to read:

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88 480.033 Definitions.—As used in this act:

89 (1) "Advertising medium" means any newspaper; airwave or  
 90 computer transmission; telephone directory listing, other than  
 91 an in-column listing consisting only of a name, physical  
 92 address, and telephone number; business card; handbill; flyer;  
 93 sign, other than a building directory listing all building  
 94 tenants and their room or suite numbers; or other form of  
 95 written or electronic advertisement.

96 (7)(6) "Designated establishment manager" means a massage  
 97 therapist or a physician licensed under chapter 457, chapter  
 98 458, chapter 459, or chapter 460 who holds a clear and active  
 99 license without restriction, who is responsible for the  
 100 operation of a massage establishment in accordance with the  
 101 provisions of this chapter, and who is designated the manager by  
 102 the rules or practices at the establishment.

103 (8) "Employee" means any person, including independent  
 104 contractors or lessees of the massage establishment, whose  
 105 duties involve any aspect of the massage establishment  
 106 regardless of whether such person is compensated for the  
 107 performance of such duties. The term does not include a person  
 108 exclusively engaged in the repair or maintenance of the massage  
 109 establishment or the delivery of goods to the massage  
 110 establishment.

111 (15) "Sexual activity" means any direct or indirect contact  
 112 by any employee or person, or between any employees or persons,  
 113 with the intent to abuse, humiliate, harass, degrade, or arouse,  
 114 or gratify the sexual desire of, any employee or person, or  
 115 which is likely to cause such abuse, humiliation, harassment,  
 116 degradation, or arousal, or sexual gratification:

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117 (a) With or without the consent of the employee or person;  
 118 (b) With or without verbal or nonverbal communication that  
 119 the sexual activity is undesired;  
 120 (c) With or without the use of any device or object;  
 121 (d) With or without the occurrence of penetration, orgasm,  
 122 or ejaculation;  
 123 (e) Including, but not limited to, intentional contact with  
 124 the genitalia, groin, femoral triangle, anus, buttocks, gluteal  
 125 cleft, breast or nipples, mouth, or tongue; and  
 126 (f) Including, but not limited to, the intentional removal  
 127 of any drape without written specific informed consent of the  
 128 patient.

129 Section 2. Subsection (5) of section 480.035, Florida  
 130 Statutes, is amended to read:  
 131 480.035 Board of Massage Therapy.—  
 132 (5) The board shall hold such meetings during the year as  
 133 it may determine to be necessary, one of which shall be the  
 134 annual meeting. The chair of the board shall have the authority  
 135 to call other meetings at her or his discretion. A quorum of the  
 136 board shall consist of not less than a majority of the current  
 137 membership of the board ~~four members~~.

138 Section 3. Section 480.039, Florida Statutes, is amended to  
 139 read:  
 140 480.039 Investigative services; summary suspensions;  
 141 reporting.—  
 142 (1) The department shall provide all investigative services  
 143 required in carrying out ~~the provisions of~~ this act. A code  
 144 enforcement officer may perform inspections regarding a massage  
 145 establishment's compliance with s. 480.043(14)(a), (b), and (c),

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146 and a law enforcement officer may perform inspections and  
 147 investigations regarding a massage establishment's compliance  
 148 with s. 480.043(12) and (14)(a)-(f), s. 480.0465(3), s.  
 149 480.0475(1) and (2), and s. 480.0535. Code enforcement officers  
 150 shall, and law enforcement officers may, submit to the  
 151 department an executed affidavit with photos and any other  
 152 evidence obtained during the inspection or investigation within  
 153 5 business days after the inspection or investigation that finds  
 154 there is a violation of s. 480.043(12) or (14)(a), (b), (c),  
 155 (d), (e), or (f), s. 480.0465(3), s. 480.0475(1) or (2), or s.  
 156 480.0535. Within 20 business days after receipt of such executed  
 157 affidavit, the department shall issue a summary suspension of  
 158 the massage establishment license as described in s. 120.60(6)  
 159 or s. 456.073(8).

160 (2) If a law enforcement officer arrests a massage  
 161 therapist for any violation of this chapter or determines that a  
 162 massage establishment continues to operate following the  
 163 issuance of a summary suspension by the department, the  
 164 officer's employing law enforcement agency shall notify the  
 165 department within 5 business days after the arrest or  
 166 determination of unlawful continued operation.

167 Section 4. Present subsection (14) of section 480.043,  
 168 Florida Statutes, is redesignated as subsection (15), and a new  
 169 subsection (14) is added to that section, to read:  
 170 480.043 Massage establishments; requisites; licensure;  
 171 inspection; human trafficking awareness training and policies;  
 172 prohibited acts.—  
 173 (14)(a) Sexual activity in any massage establishment is  
 174 prohibited. An establishment owner or employee may not engage in

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or allow any person to engage in sexual activity in the massage establishment or use the establishment to make arrangements to engage in sexual activity in another location. Prophylactic devices are prohibited in a massage establishment.

(b) If there is an outside window or windows into the massage establishment's reception area, the outside window or windows must allow for at least 35 percent light penetration, and no more than 50 percent of the outside window or windows may be obstructed with signage, thus allowing the public to see the massage establishment's reception area. A sign must be posted on the front window of the massage establishment and include the name of the massage establishment, its license number, and the telephone number that has been provided to the department as part of the licensing of the massage establishment. This paragraph does not apply to a massage establishment within a public lodging establishment as defined in s. 509.013(4). This paragraph does not apply to a massage establishment located within a county or municipality that has an ordinance that prescribes requirements related to business window light penetration or signage limitations if compliance with this paragraph would result in noncompliance with such ordinance.

(c) All employees within the massage establishment must be fully clothed and such clothing must be fully opaque and made of nontransparent material that does not expose the employee's genitalia, undergarments, or lingerie.

(d) A massage establishment must maintain a complete set of legible records in English or Spanish, which must include each employee's start date of employment, full legal name, date of birth, home address, telephone number, and employment position

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and a copy of the employee's government identification required under s. 480.0535. All information required under this paragraph must be recorded before the employee may provide any service or treatment to a customer or patient.

(e) A massage establishment must conspicuously display a 2-inch by 2-inch photo for each employee, which, for massage therapists, must be attached to the massage therapist's license. Such display must also include the employee's full legal name and employment position. All information required under this paragraph must be displayed before the employee may provide any service or treatment to a customer or patient. A massage establishment within a public lodging establishment as defined in s. 509.013(4) may satisfy this requirement by displaying the photos and required information in an employee break room or other room that is used by employees but is not used by customers or patients.

(f) A massage establishment must maintain a complete set of legible records in English or Spanish, which must include the date, time, and type of service or treatment provided; the full legal name of the employee who provided the service or treatment; and the full legal name, home address, and telephone number of the customer or patient. Medical records may satisfy this requirement if the records include the specified information. A copy of the customer's or patient's photo identification may be used to provide the full legal name and home address of the customer or patient. Records required under this paragraph must be maintained for at least 1 year after the provision of the service or treatment. All information required under this paragraph must be collected and recorded before the

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provision of any service or treatment to a customer or patient.  
 The message establishment must confirm the identification of the  
 customer or patient before the provision of any service or  
 treatment to the customer or patient.

(g) The board shall adopt rules governing the operation of  
 message establishments and their facilities, personnel, safety  
 and sanitary requirements, financial responsibility, insurance  
 coverage, and license application and granting process.

(h) Failure to comply with this subsection shall result in  
 summary suspension of the message establishment license as  
 described in s. 120.60(6) or s. 456.073(8).

Section 5. Section 480.0465, Florida Statutes, is amended  
 to read:

480.0465 Advertisement; prohibitions.-

(1) Each message therapist or message establishment  
 licensed under this act shall include the number of the license  
 in any advertisement of message therapy services appearing in  
 any advertising medium, including a newspaper, airwave  
 transmission, telephone directory, Internet, or other  
 advertising medium. Pending licensure of a new message  
 establishment under s. 480.043(7), the license number of a  
 licensed message therapist who is an owner or principal officer  
 of the establishment may be used in lieu of the license number  
 for the establishment. The advertisement must also include the  
 physical address of the message establishment and the telephone  
 number that has been provided to the department as part of the  
 licensing of the message establishment. However, the inclusion  
 of the physical address and telephone number is not required for  
 an advertisement by a message establishment whose establishment

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owner operates more than five locations in this state.

(2) An establishment owner or employee may not place,  
 publish, or distribute, or cause to be placed, published, or  
 distributed, any advertisement in any advertising medium that  
 states prostitution services, escort services, or sexual  
 services are available.

(3) A message therapist or a message establishment or its  
 employees may not place, publish, or distribute, or cause to be  
 placed, published, or distributed, any online advertisement on  
 any website known for advertising prostitution services, escort  
 services, or sexual services.

Section 6. Section 480.0475, Florida Statutes, is amended  
 to read:

480.0475 Message establishments; prohibited practices;  
 penalties.-

(1) A message establishment may only be operated ~~person may~~  
~~not operate a message establishment~~ between the hours of 5 a.m.  
 and midnight and all customer and patient services and treatment  
 must be performed between the hours of 5 a.m. and 10 p.m. This  
 subsection does not apply to a message establishment:

(a) Located on the premises of a health care facility as  
 defined in s. 408.07; a health care clinic as defined in s.  
 400.9905(4); a hotel, motel, or bed and breakfast inn, as those  
 terms are defined in s. 509.242; a timeshare property as defined  
 in s. 721.05; a public airport as defined in s. 330.27; or a  
 pari-mutuel facility as defined in s. 550.002;

(b) In which every message performed between the hours of  
 10 p.m. ~~midnight~~ and 5 a.m. is performed by a message therapist  
 acting under the prescription of a physician or physician

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291 assistant licensed under chapter 458, an osteopathic physician  
 292 or physician assistant licensed under chapter 459, a  
 293 chiropractic physician licensed under chapter 460, a podiatric  
 294 physician licensed under chapter 461, an advanced practice  
 295 registered nurse licensed under part I of chapter 464, or a  
 296 dentist licensed under chapter 466; or

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

300 (2) A person operating a massage establishment may not use  
 301 or permit the establishment to be used as a principal domicile  
 302 for, to shelter or harbor, or as sleeping quarters for any  
 303 person unless the establishment is zoned for residential use  
 304 under a local ordinance.

305 (3) A person violating ~~the provisions of~~ this section  
 306 commits a misdemeanor of the first degree, punishable as  
 307 provided in s. 775.082 or s. 775.083. A second or subsequent  
 308 violation of this section is a felony of the third degree,  
 309 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
 310 Failure to comply with subsection (1) or subsection (2) shall  
 311 result in summary suspension of the massage establishment  
 312 license as described in s. 120.60(6) or s. 456.073(8).

313 Section 7. Section 480.0485, Florida Statutes, is amended  
 314 to read:

315 480.0485 Sexual misconduct in the practice of massage  
 316 therapy.—The massage therapist-patient relationship is founded  
 317 on mutual trust. Sexual misconduct in the practice of massage  
 318 therapy means violation of the massage therapist-patient  
 319 relationship through which the massage therapist uses that

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320 relationship to induce or attempt to induce the patient to  
 321 engage, or to engage or attempt to engage the patient, in sexual  
 322 activity outside the scope of practice or the scope of generally  
 323 accepted examination or treatment of the patient. Sexual  
 324 misconduct in the practice of massage therapy includes requiring  
 325 patient nudity as part of any massage service or any other  
 326 service in the massage establishment or the intentional removal  
 327 of any drape without the written specific informed consent of  
 328 the patient. Sexual misconduct in the practice of massage  
 329 therapy is prohibited.

330 Section 8. Section 480.0535, Florida Statutes, is amended  
 331 to read:

332 480.0535 Documents required while working in a massage  
 333 establishment; penalties; reporting requirement.—

334 (1) In order to provide the department and law enforcement  
 335 agencies the means to more effectively identify, investigate,  
 336 and arrest persons engaging in human trafficking, an employee a  
 337 person employed by a massage establishment and any person  
 338 performing massage therapy in a massage establishment therein  
 339 must immediately present, upon the request of an investigator of  
 340 the department or a law enforcement officer, valid government  
 341 identification while in the establishment. An investigator of  
 342 the department must request valid government identification from  
 343 all employees while in the establishment. A valid government  
 344 identification for the purposes of this section is:

345 (a) A valid, unexpired driver license issued by any state,  
 346 territory, or district of the United States;

347 (b) A valid, unexpired identification card issued by any  
 348 state, territory, or district of the United States;



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349 (c) A valid, unexpired United States passport;  
 350 (d) A naturalization certificate issued by the United  
 351 States Department of Homeland Security;  
 352 (e) A valid, unexpired alien registration receipt card  
 353 (green card); or  
 354 (f) A valid, unexpired employment authorization card issued  
 355 by the United States Department of Homeland Security.  
 356 (2) A person operating a massage establishment must:  
 357 (a) Immediately present, upon the request of an  
 358 investigator of the department or a law enforcement officer:  
 359 1. Valid government identification while in the  
 360 establishment.  
 361 2. A copy of the documentation specified in paragraph  
 362 (1) (a) for each employee and any person performing massage  
 363 therapy in the establishment.  
 364 3. A copy of the documents required under s. 480.043(14) (d)  
 365 and (f).  
 366 (b) Ensure that each employee and any person performing  
 367 massage therapy in the massage establishment is able to  
 368 immediately present, upon the request of an investigator of the  
 369 department or a law enforcement officer, valid government  
 370 identification while in the establishment.  
 371 (3) A person who violates ~~any provision of~~ this section  
 372 commits:  
 373 (a) For a first violation, a misdemeanor of the second  
 374 degree, punishable as provided in s. 775.082 or s. 775.083.  
 375 (b) For a second violation, a misdemeanor of the first  
 376 degree, punishable as provided in s. 775.082 or s. 775.083.  
 377 (c) For a third or subsequent violation, a felony of the

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378 third degree, punishable as provided in s. 775.082, s. 775.083,  
 379 or s. 775.084.  
 380 (4) Failure to comply with this section shall result in  
 381 summary suspension of the massage establishment license as  
 382 described in s. 120.60(6) or s. 456.073(8).  
 383 (5) The department shall notify a federal immigration  
 384 office if a person operating a massage establishment, an  
 385 employee, or any person performing massage therapy in a massage  
 386 establishment fails to provide a valid government identification  
 387 as required under this section.  
 388 Section 9. Paragraph (d) of subsection (2) of section  
 389 847.001, Florida Statutes, is amended to read:  
 390 847.001 Definitions.—As used in this chapter, the term:  
 391 (2) "Adult entertainment establishment" means the following  
 392 terms as defined:  
 393 (d) "Unlicensed massage establishment" means any business  
 394 or enterprise that offers, sells, or provides, or that holds  
 395 itself out as offering, selling, or providing, massages that  
 396 include bathing, physical massage, rubbing, kneading, anointing,  
 397 stroking, manipulating, or other tactile stimulation of the  
 398 human body by either male or female employees or attendants,  
 399 including employees or attendants who are massage therapists  
 400 licensed under s. 480.041, by hand or by any electrical or  
 401 mechanical device, on or off the premises. The term "unlicensed  
 402 massage establishment" does not include an establishment  
 403 licensed under s. 480.043 which routinely provides medical  
 404 services by state-licensed health care practitioners and massage  
 405 therapists licensed under s. 480.041.  
 406 Section 10. If any provision of this act or its application

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407 to any person or circumstance is held invalid, the invalidity  
408 does not affect other provisions or applications of the act  
409 which can be given effect without the invalid provision or  
410 application, and to this end the provisions of this act are  
411 severable.

412 Section 11. This act shall take effect July 1, 2023.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Criminal Justice, *Chair*  
Appropriations  
Appropriations Committee on Criminal and Civil Justice  
Appropriations Committee on Health and Human Services  
Community Affairs  
Environment and Natural Resources  
Ethics and Elections

### SELECT COMMITTEE:

Select Committee on Resiliency

### SENATOR JONATHAN MARTIN

33rd District

March 6, 2023

The Honorable Colleen Burton  
Senate Health Policy Committee, Chair  
530 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

### RE: SB 1338 - An act relating to Massage Establishments

Dear Chair Burton:

Please allow this letter to serve as my respectful request to place SB 1338, relating to Massage Establishments, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Martin".

Jonathan Martin  
Senate District 33

Cc: Allen Bown, Staff Director  
Anhar Al- Asadi, Administrative Assistant

#### REPLY TO:

- ☐ 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- ☐ 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

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

KATHLEEN PASSIDOMO  
President of the Senate

DENNIS BAXLEY  
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

4-4-23

Meeting Date

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1338

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name

Commander James Cunningham

Phone

238-253-3935

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3319 Tamiami TR E.

Email

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Street

Naples, FL

34119

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

**APPEARANCE RECORD**

4.4.23

Meeting Date

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1338

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name

Erin Collins / of Florida

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State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**☒I am appearing without  
compensation or sponsorship.☐I am a registered lobbyist,  
representing:☐I am not a lobbyist, but received  
something of value for my appearance  
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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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

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BILL: SB 1352

INTRODUCER: Senators Rouson and Davis

SUBJECT: Medicaid Enrollees with Sickle Cell Disease

DATE: April 2, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	<b>Favorable</b>
2.			AHS	
3.			FP	

---

**I. Summary:**

SB 1352 requires the Agency for Health Care Administration (agency) to conduct a biennial review of Medicaid enrollees with sickle cell disease (SCD) and report the findings and recommendations from the preceding two year period. The objective of the review is to determine whether available covered medications, treatment, and services are adequate to meet the needs of Medicaid enrollees diagnosed with SCD and whether the agency should seek coverage of additional medications, treatment, or services.

Under this bill, the first report is due November 1, 2024, and reports are to be submitted to the Governor, President of the Senate, Speaker of the House of Representatives, the Office of Minority Health and Health Equity, and the Rare Disease Advisory Council, and published by the agency on a publicly accessible website.

The bill provides an effective date of July 1, 2023.

**II. Present Situation:**

**Sickle Cell Disease and Sickle Cell Trait**

Sickle cell disease is a group of inherited red blood cell disorders. Red blood cells contain hemoglobin, a protein that carries oxygen. Healthy red blood cells are round, and they move through small blood vessels to carry oxygen to all parts of the body. In someone who has SCD, the hemoglobin is abnormal, which causes the red blood cells to become hard and sticky and look like a C-shaped farm tool called a sickle. The sickle cells die early, which causes a constant shortage of red blood cells. Also, when they travel through small blood vessels, they get stuck

and clog the blood flow. This can cause pain and other serious health complications such as infection, acute chest syndrome, and stroke.<sup>1</sup>

The exact number of people living with SCD in the U.S. is unknown. The U.S. Centers for Disease Control and Prevention (CDC) estimates:<sup>2</sup>

- SCD affects approximately 100,000 Americans.
- SCD occurs among about one out of every 365 Black or African-American births.
- SCD occurs among about one out of every 16,300 Hispanic-American births.
- Roughly 7.7 percent of Black or African-American babies are born with sickle cell trait (SCT).

There are several types of SCD. The specific type a person has depends on the genes they inherited from their parents. People with SCD inherit genes that contain instructions, or code, for abnormal hemoglobin. The most common types of SCD include:<sup>3</sup>

- HbSS. People who have this form of SCD inherit two genes, one from each parent, that code for hemoglobin “S.” Hemoglobin S is an abnormal form of hemoglobin that causes the red cells to become rigid, and sickle shaped. This is commonly called *sickle cell anemia* and is usually the most severe form of the disease.
- HbSC. People who have this form of SCD inherit a hemoglobin “S” gene from one parent and a gene for a different type of abnormal hemoglobin called “C” from the other parent. This is usually a milder form of SCD.
- HbS beta thalassemia. People who have this form of SCD inherit a hemoglobin “S” gene from one parent and a gene for beta thalassemia, another type of hemoglobin abnormality, from the other parent. There are two types of beta thalassemia: “zero” (HbS beta<sup>0</sup>) and “plus” (HbS beta<sup>+</sup>). Those with HbS beta<sup>0</sup>-thalassemia usually have a severe form of SCD. People with HbS beta<sup>+</sup>-thalassemia tend to have a milder form of SCD.

There also are a few rare types of SCD, such as HbSD, HbSE, and HbSO. People who have these forms of SCD inherit one hemoglobin “S” gene and one gene that codes for another abnormal type of hemoglobin (“D”, “E”, or “O”). The severity of these rarer types of SCD varies.

SCD is diagnosed with a simple blood test. In children born in the U.S., it most often is found at birth during routine newborn screening tests at the hospital. In addition, SCD can be diagnosed while the baby is in the womb. Because children with SCD are at an increased risk of infection and other health problems, early diagnosis and treatment are important.

People with SCD may start to have signs of the disease during the first year of life, usually around five months of age. Symptoms and complications of SCD are different for each person and can range from mild to severe.

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<sup>1</sup> Centers for Disease Control and Prevention, Sickle Cell Disease available at: <https://www.cdc.gov/ncbddd/sicklecell/facts.html#:~:text=In%20someone%20who%20has%20SCD,shortage%20of%20red%20blood%20cells>. (last visited March 29, 2023)

<sup>2</sup> Centers for Disease Control and Prevention, Data and Statistics on Sickle Cell Disease, available at: <https://www.cdc.gov/ncbddd/sicklecell/data.html> (last visited March 29, 2023).

<sup>3</sup> *Id.*

Management of SCD is focused on preventing and treating pain episodes, anemia, and other complications. Prevention strategies include lifestyle behaviors as well as medical screening and interventions to prevent SCD complications. Lifestyle behaviors might include drinking plenty of water and avoiding getting too hot or cold, high altitudes, or extreme exertion. Vaccines can prevent against harmful infections. Other intervention strategies might include prevention of severe anemia through blood transfusions which has its own set of complications such as iron overload that can cause life-threatening damage to the liver, heart, and other organs.

SCD is a disease that worsens over time. Currently the Food and Drug Administration (FDA) has approved four treatments. However, the only therapy approved by the FDA that may be able to cure SCD is a bone marrow or stem cell transplant, which can be very risky.<sup>4</sup>

Sickle cell trait (SCT) presents itself in people who inherit one sickle cell gene and one normal gene. People with SCT usually do not have any symptoms of SCD, although in rare cases they might experience complications of SCD. A person with SCT can pass the trait on to their children. SCT is diagnosed with a blood test.<sup>5</sup>

### **Medicaid / SCD Review**

In the 2022-2023 General Appropriations Act,<sup>6</sup> the agency was directed to conduct a review and provide a written report concerning the impact of SCD in the Florida Medicaid program. As directed, the agency contracted with the Florida Medical School Quality Network, including key personnel of the Foundation for Sickle Cell Disease Research and the Sickle Care and Research Network, which is a dedicated sickle cell disease (SCD) medical treatment and research center headquartered in Hollywood, Florida, and maintains a sickle cell patient database and tracks SCD outcome measures. The report was submitted on February 1, 2023.<sup>7</sup>

Findings in this report indicate the number of people with SCD in Florida Medicaid averages 7,328 people per year. The prevalence rate of SCD in Florida Medicaid is twice as high as the national average for Medicaid and Florida Medicaid has one of the highest numbers of SCD patients in the U.S., indicating a disproportionate impact from a national perspective. The Florida Medicaid SCD population was predominately female (58%), young (median age 18 years), and Black (63%). Geographically, the highest number of Medicaid SCD patients live in Central and South Florida.

Further, the report states that over the last four years, nearly all Medicaid SCD patients were evaluated at least once by a physician, 85% were evaluated and treated in an outpatient clinic, 61% were in an ER, and 52% hospitalized. Stroke screening with transcranial doppler ultrasound in Medicaid children and adolescents with SCD was very low. SCD-relevant medications were prescribed and filled in 77% of Medicaid SCD patients. Guideline-recommend treatments with penicillin or hydroxyurea were observed in 58% or 22%, respectively, of Florida Medicaid SCD patients, indicating a gap between use and evidence-based treatments. Newer therapies with L-

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<sup>4</sup> Center for Disease Control and Prevention, <https://www.cdc.gov/ncbddd/sicklecell/facts.html> (last visited March 29, 2023).

<sup>5</sup> Centers for Disease Control and Prevention, Sickle Cell Trait available at: <https://www.cdc.gov/ncbddd/sicklecell/traits.html> (last visited March 29, 2023)

<sup>6</sup> See 2022-156, Laws of Fla., line item 189.

<sup>7</sup> See [Florida Medicaid Study of Enrollees with Sickle Cell Disease.pdf \(myflorida.com\)](#) (last visited March 29, 2023).



glutamine, voxelotor, or crizanlizumab have been used in the Florida Medicaid SCD population, albeit at low utilization. Supportive care with iron chelating agents or opioids have also been used in the Florida Medicaid SCD population, at low utilization.

Among medical services in Florida Medicaid, the highest expenditure was inpatient hospitalization, although this amount has decreased each year for the past four years. The total expenditures for Florida Medicaid recipients with SCD in calendar year 2021 was over \$91 million, which averaged approximately \$4,500 per person with SCD. In comparison, this per capita Medicaid SCD spending was below the amount spent on Medicaid recipients with diabetes in State Fiscal Year 2020-2021, despite SCD having higher morbidity and mortality. Within the Medicaid SCD population, 54% were determined high-utilizers of acute care facilities. Their expenditures made up 70% of the total cost of care for the SCD population. There was slightly higher prevalence of high-utilizers in West Florida compared to other regions. Clinical treatment centers specializing in SCD were identified in Florida and found predominantly in Central and South Florida.

### **Office of Minority Health and Equity**

The Office of Minority Health and Health Equity is established in the Department of Health.<sup>8</sup> It is responsible for developing and promoting the statewide implementation of policies, programs, and practices that increase health equity in this state, including, but not limited to, increased access to, and quality of health care services for, racial and ethnic minority populations.

### **Rare Disease Advisory Council**

Florida's Rare Disease Advisory Council (RDAC) was established in 2021 in s. 381.99, F.S., to assist the Department of Health in providing recommendations to improve health outcomes for individuals residing in this state who have a rare disease.<sup>9</sup> Rare diseases include genetic disorders, infectious diseases, cancers, and other various pediatric and adult conditions. Sickle cell disease is classified as a genetic and rare disease.<sup>10</sup>

The RDAC is composed of representatives from state agencies, health care providers, researchers, advocacy groups, insurance and pharmaceutical industries, as well as individuals with rare diseases and caregivers of individuals with rare diseases.<sup>11</sup> Council members hold a shared vision: to improve health outcomes for individuals residing in Florida who have rare diseases.<sup>12</sup>

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<sup>8</sup> Section 20.43(9), F.S.

<sup>9</sup> See Department of Health, Rare Disease Advisory Council at: <https://www.floridahealth.gov/provider-and-partner-resources/rdac/index.html> (last visited March 31, 2023).

<sup>10</sup> See NIH National Center for Advancing Translational Sciences, Genetic and Rare Diseases Information Center, available at: <https://rarediseases.info.nih.gov/diseases?category=&page=1&letter=&search=sickle%20cell> (last visited March 31, 2023).

<sup>11</sup> A list of the council members as of July 1, 2022, is available in the Rare Disease Advisory Council Annual Report dated July 1, 2022, available at: [https://www.floridahealth.gov/provider-and-partner-resources/rdac/documents/Rare-Disease-Advisory-Council-Legislative-Report\\_2022.pdf](https://www.floridahealth.gov/provider-and-partner-resources/rdac/documents/Rare-Disease-Advisory-Council-Legislative-Report_2022.pdf) (last visited March 31, 2023).

<sup>12</sup> *Id.* Executive Summary.

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

SB 1352 creates s. 409.9129, F.S., establishing a biennial review and reporting responsibility for the agency of Medicaid enrollees with sickle cell disease. The objective of the review is to determine whether available covered medications, treatment, and services are adequate to meet the needs of Medicaid enrollees diagnosed with SCD and whether the agency should seek coverage of additional medications, treatment, or services.

The analysis will be based on data collected under the Medicaid program of enrollees diagnosed with SCD, focusing on:

- The number and demographic characteristics of enrollees with SCD;
- Pharmaceutical and medical utilization patterns and costs of these enrollees;
- The number of these enrollees with two or more emergency room visits or hospital inpatient admissions in a 12-month period, the length of stay, and total related expenditures, both medical and pharmaceuticals;
- The number and availability of clinical treatment programs designed or certified to provide health care coordination and access for persons with SCD and the number of those programs contracted with managed care plans per region; and
- An assessment of the agency's payment methodologies for treatment and drug products in the inpatient setting and determining, if these methodologies result in barriers to access, whether the methodologies may be improved with modified or new policies.

The first report is due by November 1, 2024, and every two years thereafter. The report must be submitted to the Governor, President of the Senate, and Speaker of the House of Representatives, the Office of Minority Health and Health Equity, and the Rare Disease Advisory Council. The agency must also publish the report on its website in a manner that is easily accessible by the public.

The agency is required to develop its review and report in consultation with a dedicated sickle cell disease medical treatment and research center that maintains a sickle cell patient database and tracks sickle cell disease outcome measures.

The bill provides an effective date of July 1, 2023.

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

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

None.

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

None.

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

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The agency may incur costs to gather the information and report every two years. The agency has not provided an estimate of SB 1352's fiscal impact, but the amount appropriated in 2022 for a comparable review and report was \$250,000.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 409.9129 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.

By Senator Rouson

16-01044-23

20231352\_\_

A bill to be entitled

An act relating to Medicaid enrollees with sickle cell disease; creating s. 409.9129, F.S.; requiring the Agency for Health Care Administration to conduct a biennial review of Medicaid enrollees with sickle cell disease to determine if the available covered medications, treatment, and services are adequate to meet their needs; providing minimum requirements for the review; requiring the agency to submit a report of its findings to the Governor, the Legislature, the Office of Minority Health and Health Equity, and the Rare Disease Advisory Council by a specified date every 2 years; requiring the agency to publish the report on its website in an easily accessible manner; requiring the agency to develop its review and report in consultation with a certain dedicated sickle cell disease medical treatment and research center; providing an effective date.

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

Section 1. Section 409.9129, Florida Statutes, is created to read:

409.9129 Biennial review of Medicaid enrollees with sickle cell disease.—

(1) Every two years, the agency shall conduct a review of Medicaid enrollees to determine if the available covered medications, treatment, and services are adequate to meet the needs of enrollees who are diagnosed with sickle cell disease

16-01044-23

20231352\_\_

and whether the agency should seek coverage of additional medications, treatment, or services to adequately meet their needs.

(2) Using data collected under the Medicaid program from the preceding 2-year period, the agency's review must provide for all of the following, at a minimum:

(a) The total number of Medicaid enrollees diagnosed with sickle cell disease.

(b) The age and other demographic characteristics of Medicaid enrollees diagnosed with sickle cell disease.

(c) Health care utilization patterns and total expenditures, both pharmaceutical and medical, for services provided by the Medicaid program for all enrollees diagnosed with sickle cell disease.

(d) Of the enrollees diagnosed with sickle cell disease, the number of enrollees who experienced two or more emergency room visits or two or more hospital inpatient admissions in a 12-month period, including the length of stay and the total related expenditures, both medical and pharmaceutical, for those enrollees.

(e) The number of clinical treatment programs available for the care of Medicaid enrollees which are specifically designed or certified to provide health care coordination and health care access for individuals with sickle cell disease and the number of those clinical treatment programs contracted, per region, with managed care plans.

(f) An assessment of the agency's existing payment methodologies for approved treatment or drug products for the treatment of sickle cell disease in the inpatient setting and

16-01044-23 20231352\_\_

whether such payment methodologies result in barriers to access.  
If barriers to access are identified, an assessment of whether  
such methodologies may be modified or improved through the  
adoption of revised or new policies.

(3) By November 1, 2024, and every 2 years thereafter, the  
agency shall submit a report of its findings and recommendations  
from the preceding 2-year review to the Governor, the President  
of the Senate, the Speaker of the House of Representatives, the  
Office of Minority Health and Health Equity, and the Rare  
Disease Advisory Council. The agency shall also publish the  
report on its website in a manner easily accessible by the  
public.

(4) The agency shall develop its review and report in  
consultation with a dedicated sickle cell disease medical  
treatment and research center that maintains a sickle cell  
patient database and tracks sickle cell disease outcome  
measures.

Section 2. This act shall take effect July 1, 2023.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations, *Vice Chair*  
Ethics and Elections, *Vice Chair*  
Agriculture  
Appropriations Committee on Criminal  
and Civil Justice  
Appropriations Committee on Health and  
Human Services  
Children, Families, and Elder Affairs  
Governmental Oversight and Accountability  
Rules

### JOINT COMMITTEE:

Joint Administrative Procedures Committee

### SENATOR DARRYL ERVIN ROUSON

16th District

March 6, 2023

Senator Colleen Burton  
Chair, Committee on Health Policy  
530 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chair Burton,

I write today respectfully requesting that SB 1352, **Medicaid Enrollees with Sickle Cell Disease**, be added to the agenda of a forthcoming meeting of the Committee on Health Policy for consideration. I look forward to the opportunity to present SB 1352 to the committee. I am available for any questions you may have about this legislation. Thank you in advance for the committee's time and consideration.

Sincerely –

A handwritten signature in green ink that reads "Darryl E. Rouson".

Senator Darryl E. Rouson  
Florida Senate District 16

#### REPLY TO:

- ☐ 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- ☐ 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

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

KATHLEEN PASSIDOMO  
President of the Senate

DENNIS BAXLEY  
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

SB 1352

April 4, 2023

Meeting Date

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Jacqueline Moore

Phone

407 963 8574

Address

2750 Maureen Dr

Email

myellowguy@aol.com

Street

Deltona

FL

32725

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/4/23

Meeting Date

SB1352

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name

Nancy Olson

Phone

3868461415

Address

13 Cunningham Dr.

Email

olsonnancy98@gmail.com

Street

New Smyrna Beach FL 32168

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

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

S-001 (08/10/2021)



4/4/23  
Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

1352  
Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Crystal Stickle

Phone

850 445 4544

Address

1594 Marion Ave

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1352

Bill Number or Topic

4/4/23

Meeting Date

Health Policy

Committee

Name LESLIE HOLTEN

Phone 386 8465123

Address 13 Cunningham Dr

Street

Email lgfryes7@gmail.com

New Smyrna Beach, FL 32168

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking:

☒ In Support ☐ Against

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

APRIL 4, 2023

Meeting Date

SENATE HEALTH POLICY

Committee

SB 1352

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name DR. YVETTE EDGHIU SPANO

Phone 240-505-0125

Address 22 WOOD CENTER LANE  
Street

Email ymspano@gmail.com

PALM COAST

City

FL

State

32164

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/4/23

Meeting Date

SB 1352

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name Jewel S Dickson

Phone 386-717-4344

Address 601 N. Amelia Ave.

Street

Email

DeLand

City

FL

State

32724

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

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Senate professional staff conducting the meeting

4/4/23

Meeting Date

Health Policy

Committee

SB 1352

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jewel S Dickson

Phone 386-717-4344

Address 601 N. Amelia Ave

Street

Email jeweldickson@mac.com

DeLand

City

FL

State

32724

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

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

S-001 (08/10/2021)

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

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

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

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BILL: CS/SB 1408

INTRODUCER: Committee on Health Policy and Senator Davis

SUBJECT: Sickie Cell Program

DATE: April 5, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	<b>Fav/CS</b>
2.			AHS	
3.			FP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1408 establishes a grant program within the Department of Health (department) for the prevention, care, and treatment of sickle cell disease (SCD) and sickle cell trait or sickle cell trait carriers and for community-based educational programs concerning the prevention, care, and treatment of the disease. The act is named the “Sickle Cell Disease and Sickle Cell Trait Prevention, Care, and Treatment Act.”

The department must develop application criteria and standards of eligibility for funds under the grant program. The bill directs that priority for grant awards be given to established SCD and sickle cell trait or sickle cell trait carrier community-based applicants throughout the state. Further priority must be given to ensuring the establishment of SCD and sickle cell trait or sickle cell trait carrier centers in underserved areas with a higher population of SCD and sickle cell trait or sickle cell trait carrier patients.

The department is also tasked with conducting a study to determine the prevalence, impact, and needs of patients diagnosed with SCD or sickle cell trait or sickle cell trait carriers in this state.

The bill is estimated to have a significant negative fiscal impact. See Section V. of this analysis.

The bill provides an effective date of July 1, 2023.

## II. Present Situation:

### Sickle Cell Disease and Sickle Cell Trait

Sickle cell disease is a group of inherited red blood cell disorders. Red blood cells contain hemoglobin, a protein that carries oxygen. Healthy red blood cells are round, and they move through small blood vessels to carry oxygen to all parts of the body. In someone who has SCD, the hemoglobin is abnormal, which causes the red blood cells to become hard and sticky and look like a C-shaped farm tool called a sickle. The sickle cells die early, which causes a constant shortage of red blood cells. Also, when they travel through small blood vessels, they get stuck and clog the blood flow. This can cause pain and other serious health complications such as infection, acute chest syndrome, and stroke.<sup>1</sup>

The exact number of people living with SCD in the U.S. is unknown. The U.S. Centers for Disease Control and Prevention (CDC) estimates:<sup>2</sup>

- SCD affects approximately 100,000 Americans.
- SCD occurs among about one out of every 365 Black or African-American births.
- SCD occurs among about one out of every 16,300 Hispanic-American births.
- Roughly 7.7 percent of Black or African-American babies are born with sickle cell trait (SCT).

There are several types of SCD. The specific type a person has depends on the genes they inherited from their parents. People with SCD inherit genes that contain instructions, or code, for abnormal hemoglobin. The most common types of SCD include:<sup>3</sup>

- HbSS. People who have this form of SCD inherit two genes, one from each parent, that code for hemoglobin “S.” Hemoglobin S is an abnormal form of hemoglobin that causes the red cells to become rigid, and sickle shaped. This is commonly called sickle cell anemia and is usually the most severe form of the disease.
- HbSC. People who have this form of SCD inherit a hemoglobin “S” gene from one parent and a gene for a different type of abnormal hemoglobin called “C” from the other parent. This is usually a milder form of SCD.
- HbS beta thalassemia. People who have this form of SCD inherit a hemoglobin “S” gene from one parent and a gene for beta thalassemia, another type of hemoglobin abnormality, from the other parent. There are two types of beta thalassemia: “zero” (HbS beta<sup>0</sup>) and “plus” (HbS beta<sup>+</sup>). Those with HbS beta<sup>0</sup>-thalassemia usually have a severe form of SCD. People with HbS beta<sup>+</sup>-thalassemia tend to have a milder form of SCD.

There also are a few rare types of SCD, such as HbSD, HbSE, and HbSO. People who have these forms of SCD inherit one hemoglobin “S” gene and one gene that codes for another abnormal type of hemoglobin (“D”, “E”, or “O”). The severity of these rarer types of SCD varies.

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<sup>1</sup> Centers for Disease Control and Prevention, Sickle Cell Disease available at: <https://www.cdc.gov/ncbddd/sicklecell/facts.html#:~:text=In%20someone%20who%20has%20SCD,shortage%20of%20red%20blood%20cells>. (last visited March 29, 2023)

<sup>2</sup> Centers for Disease Control and Prevention, Data and Statistics on Sickle Cell Disease, available at: <https://www.cdc.gov/ncbddd/sicklecell/data.html> (last visited March 29, 2023).

<sup>3</sup> *Id.*



SCD is diagnosed with a simple blood test. In children born in the U.S., it most often is found at birth during routine newborn screening tests at the hospital. In addition, SCD can be diagnosed while the baby is in the womb. Because children with SCD are at an increased risk of infection and other health problems, early diagnosis and treatment are important.

People with SCD may start to have signs of the disease during the first year of life, usually around five months of age. Symptoms and complications of SCD are different for each person and can range from mild to severe.

Management of SCD is focused on preventing and treating pain episodes, anemia, and other complications. Prevention strategies include lifestyle behaviors as well as medical screening and interventions to prevent SCD complications. Lifestyle behaviors might include drinking plenty of water and avoiding getting too hot or cold, high altitudes, or extreme exertion. Vaccines can prevent against harmful infections. Other intervention strategies might include prevention of severe anemia through blood transfusions which has its own set of complications such as iron overload that can cause life-threatening damage to the liver, heart, and other organs.

SCD is a disease that worsens over time. Currently the Food and Drug Administration (FDA) has approved four treatments. However, the only therapy approved by the FDA that may be able to cure SCD is a bone marrow or stem cell transplant, which can be very risky.<sup>4</sup>

Sickle cell trait (SCT) presents itself in people who inherit one sickle cell gene and one normal gene. People with SCT usually do not have any symptoms of SCD, although in rare cases they might experience complications of SCD. A person with SCT can pass the trait on to their children. SCT is diagnosed with a blood test.<sup>5</sup>

### **Florida's Sickle Cell Program**

The Sickle Cell Program is found in s. 381.815, F.S. Under this section, the department is required, to the extent that resources are available, to provide education to Floridians about SCD, work cooperatively with not-for-profit centers to provide community-based education, patient teaching and counseling, and to encourage diagnostic screening,. The department is directed to make grants or enter into contract with not-for-profit centers.

### **Office of Minority Health and Health Equity**

The Office of Minority Health and Health Equity within the department is responsible for developing and promoting the statewide implementation of policies, programs, and practices that increase health equity in this state, including, but not limited to, increased access to, and quality of health care services for, racial and ethnic minority populations. As a part of this responsibility, the department administers the Closing the Gap grant program found in s. 381.7353, F.S. A Closing the Gap grant proposal must address one or more of 12 priority areas. One of those areas is decreasing racial and ethnic disparities in morbidity and mortality rates relating to SCD.

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<sup>4</sup> Center for Disease Control and Prevention, <https://www.cdc.gov/ncbddd/sicklecell/facts.html> (last visited March 29, 2023).

<sup>5</sup> Centers for Disease Control and Prevention, Sickle Cell Trait available at: <https://www.cdc.gov/ncbddd/sicklecell/traits.html> (last visited March 29, 2023)



Closing the Gap grants are awarded on a match basis with one dollar in local matching funds required for each three dollars in grant payment from the state. Exceptions are based on population in which case in-kind contributions may be used to offset some or all of the required match and grant awards to Front Porch Florida Communities are exempt from providing a match.<sup>6</sup>

The amount of a grant award is based on the merits of the application. Awards are made on an annual basis and may be renewed upon application and approval by the department, subject to the achievement of quality standards, objectives, and outcomes and to the availability of funds. The Closing the Gap grant program is subject to a specific appropriation provided in the General Appropriations Act.<sup>7</sup>

The 2022-2023 General Appropriations Act provided \$238,860 to the Sickle Cell Disease Association of Florida, Inc. – Sickle Cell Outreach<sup>8</sup> and \$3 million to the Foundation for Sickle Cell Disease Research.<sup>9</sup>

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

The act is named the “Sickle Cell Disease and Sickle Cell Trait Prevention, Care, and Treatment Act.”

The bill amends s. 381.815, F.S., by rewriting subsection (3) of that statute to establish a grant program to be administered by the department for the prevention, care, and treatment of SCD and sickle cell trait or sickle cell trait carriers and for community-based educational programs concerning the disease. All grant funds issued under the bill must be used for these purposes. The educational programs must include an outreach program that provides for the dissemination of information relating to the prevention, care, and treatment of SCD and sickle cell trait or sickle cell trait carriers.

The bill directs the department to develop application criteria and standards of eligibility for groups or organizations. Established SCD and sickle cell trait or sickle cell trait carrier community-based applicants must be given priority. Further priority must be given to ensuring the establishment of SCD and sickle cell trait or sickle cell trait carrier centers in underserved areas with a higher population of SCD and sickle cell trait or sickle cell trait carrier patients.

The department is also tasked under the bill with conducting a study to determine the prevalence, impact and needs of patients diagnosed with SCD or sickle cell trait or sickle cell trait carriers in this state.

The department is directed to adopt rules necessary to implement the bill’s provisions.

The bill provides an effective date of July 1, 2023.

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<sup>6</sup> See s. 381.7356(2), F.S.

<sup>7</sup> See s. 381.7356(6) and (7), F.S.

<sup>8</sup> See HB 5001 (2022) General Appropriations Act at line 524.

<sup>9</sup> See HB 5001 (2022) General Appropriations Act at line 476.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Department of Health reports it will need four full-time equivalent (FTE) positions and \$431,944 (\$412,588 of which would be recurring) to fund those positions and their corresponding expenses, in order to implement CS/SB 1408. The department also estimates the need for \$300,000 to conduct the study, another \$300,000 for the outreach campaign, and \$2.5 million for the grant program (assuming 10 contracts at \$250,000 each) on a recurring basis. Under the department's estimate, the bill has a recurring negative fiscal impact of approximately \$3.51 million.<sup>10</sup>

**VI. Technical Deficiencies:**

The CS removes a provision from the underlying bill that would have directed the department to develop and maintain a voluntary sickle cell disease registry for persons diagnosed with sickle cell disease. However, on lines 23-24, the CS maintains the underlying bill's amendment to the

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<sup>10</sup> Email from the Department of Health to the Senate Appropriations Committee on Health and Human Services, April 3, 2023, on file with the Senate Committee on Health Policy.

catchline of s. 381.815, F.S., to indicate the existence of the “voluntary registry.” An amendment to the CS should be considered to remove that catchline language from the bill.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 381.815 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 Health Policy on April 4, 2023:**

The CS expands the scope of the bill to include sickle cell trait and sickle cell trait carriers. The CS also removes from the underlying bill a duty for the department to develop and maintain a voluntary sickle cell disease registry for persons diagnosed with sickle cell disease.

- B. **Amendments:**

None.



712732

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
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	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 19 - 52  
and insert:  
Disease and Sickle Cell Trait Prevention, Care, and Treatment Act."

Section 2. Subsections (1) and (3) of section 381.815, Florida Statutes, are amended to read:

381.815 Sickle cell ~~Sickle-cell~~ program; voluntary registry.—The Department of Health shall, to the extent that



712732

resources are available:

(1) Provide education to the citizens of Florida about sickle cell ~~sickle-cell~~ disease.

(3)(a)1. Establish a grant program for the prevention, care, and treatment of sickle cell disease and sickle cell trait or sickle cell trait carriers and for community-based educational programs concerning the disease.

2. The community-based educational programs shall include an outreach program that provides for the dissemination of information relating to the prevention, care, and treatment of sickle cell disease and sickle cell trait or sickle cell trait carriers.

(b) Develop application criteria and standards of eligibility for applicants for funds under the grant program.

1. Groups or organizations that meet the eligibility standards developed by the department may apply for funds under the program.

2.a. Priority for grants shall be given to established sickle cell disease and sickle cell trait or sickle cell trait carrier community-based applicants throughout this state.

b. Further priority shall be given to ensuring the establishment of sickle cell disease and sickle cell trait or sickle cell trait carrier centers in underserved areas with a higher population of sickle cell disease and sickle cell trait or sickle cell trait carrier patients.

(c) Require that all program grant funds be used for the purpose of prevention, care, and treatment of sickle cell disease or sickle cell trait or sickle cell trait carriers or for educational programs concerning the disease.



712732

(d) Conduct a study to determine the prevalence, impact,  
and needs of patients diagnosed with sickle cell disease or  
sickle cell trait or sickle cell trait carriers in this state.

(e) Adopt rules necessary to implement this subsection ~~Make~~

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete lines 6 - 12

and insert:

disease and sickle cell trait or sickle cell trait  
carriers and for certain educational programs;  
requiring the department to develop application  
criteria and standards of eligibility for grants under  
the program; requiring the department to ensure that  
grant funds are used for specified purposes; requiring  
the department

By Senator Davis

5-00979-23

20231408\_\_

A bill to be entitled

An act relating to the sickle cell program; providing a short title; amending s. 381.815, F.S.; requiring the Department of Health to establish a grant program for the prevention, care, and treatment of sickle cell disease and for certain educational programs; requiring the department to develop application criteria and standards of eligibility for grants under the program; requiring the department to ensure that grant funds are used for specified purposes; requiring the department to develop and maintain a voluntary sickle cell disease registry; requiring the department to conduct a specified study; requiring the department to adopt rules; providing an effective date.

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

Section 1. This act may be known as the "Sickle Cell Prevention, Care, and Treatment Act."

Section 2. Subsections (1) and (3) of section 381.815, Florida Statutes, are amended to read:

381.815 Sickle cell ~~Sickle-cell~~ program; voluntary registry.—The Department of Health shall, to the extent that resources are available:

(1) Provide education to the citizens of Florida about sickle cell ~~sickle-cell~~ disease.

(3)(a) Establish a grant program for the prevention, care, and treatment of sickle cell disease and for community-based educational programs concerning the disease. The community-based

Page 1 of 2

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

5-00979-23

20231408\_\_

educational programs shall include an outreach program that provides for the dissemination of information relating to the prevention, care, and treatment of sickle cell disease.

(b) Develop application criteria and standards of eligibility for applicants for funds under the grant program.

1. Groups or organizations that meet the eligibility standards developed by the department may apply for funds under the program.

2.a. Priority for grants must be given to established sickle cell disease community-based applicants throughout this state.

b. Further priority must be given to ensuring the establishment of sickle cell disease centers in underserved areas with a higher population of sickle cell disease patients.

(c) Require that all program grant funds be used for the purpose of prevention, care, and treatment of sickle cell disease or for educational programs concerning the disease.

(d) Develop and maintain a voluntary sickle cell disease registry for persons diagnosed with sickle cell disease.

(e) Conduct a study to determine the prevalence, impact, and needs of patients diagnosed with sickle cell disease and the sickle cell trait in the state.

(f) Adopt rules necessary to implement this subsection ~~Make grants or enter into contracts with not-for-profit centers.~~

Section 3. This act shall take effect July 1, 2023.

Page 2 of 2

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Colleen Burton, Chair  
Committee on Health Policy

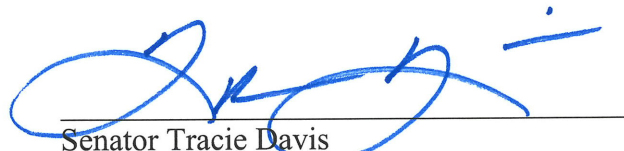
**Subject:** Committee Agenda Request

**Date:** March 14, 2023

---

I respectfully request that **Senate Bill # 1408**, relating to sickle cell program, be placed on the:

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



\_\_\_\_\_  
Senator Tracie Davis  
Florida Senate, District 5



4/4/2023

## APPEARANCE RECORD

1408

Meeting Date

Bill Number or Topic

Health Policy

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Dr. Carolyn Zonia

Phone

850-714-3793

Address

620 Flatwoods Forest Loop

Email

ZoniaCarolyn@gmail.com

Street

Santa Rosa Beach FL 32459

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

## PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without  
compensation or sponsorship.I am a registered lobbyist,  
representing:I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/20)

The Florida Senate  
**APPEARANCE RECORD**

SB 1408

Meeting Date

Bill Number or Topic

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Committee

Amendment Barcode (if applicable)

Name

Barb Grimm

Phone

Address

1605 W. French Ave

Email

Street

Orange City

State

FL

Zip

32763

Speaking:

☒ For

☐ Against

☒ Information

**OR**

Waive Speaking:

☒ In Support

☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**



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compensation or sponsorship.



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The Florida Senate

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4/4/23

Meeting Date

SB 1408

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name Jewel S Dickson

Phone 386-717-4344

Address 601 N. Amelia Ave.  
Street

Email jewel.dickson@mac.com

DeLand, Fl. 32924  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

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S-001 (08/10/2021)

4/4/2023

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

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SB1408

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name

Jasmine Burney-Clark

Phone

407-466-6468

Address

424 E. Central Blvd Suite 650

Email

jasmine@equatground.com

Street

Orlando

City

FL

State

32801

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

April 4, 2023

Meeting Date

1408

Bill Number or Topic

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Committee

Amendment Barcode (if applicable)

Name Jacqueline Moore

Phone 407 963 8574

Address 5750 Maureen Dr

Email myellowguy@aol.com

Street

Deltona

FL

32725

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

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representing:

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

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4.4.23

Meeting Date

Health Policy

Committee

1408

Bill Number or Topic

Amendment Barcode (if applicable)

Name Damaris Allen, Florida PTA

Phone 407. 855. 7604

Address 1747 Orlando Central Parkway  
Street

Email legislative@floridapta.org

Orlando, FL 32809  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

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The Florida Senate  
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4/4/23

Meeting Date

Health Policy

Committee

SB 408

Bill Number or Topic

Name

Nancy Olson

Phone

386 846 1415

Amendment Barcode (if applicable)

Address

13 Cunningham Dr

Street

Email

olsonnancy90@gmail.com

New Smyrna Beach, FL

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking:



In Support



Against

**PLEASE CHECK ONE OF THE FOLLOWING:**



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
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The Florida Senate  
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4/4/23  
Meeting Date  
Health Policy  
Committee

SB1408  
Bill Number or Topic

Name LESLIE HOLTON Phone 386 846 5123  
Amendment Barcode (if applicable)

Address 13 Cunningham Dr. Email lgfr4257@gmail.com  
Street  
New Smyrna Beach, FL 32168  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

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compensation or sponsorship.

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representing:

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The Florida Senate

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APRIL 4, 2023

Meeting Date

SB 1408

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name DR. YVETTE EDGILL SPANO

Phone 240-505-0125

Address 22 WOOD CENTER LANE

Email ymspano@gmail.com

Street

PALM COAST

FL

32164

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information OR Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

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compensation or sponsorship.

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representing:

☐ I am not a lobbyist, but received  
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sponsored by:

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S-001 (08/10/2021)

4/4/23  
Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

1408  
Bill Number or Topic

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Committee

Amendment Barcode (if applicable)

Name

Crystal Stickle

Phone

850 445 4544

Address

1594 Marion Ave

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☒

I am a registered lobbyist,  
representing:

Vertex

☐

I am not a lobbyist, but received  
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S-001 (08/10/2021)

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

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

---

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

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BILL: CS/SB 56

INTRODUCER: Committee on Health Policy and Senator Harrell

SUBJECT: Psychology Interjurisdictional Compact

DATE: April 5, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	<b>Fav/CS</b>
2.			AHS	
3.			FP	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 56 establishes Florida as a member state in the Psychology Interjurisdictional Compact (PSYPACT or compact). Pursuant to the compact and with appropriate authorizations, a licensed psychologist may engage in the practice of interjurisdictional telepsychology and also obtain a temporary authorization to practice psychology in-person, face-to-face for up to 30 days per calendar year with clients and patients in member states other than the one in which he or she is licensed.

The bill also amends statutes to facilitate implementation of the PSYPACT to:

- Require the Department of Health (department) to report any significant investigatory information relating to a psychologist practicing under the PSYPACT to the coordinated licensure information system.
- Require the monitoring contract of a psychologist practicing under the PSYPACT who is in the impaired practitioner program to require withdrawal from all practice under the compact.
- Require the board of psychology to appoint an individual to be the state's commissioner on the PSYPACT commission.
- Exempt from licensure in this state a psychologist licensed in another state who is only practicing within the scope and pursuant to the PSYPACT.
- Authorize the Board of Psychology to take adverse action against a psychologist's credentials to practice pursuant to the PSYPACT and to impose any other applicable penalties for violation of the compact.

- Designate the state’s commissioner on the PSYPACT commission and others, when acting in this state within the scope of his or her compact responsibilities, an agent of the state for purposes of the limited waiver of sovereign immunity and providing that the commission shall pay any claims or judgments pursuant to the waiver of sovereign immunity.

The bill provides an effective date of July 1, 2023.

## **II. Present Situation:**

### **Practice of Psychology**

“Practice of psychology” means the observations, description, evaluation, interpretation, and modification of human behavior, by the use of scientific and applied psychological principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating symptomatic, maladaptive, or undesired behavior and of enhancing interpersonal behavioral health and mental or psychological health. The ethical practice of psychology includes, but is not limited to, psychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning, including evaluation of mental competency to manage one’s affairs and to participate in legal proceedings; counseling, psychoanalysis, all forms of psychotherapy, sex therapy, hypnosis, biofeedback, and behavioral analysis and therapy; psychoeducational evaluation, therapy, remediation, and consultation; and use of psychological methods to diagnose and treat mental, nervous, psychological, marital, or emotional disorders, illness, or disability, alcoholism and substance abuse, and disorders of habit or conduct, as well as the psychological aspects of physical illness, accident, injury, or disability, including neuropsychological evaluation, diagnosis, prognosis, etiology, and treatment.

- Psychological services may be rendered to individuals, couples, families, groups, and the public without regard to place of service.
- The use of specific modalities within the practice of psychology is restricted to psychologists appropriately trained in the use of such modalities.
- The practice of psychology shall be construed within the meaning of this definition without regard to whether payment is requested or received for services rendered.<sup>1</sup>

The Board of Psychology is responsible for the licensure and regulation of the practice of psychology in Florida. There are two pathways for licensure to practice psychology in Florida:

- Licensure by examination<sup>2</sup> – The applicant must:
  - Have a doctoral degree from an American Psychological Association accredited program; or the equivalent from a school or university located outside the U.S.;
  - Have had at least two years or 4,000 hours of experience in the field of psychology in association with or under the supervisions of a licensed psychologist;
  - Pass the psychology licensure examination;
  - Pass the Florida law and rules examination; and
  - Complete the application and pay the applicable fees.

---

<sup>1</sup> Section 490.003(4), F.S.

<sup>2</sup> Section 490.005, F.S.

- Licensure by endorsement<sup>3</sup> – The applicant must:
  - Be a diplomate in good standing with the American Board of Professional Psychology, Inc.; or
  - Possess a doctoral degree in psychology and have at least 10 years of experience as a licensed psychologist within the past 25 years;
  - Pass the Florida law and rules examination; and
  - Complete the application and pay the applicable fees.

### **Telehealth**

Section 456.47, F.S., authorizes certain health care practitioners, including licensed psychologists, persons licensed under a multistate health care licensure compact of which Florida is a member state, or a licensed practitioner in another state who registers with the applicable board in Florida, to provide services to patients in Florida through telehealth. Telehealth means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

A telehealth provider and a patient may be in separate locations when telehealth is used to provide health care services to a patient; however, a practitioner licensed in another state and registered to provide health care services through telehealth may not provide in-person services to patients located in this state. Florida's law authorizing the use of telehealth to provide services does not authorize a Florida-licensed practitioner, including a Florida-licensed psychologist, to use telehealth to provide services to out-of-state patients.<sup>4</sup>

### **Sovereign Immunity**

Sovereign immunity bars lawsuits against a state or its political subdivisions for torts committed by an officer, employee, or agent of such governments unless the immunity is expressly waived. Section 768.28, F.S., provides a limited waiver of sovereign immunity for liability for torts up to \$200,000 per person for any claim or judgment and up to \$300,000 in total for liability arising out of the same incident or occurrence.

### **Interstate Compacts Generally**

An interstate compact is a contract between two or more states. It carries the force of statutory law and may establish uniform guidelines, standards, or procedures for agencies in the compact's member states. Interstate compacts addressing regulatory matters may be structured quite differently. Currently, there are several professions utilizing an interstate compact to address regulatory matters and each profession has taken a different approach when writing its compact language. The professions of medicine, nursing, and physical therapy are examples.<sup>5</sup>

---

<sup>3</sup> Section 490.006, F.S.

<sup>4</sup> Section 456.47, F.S.

<sup>5</sup> See What is a Compact? Audiology and Speech Language Pathology, available at: [https://aslpcompact.com/wp-content/uploads/2019/08/80057-What-is-a-Compact\\_Final.pdf](https://aslpcompact.com/wp-content/uploads/2019/08/80057-What-is-a-Compact_Final.pdf) (last visited March 29, 2023).

Florida has enacted two health care practitioner compacts – the Nurse Licensure Compact enacted in 2016<sup>6</sup> and the Professional Counselors Licensure Compact enacted in 2022.<sup>7</sup>

### **Psychology Interjurisdictional Compact**

The PSYPACT is an interstate compact designed to facilitate the practice of telepsychology and the temporary in-person, face-to-face practice of psychology across state boundaries.<sup>8</sup> The PSYPACT was created by the Association of State and Provincial Psychology Boards (ASPPB), a membership organization composed of state and provincial psychology regulatory authorities that are responsible for the licensure and registration of psychologists throughout the United States and Canada. Thirty-six states and territories have enacted the PSYPACT.<sup>9</sup> Once enacted into law, a state joins the PSYPACT Commission (commission) and designates one voting member to the commission. The commission is the governing body of the compact.

If a psychologist wishes to practice through telepsychology under the PSYPACT, the psychologist must obtain an Authority to Practice Interjurisdictional Telepsychology (APIT) at an initial cost of \$40 with a \$20 annual renewal fee from the PSYPACT Commission. It also requires an active ASPPB e-passport at an initial cost of \$400 with a \$100 annual renewal fee.<sup>10</sup>

If a psychologist wants to practice in a temporary, in-person, face-to-face mode for up to 30 days per calendar year under the PSYPACT, the psychologist must obtain a Temporary Authorization to Practice (TAP) from the PSYPACT Commission at a cost of \$40, with an annual renewal of \$20. It also requires an Interjurisdictional Practice Certificate (IPC) of \$200, with an annual renewal fee of \$50.<sup>11</sup>

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

**Section 1.** creates s. 490.0075, F.S., the Psychology Interjurisdictional Compact.

#### **Article I – Purpose**

The stated purposes and objectives of the compact are:

- Increase access to psychologists through telepsychological practice across state lines and temporary, in-person, face-to-face services in a state where the psychologist is not licensed.
- Enhance a member state's ability to protect a client's or patient's safety.
- Encourage the cooperation of compact states in the areas of licensure and regulation.

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<sup>6</sup> Section 464.0095, F.S.

<sup>7</sup> Section 491.017, F.S.

<sup>8</sup> PSYPACT Overview, available at: <https://psypact.org/page/About> (last visited March 29, 2023).

<sup>9</sup> PSYPACT Map, available at: <https://psypact.org/mpage/psypactmap> (last visited March 29, 2023). The 36 states include Alabama, Arizona, Arkansas, Colorado, Commonwealth of the Northern Mariana Islands, Connecticut, Delaware, District of Columbia, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. Rhode Island has enacted the PSYPACT but it is not yet effective).

<sup>10</sup> PSYPACT Fees available at: <https://psypact.org/page/fees> (last visited March 29, 2023).

<sup>11</sup> *Id.*

- Facilitate the exchange of information between compact states regarding licensure, adverse actions, and disciplinary history.
- Promote compliance with the laws governing the practice of psychology in each compact state.
- Invest all compact states with the authority to hold psychologists accountable through the mutual recognition of compact state licenses.

## **Article II - Definitions**

The following terms used in the compact are defined.

- “Adverse action” means any disciplinary action that is a matter of public record and that is taken by a state’s psychology regulatory authority against an individual’s license to practice psychology in that state.
- “Association of State and Provincial Psychology Boards” means the membership organization composed of state and provincial psychology regulatory authorities that are responsible for the licensure and registration of psychologists throughout the United States and Canada.
- “Authority to practice interjurisdictional telepsychology” “APIT” means a licensed psychologist’s authority to practice telepsychology, within the limits authorized under the compact, in a compact state other than the one in which he or she is licensed.
- “Bylaws” means those rules established by the compact commission pursuant to article X for its governance, or for directing and controlling its actions and conduct.
- “Client or patient” means the recipient of psychological services, whether psychological services are delivered in the context of health care, corporate, supervision, or consulting services.
- “Commissioner” means the voting representative appointed by each state psychology regulatory authority pursuant to article X.
- “Compact state” means a state, the District of Columbia, or a US territory that has enacted the compact legislation and that has not withdrawn pursuant to subsection (3) of article XIII or been terminated pursuant to subsection (2) of article XII.
- “Confidentiality” means the principle that data or information is not made available or disclosed to unauthorized persons or processes.
- “Coordinated licensure information system” or “coordinated database” means an integrated process administered by the ASPPB for collecting, storing, and sharing information on psychologists’ licensure and enforcement activities related to psychology licensure laws and the Compact.
- “Day” means any part of a day in which a psychologist practices psychology.
- “Distant state” means the compact state, which is not the home state, where a psychologist is physically present, not through the use of telecommunication technologies, to provide temporary in-person, face-to-face psychological services.
- “E-passport” means a certificate issued by the ASPPB which allows a licensed psychologist to provide telepsychological services across state lines.
- “Executive board” means a group of directors elected or appointed to act on behalf of, and within the powers granted to them by, the commission.
- “Home state” means a compact state where a psychologist is licensed to practice psychology, as provided in article III.



- “Identity history summary” means a summary of information retained by the Federal Bureau of Investigation, or another designee with similar authority, in connection with arrests and, in some instances, federal employment or military service.
- “In-person, face-to-face” means interactions in which the psychologist and the client or patient are in the same physical space and does not include interactions that may occur through the use of telecommunication technologies.
- “Interjurisdictional Practice Certificate” or “IPC” means the certificate issued by the ASPPB which grants a psychologist temporary authority to practice based on notification to the state psychology regulatory authority of one’s intention to practice temporarily and verification of one’s qualifications for such practice.
- “License” means authorization by a state psychology regulatory authority to engage in the independent practice of psychology, which would be unlawful without such authorization.
- “Noncompact state” means a state that is not a compact state.
- “Psychologist” means an individual licensed by a state psychology regulatory authority to independently practice psychology in that state.
- “Psychology Interjurisdictional Compact Commission” or “commission” means the national administration of which all compact states are members.
- “Receiving state” means a compact state where the client or patient is physically located when the telepsychological services are delivered.
- “Rule” means a written statement by the commission adopted pursuant to article XI which has the full force and effect of statutory law in a compact state and which implements, interprets, or prescribes a policy or provision of the compact or is an organizational, procedural, or practice requirement of the commission. The term also includes the amendment, repeal, or suspension of an existing rule.
- “Significant investigatory information” means:
  - Investigative information that a state psychology regulatory authority, after a preliminary inquiry that includes notification and an opportunity to respond if required by state law, has reason to believe, if proven true, would indicate a violation of state statute or rule which would be considered more substantial than a minor infraction; or
  - Investigative information that indicates that the psychologist represents an immediate threat to public health and safety, regardless of whether the psychologist has been notified or had an opportunity to respond.
- “State” means a state, commonwealth, territory, or possession of the United States, or the District of Columbia.
- “State psychology regulatory authority” means the board, office, or agency with the legislative mandate to license and regulate the practice of psychology in that state.
- “Telepsychology” means the provision of psychological services using telecommunication technologies.
- “Temporary authorization to practice” means a licensed psychologist’s authority to conduct temporary in-person, face-to-face practice, within the limits authorized under the compact, in another compact state.
- “Temporary in-person, face-to-face practice” means when a psychologist is physically present, not through the use of telecommunication technologies, in the distant state to provide psychological services for up to 30 days within a calendar year and with notification to the distant state.



### **Article III – Home State Licensure**

The home state is a compact state where a psychologist is licensed to practice psychology. A psychologist may hold more than one compact state license at a time. If he or she holds more than one and is practicing telepsychology, the home state is where the psychologist is physically present when the services are delivered. If a psychologist is practicing telepsychology under circumstances that are not authorized in the APIT, or practicing under the temporary authorization beyond the scope of the TAP, then the compact state may require licensure in that state.

A home state's license authorizes a psychologist to practice in a receiving state under the APIT only if the compact state:

- Requires the psychologist to hold an active e-passport,
- Has a mechanism in place for receiving and investigating complaints,
- Notifies the commission of any adverse action or significant investigatory information regarding a licensed individual,
- Requires an identity history summary at initial licensure, including the result of fingerprints or other biometric data check compliant with the FBI requirements within 10 years after activation of the compact, and
- Complies with the commission's bylaws and rules.

A home state's license grants a psychologist temporary authorization to practice in a distant state only if the compact state:

- Requires the psychologist to hold an IPC,
- Has a mechanism in place for receiving and investigating complaints,
- Notifies the commission of any adverse action or significant investigatory information regarding a licensed individual,
- Requires an identity history summary at initial licensure, including the result of fingerprints or other biometric data check compliant with the FBI requirements within 10 years after activation of the compact, and
- Complies with the commission's bylaws and rules.

### **Article IV – Compact Privilege to Practice Telepsychology**

Compact states must recognize the right of a psychologist to practice telepsychology under the APIT. To qualify to practice telepsychology, a psychologist must:

- Hold a graduate degree in psychology awarded by an accredited institution of higher education recognized by the U.S. Department of Education or the equivalent;
- Hold a graduate degree in psychology which meets the following criteria:
  - The program must be identified, labeled, and advertise as a psychology program to educate and train psychologists,
  - The program stands as a recognizable and coherent organizational entity within the institution,
  - There is a clear authority and primary responsibility for the core and specialty areas,
  - The program consists of an integrated, organized sequence of study,
  - There is an identifiable psychology faculty in sufficient size and breadth,

- The designated director of the program is a psychologist and member of the core faculty,
- The program has an identifiable body of students matriculated in that program for a degree,
- The program includes supervised practicum, internship, or field training,
- The program encompasses a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degrees, and
- The program includes an acceptable residency as defined by the rules of the commission.
- Possess a current, full, and unrestricted license to practice psychology in a home state that is a compact state;
- Have no history of adverse actions that violate the rules of the commission;
- Possess a current, active e-passport;
- Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology, criminal background, and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the commission; and
- Meet other criteria as defined by the rules of the commission.

The home state maintains authority over the license of the psychologist practicing in a receiving state under the APIT. The psychologist practicing in a receiving state under the APIT must comply with the receiving state's scope of practice. A receiving state may limit or revoke a psychologist's APIT in the receiving state and take other necessary actions to protect the receiving state's citizens. If a receiving state takes action, it must promptly notify the home state and the commission.

If a psychologist's license or the APIT in any receiving state is encumbered, the psychologist's e-passport must be revoked and the psychologist is not eligible to practice telepsychology under the APIT.

## **Article V – Compact Temporary Authorization to Practice**

Compact states agree to recognize the right of a psychologist licensed in a compact state to practice temporarily in other compact states or distant states in which the psychologist is not licensed but is physically present to provide temporary, in-person, face-to-face psychological services. In order to practice in a distant state under the compact a psychologist must:

- Hold a graduate degree in psychology awarded by an accredited institution of higher education recognized by the U.S. Department of Education or the equivalent;
- Hold a graduate degree in psychology which meets the following criteria:
  - The program must be identified, labeled, and advertise as a psychology program to educate and train psychologists,
  - The program stands as a recognizable and coherent organizational entity within the institution,
  - There is a clear authority and primary responsibility for the core and specialty areas,
  - The program consists of an integrated, organized sequence of study,
  - There is an identifiable psychology faculty in sufficient size and breadth,
  - The designated director of the program is a psychologist and member of the core faculty,

- The program has an identifiable body of students matriculated in that program for a degree,
- The program includes supervised practicum, internship, or field training,
- The program encompasses a minimum of three academic years of full-time graduate study for doctoral degrees and a minimum of one academic year of full-time graduate study for master's degrees, and
- The program includes an acceptable residency as defined by the rules of the commission.
- Possess a current, full, and unrestricted license to practice psychology in a home state that is a compact state;
- Have no history of adverse actions that violate the rules of the commission;
- Possess a current, active IPC;
- Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology, criminal background, and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the commission; and
- Meet other criteria as defined by the rules of the commission.

A psychologist practicing in a distant state under a temporary authorization to practice shall practice within the scope of practice authorized by the distant state and is subject to the distant state's authority and law. A distant state may limit or revoke a psychologist's temporary authorization in the distant state and take other necessary actions to protect the distant state's citizens. If a receiving state takes action, it must promptly notify the home state and the commission.

If a psychologist's license or his or her temporary authorization to practice in any distant state is encumbered, the psychologist's IPC must be revoked and the psychologist is not eligible to practice telepsychology under the temporary authorization.

#### **Article VI Conditions of Telepsychology Practice in a receiving state**

A psychologist may practice in a receiving state under the APIT only within the scope of practice defined by the state psychology regulatory authority as defined by commission rules, and under the following circumstances:

- The psychologist initiates a client or patient contact in a home state via telecommunication technologies with the client or patient in a receiving state, and
- Other conditions regarding telepsychology as determined by commission rules.

#### **Article VII Adverse Actions**

A home state may take adverse action against a psychologist's license issued by the home state. A distant state may take adverse action against a psychologist's TAP within that distant state. A receiving state may take adverse action against a psychologist's APIT within the receiving state.

A home state may take adverse action against a psychologist's license based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

If a home state takes adverse action against a psychologist's license, that psychologist's APIT is terminated and the e-passport is revoked. In addition, any TAP is terminated and the IPC is revoked. No other judicial or administrative remedies are available to a psychologist if his or her home state takes adverse action against the psychologist's license and the APIT and TAP are terminated and the e-passport and IPC are revoked.

All home state disciplinary orders that take adverse action and adverse action taken by a compact state must be reported to the commission. If disciplinary action against a psychologist is reported he or she is not eligible for telepsychology or temporary in-person practice. Other action may be imposed as determined by the rules adopted by the commission.

A home state's regulatory authority must investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a licensee which occurred in a receiving state in the same manner as if the conduct had occurred in the home state. The home state's law controls in determining applicable adverse action against the psychologist's license.

A distant state's psychology regulatory authority must investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under a TAP. The distant state's law controls in determining applicable adverse action against the psychologist's license.

The compact does not override a compact state's decision to use alternate programs in lieu of adverse action, and that action may remain confidential if required by the compact state's law. The compact state must require that psychologists who enter an alternative program do not provide telepsychology services under the APIT or temporary psychological services under the TAP during the term of the alternate program.

### **Article VIII Additional Authorities Invested in a Compact State's Regulatory Authority**

In addition to other powers authorized under state law, a compact state's regulatory authority may:

- Issue subpoenas for hearings and investigations for attendance and records production. Any subpoenas issued to another compact state must be enforced by courts in the other compact state. The issuing state's regulatory authority must pay the fees and expenses.
- Issue cease and desist or injunctive relief orders to revoke a psychologist's APIT or TAP.

During the course of an investigation, a psychologist may not change his or her home state licensure. Once an investigation is completed and pending the outcome of the investigation, the psychologist may change his or her home state licensure. The investigating state must report the conclusions of the investigation to the commission and the commission must promptly notify the new home state.

All information provided to the commission or distributed by a compact state related to the psychologist must be confidential and used only for investigatory or disciplinary matters. The commission is authorized to create additional rules for mandated or discretionary sharing of information by compact states.

## **Article IX – Coordinated Licensure Information System**

The commission must develop and maintain a coordinated database and a reporting system containing licensure and disciplinary action for all psychologists practicing under the compact.

The compact overrides a compact state's laws to the contrary and requires the submission of a uniform data set on all licensees containing:

- Identifying information;
- Licensure data;
- Significant investigatory information;
- Adverse actions against a psychologist's license;
- Any indicator that a psychologist's APIT or TAP is revoked;
- Any denial of application for licensure and the reason for the denial;
- Other information determined by commission rules.

The coordinated database administrator must promptly notify all compact states of adverse action taken against any licensee in a compact state.

A compact state may designate information that may not be shared with the public without the express permission of the compact state. Any information submitted to the coordinated database which is subsequently required to be expunged by law must be removed from the coordinated database.

## **Article X – Establishment of the Psychology Interjurisdictional Compact Commission**

The commission is a body politic and an instrumentality of the compact states. Venue and judicial proceedings by or against the commission may only be brought in a court of competent jurisdiction where the principal office of the commission is located. However, the commission may waive this restriction if it adopts or consents to participate in alternate dispute resolution proceedings.

The compact does not waive sovereign immunity except to the extent sovereign immunity is waived in the party states.

### ***Membership, Voting, and Meetings***

Each member state must appoint a commissioner with authority to act on behalf of the compact state. Vacancies must be filled in accordance with the laws of that compact state. Each commissioner is entitled to one vote with regard to the adoption of rules and creation of bylaws and may otherwise participate in the business and affairs of the commission. Voting must be in-person or as provided in the bylaws.

The commission must meet at least once during each calendar year and additional meetings must be held as set forth in the bylaws. All meetings are open to the open and notice must be given. However, the commission may convene in a closed, nonpublic meeting to discuss:

- A compact state's noncompliance.
- Matters related to the commission's internal personnel practices and procedures.

- Current, threatened, or reasonably anticipated litigation.
- Contract negotiations.
- Accusation of any person of a crime or a formal censure of a person.
- Information disclosing trade secrets or commercial or financial information that is privileged or confidential.
- Personal information in which disclosure would constitute a clearly unwarranted invasion of personal privacy.
- Investigatory records compiled for law enforcement purposes.
- Information related to investigatory reports for use by the commission regarding compliance issues pursuant to the compact.
- Matters specifically exempted from disclosure by federal or state statute.

If a meeting or portion of a meeting is closed, the commission's legal counsel must identify each relevant exempting provision. The commission must keep detailed minutes about all matters discussed, actions taken, participants, views expressed, and documents considered. These minutes and documents must remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

### ***Bylaws***

Bylaws or rules must be adopted by a majority vote of the commissioners. These may address:

- Establishing a fiscal year of the commission.
- Providing reasonable standards and procedures:
  - For the establishment and meetings of other committees;
  - Governing delegation of an authority or function of the commission;
  - For calling and conducting commission meetings;
  - For establishing personnel policies and programs. Notwithstanding any civil service or other similar law of a compact state, the bylaws exclusively govern these.
- Establishing the titles, duties, and authority of officers, and the election thereof.
- Adopting a code of ethics.
- Providing a mechanism for concluding the operation of the commission, including disposition of assets once all debts and obligations are satisfied.
- Maintenance of financial records.

Each compact state must be given access to the bylaws.

### ***Powers***

The commission may:

- Adopt rules to implement and administer the compact. The rules have the force and effect of law and are binding in all compact states.
- Bring and prosecute legal proceedings or action in the name of the commission, provided a state's regulatory authority for psychology licensure to sue or be used under applicable law is not affected.
- Purchase and maintain insurance and bonds.
- Borrow, accept, or contract for personnel services from compact states.

- Hire employees and elect or appoint officers, fix compensation, define duties, and establish policies relating to conflicts of interest, personnel qualifications, and other personnel matters.
- Accept and dispose of donations and grants, avoiding any appearance of impropriety.
- Lease, purchase, own, hold, or use any property, real or personal, avoiding any appearance of impropriety.
- Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property.
- Establish a budget and make expenditures.
- Borrow money.
- Appoint committees consisting of commissioners, state regulators or legislators, consumer representatives, or other interested persons as designated in the compact and bylaws.
- Cooperate with law enforcement agencies.
- Adopt and use an official seal.
- Perform other functions as necessary or appropriate to achieve the purposes of the compact.

### ***Executive Board***

The executive board may act on behalf of the commission. It consists of five voting members elected by the commission and one ex-officio non-voting member from the ASPPB, who has served as staff for or as a member of a state psychology regulatory authority and is selected by his or her respective organization. The commission may remove any member of the executive board as provided in the bylaws. The executive board must meet at least annually.

The executive board has the following duties and responsibilities:

- Recommend to the entire commission changes to the bylaws, compact legislation, or fees paid by compact states.
- Ensure compact administration services are appropriately provided.
- Prepare and recommend a budget.
- Maintain financial records on behalf of the commission.
- Monitor compact compliance of member states and report to the commission.
- Establish additional committees as necessary.
- Perform other duties as provided in the rules or bylaws.

### ***Financing***

The commission shall pay the reasonable expenses of its establishment, organization, and ongoing operations. The commission may accept any appropriate revenue sources, donations, and grants of money, equipment, supplies, and services.

The commission may levy and collect an annual assessment from each compact state or impose fees on other parties sufficient to cover the budgeted cost of operations and activities. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule that is binding upon all compact states.

The commission may not incur obligations before securing the funds adequate to meet the obligation and may not pledge the credit of any compact state, except by and with the authority of the compact state.

The commission must maintain accurate accounts of all receipts and disbursements, which are subject to the audit and accounting procedures established under the bylaws. In addition, all receipts and disbursements must be audited yearly by a certified or licensed public accountant and the report must be included in and become part of the commission's annual report.

### ***Qualified immunity, defense, and indemnification***

The members, officers, executive director, employees, and representatives of the commission are immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities, provided that nothing herein may be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful or wanton misconduct of that person.

The commission will defend any of the above referenced persons in any civil action seeking to impose liability that occurred, or the person against whom the claim is made reasonably believed occurred, within the scope of commission employment, duties, or responsibilities, provided the incident did not result from that person's intentional or willful or wanton misconduct. This does not prohibit such person from retaining his or her own counsel.

The commission will indemnify and hold harmless any of these persons for the amount of any settlement or judgment obtained against that person arising out of an incident that occurred, or the person against whom the claim is made reasonably believed occurred, within the scope of commission employment, duties, or responsibilities, provided the incident did not result from that person's intentional or willful or wanton misconduct.

### **Article XI – Rulemaking**

Rules and amendments become binding as of the date specified in each rule or amendment and must be adopted at a regular or special meeting of the commission. If a majority of the legislatures of compact states reject a rule by enactment of a statute or resolution in the same manner used to adopt the compact, the rule does not have further force and effect in any compact state.

At least 60 days before the meeting at which a rule will be considered and voted upon, the commission must file a notice of proposed rulemaking on its website and on the website of each compact state's psychology regulatory authority or in a publication the state would otherwise publish a proposed rule. The notice must include the text and the reason for the proposed rule, a request for comment from any interested person along with the manner in which the interested person may attend a public hearing or submit written comments.

The commission must hold a public hearing before it adopts a rule or an amendment if a hearing is requested by: at least 25 individuals who submit comments independently of each other; a governmental subdivision or agency; or a duly appoint person in an association that has at least 25 members.



Persons wishing to be heard at a hearing must notify the commission's executive director in writing at least five business days before the schedule date of the hearing and these persons must be provided a fair and reasonable opportunity to comment orally or in writing. A transcript is not required but if one is requested, the person requesting it is responsible for the cost. A hearing is not required if the executive director does not receive any notices of intent to attend the public hearing.

A majority vote of the commission is required to adopt the rule after consideration of all written and oral comments received and an effective date is determined.

Upon determination that an emergency exists, the commission may adopt an emergency rule without the procedures outlined above but must then proceed with the rulemaking procedures above.

A revision to a previously adopted rule or amendment for non-substantive corrections must be posted on the commission's website. A person may challenge the revisions within 30 days on the grounds that the revision results in a material change to a rule. If a challenge is not made, the revision takes effect without further action.

## **Article XII – Oversight; Default, Technical Assistance, and Termination; Dispute Resolution; and Enforcement**

### ***Oversight***

The executive, legislative, and judicial branches of state government in each compact state must enforce the compact and take all action necessary and appropriate to effectuate the compact's purpose and intent. The compact and rules adopted thereunder have standing as statutory law.

All courts must take judicial notice of the compact and rules in any judicial or administrative proceeding in a compact state pertaining to the subject matter of the compact. The commission is entitled to receive services of process in any such proceeding and has standing to intervene for all purposes. Failure to provide service of process to the commission renders a judgement or an order void as to the commission, the compact, or adopted rules.

### ***Default, technical assistance, and termination***

If the commission determines that a compact state has defaulted in its obligation under the compact, the commission must:

- Provide written notice to the defaulting state and other compact states of the nature of the default, the proposed remedies, and any other action to be taken by the commission; and
- Provide remedial training and specific technical assistance regarding the default.

If the state fails to remedy the default, the state may be terminated from the compact upon majority vote of the compact states. A remedy of the default does not relieve the offending state of any obligations incurred during the period of default. Termination of membership is a last resort after all other means of securing compliance have been exhausted. A defaulting state may appeal the action of the commission by petitioning the United States District Court for the state

of Georgia or the federal district court where the compact has its principal office. The prevailing party must be awarded all costs of such litigation, including reasonable attorney fees.

### ***Dispute resolution***

Upon a compact state's request, the commission must attempt to resolve disputes related to the compact arising among compact states and between compact and noncompact states. The commission must adopt a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

### ***Enforcement***

The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact. By majority vote, the commission may initiate legal action in the U.S. District Court for the state of Georgia or the federal district court where the compact has its principal office against a compact state in default to enforce compliance with the compact. The relief sought may include injunctive relief and damages. The prevailing party must be awarded all costs of such litigation, including reasonable attorney fees. The commission may also pursue any other remedies available under federal or state law.

## **Article XIII – Date of implementation of the Psychology Interjurisdictional Compact Commission and association rules; Withdrawal; and Amendments**

The compact becomes effective on the date on which seven states enact the compact into law.<sup>12</sup> Any state that joins the compact after the commission's initial adoption of rules is subject to the rules as they exist on the date the state law enacting the compact becomes effective.

A state may withdraw from the compact by enacting a statute repealing the compact; however, the withdrawal does not take effect until six months after enactment of the repealing statute. Withdrawal does not affect the continued requirement of the state's psychology regulatory authority to comply with the investigative and adverse action reporting requirement of the compact before the effective date of withdrawal.

The compact may not be construed to invalidate or prevent any psychology licensure agreement between a compact state and a noncompact state which does not conflict with the provisions of the compact.

The compact may be amended by the compact states but an amendment is not effective and binding upon any compact state until enacted into the law of all compact states.

## **Article XIV – Construction and Severability**

The compact must be liberally construed so as to effectuate the purposes thereof. If the compact is held contrary to the constitution of any member state, the compact remains in full force and effect as to the remaining compact states.

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<sup>12</sup> The compact became effective on April 9, 2019.

**Section 2.** amends s. 456.073, F.S., relating to disciplinary proceedings of practitioners to require the department to report any significant investigatory information relating to a psychologist practicing under the PSYPACT to the coordinated database pursuant to the compact. It also clarifies the type of information that may be provided to law enforcement or to any other regulatory agency, specifically the complaint or any information obtained pursuant to the department's investigation.

**Section 3.** amends s. 456.076, F.S., relating to the impaired practitioner program to require if the impaired practitioner is a psychologist practicing under the PSYPACT, the terms of the monitoring contract require withdrawal from all practice under the compact.

**Section 4.** amends s. 490.004, F.S., to require the board of psychology to appoint an individual to be the state's commissioner on the PSYPACT commission.

**Section 5.** amends s. 490.005, F.S., relating to licensure by examination to exempt from licensure in this state a psychologist licensed in another state who is only practicing within the scope and pursuant to the PSYPACT.

**Section 6.** amends s. 490.006, F.S., relating to licensure by endorsement to exempt from licensure in this state a psychologist licensed in another state who is only practicing within the scope and pursuant to the PSYPACT.

**Section 7.** amends s. 490.009, F.S., relating to discipline of psychologists to reference the PSYPACT in s. 490.0075, F.S., and to authorize the board to take adverse action against a psychologist's APIT or his or her TAP under the PSYPACT and to impose any other applicable penalties.

**Section 8.** amends s. 768.28, F.S., relating to sovereign immunity to designate the individual appointed as the state's commissioner on the PSYPACT commission, when serving in that capacity; and any administrator, officer, executive director, employee, or representative of the commission, when acting with the scope of his or her employment, duties, or responsibilities in this state; is considered an agent of the state. The commission shall pay any claims or judgments pursuant to the waiver of sovereign immunity and may maintain insurance coverage to pay any such claims or judgments.

The bill provides an effective date of July 1, 2023.

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

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

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

The compact authorizes the commission to “adopt reasonable rules to effectively and efficiently achieve the purposes of the compact,” and these rules carry the force of law in member states, which is potentially an unlawful delegation of legislative authority. Although the compact has been effective for several years and the commission has adopted rules to implement the compact, if enacted into law, the state will bind itself to rules not yet adopted by the commission. However, if Florida finds that rules adopted by the commission are not acceptable, the compact provides a mechanism for a majority of state legislatures to override the commission’s rules. Furthermore, the state maintains the ability to withdraw from the compact.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Although the ASPPB imposes fees for various authorizations to practice pursuant to the compact, psychologists will be able to practice telepsychology and engage in temporary, in-person, face-to-face practice in other states without becoming licensed to practice psychology in the other states.

**C. Government Sector Impact:**

The Department of Health’s Division of Medical Quality Assurance indicates it may experience a workload impact associated with implementing the compact, additional complaints and investigations, and updating various systems to support multistate licensure and data sharing due to the compact and requests one full-time equivalent position at a total cost of \$59,312. However the full impact is indeterminate at this time.

In addition, the DOH may experience a cost related to annual membership with PSYPACT

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Currently the practice of psychology in Florida does not require fingerprinting as a condition of licensure. The compact requires a home state's licensure provisions to require an identity history summary at initial licensure, including the result of fingerprints or other biometric data check compliant with the FBI requirements within 10 years after activation of the compact.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 456.073, 456.076, 490.004, 490.005, 490.006, 490.009, and 768.28.

This bill creates section 490.0075 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 Health Policy on April 4, 2023:**

The CS removes, “Nothing in the compact may be construed to be a waiver of sovereign immunity,” from the underlying bill and replaces it with, “The compact does not waive sovereign immunity except to the extent sovereign immunity is waived in the party states.”

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
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The Committee on Health Policy (Harrell) recommended the following:

**Senate Amendment**

Delete lines 670 - 671  
and insert:

(c) The compact does not waive sovereign immunity except to  
the extent sovereign immunity is waived in the party states.

By Senator Harrell

31-00170-23

202356\_\_

1 A bill to be entitled  
 2 An act relating to the Psychology Interjurisdictional  
 3 Compact; creating s. 490.0075, F.S.; enacting the  
 4 Psychology Interjurisdictional Compact; providing  
 5 purposes and objectives; defining terms; providing for  
 6 recognition of psychologist licenses in compact  
 7 states; authorizing a compact state to require  
 8 licensure under certain circumstances; requiring  
 9 compact states to meet certain criteria for their  
 10 licensed psychologists to participate in the compact;  
 11 requiring compact states to recognize the right of  
 12 psychologists to practice telepsychology and practice  
 13 temporarily in compact states under the compact;  
 14 specifying criteria that a psychologist must satisfy  
 15 to exercise the authority to practice  
 16 interjurisdictional telepsychology in a receiving  
 17 state or the temporary authorization to practice in a  
 18 distant state under the compact; providing that, while  
 19 authority over a psychologist's license remains with  
 20 the home state, receiving states and distant states  
 21 may define the scope of and act on a psychologist's  
 22 authority to practice in the receiving or distant  
 23 state, as applicable, under the compact; requiring a  
 24 psychologist's e-passport or interjurisdictional  
 25 practice certificate, as applicable, and right to  
 26 practice under the compact to be revoked under certain  
 27 circumstances; specifying conditions for the practice  
 28 of telepsychology in receiving states; providing for  
 29 adverse actions against psychologists under the

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30 compact; requiring compact states to report adverse  
 31 actions they take against psychologists to the  
 32 Psychology Interjurisdictional Compact Commission;  
 33 authorizing the psychology regulatory authorities of  
 34 compact states to take specified actions; prohibiting  
 35 psychologists from changing their home state licensure  
 36 under the compact during a disciplinary investigation;  
 37 providing requirements for changing home state  
 38 licensure after the investigation is complete;  
 39 providing for the confidential exchange of certain  
 40 information between compact states under certain  
 41 circumstances; requiring the commission to develop and  
 42 maintain a coordinated licensure information system;  
 43 requiring compact states to submit specified  
 44 information to the system; requiring the coordinated  
 45 database administrator to notify compact states of  
 46 specified information submitted to the system;  
 47 authorizing compact states to designate reported  
 48 information as exempt from public disclosure;  
 49 providing for the removal of submitted information  
 50 from the system under certain circumstances;  
 51 establishing the Psychology Interjurisdictional  
 52 Compact Commission; providing for the jurisdiction and  
 53 venue for court proceedings by or against the  
 54 commission; providing construction; providing for  
 55 commission membership, voting, and meetings; requiring  
 56 the commission to prescribe bylaws; specifying powers  
 57 of the commission; providing for membership and duties  
 58 of the executive board of the commission; providing

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59 for financing of the commission; providing for  
 60 qualified immunity, defense, and indemnification of  
 61 the commission; providing for commission rulemaking;  
 62 providing for state enforcement of the compact;  
 63 providing for the default and termination of compact  
 64 membership; providing for appeals and costs; providing  
 65 procedures for the resolution of certain disputes;  
 66 providing for enforcement against a defaulting state;  
 67 providing for implementation and administration of the  
 68 compact; providing that compact states that join after  
 69 initial adoption of the commission's rules are subject  
 70 to such rules; specifying procedures for compact  
 71 states to withdraw from the compact; providing  
 72 construction; providing for amendment of the compact;  
 73 providing construction and severability; amending s.  
 74 456.073, F.S.; requiring the Department of Health to  
 75 report certain investigative information to the  
 76 coordinated licensure information system; amending s.  
 77 456.076, F.S.; requiring that monitoring contracts for  
 78 impaired practitioners participating in treatment  
 79 programs contain specified terms; amending s. 490.004,  
 80 F.S.; requiring the Board of Psychology to appoint an  
 81 individual to serve as the state's commissioner on the  
 82 Psychology Interjurisdictional Compact Commission;  
 83 amending ss. 490.005 and 490.006, F.S.; exempting  
 84 certain persons from psychology licensure  
 85 requirements; amending s. 490.009, F.S.; authorizing  
 86 certain disciplinary action under the compact for  
 87 specified prohibited acts; amending s. 768.28, F.S.;

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88 designating the state commissioner and other members  
 89 or employees of the commission as state agents for the  
 90 purpose of applying sovereign immunity and waivers of  
 91 sovereign immunity; requiring the commission to pay  
 92 certain judgments or claims; authorizing the  
 93 commission to maintain insurance coverage to pay such  
 94 claims or judgments; providing an effective date.

95  
 96 WHEREAS, states license psychologists to protect the public  
 97 through verification of education, training, and experience and  
 98 to ensure accountability for professional practice, and  
 99 WHEREAS, this compact is intended to regulate the day-to-  
 100 day practice of telepsychology, or the provision of  
 101 psychological services using telecommunication technologies, by  
 102 psychologists across state boundaries in the performance of  
 103 their psychological practice as defined by an appropriate state  
 104 psychology regulatory authority, and

105 WHEREAS, this compact is intended to regulate the temporary  
 106 in-person, face-to-face practice of psychology by psychologists  
 107 across state boundaries for up to 30 days within a calendar year  
 108 in the performance of their psychological practice as defined by  
 109 an appropriate state psychology regulatory authority, and

110 WHEREAS, this compact is intended to authorize state  
 111 psychology regulatory authorities to afford legal recognition,  
 112 in a manner consistent with the terms of the compact, to  
 113 psychologists licensed in another state, and

114 WHEREAS, this compact recognizes that states have a vested  
 115 interest in protecting the public's health and safety through  
 116 the licensing and regulation of psychologists and that such

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state regulation will best protect public health and safety, and  
WHEREAS, this compact does not apply when a psychologist is  
licensed in both the home and receiving states, and

WHEREAS, while this compact does not apply to permanent in-  
person, face-to-face practice, it does allow for authorization  
of temporary psychological practice, NOW, THEREFORE,

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

Section 1. Section 490.0075, Florida Statutes, is created  
to read:

490.0075 Psychology Interjurisdictional Compact.—The  
Psychology Interjurisdictional Compact is hereby enacted and  
entered into by this state with all other jurisdictions legally  
joining therein in the form substantially as follows:

PSYCHOLOGY INTERJURISDICTIONAL COMPACT

ARTICLE I

PURPOSE

The compact is designed to achieve the following purposes  
and objectives:

(1) Increase public access to professional psychological  
services by allowing for telepsychological practice across state  
lines as well as temporary in-person, face-to-face services in a  
state where the psychologist is not licensed to practice  
psychology.

(2) Enhance the member states' ability to protect the  
public's health and safety, especially client or patient safety.

(3) Encourage the cooperation of compact states in the

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areas of psychologist licensure and regulation.

(4) Facilitate the exchange of information between compact  
states regarding psychologist licensure, adverse actions, and  
disciplinary history.

(5) Promote compliance with the laws governing the practice  
of psychology in each compact state.

(6) Invest all compact states with the authority to hold  
licensed psychologists accountable through the mutual  
recognition of compact state licenses.

ARTICLE II

DEFINITIONS

As used in the compact, the term:

(1) "Adverse action" means any disciplinary action that is  
a matter of public record and that is taken by a state's  
psychology regulatory authority against an individual's license  
to practice psychology in that state.

(2) "Association of State and Provincial Psychology Boards"  
means the membership organization composed of state and  
provincial psychology regulatory authorities that are  
responsible for the licensure and registration of psychologists  
throughout the United States and Canada.

(3) "Authority to practice interjurisdictional  
telepsychology" means a licensed psychologist's authority to  
practice telepsychology, within the limits authorized under the  
compact, in a compact state other than the one in which he or  
she is licensed.

(4) "Bylaws" means those rules established by the  
Psychology Interjurisdictional Compact Commission pursuant to

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article X for its governance, or for directing and controlling  
its actions and conduct.

(5) "Client or patient" means the recipient of  
psychological services, whether psychological services are  
delivered in the context of health care, corporate, supervision,  
or consulting services.

(6) "Commissioner" means the voting representative  
appointed by each state psychology regulatory authority pursuant  
to article X.

(7) "Compact state" means a state, the District of  
Columbia, or a United States territory that has enacted the  
compact legislation and that has not withdrawn pursuant to  
subsection (3) of article XIII or been terminated pursuant to  
subsection (2) of article XII.

(8) "Confidentiality" means the principle that data or  
information is not made available or disclosed to unauthorized  
persons or processes.

(9) "Coordinated licensure information system" or  
"coordinated database" means an integrated process administered  
by the Association of State and Provincial Psychology Boards for  
collecting, storing, and sharing information on psychologists'  
licensure and enforcement activities related to psychology  
licensure laws and the Psychology Interjurisdictional Compact.

(10) "Day" means any part of a day in which a psychologist  
practices psychology.

(11) "Distant state" means the compact state, which is not  
the home state, where a psychologist is physically present, not  
through the use of telecommunication technologies, to provide  
temporary in-person, face-to-face psychological services.

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(12) "E-passport" means a certificate issued by the  
Association of State and Provincial Psychology Boards which  
allows a licensed psychologist to provide telepsychological  
services across state lines.

(13) "Executive board" means a group of directors elected  
or appointed to act on behalf of, and within the powers granted  
to them by, the commission.

(14) "Home state" means a compact state where a  
psychologist is licensed to practice psychology, as provided in  
article III.

(15) "Identity history summary" means a summary of  
information retained by the Federal Bureau of Investigation, or  
another designee with similar authority, in connection with  
arrests and, in some instances, federal employment or military  
service.

(16) "In-person, face-to-face" means interactions in which  
the psychologist and the client or patient are in the same  
physical space and does not include interactions that may occur  
through the use of telecommunication technologies.

(17) "Interjurisdictional Practice Certificate" or "IPC"  
means the certificate issued by the Association of State and  
Provincial Psychology Boards which grants a psychologist  
temporary authority to practice based on notification to the  
state psychology regulatory authority of one's intention to  
practice temporarily and verification of one's qualifications  
for such practice.

(18) "License" means authorization by a state psychology  
regulatory authority to engage in the independent practice of  
psychology, which would be unlawful without such authorization.

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233 (19) "Noncompact state" means a state that is not a compact  
 234 state.

235 (20) "Psychologist" means an individual licensed by a state  
 236 psychology regulatory authority to independently practice  
 237 psychology in that state.

238 (21) "Psychology Interjurisdictional Compact Commission" or  
 239 "commission" means the national administration of which all  
 240 compact states are members.

241 (22) "Receiving state" means a compact state where the  
 242 client or patient is physically located when the  
 243 telepsychological services are delivered.

244 (23) "Rule" means a written statement by the Psychology  
 245 Interjurisdictional Compact Commission adopted pursuant to  
 246 article XI which has the full force and effect of statutory law  
 247 in a compact state and which implements, interprets, or  
 248 prescribes a policy or provision of the compact or is an  
 249 organizational, procedural, or practice requirement of the  
 250 commission. The term also includes the amendment, repeal, or  
 251 suspension of an existing rule.

252 (24) "Significant investigatory information" means:

253 (a) Investigative information that a state psychology  
 254 regulatory authority, after a preliminary inquiry that includes  
 255 notification and an opportunity to respond if required by state  
 256 law, has reason to believe, if proven true, would indicate a  
 257 violation of state statute or rule which would be considered  
 258 more substantial than a minor infraction; or

259 (b) Investigative information that indicates that the  
 260 psychologist represents an immediate threat to public health and  
 261 safety, regardless of whether the psychologist has been notified

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262 or had an opportunity to respond.

263 (25) "State" means a state, commonwealth, territory, or  
 264 possession of the United States, or the District of Columbia.

265 (26) "State psychology regulatory authority" means the  
 266 board, office, or agency with the legislative mandate to license  
 267 and regulate the practice of psychology in that state.

268 (27) "Telepsychology" means the provision of psychological  
 269 services using telecommunication technologies.

270 (28) "Temporary authorization to practice" means a licensed  
 271 psychologist's authority to conduct temporary in-person, face-  
 272 to-face practice, within the limits authorized under the  
 273 compact, in another compact state.

274 (29) "Temporary in-person, face-to-face practice" means  
 275 when a psychologist is physically present, not through the use  
 276 of telecommunication technologies, in the distant state to  
 277 provide psychological services for up to 30 days within a  
 278 calendar year and with notification to the distant state.

### ARTICLE III

#### HOME STATE LICENSURE

282 (1) The home state is a compact state where a psychologist  
 283 is licensed to practice psychology.

284 (2) A psychologist may hold one or more compact state  
 285 licenses at a time. If a psychologist practicing  
 286 interjurisdictional telepsychology under the compact is licensed  
 287 in more than one compact state, the home state is deemed to be  
 288 the compact state where the psychologist is physically present  
 289 when the services are delivered as authorized by the authority  
 290 to practice interjurisdictional telepsychology.

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291 (3) A compact state may require a psychologist who is not  
 292 licensed in that compact state to obtain and maintain a license  
 293 in the compact state in order to practice under circumstances  
 294 that are not authorized under the authority to practice  
 295 interjurisdictional telepsychology under the compact.  
 296 (4) A compact state may require a psychologist to obtain  
 297 and maintain a license to be authorized to practice in that  
 298 compact state under circumstances that are not authorized by a  
 299 temporary authorization to practice under the terms of the  
 300 compact.  
 301 (5) A home state's license authorizes a psychologist to  
 302 practice in a receiving state under the authority to practice  
 303 interjurisdictional telepsychology only if the compact state:  
 304 (a) Currently requires the psychologist to hold an active  
 305 e-passport;  
 306 (b) Has a mechanism in place for receiving and  
 307 investigating complaints about licensed individuals;  
 308 (c) Notifies the commission, in accordance with this  
 309 section, of any adverse action or significant investigatory  
 310 information regarding a licensed individual;  
 311 (d) Requires an identity history summary of all applicants  
 312 at initial licensure, including the use of the results of  
 313 fingerprints or other biometric data checks compliant with the  
 314 requirements of the Federal Bureau of Investigation or other  
 315 designee with similar authority, within 10 years after  
 316 activation of the compact; and  
 317 (e) Complies with the bylaws and rules of the commission.  
 318 (6) A home state's license grants a psychologist temporary  
 319 authorization to practice in a distant state only if the compact

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320 state:  
 321 (a) Currently requires the psychologist to hold an active  
 322 IPC;  
 323 (b) Has a mechanism in place for receiving and  
 324 investigating complaints about licensed individuals;  
 325 (c) Notifies the commission, in accordance with this  
 326 section, of any adverse action or significant investigatory  
 327 information regarding a licensed individual;  
 328 (d) Requires an identity history summary of all applicants  
 329 at initial licensure, including the use of the results of  
 330 fingerprints or other biometric data checks compliant with the  
 331 requirements of the Federal Bureau of Investigation or other  
 332 designee with similar authority, within 10 years after  
 333 activation of the compact; and  
 334 (e) Complies with the bylaws and rules of the commission.  
 335  
 336 ARTICLE IV  
 337 COMPACT PRIVILEGE TO PRACTICE TELEPSYCHOLOGY  
 338 (1) Compact states shall recognize the right of a  
 339 psychologist licensed in a compact state pursuant to article III  
 340 to practice telepsychology in other compact states or receiving  
 341 states in which the psychologist is not licensed under the  
 342 authority to practice interjurisdictional telepsychology as  
 343 provided in the compact.  
 344 (2) To exercise the authority to practice  
 345 interjurisdictional telepsychology in a receiving state under  
 346 the terms and provisions of the compact, a psychologist licensed  
 347 to practice in a compact state must:  
 348 (a) Hold a graduate degree in psychology from an

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institution of higher education that was, at the time the degree was awarded:

1. Regionally accredited by an accrediting body recognized by the United States Department of Education to grant graduate degrees or authorized by provincial statute or royal charter to grant doctoral degrees; or

2. A foreign college or university deemed to be equivalent to subparagraph 1. by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services or by a recognized foreign credential evaluation service;

(b) Hold a graduate degree in psychology which meets the following criteria:

1. The program, regardless of where it is administratively housed, is clearly identified and labeled as a psychology program. Such program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists;

2. The program stands as a recognizable and coherent organizational entity within the institution;

3. There is a clear authority and primary responsibility for the core and specialty areas regardless of whether the program overlaps across administrative lines;

4. The program consists of an integrated, organized sequence of study;

5. There is an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

6. The designated director of the program is a psychologist and a member of the core faculty;

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7. The program has an identifiable body of students matriculated in that program for a degree;

8. The program includes supervised practicum, internship, or field training appropriate to the practice of psychology;

9. The program encompasses a minimum of 3 academic years of full-time graduate study for doctoral degrees and a minimum of 1 academic year of full-time graduate study for master's degrees; and

10. The program includes an acceptable residency as defined by the rules of the commission;

(c) Possess a current, full, and unrestricted license to practice psychology in a home state that is a compact state;

(d) Have no history of adverse actions that violate the rules of the commission;

(e) Have no criminal history reported on an identity history summary which violates the rules of the commission;

(f) Possess a current, active e-passport;

(g) Provide attestations in regard to areas of intended practice, conformity with standards of practice, competence in telepsychology technology, criminal background, and knowledge and adherence to legal requirements in the home and receiving states, and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(h) Meet other criteria as defined by the rules of the commission.

(3) The home state maintains authority over the license of any psychologist practicing in a receiving state under the authority to practice interjurisdictional telepsychology.

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(4) A psychologist practicing in a receiving state under the authority to practice interjurisdictional telepsychology is subject to the receiving state's scope of practice. A receiving state may, in accordance with that state's due process law, limit or revoke a psychologist's authority to practice interjurisdictional telepsychology in the receiving state and may take any other necessary actions under the receiving state's applicable law to protect the health and safety of the receiving state's citizens. If a receiving state takes action, it must promptly notify the home state and the commission.

(5) If a psychologist's license in any home state or another compact state or his or her authority to practice interjurisdictional telepsychology in any receiving state is restricted, suspended, or otherwise limited, the psychologist's e-passport must be revoked and the psychologist is not eligible to practice telepsychology in a compact state under the authority to practice interjurisdictional telepsychology.

#### ARTICLE V

##### COMPACT TEMPORARY AUTHORIZATION TO PRACTICE

(1) Compact states shall recognize the right of a psychologist licensed in a compact state pursuant to article III to practice temporarily in other compact states or distant states in which the psychologist is not licensed, as provided in the compact.

(2) To exercise the temporary authorization to practice in distant states under the compact, a psychologist licensed to practice in a compact state must:

(a) Hold a graduate degree in psychology from an

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institution of higher education that was, at the time the degree was awarded:

1. Regionally accredited by an accrediting body recognized by the U.S. Department of Education to grant graduate degrees or authorized by provincial statute or royal charter to grant doctoral degrees; or

2. A foreign college or university deemed to be equivalent to subparagraph 1. by a foreign credential evaluation service that is a member of the National Association of Credential Evaluation Services or by a recognized foreign credential evaluation service;

(b) Hold a graduate degree in psychology that meets the following criteria:

1. The program, regardless of where it is administratively housed, is clearly identified and labeled as a psychology program. Such program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists;

2. The program stands as a recognizable and coherent organizational entity within the institution;

3. There is a clear authority and primary responsibility for the core and specialty areas regardless of whether the program overlaps across administrative lines;

4. The program consists of an integrated, organized sequence of study;

5. There is an identifiable psychology faculty sufficient in size and breadth to carry out its responsibilities;

6. The designated director of the program is a psychologist and a member of the core faculty;

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7. The program has an identifiable body of students matriculated in that program for a degree;

8. The program includes supervised practicum, internship, or field training appropriate to the practice of psychology;

9. The program encompasses a minimum of 3 academic years of full-time graduate study for doctoral degrees and a minimum of 1 academic year of full-time graduate study for master's degrees; and

10. The program includes an acceptable residency as defined by the rules of the commission;

(c) Possess a current, full, and unrestricted license to practice psychology in a home state that is a compact state;

(d) Have no history of adverse actions that violate the rules of the commission;

(e) Have no criminal history that violates the rules of the commission;

(f) Possess a current, active IPC;

(g) Provide attestations in regard to areas of intended practice and work experience and provide a release of information to allow for primary source verification in a manner specified by the commission; and

(h) Meet other criteria as defined by the rules of the commission.

(3) A psychologist practicing in a distant state under a temporary authorization to practice shall practice within the scope of practice authorized by the distant state.

(4) A psychologist practicing in a distant state under a temporary authorization to practice is subject to the distant state's authority and law. A distant state may, in accordance

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with that state's due process law, limit or revoke a psychologist's temporary authorization to practice in the distant state and may take any other necessary actions under the distant state's applicable law to protect the health and safety of the distant state's citizens. If a distant state takes action, it must promptly notify the home state and the commission.

(5) If a psychologist's license in any home state or another compact state or his or her temporary authorization to practice in any distant state is restricted, suspended, or otherwise limited, the IPC must be revoked and the psychologist is not eligible to practice in a compact state under the temporary authorization to practice.

#### ARTICLE VI

##### CONDITIONS OF TELEPSYCHOLOGY PRACTICE IN A RECEIVING STATE

A psychologist may practice in a receiving state under the authority to practice interjurisdictional telepsychology only in the performance of the scope of practice for psychology as defined by an appropriate state psychology regulatory authority, as defined in the rules of the commission, and under the following circumstances:

(1) The psychologist initiates a client or patient contact in a home state via telecommunication technologies with a client or patient in a receiving state; and

(2) Other conditions regarding telepsychology as determined by rules adopted by the commission.

#### ARTICLE VII

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ADVERSE ACTIONS

(1) A home state may take adverse action against a psychologist's license issued by the home state. A distant state may take adverse action against a psychologist's temporary authorization to practice within that distant state.

(2) A receiving state may take adverse action against a psychologist's authority to practice interjurisdictional telepsychology within that receiving state. A home state may take adverse action against a psychologist's license based on an adverse action taken by a distant state regarding temporary in-person, face-to-face practice.

(3) If a home state takes adverse action against a psychologist's license, that psychologist's authority to practice interjurisdictional telepsychology is terminated and the e-passport is revoked. Furthermore, that psychologist's temporary authorization to practice is terminated and the IPC is revoked.

(a) All home state disciplinary orders that take adverse action must be reported to the commission in accordance with the rules adopted by the commission. A compact state shall report adverse actions in accordance with the rules of the commission.

(b) In the event that disciplinary action against a psychologist is reported, the psychologist is not eligible for telepsychology or temporary in-person, face-to-face practice in accordance with the rules of the commission.

(c) Other actions may be imposed as determined by the rules adopted by the commission.

(4) A home state's psychology regulatory authority shall investigate and take appropriate action with respect to reported

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inappropriate conduct engaged in by a licensee which occurred in a receiving state in the same manner as it would if such conduct had occurred by a licensee within the home state. In such cases, the home state's law controls in determining any adverse action against a psychologist's license.

(5) A distant state's psychology regulatory authority shall investigate and take appropriate action with respect to reported inappropriate conduct engaged in by a psychologist practicing under temporary authorization to practice which occurred in the distant state in the same manner as it would if such conduct had occurred by a licensee within the home state. In such cases, the distant state's law controls in determining any adverse action against a psychologist's temporary authorization to practice.

(6) The compact does not override a compact state's decision that a psychologist's participation in an alternative program may be used in lieu of adverse action and that such participation must remain nonpublic if required by the compact state's law. Compact states must require psychologists who enter any alternative programs not to provide telepsychology services under the authority to practice interjurisdictional telepsychology or temporary psychological services under the temporary authorization to practice in any other compact state during the term of the alternative program.

(7) No other judicial or administrative remedies are available to a psychologist in the event a compact state takes adverse action pursuant to subsection (3).

ARTICLE VIII

ADDITIONAL AUTHORITIES INVESTED IN A COMPACT STATE'S PSYCHOLOGY



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REGULATORY AUTHORITY

(1) In addition to any other powers granted under state law, a compact state's psychology regulatory authority may:

(a) Issue subpoenas for both hearings and investigations which require the attendance and testimony of witnesses and the production of evidence. Subpoenas issued by a compact state's psychology regulatory authority for the attendance and testimony of witnesses or for the production of evidence from another compact state must be enforced in the latter state by any court of competent jurisdiction, according to that court's practice and procedure in considering subpoenas issued in its own proceedings. The issuing state psychology regulatory authority shall pay any witness fees, travel expenses, mileage, and other fees required by the service statutes of the state where the witnesses or evidence is located; and

(b) Issue cease and desist or injunctive relief orders to revoke a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice.

(2) During the course of an investigation, a psychologist may not change his or her home state licensure. A home state psychology regulatory authority is authorized to complete any pending investigations of a psychologist and to take any actions appropriate under its law. The home state psychology regulatory authority shall promptly report the conclusions of such investigations to the commission. Once an investigation has been completed, and pending the outcome of such investigation, the psychologist may change his or her home state licensure. The commission shall promptly notify the new home state of any such

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decisions as provided in the rules of the commission. All information provided to the commission or distributed by compact states related to the psychologist must be confidential, filed under seal, and used only for investigatory or disciplinary matters. The commission may create additional rules for mandated or discretionary sharing of information by compact states.

ARTICLE IXCOORDINATED LICENSURE INFORMATION SYSTEM

(1) The commission shall provide for the development and maintenance of a coordinated licensure information system and a reporting system containing licensure and disciplinary action information on all psychologists to whom the compact is applicable in all compact states as defined by the rules of the commission.

(2) Notwithstanding any other provision of state law to the contrary, a compact state shall submit a uniform data set to the coordinated database on all licensees as required by the rules of the commission which includes:

(a) Identifying information;

(b) Licensure data;

(c) Significant investigatory information;

(d) Adverse actions against a psychologist's license;

(e) Any indicator that a psychologist's authority to practice interjurisdictional telepsychology or temporary authorization to practice is revoked;

(f) Nonconfidential information related to alternative program participation information;

(g) Any denial of application for licensure and the reasons

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for such denial; and

(h) Other information that may facilitate the administration of the compact, as determined by the rules of the commission.

(3) The coordinated database administrator shall promptly notify all compact states of any adverse action taken against, or significant investigatory information on, any licensee in a compact state.

(4) Compact states reporting information to the coordinated database may designate information that may not be shared with the public without the express permission of the compact state reporting the information.

(5) Any information submitted to the coordinated database which is subsequently required to be expunged by the law of the compact state reporting the information must be removed from the coordinated database.

#### ARTICLE X

#### ESTABLISHMENT OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT

#### COMMISSION

(1) COMMISSION CREATED.—The compact states hereby create and establish a joint public agency known as the Psychology Interjurisdictional Compact Commission.

(a) The commission is a body politic and an instrumentality of the compact states.

(b) Venue is proper, and judicial proceedings by or against the commission may be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located. The commission may waive venue and

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jurisdictional defenses to the extent that it adopts or consents to participate in alternative dispute resolution proceedings.

(c) Nothing in the compact may be construed to be a waiver of sovereign immunity.

#### (2) MEMBERSHIP, VOTING, AND MEETINGS.—

(a) The commission shall consist of one voting representative appointed by each compact state who shall serve as that state's commissioner. The state psychology regulatory authority shall appoint its delegate. The delegate must be empowered to act on behalf of the compact state. The delegate must be:

1. The executive director, the executive secretary, or a similar executive of the compact state's psychology regulatory authority;

2. A current member of the compact state's psychology regulatory authority; or

3. A designee empowered with the appropriate delegate authority to act on behalf of the compact state.

(b) A commissioner may be removed or suspended from office as provided by the law of the state from which the commissioner is appointed. Any vacancy occurring in the commission must be filled in accordance with the laws of the compact state for which the vacancy exists.

(c) Each commissioner is entitled to one vote with regard to the adoption of rules and creation of bylaws and shall otherwise have an opportunity to participate in the business and affairs of the commission. A commissioner shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for commissioners' participation in meetings by

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697 telephone or other means of communication.

698 (d) The commission shall meet at least once during each  
 699 calendar year. Additional meetings must be held as set forth in  
 700 the bylaws.

701 (e) All meetings must be open to the public, and public  
 702 notice of meetings must be given in the same manner as required  
 703 under the rulemaking provisions in article XI.

704 (f) The commission may convene in a closed, nonpublic  
 705 meeting if the commission must discuss:

706 1. Noncompliance of a compact state with its obligations  
 707 under the compact;

708 2. Employment, compensation, or discipline of, or other  
 709 personnel matters, practices, or procedures related to, specific  
 710 employees or other matters related to the commission's internal  
 711 personnel practices and procedures;

712 3. Current, threatened, or reasonably anticipated  
 713 litigation against the commission;

714 4. Negotiation of contracts for the purchase or sale of  
 715 goods, services, or real estate;

716 5. An accusation of any person of a crime or a formal  
 717 censure of any person;

718 6. Information disclosing trade secrets or commercial or  
 719 financial information that is privileged or confidential;

720 7. Information of a personal nature when disclosure would  
 721 constitute a clearly unwarranted invasion of personal privacy;

722 8. Investigatory records compiled for law enforcement  
 723 purposes;

724 9. Information related to any investigatory reports  
 725 prepared by or on behalf of or for use of the commission or

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726 another committee charged with responsibility for investigation  
 727 or determination of compliance issues pursuant to the compact;  
 728 or

729 10. Matters specifically exempted from disclosure by  
 730 federal or state statute.

731 (g) If a meeting, or a portion of a meeting, is closed  
 732 pursuant to this subsection, the commission's legal counsel or  
 733 designee must certify that the meeting may be closed and must  
 734 reference each relevant exempting provision. The commission  
 735 shall keep minutes that fully and clearly describe all matters  
 736 discussed in the meeting and shall provide a full and accurate  
 737 summary of actions taken, of any person participating in the  
 738 meeting, and the reasons therefor, including a description of  
 739 the views expressed. All documents considered in connection with  
 740 an action must be identified in the minutes. All minutes and  
 741 documents of a closed meeting must remain under seal, subject to  
 742 release only by a majority vote of the commission or order of a  
 743 court of competent jurisdiction.

744 (3) BYLAWS.—

745 (a) The commission shall, by a majority vote of the  
 746 commissioners, prescribe bylaws or rules to govern its conduct  
 747 as may be necessary or appropriate to carry out the purposes and  
 748 exercise the powers of the compact, including, but not limited  
 749 to:

750 1. Establishing the fiscal year of the commission;

751 2. Providing reasonable standards and procedures:

752 a. For the establishment and meetings of other committees;

753 and

754 b. Governing any general or specific delegation of an

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authority or function of the commission;

3. Providing reasonable procedures for calling and conducting meetings of the commission, ensuring reasonable advance notice of all meetings, and providing an opportunity for attendance at such meetings by interested parties, with enumerated exceptions designed to protect the public's interest, the privacy of individuals involved in such proceedings, and proprietary information, including trade secrets. The commission may meet in closed session only after a majority of the commissioners vote to close a meeting to the public in whole or in part, with no proxy votes allowed. As soon as practicable, the commission shall make public a copy of the vote to close the meeting which reveals the vote of each commissioner;

4. Establishing the titles, duties and authority, and reasonable procedures for the election of the officers of the commission;

5. Providing reasonable standards and procedures for the establishment of the commission's personnel policies and programs. Notwithstanding any civil service or other similar law of a compact state, the bylaws shall exclusively govern the personnel policies and programs of the commission;

6. Adopting a code of ethics to address permissible and prohibited activities of commission members and employees; and

7. Providing a mechanism for concluding the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of the compact and after the payment or reserving of all of its debts and obligations.

(b) The commission shall publish its bylaws in a convenient

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form and file a copy thereof, and a copy of any amendment thereto, with the appropriate agency or officer in each of the compact states.

(c) The commission shall maintain its financial records in accordance with the bylaws.

(d) The commission shall meet and take such actions as are consistent with the provisions of the compact and the bylaws.

(4) POWERS.—The commission may:

(a) Adopt uniform rules to facilitate and coordinate implementation and administration of the compact. The rules have the force and effect of law and are binding in all compact states;

(b) Bring and prosecute legal proceedings or actions in the name of the commission, provided that the standing of any state psychology regulatory authority or other regulatory body responsible for psychology licensure to sue or be sued under applicable law is not affected;

(c) Purchase and maintain insurance and bonds;

(d) Borrow, accept, or contract for personnel services, including, but not limited to, employees of a compact state;

(e) Hire employees and elect or appoint officers; fix compensation of, define duties of, and grant appropriate authority to such employees and officers to carry out the purposes of the compact; and establish the commission's personnel policies and programs relating to conflicts of interest, personnel qualifications, and other related personnel matters;

(f) Accept any appropriate donations and grants of money, equipment, supplies, materials, and services and receive, use,

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and dispose of the same, provided that at all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;

(g) Lease, purchase, accept appropriate gifts or donations of, or otherwise own, hold, improve, or use any property, real, personal, or mixed, provided that at all times the commission shall strive to avoid any appearance of impropriety or conflict of interest;

(h) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;

(i) Establish a budget and make expenditures;

(j) Borrow money;

(k) Appoint committees, including advisory committees, consisting of commission members, state regulators, state legislators or their representatives, consumer representatives, and such other interested persons as may be designated in the compact and the bylaws;

(l) Provide information to, receive information from, and cooperate with law enforcement agencies;

(m) Adopt and use an official seal; and

(n) Perform such other functions as may be necessary or appropriate to achieve the purposes of the compact consistent with the state regulation of psychology licensure, temporary in-person, face-to-face practice, and telepsychology practice.

(5) EXECUTIVE BOARD.—

(a) The executive board may act on behalf of the commission according to the terms of the compact and shall consist of the following six members:

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1. Five voting members elected by the commission from the current membership of the commission; and

2. One ex-officio, nonvoting member from the Association of State and Provincial Psychology Boards.

(b) The ex-officio member must have served as staff for or as a member of a state psychology regulatory authority and must be selected by his or her respective organization.

(c) The commission may remove any member of the executive board as provided in its bylaws.

(d) The executive board shall meet at least annually.

(e) The executive board has the following duties and responsibilities:

1. Recommend to the entire commission changes to the rules or bylaws, the compact legislation, or fees paid by compact states, such as annual dues and other applicable fees;

2. Ensure compact administration services, contractual or otherwise, are appropriately provided;

3. Prepare and recommend the budget;

4. Maintain financial records on behalf of the commission;

5. Monitor compact compliance of member states and provide compliance reports to the commission;

6. Establish additional committees as necessary; and

7. Perform other duties as provided in the rules or bylaws.

(6) FINANCING.—

(a) The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(b) The commission may accept any appropriate revenue sources, donations, and grants of money, equipment, supplies,

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871 materials, and services.

872 (c) The commission may levy and collect an annual  
 873 assessment from each compact state or impose fees on other  
 874 parties to cover the cost of the operations and activities of  
 875 the commission and its staff, and such assessments and fees must  
 876 be in a total amount sufficient to cover its annual budget as  
 877 approved each year for which revenue is not provided by other  
 878 sources. The aggregate annual assessment amount must be  
 879 allocated based upon a formula to be determined by the  
 880 commission, which shall adopt a rule that is binding upon all  
 881 compact states.

882 (d) The commission may not incur obligations of any kind  
 883 before securing the funds adequate to meet such obligations; nor  
 884 may the commission pledge the credit of any of the compact  
 885 states, except by and with the authority of the compact state.

886 (e) The commission shall keep accurate accounts of all  
 887 receipts and disbursements. The receipts and disbursements of  
 888 the commission are subject to the audit and accounting  
 889 procedures established under its bylaws. However, all receipts  
 890 and disbursements of funds handled by the commission must be  
 891 audited yearly by a certified or licensed public accountant, and  
 892 the report of the audit must be included in and become part of  
 893 the annual report of the commission.

894 (7) QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.—

895 (a) The members, officers, executive director, employees,  
 896 and representatives of the commission are immune from suit and  
 897 liability, either personally or in their official capacity, for  
 898 any claim for damage to or loss of property or personal injury  
 899 or other civil liability caused by or arising out of any actual

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900 or alleged act, error, or omission that occurred, or that the  
 901 person against whom the claim is made had a reasonable basis for  
 902 believing occurred, within the scope of commission employment,  
 903 duties, or responsibilities, provided that nothing in this  
 904 paragraph may be construed to protect any such person from suit  
 905 or liability for any damage, loss, injury, or liability caused  
 906 by the intentional or willful or wanton misconduct of that  
 907 person.

908 (b) The commission shall defend any member, officer,  
 909 executive director, employee, or representative of the  
 910 commission in any civil action seeking to impose liability  
 911 arising out of any actual or alleged act, error, or omission  
 912 that occurred within the scope of commission employment, duties,  
 913 or responsibilities, or that the person against whom the claim  
 914 is made had a reasonable basis for believing occurred within the  
 915 scope of commission employment, duties, or responsibilities,  
 916 provided that nothing under this section may be construed to  
 917 prohibit that person from retaining his or her own counsel, and  
 918 provided further that the actual or alleged act, error, or  
 919 omission did not result from that person's intentional or  
 920 willful or wanton misconduct.

921 (c) The commission shall indemnify and hold harmless any  
 922 member, officer, executive director, employee, or representative  
 923 of the commission for the amount of any settlement or judgment  
 924 obtained against that person arising out of any actual or  
 925 alleged act, error, or omission that occurred within the scope  
 926 of commission employment, duties, or responsibilities, or that  
 927 such person had a reasonable basis for believing occurred within  
 928 the scope of commission employment, duties, or responsibilities,

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 929 provided that the actual or alleged act, error, or omission did  
 930 not result from the intentional or willful or wanton misconduct  
 931 of that person.

# ARTICLE XI

## RULEMAKING

935 (1) The commission shall exercise its rulemaking powers  
 936 pursuant to the criteria set forth in this article and the rules  
 937 adopted thereunder. Rules and amendments become binding as of  
 938 the date specified in each rule or amendment.

939 (2) If a majority of the legislatures of the compact states  
 940 reject a rule by enactment of a statute or resolution in the  
 941 same manner used to adopt the compact, such rule does not have  
 942 further force and effect in any compact state.

943 (3) Rules or amendments to the rules must be adopted at a  
 944 regular or special meeting of the commission.

945 (4) Before adoption of a final rule or rules by the  
 946 commission, and at least 60 days in advance of the meeting at  
 947 which the rule will be considered and voted upon, the commission  
 948 shall file a notice of proposed rulemaking:

949 (a) On the website of the commission; and

950 (b) On the website of each compact state's psychology  
 951 regulatory authority or in the publication in which each state  
 952 would otherwise publish proposed rules.

953 (5) The notice of proposed rulemaking must include:

954 (a) The proposed time, date, and location of the meeting in  
 955 which the rule will be considered and voted upon;

956 (b) The text of the proposed rule or amendment and the  
 957 reason for the proposed rule;

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 958 (c) A request for comments on the proposed rule from any  
 959 interested person; and

960 (d) The manner in which interested persons may submit  
 961 notice to the commission of their intention to attend the public  
 962 hearing and any written comments.

963 (6) Before adoption of a proposed rule, the commission  
 964 shall allow persons to submit written data, facts, opinions, and  
 965 arguments, all of which must be made available to the public.

966 (7) The commission must grant an opportunity for a public  
 967 hearing before it adopts a rule or an amendment if a hearing is  
 968 requested by:

969 (a) At least 25 individuals who submit comments  
 970 independently of each other;

971 (b) A governmental subdivision or agency; or

972 (c) A duly appointed person in an association that has at  
 973 least 25 members.

974 (8) If a hearing is held on the proposed rule or amendment,  
 975 the commission must publish the place, time, and date of the  
 976 scheduled public hearing.

977 (a) All individuals wishing to be heard at the hearing  
 978 shall notify the executive director of the commission or another  
 979 designated member in writing of their desire to appear and  
 980 testify at the hearing at least 5 business days before the  
 981 scheduled date of the hearing.

982 (b) Hearings must be conducted in a manner providing each  
 983 person who wishes to comment a fair and reasonable opportunity  
 984 to comment orally or in writing.

985 (c) A transcript of the hearing is not required, unless a  
 986 written request for a transcript is made, in which case the

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person requesting the transcript bears the cost of producing the transcript. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This paragraph does not preclude the commission from making a transcript or recording of the hearing if it so chooses.

(d) This article may not be construed to require a separate hearing on each rule. Rules may be grouped for the convenience of the commission at hearings required by this article.

(9) If a written notice of intent to attend the public hearing by interested parties is not received, the commission may proceed with promulgation of the proposed rule without a public hearing.

(10) Following the scheduled hearing date, or by the close of business on the scheduled hearing date if the hearing was not held, the commission shall consider all written and oral comments received.

(11) The commission shall, by majority vote of all members, take final action on the proposed rule and shall determine the effective date of the rule based on the rulemaking record and the full text of the rule.

(12) Upon determination that an emergency exists, the commission may consider and adopt an emergency rule without prior notice, opportunity for comment, or hearing, provided that the usual rulemaking procedures provided in the compact and in this section shall be retroactively applied to the rule as soon as reasonably possible, but no later than 90 days after the effective date of the rule. For the purposes of this subsection, an emergency rule is one that must be adopted immediately in order to:

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(a) Meet an imminent threat to public health, safety, or welfare;

(b) Prevent a loss of commission or compact state funds;

(c) Meet a deadline for the adoption of an administrative rule which is established by federal law or rule; or

(d) Protect public health and safety.

(13) The commission or an authorized committee of the commission may direct a revision to a previously adopted rule or amendment for purposes of correcting typographical errors, errors in format, errors in consistency, or grammatical errors. Public notice of any revisions must be posted on the commission's website. The revisions are subject to challenge by any person for a period of 30 days after posting. A revision may be challenged only on grounds that the revision results in a material change to a rule. A challenge must be made in writing and delivered to the chair of the commission before the end of the notice period. If a challenge is not made, the revision takes effect without further action. If the revision is challenged, the revision may not take effect without the approval of the commission.

## ARTICLE XII

OVERSIGHT; DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION;

DISPUTE RESOLUTION; AND ENFORCEMENT

(1) OVERSIGHT.—

(a) The executive, legislative, and judicial branches of state government in each compact state shall enforce the compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and

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the rules adopted thereunder have standing as statutory law.

(b) All courts shall take judicial notice of the compact and the rules adopted thereunder in any judicial or administrative proceeding in a compact state pertaining to the subject matter of the compact which may affect the powers, responsibilities, or actions of the commission.

(c) The commission is entitled to receive service of process in any such judicial or administrative proceeding and has standing to intervene in such a proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or an order void as to the commission, the compact, or adopted rules.

(2) DEFAULT, TECHNICAL ASSISTANCE, AND TERMINATION.-

(a) If the commission determines that a compact state has defaulted in the performance of its obligations or responsibilities under the compact or the adopted rules, the commission must:

1. Provide written notice to the defaulting state and other compact states of the nature of the default, the proposed means of remedying the default, and any other action to be taken by the commission; and

2. Provide remedial training and specific technical assistance regarding the default.

(b) If a state in default fails to remedy the default, the defaulting state may be terminated from the compact upon an affirmative vote of a majority of the compact states, and all rights, privileges, and benefits conferred by the compact terminate on the effective date of termination. A remedy of the default does not relieve the offending state of obligations or

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liabilities incurred during the period of default.

(c) Termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. The commission shall submit a notice of intent to suspend or terminate a defaulting compact state to the state's governor, the majority and minority leaders of the state's legislature, and each of the compact states.

(d) A compact state that has been terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of termination, including obligations that extend beyond the effective date of termination.

(e) The commission may not bear any costs incurred by the state that is found to be in default or has been terminated from the compact, unless agreed upon in writing between the commission and the defaulting state.

(f) The defaulting state may appeal the action of the commission by petitioning the United States District Court for the state of Georgia or the federal district court where the compact has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney fees.

(3) DISPUTE RESOLUTION.-

(a) Upon request by a compact state, the commission must attempt to resolve disputes related to the compact which arise among compact states and between compact and noncompact states.

(b) The commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes that arise before the commission.

(4) ENFORCEMENT.-

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(a) The commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of the compact.

(b) By majority vote, the commission may initiate legal action in the United States District Court for the state of Georgia or the federal district court where the compact has its principal offices against a compact state in default to enforce compliance with the provisions of the compact and its adopted rules and bylaws. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party must be awarded all costs of such litigation, including reasonable attorney fees.

(c) The remedies under this article are not the exclusive remedies available to the commission. The commission may pursue any other remedies available under federal or state law.

#### ARTICLE XIII

##### DATE OF IMPLEMENTATION OF THE PSYCHOLOGY INTERJURISDICTIONAL COMPACT COMMISSION AND ASSOCIATED RULES; WITHDRAWAL; AND AMENDMENTS

(1) The compact becomes effective on the date on which the compact is enacted into law in the seventh compact state. The provisions that become effective at that time are limited to the powers granted to the commission relating to assembly and the adoption of rules. Thereafter, the commission shall meet and exercise rulemaking powers necessary for the implementation and administration of the compact.

(2) Any state that joins the compact subsequent to the commission's initial adoption of the rules is subject to the

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rules as they exist on the date on which the compact becomes law in that state. Any rule that has been previously adopted by the commission has the full force and effect of law on the day the compact becomes law in that state.

(3) Any compact state may withdraw from the compact by enacting a statute repealing the same.

(a) A compact state's withdrawal does not take effect until 6 months after enactment of the repealing statute.

(b) Withdrawal does not affect the continuing requirement of the withdrawing state's psychology regulatory authority to comply with the investigative and adverse action reporting requirements of the compact before the effective date of withdrawal.

(4) The compact may not be construed to invalidate or prevent any psychology licensure agreement or other cooperative arrangement between a compact state and a noncompact state which does not conflict with the provisions of the compact.

(5) The compact may be amended by the compact states. Amendments to the compact are not effective and binding upon any compact state until they are enacted into the law of all compact states.

#### ARTICLE XIV

##### CONSTRUCTION AND SEVERABILITY

The compact must be liberally construed so as to effectuate the purposes thereof. If the compact is held contrary to the constitution of any member state, the compact remains in full force and effect as to the remaining compact states.

Section 2. Subsection (10) of section 456.073, Florida

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Statutes, is amended to read:

456.073 Disciplinary proceedings.—Disciplinary proceedings for each board shall be within the jurisdiction of the department.

(10) (a) The complaint and all information obtained pursuant to the investigation by the department are confidential and exempt from s. 119.07(1) until 10 days after probable cause has been found to exist by the probable cause panel or by the department, or until the regulated professional or subject of the investigation waives his or her privilege of confidentiality, whichever occurs first.

(b) The department shall report any significant investigation information relating to a nurse holding a multistate license to the coordinated licensure information system pursuant to s. 464.0095; any significant investigatory information relating to a psychologist practicing under the Psychology Interjurisdictional Compact to the coordinated licensure information system pursuant to s. 490.0075; and any significant investigatory information relating to a health care practitioner practicing under the Professional Counselors Licensure Compact to the data system pursuant to s. 491.017.

(c) Upon completion of the investigation and a recommendation by the department to find probable cause, and pursuant to a written request by the subject or the subject's attorney, the department shall provide the subject an opportunity to inspect the investigative file or, at the subject's expense, forward to the subject a copy of the investigative file. Notwithstanding s. 456.057, the subject may inspect or receive a copy of any expert witness report or

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patient record connected with the investigation if the subject agrees in writing to maintain the confidentiality of any information received under this subsection until 10 days after probable cause is found and to maintain the confidentiality of patient records pursuant to s. 456.057. The subject may file a written response to the information contained in the investigative file. Such response must be filed within 20 days of mailing by the department, unless an extension of time has been granted by the department.

(d) This subsection does not prohibit the department from providing the complaint or any information obtained pursuant to the department's investigation ~~such information~~ to any law enforcement agency or to any other regulatory agency.

Section 3. Subsection (5) of section 456.076, Florida Statutes, is amended to read:

456.076 Impaired practitioner programs.—

(5) A consultant shall enter into a participant contract with an impaired practitioner and shall establish the terms of monitoring and shall include the terms in a participant contract. In establishing the terms of monitoring, the consultant may consider the recommendations of one or more approved evaluators, treatment programs, or treatment providers. A consultant may modify the terms of monitoring if the consultant concludes, through the course of monitoring, that extended, additional, or amended terms of monitoring are required for the protection of the health, safety, and welfare of the public. If the impaired practitioner is a psychologist practicing under the Psychology Interjurisdictional Compact pursuant to s. 490.0075 or a health care practitioner practicing

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under the Professional Counselors Licensure Compact pursuant to s. 491.017, the terms of the monitoring contract must include the impaired practitioner's withdrawal from all practice under the compact.

Section 4. Subsection (7) is added to section 490.004, Florida Statutes, to read:

490.004 Board of Psychology.—

(7) The board shall appoint an individual to serve as the state's commissioner on the Psychology Interjurisdictional Compact Commission, as required under s. 490.0075.

Section 5. Subsection (4) is added to section 490.005, Florida Statutes, to read:

490.005 Licensure by examination.—

(4) A person licensed as a psychologist in another state who is practicing pursuant to the Psychology Interjurisdictional Compact under s. 490.0075, and only within the scope provided therein, is exempt from the licensure requirements of this section.

Section 6. Subsection (4) is added to section 490.006, Florida Statutes, to read:

490.006 Licensure by endorsement.—

(4) A person licensed as a psychologist in another state who is practicing pursuant to the Psychology Interjurisdictional Compact under s. 490.0075, and only within the scope provided therein, is exempt from the licensure requirements of this section.

Section 7. Section 490.009, Florida Statutes, is amended to read:

490.009 Discipline.—

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(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2) or s. 490.0075:

(a) Attempting to obtain, obtaining, or renewing a license under this chapter by bribery or fraudulent misrepresentation or through an error of the board or department.

(b) Having a license to practice a comparable profession revoked, suspended, or otherwise acted against, including the denial of certification or licensure by another state, territory, or country.

(c) Being convicted or found guilty, regardless of adjudication, of a crime in any jurisdiction which directly relates to the practice of his or her profession or the ability to practice his or her profession. A plea of nolo contendere creates a rebuttable presumption of guilt of the underlying criminal charges. However, the board shall allow the person who is the subject of the disciplinary proceeding to present any evidence relevant to the underlying charges and circumstances surrounding the plea.

(d) False, deceptive, or misleading advertising or obtaining a fee or other thing of value on the representation that beneficial results from any treatment will be guaranteed.

(e) Advertising, practicing, or attempting to practice under a name other than one's own.

(f) Maintaining a professional association with any person who the applicant or licensee knows, or has reason to believe, is in violation of this chapter or of a rule of the department or, in the case of psychologists, of the department or the board.

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1277 (g) Knowingly aiding, assisting, procuring, or advising any  
 1278 nonlicensed person to hold himself or herself out as licensed  
 1279 under this chapter.

1280 (h) Failing to perform any statutory or legal obligation  
 1281 placed upon a person licensed under this chapter.

1282 (i) Willfully making or filing a false report or record;  
 1283 failing to file a report or record required by state or federal  
 1284 law; willfully impeding or obstructing the filing of a report or  
 1285 record; or inducing another person to make or file a false  
 1286 report or record or to impede or obstruct the filing of a report  
 1287 or record. Such report or record includes only a report or  
 1288 record which requires the signature of a person licensed under  
 1289 this chapter.

1290 (j) Paying a kickback, rebate, bonus, or other remuneration  
 1291 for receiving a patient or client, or receiving a kickback,  
 1292 rebate, bonus, or other remuneration for referring a patient or  
 1293 client to another provider of mental health care services or to  
 1294 a provider of health care services or goods; referring a patient  
 1295 or client to oneself for services on a fee-paid basis when those  
 1296 services are already being paid for by some other public or  
 1297 private entity; or entering into a reciprocal referral  
 1298 agreement.

1299 (k) Committing any act upon a patient or client which would  
 1300 constitute sexual battery or which would constitute sexual  
 1301 misconduct as defined in s. 490.0111.

1302 (l) Making misleading, deceptive, untrue, or fraudulent  
 1303 representations in the practice of any profession licensed under  
 1304 this chapter.

1305 (m) Soliciting patients or clients personally, or through

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

31-00170-23

202356\_\_

1306 an agent, through the use of fraud, intimidation, undue  
 1307 influence, or a form of overreaching or vexatious conduct.

1308 (n) Failing to make available to a patient or client, upon  
 1309 written request, copies of test results, reports, or documents  
 1310 in the possession or under the control of the licensee which  
 1311 have been prepared for and paid for by the patient or client.

1312 (o) Failing to respond within 30 days to a written  
 1313 communication from the department concerning any investigation  
 1314 by the department or to make available any relevant records with  
 1315 respect to any investigation about the licensee's conduct or  
 1316 background.

1317 (p) Being unable to practice the profession for which he or  
 1318 she is licensed under this chapter with reasonable skill or  
 1319 competence as a result of any mental or physical condition or by  
 1320 reason of illness; drunkenness; or excessive use of drugs,  
 1321 narcotics, chemicals, or any other substance. In enforcing this  
 1322 paragraph, upon a finding by the State Surgeon General, the  
 1323 State Surgeon General's designee, or the board that probable  
 1324 cause exists to believe that the licensee is unable to practice  
 1325 the profession because of the reasons stated in this paragraph,  
 1326 the department shall have the authority to compel a licensee to  
 1327 submit to a mental or physical examination by psychologists or  
 1328 physicians designated by the department or board. If the  
 1329 licensee refuses to comply with the department's order, the  
 1330 department may file a petition for enforcement in the circuit  
 1331 court of the circuit in which the licensee resides or does  
 1332 business. The licensee ~~may shall~~ not be named or identified by  
 1333 initials in the petition or in any other public court records or  
 1334 documents, and the enforcement proceedings must ~~shall~~ be closed

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

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to the public. The department shall be entitled to the summary procedure provided in s. 51.011. A licensee affected under this paragraph shall be afforded an opportunity at reasonable intervals to demonstrate that he or she can resume the competent practice for which he or she is licensed with reasonable skill and safety to patients.

(q) Performing any treatment or prescribing any therapy which, by the prevailing standards of the mental health professions in the community, would constitute experimentation on human subjects, without first obtaining full, informed, and written consent.

(r) Failing to meet the minimum standards of performance in professional activities when measured against generally prevailing peer performance, including the undertaking of activities for which the licensee is not qualified by training or experience.

(s) Delegating professional responsibilities to a person whom the licensee knows or has reason to know is not qualified by training or experience to perform such responsibilities.

(t) Violating a rule relating to the regulation of the profession or a lawful order of the department previously entered in a disciplinary hearing.

(u) Failing to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 490.0147.

(v) Making public statements which are derived from test data, client contacts, or behavioral research and which identify or damage research subjects or clients.

(w) Violating any provision of this chapter or chapter 456,

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or any rules adopted pursuant thereto.

(2) (a) The department, or in the case of psychologists, the 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).

(b) The board may take adverse action against a psychologist's authority to practice interjurisdictional telepsychology or his or her temporary authorization to practice under the Psychology Interjurisdictional Compact pursuant to s. 490.0075, and may impose any of the penalties in s. 456.072(2), if a psychologist commits an act specified in subsection (1) or s. 456.072(1).

Section 8. Paragraph (i) is added to subsection (10) of section 768.28, Florida Statutes, to read:

768.28 Waiver of sovereign immunity in tort actions; recovery limits; civil liability for damages caused during a riot; limitation on attorney fees; statute of limitations; exclusions; indemnification; risk management programs.—

(10)

(i) For purposes of this section, the individual appointed under s. 490.004(7) as the state's commissioner on the Psychology Interjurisdictional Compact Commission, when serving in that capacity pursuant to s. 490.0075, and any administrator, officer, executive director, employee, or representative of the Psychology Interjurisdictional Compact Commission, when acting within the scope of his or her employment, duties, or responsibilities in this state, is considered an agent of the

31-00170-23

202356\_\_

1393 state. The commission shall pay any claims or judgments pursuant  
1394 to this section and may maintain insurance coverage to pay any  
1395 such claims or judgments.

1396 Section 9. This act shall take effect July 1, 2023.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations Committee on Health and  
Human Services, *Chair*  
Environment and Natural Resources, *Vice Chair*  
Appropriations  
Appropriations Committee on Education  
Education Postsecondary  
Health Policy  
Judiciary

### SELECT COMMITTEE:

Select Committee on Resiliency

### SENATOR GAYLE HARRELL

31st District

January 13, 2023

Senator Colleen Burton  
318 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399

Chair Burton,

I respectfully request that SB 56 – Psychology Inter-jurisdictional Compact be placed on the next available agenda for the Health Policy Committee Meeting.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in blue ink that reads "Gayle".

Senator Gayle Harrell  
Senate District 31

Cc: Allen Brown, Staff Director  
Anhar Al-Asadi, Committee Administrative Assistant

### REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
- 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

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

KATHLEEN PASSIDOMO  
President of the Senate

DENNIS BAXLEY  
President Pro Tempore



The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
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SB 0056

Bill Number or Topic

4/4/2023

Meeting Date

Health Policy

Committee

Amendment Barcode (if applicable)

Name Mary Winn

Phone (850) 766-2612

Address 1006 Brookwood Dr.  
Street

Email kathywinn980@gmail.com

Tallahassee  
City

FL  
State

32308  
Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

representing League of Women Voters  
of Florida

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

04/04/2023

Meeting Date

Health Policy

Committee

The Florida Senate

## APPEARANCE RECORD

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SB 56

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Nick Mayor**

Phone **8505249659**

Address **215 S Monroe St**

Email **nmayor@aarp.org**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

### PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

**AARP Florida**

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

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Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

Health Policy

Committee

Name

Deborah Foote

Phone

850 656 2222

Address

POB 7416

Street

Email

deborah@flapsych.com

Tall

City

FL

State

32314

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☒

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

FL  
Psychological Assn

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

SB 56

April 4, 2023

Meeting Date

Deliver both copies of this form to  
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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Jacqueline Moore

Phone

407 963 8574

Address

2750 Maureen Dr

Email

myellowguy@aol.com

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)



The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
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APRIL 4, 2023

Meeting Date

SENATE HEALTH POLICY

Committee

SB 56

Bill Number or Topic

Amendment Barcode (if applicable)

Name DR. YVETTE EDGILL SPANO

Phone 240-505-0125

Address 22 WOOD CENTER LANE  
Street

Email ymspano@gmail.com

PALM COAST  
City

FL  
State

32164  
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking:

☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

4 April 2023

The Florida Senate  
**APPEARANCE RECORD**

56

Meeting Date

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name

Chris Stranburg

Phone

813-767-9667

Address

107 E College Ave

Email

cstranburg@afphg.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐

I am appearing without  
compensation or sponsorship.

☒

I am a registered lobbyist,  
representing:

Americans for  
Prosperity

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate  
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4/4/23  
Meeting Date  
Health Policy  
Committee

SB56  
Bill Number or Topic  
Amendment Barcode (if applicable)

Name Nancy Olson Phone 386 846 1415

Address 13 Cunningham Dr. Email Olson Nancy 90 @  
Street New Smyrna Beach, FL 32168 gm del com  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

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**APPEARANCE RECORD**

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4/4/23

Meeting Date

SB 56

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name LESLIE HOLTEN

Phone 386 846 5123

Address 13 Cunningham Dr.

Street

Email lgfrye57@gmail.com

New Smyrna Beach, FL 32168

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)



The Florida Senate  
**APPEARANCE RECORD**

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4/4/23  
Meeting Date  
Health Policy  
Committee

SB 56  
Bill Number or Topic

Name Jewel S Dickson Phone 386-717-4344  
Address 601 N Amelia Ave. Email jeweldickson@mac.com  
DeLand FL 32724  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

- ☒ I am appearing without compensation or sponsorship.
- ☐ I am a registered lobbyist, representing:
- ☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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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.)

---

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

---

BILL: CS/SB 58

INTRODUCER: Committee on Health Policy and Senator Harrell

SUBJECT: Public Records and Meetings/Psychology Interjurisdictional Compact

DATE: April 5, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Brown	HP	<b>Fav/CS</b>
2.			AHS	
3.			FP	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 58 creates public record and public meeting exemptions for the Psychology Interjurisdictional Compact (PSYPACT).

The bill protects from public disclosure a psychologist's personal identifying information, other than the psychologist's name, licensure status, or license number, obtained from the coordinated licensure information system (coordinated system) and held by the Department of Health (department) or Board of Psychology (board), unless the state that originally reported the information to the coordinated system authorizes the disclosure by law.

The bill exempts a meeting or a portion of a meeting of the PSYPACT Commission (commission) if the commission must discuss:

- A compact state's noncompliance.
- Matters related to the commission's internal personnel practices and procedures.
- Current, threatened, or reasonably anticipated litigation.
- Contract negotiations.
- Accusation of any person of a crime or a formal censure of a person.
- Information disclosing trade secrets or commercial or financial information that is privileged or confidential.
- Personal information in which disclosure would constitute a clearly unwarranted invasion of personal privacy.
- Investigatory records compiled for law enforcement purposes.

- Information related to investigatory reports for use by the commission regarding compliance issues pursuant to the compact.
- Matters specifically exempted from disclosure by federal or state statute.

Recordings minutes, and records generated during an exempt commission meeting are exempted from the public records provisions in s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

The exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2028, unless reviewed and reenacted by the Legislature.

The bill provides a statement of public necessity as required by the State Constitution.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill provides the effective date is the same date that CS/SB 56, or similar legislation, if adopted, takes effect. The effective date provided in CS/SB 56 is July 1, 2023.

## **II. Present Situation:**

### **Access to Public Records – Generally**

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> The right to inspect or copy 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>

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s.11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.<sup>3</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive agencies.

---

<sup>1</sup> FLA. CONST. art. I, s. 24(a).

<sup>2</sup> *Id.*

<sup>3</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2022-2024)

<sup>4</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4<sup>th</sup> DCA 2018).

## **Executive Agency Records – The Public Records Act**

The Public Records Act provides that all state, county and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.<sup>5</sup>

Section 119.011(12), F.S., defines “public records” to include:

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 connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”<sup>6</sup>

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.<sup>9</sup> The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>10</sup>

---

<sup>5</sup> Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” 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>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>7</sup> Section 119.07(1)(a), F.S.

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST. art. I, s. 24(c).

<sup>10</sup> *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

General exemptions from the public records requirements are contained in the Public Records Act.<sup>11</sup> Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.<sup>12</sup>

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.<sup>13</sup> Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.<sup>14</sup> Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>15</sup>

### Open Meetings Laws

The State Constitution provides that the public has a right to access governmental meetings.<sup>16</sup> Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.<sup>17</sup> This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts or special districts.<sup>18</sup>

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., known as the “Government in the Sunshine Law,”<sup>19</sup> or the “Sunshine Law,”<sup>20</sup> requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.<sup>21</sup> The board or commission must provide the public reasonable notice of such meetings.<sup>22</sup> Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.<sup>23</sup> Minutes of a public meeting must be promptly recorded and open to public inspection.<sup>24</sup> Failure to abide by open meetings requirements will invalidate any resolution, rule

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<sup>11</sup> See, e.g., s. 119.071(1)(a), F.S. (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

<sup>12</sup> See, e.g., s. 213.053(2)(a), F.S. (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

<sup>13</sup> *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5<sup>th</sup> DCA 2004).

<sup>14</sup> *Id.*

<sup>15</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5<sup>th</sup> DCA 1991).

<sup>16</sup> FLA. CONST., art. I, s. 24(b).

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

<sup>18</sup> FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

<sup>19</sup> *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

<sup>20</sup> *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

<sup>21</sup> Section 286.011(1)-(2), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> Section 286.011(6), F.S.

<sup>24</sup> Section 286.011(2), F.S.

or formal action adopted at a meeting.<sup>25</sup> A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.<sup>26</sup>

The Legislature may create an exemption to open meetings requirements by passing a general law by at least a two-thirds vote of each house of the Legislature.<sup>27</sup> The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>28</sup> A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.<sup>29</sup>

### **Open Government Sunset Review Act**

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act<sup>30</sup> (the Act), prescribe a legislative review process for newly created or substantially amended<sup>31</sup> public records or open meetings exemptions, with specified exceptions.<sup>32</sup> The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>33</sup>

The Act 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>34</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 subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;<sup>35</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>36</sup> or

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<sup>25</sup> Section 286.011(1), F.S.

<sup>26</sup> Section 286.011(3), F.S.

<sup>27</sup> FLA. CONST., art. I, s. 24(c).

<sup>28</sup> *Id.*

<sup>29</sup> *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

<sup>30</sup> Section 119.15, F.S.

<sup>31</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>32</sup> Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>33</sup> Section 119.15(3), F.S.

<sup>34</sup> Section 119.15(6)(b), F.S.

<sup>35</sup> Section 119.15(6)(b)1., F.S.

<sup>36</sup> Section 119.15(6)(b)2., F.S.

- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>37</sup>

The Act also requires specified questions to be considered during the review process. In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

### **Public Necessity Statement and Two-thirds Vote Requirement**

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>38</sup> If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.<sup>39</sup>

### **Psychology Interjurisdictional Compact**

CS/SB 56 establishes Florida as a member state in the PSYPACT. Pursuant to the compact and with appropriate authorizations, a licensed psychologist may engage in the practice of interjurisdictional telepsychology and obtain a temporary authorization to practice psychology in-person, face-to-face for up to 30 days with clients and patients in member states other than the one in which he or she is licensed. Thirty-six states and territories have enacted the PSYPACT.<sup>40</sup>

If a psychologist wants to practice through telepsychology, the psychologist must obtain an Authority to Practice Interjurisdictional Telepsychology (APIT) from the commission. It also requires an active ASPPB e-passport.<sup>41</sup> If a psychologist wants to practice in a temporary in-person, face-to-face mode, the psychologist must obtain a Temporary Authorization to Practice (TAP) from the commission and an Interjurisdictional Practice Certificate (IPC).<sup>42</sup>

Article IX of the compact requires the commission to develop and maintain a coordinated licensure information system (coordinated database) and a reporting system containing licensure and disciplinary action for all psychologists practicing under the compact.

The compact overrides a compact state's laws to the contrary and requires the submission of a uniform data set on all licensees containing:

- Identifying information;
- Licensure data;
- Significant investigatory information;

<sup>37</sup> Section 119.15(6)(b)3., F.S.

<sup>38</sup> *See generally* s. 119.15, F.S.

<sup>39</sup> Section 119.15(7), F.S.

<sup>40</sup> PSYPACT Map, available at: <https://psypact.org/mpage/psypactmap> (last visited March 29, 2023). The 36 states include Alabama, Arizona, Arkansas, Colorado, Commonwealth of the Northern Mariana Islands, Connecticut, Delaware, District of Columbia, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. Rhode Island has enacted the PSYPACT but it is not yet effective).

<sup>41</sup> PSYPACT Fees available at: <https://psypact.org/page/fees> (last visited March 29, 2023).

<sup>42</sup> *Id.*

- Adverse actions against a psychologist's license;
- Any indicator that a psychologist's APIT or TAP is revoked;
- Any denial of application for licensure and the reason for the denial;
- Other information determined by commission rules.

All home state disciplinary orders that take adverse action and adverse action taken by a compact state must be reported to the commission. The coordinated database administrator must promptly notify all compact states of adverse action taken against any licensee in a compact state.

A compact state may designate information that may not be shared with the public without the express permission of the compact state. Any information submitted to the coordinated database which is subsequently required to be expunged by law must be removed from the coordinated database.

Although most of the commission's meetings are required to be open to the public, Article X of the PSYPACT authorizes the commission to convene in a closed, nonpublic meeting to discuss:

- A compact state's noncompliance.
- Matters related to the commission's internal personnel practices and procedures.
- Current, threatened, or reasonably anticipated litigation.
- Contract negotiations.
- Accusation of any person of a crime or a formal censure of a person.
- Information disclosing trade secrets or commercial or financial information that is privileged or confidential.
- Personal information in which disclosure would constitute a clearly unwarranted invasion of personal privacy.
- Investigatory records compiled for law enforcement purposes.
- Information related to investigatory reports for use by the commission regarding compliance issues pursuant to the compact.
- Matters specifically exempted from disclosure by federal or state statute.

If a meeting or portion of a meeting is closed, the commission's legal counsel must identify each relevant exempting provision. The commission must keep detailed minutes about all matters discussed, actions taken, participants, views expressed, and documents considered. Under the compact, these minutes and documents must remain under seal, subject to release only by a majority vote of the commission or order of a court of competent jurisdiction.

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

**Section 1.** creates s. 490.0076, F.S., to establish a public records and meetings exemption for activities related to the PSYPACT. The bill exempts a psychologist's personal identifying information, other than the psychologist's name, licensure status, or license number, obtained from the coordinated system and held by the department or board from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, unless the state that originally reported the information to the coordinated system authorizes the disclosure by law.



The bill exempts a meeting or a portion of a meeting of the PSYPACT Commission from s. 286.011, F.S., and s. 24(b), Art. I of the Statue Constitution if the commission must discuss:

- A compact state's noncompliance.
- Matters related to the commission's internal personnel practices and procedures.
- Current, threatened, or reasonably anticipated litigation.
- Contract negotiations.
- Accusation of any person of a crime or a formal censure of a person.
- Information disclosing trade secrets or commercial or financial information that is privileged or confidential.
- Personal information in which disclosure would constitute a clearly unwarranted invasion of personal privacy.
- Investigatory records compiled for law enforcement purposes.
- Information related to investigatory reports for use by the commission regarding compliance issues pursuant to the compact.
- Matters specifically exempted from disclosure by federal or state statute.

Recordings minutes, and records generated during an exempt commission meeting are exempted from the public records provisions in s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

The exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2028, unless reviewed and reenacted by the Legislature.

**Section 2.** contains the Legislative findings justifying the necessity for these exemptions. The protection from public disclosure of a psychologists' personal identifying information, other than the name, licensure status, or license number, obtained from the coordinated system is required by the PSYPACT. Without this exemption, Florida would be unable to participate in the compact.

The PSYPACT requires that meetings in which specified sensitive and confidential information is discussed must be closed to the public. Without this exemption from the public meetings law, Florida would be unable to participate in the compact.

In addition, the PSYPACT requires that the mandatory recordings, minutes, and records generated during a closed meeting must not be disclosed publicly unless by majority vote of the commission or upon a court order. Release of this information would negate the public meeting exemption and as a result the bill provides that Legislature finds that the public records exemption is a public necessity.

**Section 3.** provides that the bill's effective date is the same date that CS/SB 56 or similar legislation takes effect, if adopted and becomes a law. CS/SB 56 provides an effective date of July 1, 2023.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:****Vote Requirement**

Article I, section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records or open meetings requirements. This bill creates public records exemptions and a public meeting exemption; therefore, it requires a two-thirds vote.

**Public Necessity Statement**

Article I, section 24(a) of the State Constitution and Article I, section 24(b) of the State Constitution requires a bill creating or expanding an exemption to the public records or open meetings requirements to state with specificity the public necessity justifying the exemption. Section 2 includes a public necessity statement for the exemptions.

The public necessity statement for the public records exemption of certain personal identifying information and the exemption from the public meetings provisions when the commission discusses specified matters provides that the protection and closing are necessary otherwise the state will be unable to effectively and efficiently implement and administer the PSYPACT and unable to become a member state of the compact. By enactment of the enabling legislation, and in particular the purpose of the compact as set forth in Article I, the Legislature has determined that becoming a member state of the compact is important to increase public access to professional psychological services.

**Breadth of Exemption**

Article I, section 24(c), of the State Constitution requires exemptions to the public records and open meetings requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the bill is to protect personal identifying information of psychologists practicing under the compact, other than the psychologist's name, licensure status, or licensure number; commission meetings in which specifically identified confidential and sensitive information is discussed; and the recordings, minutes, and records generated during an exempt commission meeting. These protections are required of a member state through the compact and they do not appear to be broader than necessary to accomplish its purpose.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

The public necessity statement for the closing of a commission meeting refers to a majority of the commission members voting to close a meeting. This is not included in the compact with respect to closing a meeting to the public and might misstate the breadth and necessity for the exemption.

**VII. Related Issues:**

One of the stated purposes in the legislation to establish the PSYPACT in Florida is to increase public access to professional psychological services. This might be an appropriate justification to add to the public necessity statement.

**VIII. Statutes Affected:**

This bill creates section 490.0076 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 Health Policy on April 4, 2023:**

The CS incorporates a technical amendment to provide that the bill's effective date is the same date that CS/SB 56, or similar legislation, takes effect, if adopted in the same legislative session or an extension thereof and becomes a law.

B. Amendments:

None.

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

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586238

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
	.	
	.	
	.	

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

**Senate Amendment**

Delete line 113  
and insert:  
SB 56 or similar legislation takes effect, if such legislation

By Senator Harrell

31-00171-23

202358\_\_

A bill to be entitled

An act relating to public records and meetings; creating s. 490.0076, F.S.; providing an exemption from public records requirements for certain information held by the Department of Health or the Board of Psychology pursuant to the Psychology Interjurisdictional Compact; authorizing disclosure of exempt information under certain circumstances; providing an exemption from public meeting requirements for certain meetings of the Psychology Interjurisdictional Compact Commission; providing an exemption from public records requirements for recordings, minutes, and records generated during the closed portion of such meetings; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 490.0076, Florida Statutes, is created to read:

490.0076 Psychology Interjurisdictional Compact; public records and meetings exemptions.—

(1) A psychologist's personal identifying information, other than the psychologist's name, licensure status, or license number, obtained from the coordinated licensure information system, as described in article IX of s. 490.0075, and held by the department or the board is exempt from s. 119.07(1) and s.

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

31-00171-23

202358\_\_

24(a), Art. I of the State Constitution unless the state that originally reported the information to the coordinated licensure information system authorizes the disclosure of such information by law. If disclosure is so authorized, information may be disclosed only to the extent authorized by law by the reporting state.

(2) (a) A meeting or a portion of a meeting of the Psychology Interjurisdictional Compact Commission, established in article X of s. 490.0075, is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution if the commission must discuss:

1. Noncompliance of a compact state with its obligations under the compact;

2. Employment, compensation, or discipline of, or other personnel matters, practices, or procedures related to, specific employees or other matters related to the commission's internal personnel practices and procedures;

3. Current, threatened, or reasonably anticipated litigation against the commission;

4. Negotiation of contracts for the purchase or sale of goods, services, or real estate;

5. An accusation of any person of a crime or a formal censure of any person;

6. Information disclosing trade secrets or commercial or financial information that is privileged or confidential;

7. Information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;

8. Investigatory records compiled for law enforcement purposes;

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59 9. Information related to any investigatory reports  
 60 prepared by or on behalf of or for use of the commission or  
 61 another committee charged with responsibility for investigation  
 62 or determination of compliance issues pursuant to the compact;  
 63 or

64 10. Matters specifically exempted from disclosure by  
 65 federal or state statute.

66 (b) In keeping with the intent of the Psychology  
 67 Interjurisdictional Compact, recordings, minutes, and records  
 68 generated during an exempt commission meeting or a portion of  
 69 such a meeting are exempt from s. 119.07(1) and s. 24(a), Art. I  
 70 of the State Constitution.

71 (3) This section is subject to the Open Government Sunset  
 72 Review Act in accordance with s. 119.15 and shall stand repealed  
 73 on October 2, 2028, unless reviewed and saved from repeal  
 74 through reenactment by the Legislature.

75 Section 2. (1) The Legislature finds that it is a public  
 76 necessity that a psychologist's personal identifying  
 77 information, other than the psychologist's name, licensure  
 78 status, or license number, obtained from the coordinated  
 79 licensure information system, as described in article IX of s.  
 80 490.0075, Florida Statutes, and held by the Department of Health  
 81 or the Board of Psychology, be made exempt from s. 119.07(1),  
 82 Florida Statutes, and s. 24(a), Article I of the State  
 83 Constitution. Protection of such information is required under  
 84 the Psychology Interjurisdictional Compact, which the state must  
 85 adopt in order to become a member state of the compact. Without  
 86 the public records exemption, this state will be unable to  
 87 effectively and efficiently implement and administer the

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202358\_\_

88 compact.

89 (2) (a) The Legislature finds that it is a public necessity  
 90 that any meeting of the Psychology Interjurisdictional Compact  
 91 Commission held as provided in article X of s. 490.0075, Florida  
 92 Statutes, in which matters specifically exempted from disclosure  
 93 by federal or state law are discussed be made exempt from s.  
 94 286.011, Florida Statutes, and s. 24(b), Article I of the State  
 95 Constitution.

96 (b) The Psychology Interjurisdictional Compact requires the  
 97 closing of any meeting, or any portion of a meeting, of the  
 98 Psychology Interjurisdictional Compact Commission if the  
 99 commission is discussing certain sensitive and confidential  
 100 subjects or if a majority of the commission members vote to  
 101 close a meeting to the public in whole or in part. In the  
 102 absence of a public meeting exemption, this state would be  
 103 prohibited from becoming a member state of the compact.

104 (3) The Legislature also finds that it is a public  
 105 necessity that the recordings, minutes, and records generated  
 106 during a meeting that is exempt pursuant to s. 490.0076(2),  
 107 Florida Statutes, be made exempt from s. 119.07(1), Florida  
 108 Statutes, and s. 24(a), Article I of the State Constitution.  
 109 Release of such information would negate the public meeting  
 110 exemption. As such, the Legislature finds that the public  
 111 records exemption is a public necessity.

112 Section 3. This act shall take effect on the same date that  
 113 SB \_\_\_\_ or similar legislation takes effect, if such legislation  
 114 is adopted in the same legislative session or an extension  
 115 thereof and becomes a law.

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations Committee on Health and  
Human Services, *Chair*  
Environment and Natural Resources, *Vice Chair*  
Appropriations  
Appropriations Committee on Education  
Education Postsecondary  
Health Policy  
Judiciary

### SELECT COMMITTEE:

Select Committee on Resiliency

### SENATOR GAYLE HARRELL

31st District

January 13, 2023

Senator Colleen Burton  
318 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399

Chair Burton,

I respectfully request that SB 58 – Public Records for Psychology Inter-jurisdictional Compact be placed on the next available agenda for the Health Policy Committee Meeting.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in blue ink that reads "Gayle".

Senator Gayle Harrell  
Senate District 31

Cc: Allen Brown, Staff Director  
Anhar Al-Asadi, Committee Administrative Assistant

### REPLY TO:

□ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895  
□ 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5031

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

KATHLEEN PASSIDOMO  
President of the Senate

DENNIS BAXLEY  
President Pro Tempore



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

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

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

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BILL: CS/SB 1594

INTRODUCER: Committee on Health Policy and Senator Brodeur, and others.

SUBJECT: Services for Persons with Disabilities

DATE: April 5, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Cox	CF	<b>Favorable</b>
2.	Brown	Brown	HP	<b>Fav/CS</b>
3.			RC	

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**I. Summary:**

CS/SB 1594 requires adult day training (ADT) programs serving individuals with developmental disabilities to be licensed by the Agency for Persons with Disabilities (the APD). The bill also prohibits the licensure of comprehensive transitional educational programs (CTEPs) in Florida. The bill also modifies the eligibility criteria for, and operation of, Florida's Home and Community-Based Services (HCBS) Medicaid Waiver administered by the APD.

Specifically, the bill:

- Clarifies the definitions of "adult day training";
- Adds a definition for "licensee," which is the same definition as used in s. 408.803(9), F.S., relating to health care licensing by the Agency for Health Care Administration (the AHCA) and the same, in part, as used in s. 400.023(2)(a), F.S., relating to nursing homes;
- Requires the licensing and regulation of ADT programs by the APD;
- Allows the APD to deny licenses for residential facilities and ADT programs when there is evidence that the applicant is unqualified due to lack of good moral character;
- Allows the APD to take disciplinary actions due to the noncompliance of ADT programs;
- Clarifies the circumstances for which the APD can take disciplinary action related to verified findings of abuse, neglect, or abandonment of a child or vulnerable adult being served by an APD licensed facility or ADT program;
- Removes obsolete language regarding CTEPs that no longer operate within the state;
- Requires APD-licensed facilities and ADT programs to allow local emergency management agencies to examine the approved emergency management plans and review and approve plans for facilities and programs serving individuals with a complex medical condition;
- Clarifies language that the APD must not authorize funds or services to an unlicensed facility or ADT program that requires a license;
- Clarifies the timeframes within which the APD must process applications for the HCBS Waiver;

- Identifies timeframes for processing an application for crisis waiver enrollment from an applicant who is not currently an APD client;
- Clarifies that eligibility for admissions to Intermediate Care Facilities for the Developmentally Disabled (ICF/DDs) are to be completed by the APD; and
- Clarifies that the level of care criteria for eligibility for the HCBS Waiver program is the same as that required by federal law.

The bill is expected to have a fiscal impact on state government and will likely have a significant, but indeterminate, impact on existing ADT programs. See Section V. Fiscal Impact Statement.

The bill provides an effective date of October 1, 2024.

## **II. Present Situation:**

### **Agency for Persons with Disabilities**

The Agency for Persons with Disabilities (APD) is responsible for the provision of services to individuals with developmental disabilities and for administering the Home and Community-Based Services (HCBS) Waiver.<sup>1</sup> Florida has procured waivers of federal Medicaid requirements for the purpose of providing home and community-based services to individuals at risk of institutionalization.<sup>2</sup> The HCBS Waiver provides services to individuals with developmental disabilities that allow them to continue to live in their home or home-like setting and avoid institutionalization.<sup>3</sup> Eligible individuals must meet institutional level of care requirements.<sup>4</sup>

The overarching goal for the APD is to prevent or reduce the severity of a developmental disability and implement community-based services that will help individuals with developmental disabilities achieve their greatest potential for independent and productive living in the least restrictive means.<sup>5</sup>

In addition to central headquarters in Tallahassee, the APD operates a total of six regional offices and 14 field offices throughout the state, as detailed below:<sup>6</sup>

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<sup>1</sup> See Section 20.197(3), F.S.

<sup>2</sup> Rule 59G-13.080(1), F.A.C.

<sup>3</sup> The Centers for Medicare & Medicaid Services, *Home and Community-Based Services 1915(c)*, available at <https://www.medicare.gov/medicaid/home-community-based-services/home-community-based-services-authorities/home-community-based-services-1915c/index.html> (last visited March 21, 2023).

<sup>4</sup> *Id.*; Rule 59G-13.080(1), F.A.C.

<sup>5</sup> See s. 393.062, F.S.

<sup>6</sup> Agency for Persons with Disabilities, *Regional Offices*, available at <https://apd.myflorida.com/region/> (last visited March 21, 2023).

<u>Region</u>	<u>Counties</u>
Northwest	Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington Fields 1 and 2.
Northeast	Alachua, Baker, Bradford, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Madison, Nassau, Putnam, St. Johns, Suwannee, Taylor, Union, and Volusia Fields 3, 4, and 12.
Central	Brevard, Citrus, Hardee, Hernando, Highlands, Lake, Marion, Orange, Osceola, Polk, Seminole, and Sumter Fields 7, 13, and 14.
Suncoast	Charlotte, Collier, DeSoto, Glades, Hendry, Hillsborough, Lee, Manatee, Pasco, Pinellas, and Sarasota Suncoast Field and Field 8.
Southeast	Broward, Indian River, Martin, Okeechobee, Palm Beach, and St. Lucie Fields 9 and 10.
Southern	Miami-Dade and Monroe Field 11.

### **iBudget Florida Program**

The APD administers Florida’s individual budget-based HCBS Waiver, known as iBudget Florida, for individuals with specified developmental disabilities who meet Medicaid eligibility requirements. These individuals may choose to receive services in the community through iBudget Florida. Alternatively, they may choose to live in an institutional setting known as an Intermediate Care Facility for the Developmentally Disabled (ICF/DD)<sup>7</sup> through traditional Medicaid administered by the Agency for Health Care Administration (AHCA).<sup>8</sup>

The APD initiated implementation of iBudget Florida on May 1, 2011 with the final areas transitioned from the previous tiered waiver system on July 1, 2013.<sup>9</sup> The iBudget Florida program uses an algorithm, or formula, to set individuals’ funding allocations for waiver services.<sup>10</sup> The APD administers iBudget Florida pursuant to s. 393.0662, F.S.

The APD serves just over 34,900 individuals through iBudget Florida, contracting with service providers to offer 27 supports and services to assist individuals to live in their community.<sup>11</sup>

<sup>7</sup> Section 393.063(25), F.S., defines “intermediate care facility for the developmentally disabled” to mean a residential facility licensed and certified under part VIII of ch. 400, F.S.

<sup>8</sup> Section 393.0662, F.S.

<sup>9</sup> Agency for Persons with Disabilities, *Quarterly Report on Agency Services to Floridians with Developmental Disabilities and Their Costs: First Quarter Fiscal Year 2022-23*, p. 2, November 15, 2022 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as “The Quarterly Report”).

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

Examples of waiver services enabling children and adults to live, learn, and work in their communities include residential habilitation, behavioral services, personal supports, adult day training, employment services, and occupational and physical therapy.<sup>12</sup>

### ***Eligibility for iBudget Services***

The application process for individuals wishing to receive services through the iBudget program are detailed in s. 393.065, F.S. The APD must review applications for eligibility within 45 days for children under 6 years of age and within 60 days for all other applicants.<sup>13</sup> Individuals who are determined to be eligible for the Waiver program are either given a slot in the program or placed on a wait list. Currently, due to demand exceeding available funding, individuals with developmental disabilities who wish to receive HCBS services from the APD are placed on a wait list for services in priority categories of need, unless they are in crisis.<sup>14</sup> As of March 1, 2023 there are approximately 22,225 individuals on the HCBS Waiver wait list.<sup>15</sup>

The needs of APD clients are classified into seven categories<sup>16</sup> and are prioritized in the following decreasing order of priority:

- Category 1 – Clients deemed to be in crisis.
- Category 2 – Specified children from the child welfare system.<sup>17</sup>
- Category 3 – Includes, but is not limited to, clients:
  - Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;
  - Who are at substantial risk of incarceration or court commitment without supports;
  - Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or
  - Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available.
- Category 4 – Includes, but is not limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available.
- Category 5 – Includes, but is not limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain or maintain competitive employment, or to pursue an accredited program of postsecondary education to which they have been accepted.
- Category 6 – Clients 21 years of age or older who do not meet the criteria for categories 1-5.
- Category 7 – Clients younger than 21 years of age who do not meet the criteria for categories 1-4.<sup>18</sup>

<sup>12</sup> *Id.*

<sup>13</sup> Section 393.065(1), F.S.

<sup>14</sup> Section 393.065, F.S.; *See* Rule 65G-1.047, F.A.C., for crisis status criteria.

<sup>15</sup> E-mail from JP Bell, APD Legislative Affairs Director, March 16, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as, “The APD March 16 E-mail”).

<sup>16</sup> Section 393.065(5), F.S.

<sup>17</sup> *See* s. 393.065(5)(b), F.S., for specific criteria.

<sup>18</sup> Section 393.065(5), F.S.

Because the APD receives extensive documentation to verify identity, domicile, and documentation of clinical eligibility, most applications are incomplete upon receipt and require additional time to process.<sup>19</sup> The APD also provides for a comprehensive assessment when needed to confirm eligibility for an applicant.<sup>20</sup>

Section 393.066, F.S., requires the APD to plan, develop, organize, and implement its programs of services and treatment for persons with developmental disabilities to allow clients to live as independently as possible in their own homes or communities and to achieve productive lives as close to normal as possible.<sup>21</sup> All elements of community-based services must be made available, and eligibility for these services must be consistent across the state.<sup>22</sup>

Necessary services for clients must be purchased, rather than provided directly by the APD, when the purchase of services is more cost-efficient than providing such services directly. However, all purchased services must be approved by the APD.<sup>23</sup>

Although s. 393.066, F.S., indicates that the APD provides community services and treatment to clients, there is a conflict with s. 393.065, F.S., which indicates that to provide immediate services or crisis intervention to applicants, the APD must arrange for emergency eligibility determination, with a full eligibility review to be accomplished within 45 days of the emergency eligibility determination.<sup>24</sup> Crisis intervention services to address immediate emergencies are available through other programs outside of the APD, including child and adult protective services through the Department of Children and Families (the DCF).<sup>25</sup>

Due to funding constraints, eligible individuals seeking HCBS waiver services are enrolled on the waiting list in the priority order defined in 393.065, F.S. As of March 1, 2023, there were 8,974 individuals under the age of 21 in Category 7 of the waiting list.<sup>26</sup> However, many of these individuals are eligible for full Medicaid benefits and are not waiting for services due to coverage through the Medicaid program under the Early and Periodic, Screening, Diagnosis, and Treatment (EPSDT) requirements. As required by federal law, Florida Medicaid provides services to eligible recipients under the age of 21 years, if such services are medically necessary to correct or ameliorate a defect, a condition, or a physical or mental illness.<sup>27</sup> The EPSDT provides a comprehensive array of prevention, diagnostic, and treatment services for Medicaid recipients who are the age of 21 years, as specified in Section 1905(a)(4)(B) of the Social Security Act (the Act) and defined in 42 U.S.C. § 1396d(r)(5) and 42 CFR 441.50.<sup>28</sup>

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<sup>19</sup> Agency for Persons with Disabilities, *Agency Analysis of SB 1594*, p. 2 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as, “The APD SB 1594 Analysis”).

<sup>20</sup> *Id.*

<sup>21</sup> Section 393.066(1), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> Section 393.066(2), F.S.

<sup>24</sup> The APD SB 1594 Analysis at p. 2.

<sup>25</sup> *Id.*

<sup>26</sup> The APD March 16 E-mail.

<sup>27</sup> The Agency for Health Care Administration (the AHCA), *Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Benefit*, available at <https://ahca.myflorida.com/medicaid/prescribed-drugs/early-and-periodic-screening-diagnostic-and-treatment-epsdt-benefit> (last visited March 21, 2023).

<sup>28</sup> Agency for Health Care Administration, *Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Requirements in the Managed Medical Assistance Program*, at p. 1, available at

## Intermediate Care Facilities for the Developmentally Disabled

In addition to meeting eligibility criteria identified in s. 393.063, F.S., clients who are seeking to enroll on the HCBS Waiver must meet the level of care for services in an ICF for placement on the waiting list.<sup>29</sup> An intermediate care facility for the developmentally disabled (ICF/DD) provides health and rehabilitative services to individuals with developmental disabilities in a protected residential setting.<sup>30</sup> ICF/DDs are licensed and regulated by the Agency for Health Care Administration (AHCA) under Part VIII of ch. 400, F.S., and ch. 59A-26, F.A.C. ICF/DDs provide the following services:

- Nursing services;
- Activity services;
- Dental services;
- Dietary services (including therapeutic diet);
- Pharmacy services;
- Physician services;
- Rehabilitative care services;
- Room/bed and maintenance services; and
- Social services.<sup>31</sup>

ICF/DD services are only covered by the Medicaid program. Eligible individuals include persons who:

- Have the level of need and level of reimbursement determined by the APD in the last six months; and
- Meet the requirements for the Institutional Care Program.<sup>32</sup>

While the majority of individuals who have a developmental disability live in the community, a small number live in ICF/DDs. Currently, there are 104 privately owned ICF/DD facilities in Florida.<sup>33</sup>

Some individuals identified on the waiting list are not waiting for services due to residing in an institutional setting, such as an IC/FDD, penal institution, hospital, or nursing home.<sup>34</sup>

Individuals who live in institutional settings are not eligible for HCBS waiver services, however, any clients in ICF/DDs or nursing homes who request Waiver enrollment are prioritized for

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[https://ahca.myflorida.com/content/download/7074/file/EPSTDT\\_Overview\\_FAQs\\_2017-07-17.pdf](https://ahca.myflorida.com/content/download/7074/file/EPSTDT_Overview_FAQs_2017-07-17.pdf) (last visited March 21, 2023).

<sup>29</sup> Agency for Health Care Administration, Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/DD) Services, available at

[https://ahca.myflorida.com/medicaid/Policy\\_and\\_Quality/Policy/behavioral\\_health\\_coverage/bhfu/Intermediate\\_Care.shtml](https://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/behavioral_health_coverage/bhfu/Intermediate_Care.shtml) (last visited March 21, 2023) (hereinafter cited as, “The AHCA ICF/DD Services”).

<sup>30</sup> The Association of Rehabilitation Facilities, *Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IIDs): Community Residential Living*, available at <https://www.floridaarf.org/category/62/ICF-IID-Info.html> (last visited March 21, 2023).

<sup>31</sup> The AHCA ICF/DD Services.

<sup>32</sup> *Id.*

<sup>33</sup> E-mail from Patrick Steele, AHCA Legislative Affairs Director, March 22, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs).

<sup>34</sup> The APD SB 1594 Analysis at p. 3.

services regardless of waiting list status.<sup>35</sup> Some APD clients request services from an ICF/DD rather than through the HCBS Waiver, and while ICF/DDs are licensed by the AHCA, the APD determines eligibility and level of reimbursement.<sup>36</sup>

### **Licensure of Facilities by the APD**

Pursuant to s. 393.067, F.S., the APD is charged with licensing community-based residential facilities that serve and assist individuals with developmental disabilities; these include foster care facilities, group home facilities, residential habilitation centers, and Comprehensive Transitional Education Program (CTEPs).

The APD currently licenses over 2,100 residential facilities statewide but does not license ADT programs.<sup>37</sup> Through iBudget Florida, there are over 13,700 clients with ADT services on their cost plans.<sup>38</sup> There are also additional participants in ADT programs through Intermediate Care Facilities for the Developmentally Disabled (ICF/DDs) and private pay arrangements.<sup>39</sup>

The APD is required to conduct annual inspections and reviews of facilities and programs licensed under s. 393.067.<sup>40</sup> Applications for licensure must be made to the APD on a form furnished by it and must be accompanied by the appropriate license fee.<sup>41</sup> All applications for licensure must contain the following:

- The name and address of the applicant, if an applicant is an individual; if the applicant is a firm, partnership, or association, the name and address of each member thereof; if the applicant is a corporation, its name and address and the name and address of each director and each officer thereof; and the name by which the facility or program is to be known;
- The location of the facility or program for which a license is sought;
- The name of the person or persons under whose management or supervision the facility or program will be conducted;
- The number and type of residents or clients for which maintenance, care, education, or treatment is to be provided by the facility or program;
- The number and location of the component centers or units which will compose the comprehensive transitional education program;
- A description of the types of services and treatment to be provided by the facility or program;
- Information relating to the number, experience, and training of the employees of the facility or program;
- Certification that the staff of the facility or program will receive training to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment, as defined in ss. 39.01 and 415.102, F.S., of residents and clients; and

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<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Agency for Persons with Disabilities, *Agency Analysis of SB 1444* at p. 2. (On file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as, “The APD SB 1444 Analysis”).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Section 393.067(2), F.S.

<sup>41</sup> Section 393.067(3), F.S.

- Such other information as the APD determines is necessary to carry out the provisions of ch. 393, F.S.<sup>42</sup>

As a prerequisite for issuance of an initial or renewal license, the applicant, and any manager, supervisor, and staff member of a direct service provider of a licensed facility or program, must have submitted to Level 2 background screening as required under s. 393.0655, F.S., and a license may not be issued or renewed if the applicant or any manager, supervisor, or staff member of the direct service provider has failed background screenings.<sup>43</sup> The APD is required to determine by rule the frequency of background screening.<sup>44</sup> Applicants must submit with each initial or renewal application a signed affidavit under penalty of perjury stating that the applicant and any manager, supervisor, or staff member of the direct service provider is in compliance with all requirements for background screening.<sup>45</sup>

Applicants are required to furnish satisfactory proof of the financial ability to operate and conduct a facility or program in accordance with the requirements of ch. 393, F.S., and agency rules.<sup>46</sup> APD rules<sup>47</sup> must establish minimum standards for licensed facilities and programs including rules requiring facilities and programs to train staff to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment, as defined in ss. 39.01 and 415.102, F.S., respectively, of residents and clients, minimum standards of quality and adequacy of client care, incident reporting requirements, and uniform fire safety standards established by the State Fire Marshal which are appropriate to the size of the facility or of the component centers or units of the program.<sup>48</sup>

After consultation with the Division of Emergency Management (DEM), the APD is also required to adopt rules for foster care facilities, group home facilities, and residential habilitation centers which establish minimum standards for the preparation and annual update of a comprehensive emergency management plan.<sup>49</sup> At a minimum, the rules must provide for plan components that address:

- Emergency evacuation transportation;
- Adequate sheltering arrangements;
- Post-disaster activities, including emergency power, food, and water;
- Post-disaster transportation;
- Supplies;
- Staffing;
- Emergency equipment;
- Individual identification of residents and transfer of records; and
- Responding to family inquiries.<sup>50</sup>

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<sup>42</sup> Section 393.067(4), F.S.

<sup>43</sup> Section 393.067(5), F.S.

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Section 393.067(6), F.S.

<sup>47</sup> Rules governing health and safety requirements for APD-licensed facilities can be found in Rule 65G-2, F.A.C.

<sup>48</sup> Section 393.067(7), F.S.

<sup>49</sup> Section 393.067(8), F.S.

<sup>50</sup> *Id.*



The comprehensive emergency management plan for all CTEPs and for homes serving individuals who have complex medical conditions is subject to review and approval by the local emergency management agency.<sup>51</sup> During its review, the local emergency management agency shall ensure that the agency and the DEM, at a minimum, are given the opportunity to review the plan.<sup>52</sup> Appropriate volunteer organizations must be given the opportunity to review the plan.<sup>53</sup> The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility of necessary revisions.<sup>54</sup>

The APD may also conduct unannounced inspections to determine compliance by foster care facilities, group home facilities, residential habilitation centers, and CTEPs with the applicable provisions of ch. 393, F.S., and the associated rules, including the rules adopted for training staff of a facility or a program to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment, as defined in ss. 39.01 and 415.102, of residents and clients.<sup>55</sup> The facility or program must make copies of inspection reports available to the public upon request.<sup>56</sup> All facilities and programs licensed by the APD must also adhere to all provisions of the Bill of Rights of Persons with Disabilities, delineated in ch. 393.13, F.S.<sup>57</sup>

### **Adult Day Training Programs**

Section 393.063, F.S. defines “adult day training” (ADT) to mean training services that take place in a nonresidential setting, separate from the home or facility in which the client resides, and are intended to support the participation of clients in daily, meaningful, and valued routines of the community. ADT may be provided in work-like settings that do not meet the definition of supported employment.<sup>58</sup>

ADT services are training services intended to support the participation of recipients in valued routines of the community, including volunteering, job exploration, accessing community resources, and self-advocacy, in settings that are age and culturally appropriate.<sup>59</sup> Adult day training services can include meaningful day activities and training in the activities of daily living, adaptive skills, social skills, and employment.<sup>60</sup> The training, activities, and routine established by the ADT must be meaningful to the recipient and provide an appropriate level of variation and interest.<sup>61</sup>

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<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

<sup>55</sup> Section 393.067(9), F.S.

<sup>56</sup> *Id.*

<sup>57</sup> Section 393.067(13), F.S.

<sup>58</sup> “Supported employment” is defined as “employment located or provided in an integrated work setting, with earnings paid on a commensurate wage basis, and for which continued support is needed for job maintenance.” Section 393.063(43), F.S.

<sup>59</sup> Agency for Health Care Administration (the AHCA), *Developmental Disabilities Individual Budgeting Waiver Services Coverage and Limitations Handbook* at p. 2-20. September 2021, available at [https://apd.myflorida.com/ibudget/docs/September%202021%2059G-13.070\\_DD\\_iBudget\\_Waiver\\_Services.pdf](https://apd.myflorida.com/ibudget/docs/September%202021%2059G-13.070_DD_iBudget_Waiver_Services.pdf) (last visited March 21, 2023) (hereinafter cited as, “The iBudget Handbook”).

<sup>60</sup> *Id.*

<sup>61</sup> *Id.*

ADT services generally begin at age 22 when a recipient is out of the public school system or when they have graduated from the public school system.<sup>62</sup> Recipients who are age 22 years or older who have not graduated are also eligible.<sup>63</sup> Providers of ADT services must be designated by the APD regional office as ADT providers.<sup>64</sup> The service expectation for ADT services is to achieve individually determined goals and support recipient participation in less restrictive settings.<sup>65</sup> ADT must be provided in accordance with a formal implementation plan, developed under the direction of the recipient, reflecting goals from the recipient's current support plan.<sup>66</sup>

The APD checks to see if those ADT programs that provide iBudget Waiver services meet the minimum education, experience, and background screening requirements to offer services at the time of the provider enrollment process.<sup>67</sup> This process currently does not include review of client care standards, site of services, operator(s), program(s), or ongoing monitoring.<sup>68</sup>

ADT program providers operate through the iBudget Waiver via a contract with the APD called a Medicaid Waiver Services Agreement (MWSA).<sup>69</sup> However, current regulations and the current MWSA used by the APD does not provide the agency with a mechanism to ensure that the physical facility where clients receive ADT services is adequate to meet the health and safety needs of its clients.<sup>70</sup>

Some ADT programs are not enrolled iBudget Waiver providers, and these settings are reimbursed via private pay arrangements with clients and their families. The absence of the provider having either a license or contract with APD effectively prevents the APD from initiating any type of disciplinary action against such programs in response to health and safety issues.<sup>71</sup>

The APD has the ability to levy administrative fines, sanctions, and moratoriums for residential facilities licensed by the agency,<sup>72</sup> but there is no comparable statutory authority related to ADT facilities.

The APD can revoke an ADT providers MWSA; however, the APD does not have a mechanism to sanction an ADT for not meeting specific health and safety-related standards of care. Terminating a MWSA impacts all programs, such as group homes, operated by those same providers, as opposed to addressing and correcting issues solely pertaining to the ADTs operated by those providers.<sup>73</sup>

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<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> See The APD, *Medicaid Waiver Services Agreement*, available at <https://apd.myflorida.com/forms/medicaid-waiver-services-agreement.doc> (last visited March 21, 2023).

<sup>70</sup> The APD Analysis at p. 2.

<sup>71</sup> The APD Analysis at p. 3.

<sup>72</sup> See s. 393.0673, F.S.

<sup>73</sup> *Id.*

***Verified Findings of Abuse, Neglect, Exploitation, or Sexual Misconduct***

The APD is required to conduct a termination review of an ADT provider's MWSA following incidents of abuse, neglect, exploitation, or sexual misconduct against a recipient of services, in addition to any other legal sanctions available.<sup>74</sup> The failure of a provider to report any incident of abuse, neglect, exploitation, or sexual misconduct on behalf of the recipient will also result in the termination review of the provider's MWSA.<sup>75</sup> Abuse, neglect, exploitation, or sexual misconduct related to the recipient by an employee of a provider or an employee's failure to report an incident of abuse, neglect, exploitation, or sexual misconduct can be imputed to the provider and will result in termination review of the provider's MWSA.<sup>76</sup>

The APD conducted an analysis of incident data and abuse, neglect, or exploitation data and discovered a significant number of issues adversely impacting the health and safety of APD clients related to ADT services.<sup>77</sup> During the last 4 years, there have been 125 instances where the Department of Children and Families (the DCF) conducted protective services investigations for abuse, neglect, or exploitation related to ADT services with 34 instances of verified findings.<sup>78</sup> Additionally, APD received 2,807 incident reports related to ADT services.<sup>79</sup>

The APD reviewed prior incident reports occurring in ADT facilities in order to mitigate similar future incidents.<sup>80</sup> The APD found that some incidents occurred as a result of environmental hazards not addressed through current waiver standards for ADT services.<sup>81</sup> Additionally, the agency believes that increased enforcement of appropriate staffing ratios could reduce some incidents, such as elopements and client injuries.<sup>82</sup> Required training could also assist ADTs in proper use of medical equipment and the implementation of behavioral interventions.<sup>83</sup> The APD believes that establishing facility licensure standards and enforcement authority could prevent, or reduce the prevalence of, such incidents in the future.<sup>84</sup>

**Comprehensive Transitional Education Programs**

A CTEP is a group of jointly operating centers or units that provide a sequential series of educational care, training, treatment, habilitation, and rehabilitation services to persons who have developmental disabilities and who have severe or moderate maladaptive behaviors.<sup>85</sup> The Legislature created the CTEP license in 2006 to serve individuals primarily, though not limited to those with developmental disabilities, who have severe or moderate maladaptive behaviors.<sup>86</sup>

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<sup>74</sup> The iBudget Handbook at p. 1-10.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.*

<sup>77</sup> The APD SB 1444 Analysis at p. 3.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> *Id.*

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> Section 393.18, F.S.

<sup>86</sup> Ch, 2006-227, L.O.F.; Disability Rights Florida, *Monitoring and Investigation of Carlton Palms Educational Center, Results and Recommendations March 2018* at p. 3., available at

The services provided by the CTEP were proscribed as “temporary in nature and delivered in a structured residential setting, having the primary goal of incorporating the principle of self-determination in establishing permanent residence for persons with maladaptive behaviors in facilities that are not associated with the comprehensive transitional education program.”<sup>87</sup>

Carlton Palms, run by Bellwether Behavioral Health, was the only licensed CTEP in Florida.<sup>88</sup> The facility closed in 2018 following the death of a resident and numerous documented cases of abuse and neglect over the course of several years.<sup>89</sup> All 200 residents of Carlton Palms were moved to smaller community settings.

However, s. 393.18, F.S., still authorizes the CTEP license.<sup>90</sup> CTEPs provide treatment in large-scale residential settings but federal law prohibits the provision of iBudget Waiver services in such environments.<sup>91</sup> Because the majority of the APD’s clients are receiving services through the iBudget Waiver, the agency states that it is focused on offering community-based services in smaller and more family-like settings and does not anticipate licensing new CTEPs.<sup>92</sup>

### III. Effect of Proposed Changes:

#### ADT Licensure Requirements

The bill clarifies that ADT services specifically include, but are not limited to, the acquisition, retention, or improvement of self-help, socialization, and adaptive skills. The bill eliminates a provision allowing ADT to be provided in work like settings that do not meet the definition of supported employment.

The bill adds a definition of “licensee” to that section. Specifically, the bill defines “licensee” to mean “an individual, a corporation, a partnership, a firm, an association, a governmental entity, or other entity that is issued a permit, registration, certificate, or license by the agency. The licensee is legally responsible for all aspects of the provider operation.” This is the same definition of “licensee” used in s. 408.803(9), F.S., relating to health care licensing by the Agency for Health Care Administration (the AHCA) and the same, in part, as used in s. 400.023(2)(a), F.S., relating to nursing homes.

The bill requires all direct service providers employed by ADT programs to undergo a level 2 background screening. The bill also requires applicants, managers, supervisors, and staff members of direct service providers employed by ADT programs to undergo level 2 background screenings.

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[https://disabilityrightsflorida.org/documents/Carlton\\_Palms\\_Report\\_3-5-18.pdf](https://disabilityrightsflorida.org/documents/Carlton_Palms_Report_3-5-18.pdf) (last visited March 21, 2023) (hereinafter cited as, “The DRF Report”).

<sup>87</sup> The DRF Report at p. 3.

<sup>88</sup> *Id.* at p. 1.

<sup>89</sup> The Daily Commercial, *Troubled Carlton Palms Home for the Disabled to Close*, May 11, 2018, available at <https://www.dailycommercial.com/story/news/local/mount-dora/2018/05/11/troubled-carlton-palms-home-for-disabled-to-close/12261119007/> (last visited March 21, 2023).

<sup>90</sup> The APD SB 1444 Analysis at p. 3.

<sup>91</sup> *Id.*

<sup>92</sup> *Id.*

The bill applies the facility licensure requirements currently in place for foster care facilities, group home facilities, and residential habilitation facilities to ADT programs. The bill also requires the APD to conduct annual inspections and reviews of ADT programs licensed under the bill.

The bill implements many of the same application requirements for other facilities licensed by the APD to applications for licensure as ADT programs. Specifically, an application for licensure as an ADT program must include:

- The location of the ADT program for which a license is sought;
- The name of the person or persons under whose management or supervision the ADT program will be conducted;
- The number and type of residents or clients for which maintenance, care, education or treatment is to be provided by the ADT program;
- A description of the type of services and treatment to be provided by the facility or ADT program;
- Information relating to the number, experience, and training of the employees of the ADT program;
- Certification that the staff of the ADT program will receive training to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment of residents and clients; and
- Information the APD determines is necessary to carry out other statutory requirements delineated in s. 393.067, F.S.

The bill requires applicants for licensure as ADT programs to furnish satisfactory proof of financial ability to operate and conduct the program in accordance with s. 393.067, F.S., and adopted rules.

The bill requires the APD to adopt rules establishing minimum standards for ADT programs, including:

- Rules requiring ADT programs to train staff to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment of residents and clients;
- Minimum standards of quality and adequacy of client care;
- Incident reporting requirements; and
- Uniform fire safety standards established by the State Fire Marshal which are appropriate to the size of the ADT program.

Under the bill, as with other facilities licensed by the agency, the APD must consult with the Division of Emergency Management and adopt rules for ADT programs which establish minimum standards for the preparation and annual update of a comprehensive emergency management plan. As with plans applicable to other APD-licensed facilities and providers, the plan is subject to review and approval by the local emergency management agency, and the local emergency management agency must complete its review within 60 days and either approve the plan or advise the ADT program of necessary revisions.

The bill permits the APD to conduct unannounced inspections of ADT programs to determine compliance with the standards described above and throughout ch. 393.067, F.S., as well as

applicable rules, specifically including the rules adopted to detect sexual abuse, abuse, neglect, exploitation, and abandonment of residents and clients. ADT programs are required to make copies of inspection reports available to the public upon request.

The bill requires licensed ADT programs to adhere to all provisions of the Bill of Rights of Persons with Disabilities delineated in ch. 393.13, F.S.

The bill prohibits the APD from authorizing funds or services to unlicensed ADT programs, and prohibits the APD from renewing a license for an ADT program if the licensee has any outstanding fines assessed wherein final adjudication of such fines has not been entered.

The bill specifies that the APD is not required to contract with licensed ADT programs.

The bill applies many of the same grounds for which the APD can take disciplinary action against a licensed facility to ADT programs licensed under the bill. Disciplinary action may include revoking or suspending a license and imposing an administrative fine not to exceed \$1,000 per day. Grounds for discipline include instances where the licensee has:

- Falsely represented or omitted a material fact in its license application submitted under s. 393.067, F.S.;
- Had prior action taken against it under the Medicaid or Medicare program; or
- Failed to comply with the applicable requirements of ch. 393, F.S., or rules applicable to the licensee.

The APD can also take disciplinary action when the DCF has verified that the licensee is responsible for the abuse, neglect, exploitation, of a vulnerable adult.

The bill provides that for purposes of disciplinary action for verified findings of abuse, neglect, abandonment, or exploitation of a child or vulnerable adult, all APD licensees, including facilities already requiring licensure in current law and ADT programs newly requiring licensure under the bill, are responsible not only for administration of the facilities in compliance with the standards set out by statute and administrative rule, but for the care and supervision of the clients in the facility or the participants of the program.

The bill specifies that a licensee may not delegate to others the ultimate responsibility for the safety of the clients in its care. Further, a licensee is subject to disciplinary action for an employee's lapse in care or supervision of the clients at the facility or the participants of the program in which a verified finding of abuse, neglect, abandonment, or exploitation occurred. The bill requires that remedial action taken by the licensee not affect the APD's ability to impose disciplinary action for the underlying violation.

The bill also specifies that the APD may deny an application for licensure if:

- An applicant has previously had a license to operate an ADT program revoked by the APD;
- The DCF has verified that the applicant is responsible for the abuse, neglect, abandonment, or exploitation of a child or vulnerable adult; or
- The APD has determined that there is clear and convincing evidence that the applicant is unqualified for a license because of a lack of good moral character. Under the bill, the term

“good moral character” means “a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and the Federal Government.”

Under the bill, all licensee hearings must be held within the county in which the licensee or applicant operates or applies for a license to operate an ADT program. The APD is permitted to issue orders immediately suspending or revoking a license when it determines that any condition of an ADT program presents a danger to the health, safety, or welfare of the program participants.

The bill allows the APD to impose an immediate moratorium on service authorizations to a facility or ADT program when the agency determines that any condition of the facility or the program presents a threat to the health, safety, or welfare of the residents in the facility or the program participants.

### **Repeal of CTEP Provisions**

The bill strikes the definition of “comprehensive transitional education program” in s. 393.063, F.S., and removes a requirement for CTEP employees to undergo level 2 background screenings, as the statutory authority to license a CTEP is removed entirely by the bill. The bill repeals s. 393.18, F.S., which authorizes the licensure of CTEPs. The bill makes other conforming changes and removes all references to CTEPs remaining in statute.

### **Changes to Waiver Waitlist Provisions**

The bill requires the APD to process all applications for services within 60 days of receipt, regardless of the age of the applicant. The bill eliminates the requirement for the APD to make eligibility determinations within 45 days for applicants under 6 years of age.

If an applicant is seeking enrollment due to crisis, the bill requires the APD to complete an eligibility determination within 45 days after receipt of the signed application. In instances where the APD needs additional documentation to make a proper determination of an applicant’s eligibility, the bill requires the APD to request such documentation from the applicant. If the APD requests additional documentation or provides a comprehensive assessment, the agency must then complete the eligibility determination within 90 days after receipt of the signed application.

The bill clarifies eligibility criteria for the HCBS Waiver by requiring the APD’s eligibility determination of an applicant to find that the applicant has satisfied all procedural requirements and eligibility criteria found in rule, which must include, but not need be limited to, the requirement that the applicant:

- Have a developmental disability; and
- Be domiciled in Florida.

The bill removes an existing requirement for the APD to arrange for emergency eligibility determinations, with a full review to be accomplished within 45 days of the emergency eligibility determination.

The bill clarifies that any admission to an ICF/DD must be authorized by the APD, and that as part of that authorization the APD or its designee must conduct an assessment, including an assessment of medical necessity, level of care, and level of reimbursement. The bill specifies that this process is to be conducted in order to ensure that the setting is the least restrictive to meet the individual's needs. The bill removes the ability of the APD to enter into an agreement with the Department of Elder Affairs' Long-Term Care Services (CARES) Program to conduct assessments of the level of need and medical necessity for long-term care services. This change will make the APD solely responsible for determining ICF/DD placement eligibility.

The bill clarifies the level of care requirement for HCBS waiver services as already specified in the approved federal waiver program. The bill replaces instances of the term 'wait list' with the term 'pre-enrollment categories' throughout s. 393.065, F.S. The bill also requires the APD to prioritize enrollment for the waiver program based on the time each client has been assigned to any pre-enrollment category without interruption, with the longest having the highest priority. Under the bill, a client that resides in an institutional setting, including, but not limited to the following may not be assigned to a pre-enrollment category:

- A penal institution;
- An ICF/DD;
- A mental health hospital;
- A nursing home; or
- A forensic facility operated by the APD pursuant to ch. 916, F.S.

The bill addresses conflicts between ss. 393.065 and 393.066, F.S., by clarifying that the APD provides services only to eligible clients. The bill also clarifies that in order for a client to receive services under the HCBS Waiver there must be sufficient funding available within the client's iBudget or other legislative appropriation and must also:

- Meet the eligibility criteria as provided under the bill, which must be confirmed by the agency;
- Be eligible for the state Medicaid program under Title XIX of the Social Security Act or the Supplemental Security Income program;
- Meet the level of care requirements for an intermediate 191 care facility for individuals with intellectual disabilities pursuant to 42 C.F.R. s. 435.217(b)(1) and 42 C.F.R. s. 440.150; and
- Meet the requirements set forth in the approved federal waiver authorized under s. 1915(c) of the Social Security Act and 42 C.F.R. s. 441.302.

The bill also makes various conforming changes throughout, including changing instances of the word 'decision' to 'determination' and specifying that the APD is required to notify both applicants and clients of appellate rights following determinations of service eligibility.

The bill provides an effective date of October 1, 2024.



**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

There will likely be an indeterminate fiscal impact to existing ADT programs relating to the cost of licensure application and other costs associated with obtaining initial and continuing licensure.

**C. Government Sector Impact:**

The APD anticipates that the bill will require seven full-time equivalent (FTE) positions for implementation, totaling \$457,616 in recurring funds.<sup>93</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>93</sup> The APD SB 1444 Analysis at p. 5.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 393.065 and 393.0651

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

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

**Committee Substitute by Health Policy on April 4, 2023**

The CS:

- Merges SB 1444 into SB 1594. SB 1444 is the other APD legislative package relating to adult day training programs and background screening of direct service providers.
- Restores category 7 of the waiver list (which was removed by the underlying bill) and deletes provisions for registration lists for clients on this category.
- Renames the HCBS waiver as the developmental disabilities home and community-based services Medicaid waiver program.
- Requires the APD to specifically authorize admissions to ICFs for individuals with intellectual disabilities to ensure the setting is the least restrictive. The APD must conduct a comprehensive assessment including medical necessity, level of care, and level of reimbursement.
- Changes “wait list” to “pre-enrollment categories” throughout s. 393.065, F.S.

**B. Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
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The Committee on Health Policy (Brodeur) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsections (1) and (10) of section 393.063,  
Florida Statutes, are amended, and subsection (25) is added to  
that section, to read:

393.063 Definitions.—For the purposes of this chapter, the  
term:

(1) "Adult day training" means a program of training



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services which takes ~~that take~~ place in a nonresidential setting, separate from the home or facility in which the client resides, and is ~~are~~ intended to support the participation of clients in ~~daily,~~ meaningful, and valued routines of the community. These services include, but are not limited to, the acquisition, retention, or improvement of self-help, socialization, and adaptive skills ~~Such training may be provided in work-like settings that do not meet the definition of supported employment.~~

~~(10) "Comprehensive transitional education program" means the program established in s. 393.18.~~

(25) "Licensee" means an individual, a corporation, a partnership, a firm, an association, a governmental entity, or other entity that is issued a permit, registration, certificate, or license by the agency. The licensee is legally responsible for all aspects of the provider operation.

Section 2. Subsections (6) through (11) of section 393.065, Florida Statutes, are renumbered as (7) through (13), respectively, present subsections (1) through (12) are amended, and new subsections (6) and (9) are added to that section, to read:

393.065 Application and eligibility determination.—

(1) An application ~~Application~~ for services must ~~shall~~ be made in writing to the agency, in the region ~~service area~~ in which the applicant resides. The agency must ~~shall~~ review each application and make an eligibility determination ~~applicant for eligibility within 45 days after the date the application is signed for children under 6 years of age and within 60 days after receipt of the signed application. If, at the time of the~~



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40 application, the applicant is requesting enrollment on the  
41 developmental disabilities home and community-based services  
42 Medicaid waiver program due to crisis, as described in paragraph  
43 (5)(a), the agency must complete an eligibility determination  
44 within 45 days after receipt of the signed application.

45 (a) If the agency determines additional documentation is  
46 necessary to make a proper determination on an applicant's  
47 eligibility, the agency may request the necessary additional  
48 documentation from the applicant ~~the date the application is~~  
49 ~~signed for all other applicants.~~

50 (b) When necessary to definitively identify individual  
51 conditions or needs, the agency must ~~shall~~ arrange for ~~provide~~ a  
52 comprehensive assessment within the state of Florida.

53 (c) If the agency requests additional documentation from  
54 the applicant or provides a comprehensive assessment, the  
55 agency's eligibility determination must be completed within 90  
56 days after receipt of the signed application ~~Only applicants~~  
57 ~~whose domicile is in Florida are eligible for services.~~

58 (2) To be eligible for services under this chapter, the  
59 agency's eligibility determination must find that the applicant  
60 has met all procedural requirements and eligibility criteria  
61 found in rule, which must include, but need not be limited to,  
62 the requirement that the applicant have a developmental  
63 disability and being domiciled in Florida. Information  
64 accumulated by other agencies, including professional reports  
65 and collateral data, must ~~shall~~ be considered in this process  
66 when available.

67 ~~(2) In order to provide immediate services or crisis~~  
68 ~~intervention to applicants, the agency shall arrange for~~



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~~emergency eligibility determination, with a full eligibility review to be accomplished within 45 days of the emergency eligibility determination.~~

(3) The agency, or its designee, must ~~shall~~ notify each applicant, in writing, of its eligibility determination ~~decision~~. Any applicant or client determined by the agency to be ineligible for services has the right to appeal this determination ~~decision~~ pursuant to ss. 120.569 and 120.57.

(4) Before admission to an intermediate care facility for individuals with intellectual disabilities and to ensure that the setting is the least restrictive to meet the individual's needs, the agency must authorize the admission pursuant to this subsection. As part of the authorization, the agency, or its designee, must conduct a comprehensive assessment that includes medical necessity, level of care, and level of reimbursement ~~The agency shall assess the level of need and medical necessity for prospective residents of intermediate care facilities for the developmentally disabled. The agency may enter into an agreement with the Department of Elderly Affairs for its Comprehensive Assessment and Review for Long-Term-Care Services (CARES) program to conduct assessments to determine the level of need and medical necessity for long-term care services under this chapter. To the extent permissible under federal law, the assessments shall be funded under Title XIX of the Social Security Act.~~

(5) Except as provided in subsection (7), the agency must ~~shall~~ assign any client seeking enrollment on the developmental disabilities home and community-based services Medicaid Waiver program that meets the level of care requirement for an



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intermediate care facility for individuals with intellectual disabilities pursuant to 42 C.F.R. ss. 435.217(b)(1) and 440.150 to an appropriate enrollment category based on the criteria outlined below, and must provide priority to clients waiting for waiver services in the following order:

(a) Category 1, which includes clients deemed to be in crisis as described in rule, must ~~shall~~ be given first priority in moving from the pre-enrollment categories ~~waiting list~~ to the waiver.

(b) Category 2, which includes clients ~~individuals~~ in the pre-enrollment categories ~~on the waiting list~~ who are:

1. From the child welfare system with an open case in the Department of Children and Families' statewide automated child welfare information system and who are either:

a. Transitioning out of the child welfare system into permanency ~~at the finalization of an adoption, a reunification with family members, a permanent placement with a relative, or a guardianship with a nonrelative;~~ or

b. At least 18 years but not yet 22 years of age and who need both waiver services and extended foster care services; or

2. At least 18 years but not yet 22 years of age and who withdrew consent pursuant to s. 39.6251(5)(c) to remain in the extended foster care system.

For individuals who are at least 18 years but not yet 22 years of age and who are eligible under sub-subparagraph 1.b., the agency must ~~shall~~ provide waiver services, including residential habilitation, and the community-based care lead agency must ~~shall~~ fund room and board at the rate established in



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s. 409.145(3) and provide case management and related services as defined in s. 409.986(3)(e). Individuals may receive both waiver services and services under s. 39.6251. Services may not duplicate services available through the Medicaid state plan.

(c) Category 3, which includes, but is not required to be limited to, clients:

1. Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;

2. At substantial risk of incarceration or court commitment without supports;

3. Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or

4. Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available or whose caregiver is unable to provide the care needed.

(d) Category 4, which includes, but is not required to be limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available.

(e) Category 5, which includes, but is not required to be limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain a meaningful day activity, maintain competitive employment, or pursue an accredited program of postsecondary education to which





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they have been accepted.

(f) Category 6, which includes clients 21 years of age or older who do not meet the criteria for category 1, category 2, category 3, category 4, or category 5.

(g) Category 7, which includes clients younger than 21 years of age who do not meet the criteria for category 1, category 2, category 3, or category 4.

(6) Within each enrollment category, the agency must prioritize enrollment based on the time each client has been assigned to any pre-enrollment category without interruption, with the longest having the highest priority. A client that resides in an institutional setting, including, but not limited to, a penal institution, an intermediate care facility for the developmentally disabled, mental health hospital, a nursing home, or a forensic facility operated by the agency pursuant to chapter 916, may not be assigned to a pre-enrollment category  
~~Within categories 3, 4, 5, 6, and 7, the agency shall maintain a waiting list of clients placed in the order of the date that the client is determined eligible for waiver services.~~

(7)~~(6)~~ The agency must ~~shall~~ allow an individual who meets the eligibility requirements of subsection (2) ~~subsection (1)~~ to receive home and community-based services in this state if the individual's parent or legal guardian is an active-duty military servicemember and if, at the time of the servicemember's transfer to this state, the individual was receiving home and community-based services in another state.

(8)~~(7)~~ The agency must ~~shall~~ allow an individual with a diagnosis of Phelan-McDermid syndrome who meets the eligibility requirements of subsection (2) ~~subsection (1)~~ to receive home



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and community-based services.

(9) Only a client may be eligible for services under the developmental disabilities home and community-based services waiver program. To receive services under the developmental disabilities home and community-based services Medicaid waiver program, there must be available funding pursuant to s. 393.0662, or through a legislative appropriation, and the client must meet all of the following:

(a) The eligibility criteria in subsection (2), which must be confirmed by the agency.

(b) Eligibility requirements for the Florida Medicaid program under Title XIX of the Social Security Act, as amended, or the Supplemental Security Income program.

(c) The level of care requirements for an intermediate care facility for individuals with developmental disabilities pursuant to 42 C.F.R. ss. 435.217(b)(1) and 440.150.

(d) The requirements provided in the approved federal waiver authorized pursuant to s. 1915(c) of the Social Security Act and 42 C.F.R. s. 441.302.

(10)~~(8)~~ Agency action that selects individuals to receive waiver services pursuant to this section does not establish a right to a hearing or an administrative proceeding under chapter 120 for individuals remaining in the pre-enrollment categories on the waiting list.

(11)~~(9)~~ The client, the client's guardian, or the client's family must ensure that accurate, up-to-date contact information is provided to the agency at all times. Notwithstanding s. 393.0651, the agency must ~~shall~~ send an annual letter requesting updated information from the client, the client's guardian, or



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the client's family. The agency must ~~shall~~ remove from the pre-enrollment categories ~~waiting list~~ any individual who cannot be located using the contact information provided to the agency, fails to meet eligibility requirements, or becomes domiciled outside the state.

(12) (a) ~~(10) (a)~~ The agency must ~~shall~~ provide the following information to all applicants or their parents, legal guardians, or family members:

1. A brief overview of the vocational rehabilitation services offered through the Division of Vocational Rehabilitation of the Department of Education, including a hyperlink or website address that provides access to the application for such services;

2. A brief overview of the Florida ABLE program as established under s. 1009.986, including a hyperlink or website address that provides access to the application for establishing an ABLE account as defined in s. 1009.986(2);

3. A brief overview of the supplemental security income benefits and social security disability income benefits available under Title XVI of the Social Security Act, as amended, including a hyperlink or website address that provides access to the application for such benefits;

4. A statement indicating that the applicant's local public school district may provide specialized instructional services, including transition programs, for students with special education needs;

5. A brief overview of programs and services funded through the Florida Center for Students with Unique Abilities, including contact information for each state-approved Florida



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Postsecondary Comprehensive Transition Program;

6. A brief overview of decisionmaking options for individuals with disabilities, guardianship under chapter 744, and alternatives to guardianship as defined in s. 744.334(1), which may include contact information for organizations that the agency believes would be helpful in assisting with such decisions;

7. A brief overview of the referral tools made available through the agency, including a hyperlink or website address that provides access to such tools; and

8. A statement indicating that some waiver providers may serve private-pay individuals.

(b) The agency must provide the information required in paragraph (a) in writing to an applicant or his or her parent, legal guardian, or family member along with a written disclosure statement in substantially the following form:

#### DISCLOSURE STATEMENT

Each program and service has its own eligibility requirements. By providing the information specified in section 393.065(11)(a) ~~393.065(10)(a)~~, Florida Statutes, the agency does not guarantee an applicant's eligibility for or enrollment in any program or service.

(c) The agency must ~~shall~~ also publish the information required in paragraph (a) and the disclosure statement in paragraph (b) on its website, and must ~~shall~~ provide that information and statement annually to each client applicant placed in the pre-enrollment categories ~~on the waiting list~~ or



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to the parent, legal guardian, or family member of such client  
applicant.

~~(13)(11)~~ The agency and the Agency for Health Care  
Administration may adopt rules specifying application  
procedures, criteria associated with the pre-enrollment ~~waiting~~  
~~list~~ categories, procedures for administering the pre-enrollment  
categories ~~waiting list~~, including tools for prioritizing waiver  
enrollment within categories, and eligibility criteria as needed  
to administer this section.

Section 3. Section 393.0651, Florida Statutes, is amended  
to read:

393.0651 Family or individual support plan.—The agency  
shall provide directly or contract for the development of a  
family support plan for children ages 3 to 18 years of age and  
an individual support plan for each client. The client, if  
competent, the client's parent or guardian, or, when  
appropriate, the client advocate, shall be consulted in the  
development of the plan and shall receive a copy of the plan.  
Each plan must include the most appropriate, least restrictive,  
and most cost-beneficial environment for accomplishment of the  
objectives for client progress and a specification of all  
services authorized. The plan must include provisions for the  
most appropriate level of care for the client. Within the  
specification of needs and services for each client, when  
residential care is necessary, the agency shall move toward  
placement of clients in residential facilities based within the  
client's community. The ultimate goal of each plan, whenever  
possible, shall be to enable the client to live a dignified life  
in the least restrictive setting, be that in the home or in the



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community. ~~For children under 6 years of age, the~~ The family or individual support plan must shall be developed within 60 days after the agency determines the client eligible pursuant to s. 393.065(3) ~~the 45-day application period as specified in s. 393.065(1); for all applicants 6 years of age or older, the family or individual support plan shall be developed within the 60-day period as specified in that subsection.~~

(1) The agency shall develop and specify by rule the core components of support plans.

(2) The family or individual support plan shall be integrated with the individual education plan (IEP) for all clients who are public school students entitled to a free appropriate public education under the Individuals with Disabilities Education Act, I.D.E.A., as amended. The family or individual support plan and IEP shall be implemented to maximize the attainment of educational and habilitation goals.

(a) If the IEP for a student enrolled in a public school program indicates placement in a public or private residential program is necessary to provide special education and related services to a client, the local education agency shall provide for the costs of that service in accordance with the requirements of the Individuals with Disabilities Education Act, I.D.E.A., as amended. This shall not preclude local education agencies and the agency from sharing the residential service costs of students who are clients and require residential placement.

(b) For clients who are entering or exiting the school system, an interdepartmental staffing team composed of representatives of the agency and the local school system shall



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develop a written transitional living and training plan with the participation of the client or with the parent or guardian of the client, or the client advocate, as appropriate.

(3) Each family or individual support plan shall be facilitated through case management designed solely to advance the individual needs of the client.

(4) In the development of the family or individual support plan, a client advocate may be appointed by the support planning team for a client who is a minor or for a client who is not capable of express and informed consent when:

(a) The parent or guardian cannot be identified;

(b) The whereabouts of the parent or guardian cannot be discovered; or

(c) The state is the only legal representative of the client.

Such appointment shall not be construed to extend the powers of the client advocate to include any of those powers delegated by law to a legal guardian.

(5) The agency shall place a client in the most appropriate and least restrictive, and cost-beneficial, residential facility according to his or her individual support plan. The client, if competent, the client's parent or guardian, or, when appropriate, the client advocate, and the administrator of the facility to which placement is proposed shall be consulted in determining the appropriate placement for the client.

Considerations for placement shall be made in the following order:

(a) Client's own home or the home of a family member or



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direct service provider.

(b) Foster care facility.

(c) Group home facility.

(d) Intermediate care facility for the developmentally disabled.

(e) Other facilities licensed by the agency which offer special programs for people with developmental disabilities.

(f) Developmental disabilities center.

(6) In developing a client's annual family or individual support plan, the individual or family with the assistance of the support planning team shall identify measurable objectives for client progress and shall specify a time period expected for achievement of each objective.

(7) The individual, family, and support coordinator shall review progress in achieving the objectives specified in each client's family or individual support plan, and shall revise the plan annually, following consultation with the client, if competent, or with the parent or guardian of the client, or, when appropriate, the client advocate. The agency or designated contractor shall annually report in writing to the client, if competent, or to the parent or guardian of the client, or to the client advocate, when appropriate, with respect to the client's habilitative and medical progress.

(8) Any client, or any parent of a minor client, or guardian, authorized guardian advocate, or client advocate for a client, who is substantially affected by the client's initial family or individual support plan, or the annual review thereof, shall have the right to file a notice to challenge the decision pursuant to ss. 120.569 and 120.57. Notice of such right to





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appeal shall be included in all support plans provided by the agency.

Section 4. Subsection (1) of section 393.0655, Florida Statutes, is amended to read:

393.0655 Screening of direct service providers.—

(1) MINIMUM STANDARDS.—The agency shall require level 2 employment screening pursuant to chapter 435 for direct service providers who are unrelated to their clients, including support coordinators, and managers and supervisors of residential facilities or adult day training ~~comprehensive transitional education~~ programs licensed under this chapter and any other person, including volunteers, who provide care or services, who have access to a client's living areas, or who have access to a client's funds or personal property. Background screening must ~~shall~~ include employment history checks as provided in s. 435.03(1) and local criminal records checks through local law enforcement agencies.

(a) A volunteer who assists on an intermittent basis for less than 10 hours per month does not have to be screened if a person who meets the screening requirement of this section is always present and has the volunteer within his or her line of sight.

(b) Licensed physicians, nurses, or other professionals licensed and regulated by the Department of Health are not subject to background screening pursuant to this section if they are providing a service that is within their scope of licensed practice.

(c) A person selected by the family or the individual with developmental disabilities and paid by the family or the



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individual to provide supports or services is not required to have a background screening under this section.

(d) Persons 12 years of age or older, including family members, residing with a direct services provider who provides services to clients in his or her own place of residence are subject to background screening; however, such persons who are 12 to 18 years of age shall be screened for delinquency records only.

Section 5. Section 393.067, Florida Statutes, is amended to read:

393.067 Facility licensure.—

(1) The agency shall provide through its licensing authority and by rule license application procedures, provider qualifications, facility and client care standards, requirements for client records, requirements for staff qualifications and training, and requirements for monitoring foster care facilities, group home facilities, residential habilitation centers, and adult day training ~~comprehensive transitional education~~ programs that serve agency clients.

(2) The agency shall conduct annual inspections and reviews of facilities and adult day training programs licensed under this section.

(3) An application for a license under this section must be made to the agency on a form furnished by it and shall be accompanied by the appropriate license fee.

(4) The application shall be under oath and shall contain the following:

(a) The name and address of the applicant, if an applicant is an individual; if the applicant is a firm, partnership, or



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association, the name and address of each member thereof; if the applicant is a corporation, its name and address and the name and address of each director and each officer thereof; and the name by which the facility or program is to be known.

(b) The location of the facility or adult day training program for which a license is sought.

(c) The name of the person or persons under whose management or supervision the facility or adult day training program will be conducted.

(d) The number and type of residents or clients for which maintenance, care, education, or treatment is to be provided by the facility or adult day training program.

~~(e) The number and location of the component centers or units which will compose the comprehensive transitional education program.~~

~~(f)~~ A description of the types of services and treatment to be provided by the facility or adult day training program.

~~(f)(g)~~ Information relating to the number, experience, and training of the employees of the facility or adult day training program.

~~(g)(h)~~ Certification that the staff of the facility or adult day training program will receive training to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment, as defined in ss. 39.01 and 415.102, of residents and clients.

~~(h)(i)~~ ~~Such other~~ Information as the agency determines is necessary to carry out the provisions of this chapter.

(5) As a prerequisite for issuance of an initial or renewal license, the applicant, and any manager, supervisor, and staff



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member of the direct service provider of a facility or adult day training program licensed under this section, must have submitted to background screening as required under s. 393.0655. A license may not be issued or renewed if the applicant or any manager, supervisor, or staff member of the direct service provider has a disqualifying offense revealed by ~~failed~~ background screenings ~~as~~ required under s. 393.0655. The agency shall determine by rule the frequency of background screening. The applicant shall submit with each initial or renewal application a signed affidavit under penalty of perjury stating that the applicant and any manager, supervisor, or staff member of the direct service provider is in compliance with all requirements for background screening.

(6) A facility or program ~~The~~ applicant shall furnish satisfactory proof of financial ability to operate and conduct the facility or program in accordance with the requirements of this chapter and adopted rules.

(7) The agency shall adopt rules establishing minimum standards for facilities and adult day training programs licensed under this section, including rules requiring facilities and adult day training programs to train staff to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment, as defined in ss. 39.01 and 415.102, of residents and clients, minimum standards of quality and adequacy of client care, incident reporting requirements, and uniform firesafety standards established by the State Fire Marshal which are appropriate to the size of the facility or adult day training ~~of the component centers or units of the~~ program.



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(8) The agency, after consultation with the Division of Emergency Management, shall adopt rules for foster care facilities, group home facilities, ~~and~~ residential habilitation centers, and adult day training programs which establish minimum standards for the preparation and annual update of a comprehensive emergency management plan. At a minimum, the rules must provide for plan components that address emergency evacuation transportation; adequate sheltering arrangements; postdisaster activities, including emergency power, food, and water; postdisaster transportation; supplies; staffing; emergency equipment; individual identification of residents and transfer of records; and responding to family inquiries. The comprehensive emergency management plan for all facilities and adult day training ~~comprehensive transitional education~~ programs ~~and for homes~~ serving individuals who have a complex medical condition ~~conditions~~ is subject to review and approval by the local emergency management agency. During its review, the local emergency management agency shall ensure that the agency and the Division of Emergency Management, at a minimum, are given the opportunity to review the plan. Also, appropriate volunteer organizations must be given the opportunity to review the plan. The local emergency management agency shall complete its review within 60 days and either approve the plan or advise the facility or program of necessary revisions.

(9) The agency may conduct unannounced inspections to determine compliance by foster care facilities, group home facilities, residential habilitation centers, and adult day training ~~comprehensive transitional education~~ programs with the applicable provisions of this chapter and the rules adopted



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pursuant hereto, including the rules adopted for training staff of a facility or an adult day training a program to detect, report, and prevent sexual abuse, abuse, neglect, exploitation, and abandonment, as defined in ss. 39.01 and 415.102, of residents and clients. The facility or adult day training program shall make copies of inspection reports available to the public upon request.

(10) Each facility or program licensed under this section shall forward annually to the agency a true and accurate sworn statement of its costs of providing care to clients funded by the agency.

(11) The agency may audit the records of any facility or program that it has reason to believe may not be in full compliance with ~~the provisions of~~ this section; provided that, any financial audit of such facility or program is ~~shall be~~ limited to the records of clients funded by the agency.

(12) The agency shall establish, for the purpose of control of licensure costs, a uniform management information system and a uniform reporting system with uniform definitions and reporting categories.

(13) Facilities and adult day training programs licensed under ~~pursuant to~~ this section shall adhere to all rights specified in s. 393.13, ~~including those enumerated in s. 393.13(4).~~

(14) The agency may not authorize funds or services to an unlicensed facility or adult day training program that requires a license under this section ~~may not receive state funds~~. A license for the operation of a facility or an adult day training program may ~~shall~~ not be renewed if the licensee has any



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outstanding fines assessed pursuant to this chapter wherein  
final adjudication of such fines has been entered.

(15) The agency is not required to contract with facilities  
or adult day training programs licensed under ~~pursuant to~~ this  
chapter.

Section 6. Section 393.0673, Florida Statutes, is amended  
to read:

393.0673 Denial, suspension, or revocation of license;  
moratorium on admissions; administrative fines; procedures.—

(1) The following constitute grounds for which the agency  
may take disciplinary action, including revoking or suspending  
~~revoke or suspend~~ a license and imposing or impose an  
administrative fine, not to exceed \$1,000 per violation per day,  
~~if~~:

(a) The licensee has:

1. Falsely represented or omitted a material fact in its  
license application submitted under s. 393.067;

2. Had prior action taken against it under the Medicaid or  
Medicare program; or

3. Failed to comply with the applicable requirements of  
this chapter or rules applicable to the licensee; or

(b) The Department of Children and Families has verified  
that the licensee is responsible for the abuse, neglect, or  
abandonment of a child or the abuse, neglect, or exploitation of  
a vulnerable adult.

(2) For purposes of disciplinary action under this section  
for verified findings of abuse, neglect, abandonment, or  
exploitation of a child or vulnerable adult, the licensee is  
responsible not only for administration of the facilities in



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compliance with the standards set out by statute and  
administrative rule, but is ultimately responsible for the care  
and supervision of the clients in the facility or the  
participants of the program.

(a) A licensee may not delegate to others the ultimate  
responsibility for the safety of the clients in its care.

(b) A licensee is subject to disciplinary action for an  
employee's lapse in care or supervision of the clients at the  
facility or the participants of the program in which a verified  
finding of abuse, neglect, abandonment, or exploitation  
occurred.

(c) Remedial action taken by the licensee does not affect  
the agency's ability to impose disciplinary action for the  
underlying violation.

(3) The agency may deny an application for licensure  
submitted under s. 393.067 if:

(a) The applicant has:

1. Falsely represented or omitted a material fact in its  
license application submitted under s. 393.067;

2. Had prior action taken against it under the Medicaid or  
Medicare program;

3. Failed to comply with the applicable requirements of  
this chapter or rules applicable to the applicant; or

4. Previously had a license to operate a residential  
facility or adult day training program revoked by the agency,  
the Department of Children and Families, or the Agency for  
Health Care Administration; ~~or~~

(b) The Department of Children and Families has verified  
that the applicant is responsible for the abuse, neglect, or





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abandonment of a child or the abuse, neglect, or exploitation of  
a vulnerable adult; or

(c) The agency has determined that there is clear and  
convincing evidence that the applicant is unqualified for a  
license because of a lack of good moral character. For purposes  
of this paragraph, the term "good moral character" means a  
personal history of honesty, fairness, and respect for the  
rights of others and for the laws of this state and the Federal  
Government.

(4)(3) All hearings must ~~shall~~ be held within the county in  
which the licensee or applicant operates or applies for a  
license to operate a facility or adult day training program as  
defined herein.

(5)(4) The agency, as a part of any final order issued by  
it under this chapter, may impose such fine as it deems proper,  
except that such fine may not exceed \$1,000 for each violation.  
Each day a violation of this chapter occurs constitutes a  
separate violation and is subject to a separate fine, but in no  
event may the aggregate amount of any fine exceed \$10,000. Fines  
paid by any facility licensee under ~~the provisions of~~ this  
subsection shall be deposited in the Health Care Trust Fund and  
expended as provided in s. 400.063.

(6)(5) The agency may issue an order immediately suspending  
or revoking a license when it determines that any condition of  
~~in~~ the facility or adult day training program presents a danger  
to the health, safety, or welfare of the residents in the  
facility or the program participants.

(7)(6) The agency may impose an immediate moratorium on  
admissions to any facility or service authorizations to a



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facility or adult day training program when the agency determines that any condition of ~~in~~ the facility or adult day training program presents a threat to the health, safety, or welfare of the residents in the facility or the program participants.

(8) ~~(7)~~ The agency shall establish by rule criteria for evaluating the severity of violations and for determining the amount of fines imposed.

Section 7. Subsection (1) of section 393.0678, Florida Statutes, is amended to read:

393.0678 Receivership proceedings.—

(1) The agency may petition a court of competent jurisdiction for the appointment of a receiver for ~~a comprehensive transitional education program~~, a residential habilitation center, or a group home facility owned and operated by a corporation or partnership when any of the following conditions exist:

(a) Any person is operating a facility without a license and refuses to make application for a license as required by s. 393.067.

(b) The licensee is closing the facility or has informed the agency ~~department~~ that it intends to close the facility; and adequate arrangements have not been made for relocation of the residents within 7 days, exclusive of weekends and holidays, of the closing of the facility.

(c) The agency determines that conditions exist in the facility which present an imminent danger to the health, safety, or welfare of the residents of the facility or which present a substantial probability that death or serious physical harm



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would result therefrom. Whenever possible, the agency shall facilitate the continued operation of the program.

(d) The licensee cannot meet its financial obligations to provide food, shelter, care, and utilities. Evidence such as the issuance of bad checks or the accumulation of delinquent bills for such items as personnel salaries, food, drugs, or utilities constitutes prima facie evidence that the ownership of the facility lacks the financial ability to operate the home in accordance with the requirements of this chapter and all rules adopted ~~promulgated~~ thereunder.

Section 8. Subsection (2) of section 393.135, Florida Statutes, is amended to read:

393.135 Sexual misconduct prohibited; reporting required; penalties.—

(2) A covered person who engages in sexual misconduct with an individual with a developmental disability who:

(a) Resides in a residential facility, including any ~~comprehensive transitional education program~~, developmental disabilities center, foster care facility, group home facility, intermediate care facility for the developmentally disabled, or residential habilitation center; or

(b) Is eligible to receive services from the agency under this chapter,

commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A covered person may be found guilty of violating this subsection without having committed the crime of sexual battery.

Section 9. Section 393.18, Florida Statutes, is repealed.



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Section 10. Paragraph (c) of subsection (3) of section 394.875, Florida Statutes, is amended to read:

394.875 Crisis stabilization units, residential treatment facilities, and residential treatment centers for children and adolescents; authorized services; license required.—

(3) The following are exempt from licensure as required in ss. 394.455-394.903:

~~(c) Comprehensive transitional education programs licensed under s. 393.067.~~

Section 11. Paragraph (b) of subsection (1) of section 383.141, Florida Statutes, is amended to read:

383.141 Prenatally diagnosed conditions; patient to be provided information; definitions; information clearinghouse; advisory council.—

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

(b) "Developmental disability" includes Down syndrome and other developmental disabilities defined by s. 393.063 ~~s. 393.063(12)~~.

Section 12. Subsection (1) of section 400.063, Florida Statutes, is amended to read:

400.063 Resident protection.—

(1) The Health Care Trust Fund shall be used for the purpose of collecting and disbursing funds generated from the license fees and administrative fines as provided for in ss. 393.0673(5) ~~ss. 393.0673(4)~~, 400.062(3), 400.121(2), and 400.23(8). Such funds shall be for the sole purpose of paying for the appropriate alternate placement, care, and treatment of residents who are removed from a facility licensed under this part or a facility specified in s. 393.0678(1) in which the



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agency determines that existing conditions or practices constitute an immediate danger to the health, safety, or security of the residents. If the agency determines that it is in the best interest of the health, safety, or security of the residents to provide for an orderly removal of the residents from the facility, the agency may utilize such funds to maintain and care for the residents in the facility pending removal and alternative placement. The maintenance and care of the residents shall be under the direction and control of a receiver appointed pursuant to s. 393.0678(1) or s. 400.126(1). However, funds may be expended in an emergency upon a filing of a petition for a receiver, upon the declaration of a state of local emergency pursuant to s. 252.38(3)(a)5., or upon a duly authorized local order of evacuation of a facility by emergency personnel to protect the health and safety of the residents.

Section 13. Paragraph (d) of subsection (2) of section 1002.394, Florida Statutes, is amended to read:

1002.394 The Family Empowerment Scholarship Program.—

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

(d) "Disability" means, for a 3- or 4-year-old child or for a student in kindergarten to grade 12, autism spectrum disorder, as defined in the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, published by the American Psychiatric Association; cerebral palsy, as defined in s. 393.063; Down syndrome, as defined in s. 393.063; an intellectual disability, as defined in s. 393.063; a speech impairment; a language impairment; an orthopedic impairment; any ~~an~~ other health impairment; an emotional or a behavioral disability; a specific learning disability, including, but not limited to, dyslexia,



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dyscalculia, or developmental aphasia; Phelan-McDermid syndrome, as defined in s. 393.063; Prader-Willi syndrome, as defined in s. 393.063; spina bifida, as defined in s. 393.063; being a high-risk child, as defined in s. 393.063(22)(a) ~~s.~~

~~393.063(23)(a)~~; muscular dystrophy; Williams syndrome; rare diseases which affect patient populations of fewer than 200,000 individuals in the United States, as defined by the National Organization for Rare Disorders; anaphylaxis; a hearing impairment, including deafness; a visual impairment, including blindness; traumatic brain injury; hospital or homebound; or identification as dual sensory impaired, as defined by rules of the State Board of Education and evidenced by reports from local school districts. The term "hospital or homebound" includes a student who has a medically diagnosed physical or psychiatric condition or illness, as defined by the state board in rule, and who is confined to the home or hospital for more than 6 months.

Section 14. This act shall take effect October 1, 2024.

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to the Agency for Persons with Disabilities; amending s. 393.063, F.S.; revising and defining terms; amending s. 393.065, F.S.; requiring the Agency for Persons with Disabilities to make certain eligibility determinations within specified time periods; providing eligibility requirements for applicants; requiring the agency to authorize



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admission into an intermediate care facility for certain individuals; removing a provision requiring the agency to perform specified assessments to determine level of need and medical necessity for intermediate care facilities; providing requirements for the home and community-based services Medicaid waiver; amending s. 393.0651; conforming provisions to changes made by the act; amending s. 393.0655, F.S.; revising background screening requirements for certain direct service providers; amending s. 393.067, F.S.; requiring the licensure of adult day training programs; conforming related application and licensure provisions to changes made by the act; providing for comprehensive emergency management plans of adult day training programs; providing for inspections of adult day training programs; requiring adult day training programs to adhere to specified rights; conforming provisions to changes made by the act; amending s. 393.0673, F.S.; revising provisions related to disciplinary action against certain licensees to include licensed adult day training programs; providing that for purposes of disciplinary action for certain violations, a licensee is ultimately responsible for the care and supervision of clients in its facility or participants of the program; providing construction; revising grounds for denial of a licensure application; defining the term "good moral character"; authorizing the agency to immediately suspend or revoke the license of adult day training



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programs under certain circumstances; authorizing the agency to impose an immediate moratorium on service authorizations to licensed facilities and adult day training programs under certain circumstances; amending s. 393.0678, F.S.; conforming provisions to changes made by the act; making a technical correction; amending s. 393.135, F.S.; conforming provisions to changes made by the act; repealing s. 393.18, F.S., relating to comprehensive transitional education programs; amending s. 394.875, F.S.; conforming a provision to changes made by the act; amending ss. 383.141, 400.063, and 1002.394, F.S.; conforming cross-references; providing an effective date.





663310

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/04/2023	.	
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The Committee on Health Policy (Book) recommended the following:

**Senate Amendment to Amendment (859062) (with title amendment)**

Delete lines 212 - 216

and insert:

393.0651, the agency must provide ~~shall send~~ an annual letter requesting updated information from the client, the client's guardian, or the client's family. The agency must ensure that the letter and the method for updating the requested information is provided in an accessible format, taking into consideration the particular disability of the client. The agency must ~~shall~~



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remove from the pre-enrollment categories ~~waiting list~~ any individual who cannot be located using the contact information provided to the agency, if such individual is assigned to a pre-enrollment category on or after July 1, 2023,

===== T I T L E   A M E N D M E N T =====

And the title is amended as follows:

Delete line 800

and insert:

waiver; requiring the agency to ensure that a certain annual letter and the method for updating certain information with the agency is provided in an accessible format, particular to the client's disability; revising criteria for the removal of certain individuals from the pre-enrollment categories; amending s. 393.0651, F.S.; conforming provisions to

By Senator Brodeur

10-01012-23

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A bill to be entitled

An act relating to services for persons with disabilities; amending s. 393.065, F.S.; revising provisions related to the application for services for persons with disabilities; revising timeframes within which the Agency for Persons with Disabilities must make certain eligibility determinations; requiring the agency to request additional documentation from applicants if it determines such documentation is necessary to make an eligibility determination; specifying requirements for the agency's eligibility determinations; revising procedures for admissions to intermediate care facilities for the developmentally disabled; requiring the agency to assign certain clients to a waiting list; revising provisions related to the prioritization of clients waiting for certain waiver services; requiring the agency to place certain clients on an agency registration list; providing that only agency clients are eligible for certain services; specifying eligibility criteria for such services; amending s. 393.0651, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 393.065, Florida Statutes, is amended to read:

393.065 Application and eligibility determination.—

(1) Application for services ~~must~~ shall be made in writing

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

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to the agency, in the region service area in which the applicant resides. The agency shall review each application and make an eligibility determination ~~applicant for eligibility within 45 days after the date the application is signed for children under 6 years of age and~~ within 60 days after receipt of the signed application. If an applicant is requesting enrollment in the home and community-based services (HCBS) Medicaid waiver program for a person with developmental disabilities due to crisis, as specified in paragraph (5) (a), at the time of the application, the agency must complete an eligibility determination within 45 days after receipt of the signed application.

(a) If the agency determines additional documentation is necessary to make a proper determination on an applicant's eligibility, the agency must request the necessary documentation from the applicant ~~the date the application is signed for all other applicants.~~

(b) When necessary to definitively identify individual conditions or needs, the agency shall provide a comprehensive assessment.

(c) If the agency requests additional documentation from an applicant or provides a comprehensive assessment, the agency's eligibility determination must be completed within 90 days after receipt of the signed application.

(2) To be eligible for services under this chapter, the agency's eligibility determination must find the applicant has satisfied all procedural requirements and eligibility criteria found in rule, which must include, but need not be limited to, the requirement that the applicant have a developmental disability and be domiciled in Florida ~~Only applicants whose~~

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

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59 ~~domicile is in Florida are eligible for services.~~ Information  
60 accumulated by other agencies, including professional reports  
61 and collateral data, must ~~shall~~ be considered in this process  
62 when available.

63 ~~(2) In order to provide immediate services or crisis~~  
64 ~~intervention to applicants, the agency shall arrange for~~  
65 ~~emergency eligibility determination, with a full eligibility~~  
66 ~~review to be accomplished within 45 days of the emergency~~  
67 ~~eligibility determination.~~

68 (3) The agency shall notify each applicant, in writing, of  
69 its eligibility determination decision. Any applicant or client  
70 determined by the agency to be ineligible for services has the  
71 right to appeal this decision pursuant to ss. 120.569 and  
72 120.57.

73 (4) Any admission to an intermediate care facility for the  
74 developmentally disabled must be authorized by the agency. As  
75 part of the authorization, the agency, or its designee, shall  
76 conduct an assessment, including an assessment of medical  
77 necessity and level of reimbursement ~~The agency shall assess the~~  
78 ~~level of need and medical necessity for prospective residents of~~  
79 ~~intermediate care facilities for the developmentally disabled.~~  
80 ~~The agency may enter into an agreement with the Department of~~  
81 ~~Elderly Affairs for its Comprehensive Assessment and Review for~~  
82 ~~Long-Term-Care Services (CARES) program to conduct assessments~~  
83 ~~to determine the level of need and medical necessity for long-~~  
84 ~~term-care services under this chapter. To the extent permissible~~  
85 ~~under federal law, the assessments shall be funded under Title~~  
86 ~~XIX of the Social Security Act.~~

87 (5) The agency shall assign any client that meets the level

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88 of care requirement for an intermediate care facility for  
89 individuals with intellectual disabilities pursuant to 42 C.F.R.  
90 s. 435.217(b)(1) and 42 C.F.R. s. 440.150 to a waiting list, and  
91 shall provide priority to clients waiting for waiver services in  
92 the following order:

93 (a) Category 1, which includes clients deemed to be in  
94 crisis as described in rule, shall be given first priority in  
95 moving from the waiting list to the waiver.

96 (b) Category 2, which includes individuals on the waiting  
97 list who are:

98 1. From the child welfare system with an open case in the  
99 Department of Children and Families' statewide automated child  
100 welfare information system and who are either:

101 a. Transitioning out of the child welfare system at the  
102 finalization of an adoption, a reunification with family  
103 members, a permanent placement with a relative, or a  
104 guardianship with a nonrelative; or

105 b. At least 18 years but not yet 22 years of age and who  
106 need both waiver services and extended foster care services; or

107 2. At least 18 years but not yet 22 years of age and who  
108 withdrew consent pursuant to s. 39.6251(5)(c) to remain in the  
109 extended foster care system.

110 For individuals who are at least 18 years but not yet 22 years  
111 of age and who are eligible under sub-subparagraph 1.b., the  
112 agency shall provide waiver services, including residential  
113 habilitation, and the community-based care lead agency shall  
114 fund room and board at the rate established in s. 409.145(3) and  
115 provide case management and related services as defined in s.  
116

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409.986(3)(e). Individuals may receive both waiver services and services under s. 39.6251. Services may not duplicate services available through the Medicaid state plan.

(c) Category 3, which includes, but is not required to be limited to, clients:

1. Whose caregiver has a documented condition that is expected to render the caregiver unable to provide care within the next 12 months and for whom a caregiver is required but no alternate caregiver is available;

2. At substantial risk of incarceration or court commitment without supports;

3. Whose documented behaviors or physical needs place them or their caregiver at risk of serious harm and other supports are not currently available to alleviate the situation; or

4. Who are identified as ready for discharge within the next year from a state mental health hospital or skilled nursing facility and who require a caregiver but for whom no caregiver is available or whose caregiver is unable to provide the care needed.

(d) Category 4, which includes, but is not required to be limited to, clients whose caregivers are 70 years of age or older and for whom a caregiver is required but no alternate caregiver is available.

(e) Category 5, which includes, but is not required to be limited to, clients who are expected to graduate within the next 12 months from secondary school and need support to obtain a meaningful day activity, maintain competitive employment, or pursue an accredited program of postsecondary education to which they have been accepted.

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(f) Category 6, which includes clients 21 years of age or older who do not meet the criteria for category 1, category 2, category 3, category 4, or category 5.

~~(g) Category 7, which includes clients younger than 21 years of age who do not meet the criteria for category 1, category 2, category 3, or category 4.~~

(6) Within categories 3, 4, 5, and 6, ~~and 7~~, the agency shall maintain a waiting list of clients placed in the order of the date that the client is determined eligible for waiver services.

(7) The agency shall place on an agency registration list any client who meets the level of care requirement for an intermediate care facility for individuals with intellectual disabilities pursuant to 42 C.F.R. s. 435.217(b)(1) and 42 C.F.R. s. 440.150 and is:

(a) Younger than 21 years of age, requesting but not receiving waiver services, and not assigned to category 1, category 2, category 3, category 4, or category 5; or

(b) An adult that resides in an institutional setting, including, but not limited to, a penal institution, an intermediate care facility for the developmentally disabled, a mental health hospital, a nursing home, or a forensic facility run by the agency pursuant to chapter 916.

~~(8)-(6)~~ The agency shall allow an individual who meets the eligibility requirements of subsection (2) ~~subsection (1)~~ to receive home and community-based services in this state if the individual's parent or legal guardian is an active-duty military servicemember and if, at the time of the servicemember's transfer to this state, the individual was receiving home and

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community-based services in another state.

~~(9)(7)~~ The agency shall allow an individual with a diagnosis of Phelan-McDermid syndrome who meets the eligibility requirements of subsection (2) ~~subsection (1)~~ to receive home and community-based services.

(10) Only a client may be eligible for services under the HCBS Medicaid waiver program. To receive services under the HCBS Medicaid waiver program, there must be available funding pursuant to s. 393.0662 or other legislative appropriation, and a client must:

(a) Meet the eligibility criteria as provided in subsection (2), which must be confirmed by the agency;

(b) Be eligible for the state Medicaid program under Title XIX of the Social Security Act or the Supplemental Security Income program;

(c) Meet the level of care requirements for an intermediate care facility for individuals with intellectual disabilities pursuant to 42 C.F.R. s. 435.217(b)(1) and 42 C.F.R. s. 440.150; and

(d) Meet the requirements set forth in the approved federal waiver authorized under s. 1915(c) of the Social Security Act and 42 C.F.R. s. 441.302.

~~(11)(8)~~ Agency action that selects individuals to receive waiver services pursuant to this section does not establish a right to a hearing or an administrative proceeding under chapter 120 for individuals remaining on the waiting list.

~~(12)(9)~~ The client, the client's guardian, or the client's family must ensure that accurate, up-to-date contact information is provided to the agency at all times. Notwithstanding s.

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393.0651, the agency shall send an annual letter requesting updated information from the client, the client's guardian, or the client's family. The agency shall remove from the waiting list any individual who cannot be located using the contact information provided to the agency, fails to meet eligibility requirements, or becomes domiciled outside the state.

(13)(a)(10)(a) The agency shall provide the following information to all applicants or their parents, legal guardians, or family members:

1. A brief overview of the vocational rehabilitation services offered through the Division of Vocational Rehabilitation of the Department of Education, including a hyperlink or website address that provides access to the application for such services;

2. A brief overview of the Florida ABLE program as established under s. 1009.986, including a hyperlink or website address that provides access to the application for establishing an ABLE account as defined in s. 1009.986(2);

3. A brief overview of the supplemental security income benefits and social security disability income benefits available under Title XVI of the Social Security Act, as amended, including a hyperlink or website address that provides access to the application for such benefits;

4. A statement indicating that the applicant's local public school district may provide specialized instructional services, including transition programs, for students with special education needs;

5. A brief overview of programs and services funded through the Florida Center for Students with Unique Abilities, including

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contact information for each state-approved Florida  
Postsecondary Comprehensive Transition Program;

6. A brief overview of decisionmaking options for  
individuals with disabilities, guardianship under chapter 744,  
and alternatives to guardianship as defined in s. 744.334(1),  
which may include contact information for organizations that the  
agency believes would be helpful in assisting with such  
decisions;

7. A brief overview of the referral tools made available  
through the agency, including a hyperlink or website address  
that provides access to such tools; and

8. A statement indicating that some waiver providers may  
serve private-pay individuals.

(b) The agency must provide the information required in  
paragraph (a) in writing to an applicant or his or her parent,  
legal guardian, or family member along with a written disclosure  
statement in substantially the following form:

#### DISCLOSURE STATEMENT

Each program and service has its own eligibility requirements.  
By providing the information specified in section 395.065(13)(a)  
~~393.065(10)(a)~~, Florida Statutes, the agency does not guarantee  
an applicant's eligibility for or enrollment in any program or  
service.

(c) The agency shall also publish the information required  
in paragraph (a) and the disclosure statement in paragraph (b)  
on its website, and shall provide that information and statement  
annually to each applicant placed on the waiting list or to the

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parent, legal guardian, or family member of such applicant.

~~(14)-(11)~~ The agency and the Agency for Health Care  
Administration may adopt rules specifying application  
procedures, criteria associated with the waiting list  
categories, procedures for administering the waiting list,  
including tools for prioritizing waiver enrollment within  
categories, and eligibility criteria as needed to administer  
this section.

Section 2. Section 393.0651, Florida Statutes, is amended  
to read:

393.0651 Family or individual support plan.—The agency  
shall provide directly or contract for the development of a  
family support plan for children ages 3 to 18 years of age and  
an individual support plan for each client. The client, if  
competent, the client's parent or guardian, or, when  
appropriate, the client advocate, shall be consulted in the  
development of the plan and shall receive a copy of the plan.  
Each plan must include the most appropriate, least restrictive,  
and most cost-beneficial environment for accomplishment of the  
objectives for client progress and a specification of all  
services authorized. The plan must include provisions for the  
most appropriate level of care for the client. Within the  
specification of needs and services for each client, when  
residential care is necessary, the agency shall move toward  
placement of clients in residential facilities based within the  
client's community. The ultimate goal of each plan, whenever  
possible, shall be to enable the client to live a dignified life  
in the least restrictive setting, be that in the home or in the  
community. ~~For children under 6 years of age,~~ The family or

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291 individual support plan shall be developed within the timeframes  
 292 ~~45-day application period as specified in s. 393.065(1), for all~~  
 293 ~~applicants 6 years of age or older, the family or individual~~  
 294 ~~support plan shall be developed within the 60-day period as~~  
 295 ~~specified in that subsection.~~

296 (1) The agency shall develop and specify by rule the core  
 297 components of support plans.

298 (2) The family or individual support plan shall be  
 299 integrated with the individual education plan (IEP) for all  
 300 clients who are public school students entitled to a free  
 301 appropriate public education under the Individuals with  
 302 Disabilities Education Act, I.D.E.A., as amended. The family or  
 303 individual support plan and IEP shall be implemented to maximize  
 304 the attainment of educational and habilitation goals.

305 (a) If the IEP for a student enrolled in a public school  
 306 program indicates placement in a public or private residential  
 307 program is necessary to provide special education and related  
 308 services to a client, the local education agency shall provide  
 309 for the costs of that service in accordance with the  
 310 requirements of the Individuals with Disabilities Education Act,  
 311 I.D.E.A., as amended. This shall not preclude local education  
 312 agencies and the agency from sharing the residential service  
 313 costs of students who are clients and require residential  
 314 placement.

315 (b) For clients who are entering or exiting the school  
 316 system, an interdepartmental staffing team composed of  
 317 representatives of the agency and the local school system shall  
 318 develop a written transitional living and training plan with the  
 319 participation of the client or with the parent or guardian of

Page 11 of 14

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

10-01012-23 20231594\_\_

320 the client, or the client advocate, as appropriate.

321 (3) Each family or individual support plan shall be  
 322 facilitated through case management designed solely to advance  
 323 the individual needs of the client.

324 (4) In the development of the family or individual support  
 325 plan, a client advocate may be appointed by the support planning  
 326 team for a client who is a minor or for a client who is not  
 327 capable of express and informed consent when:

328 (a) The parent or guardian cannot be identified;

329 (b) The whereabouts of the parent or guardian cannot be  
 330 discovered; or

331 (c) The state is the only legal representative of the  
 332 client.

333

334 Such appointment shall not be construed to extend the powers of  
 335 the client advocate to include any of those powers delegated by  
 336 law to a legal guardian.

337 (5) The agency shall place a client in the most appropriate  
 338 and least restrictive, and cost-beneficial, residential facility  
 339 according to his or her individual support plan. The client, if  
 340 competent, the client's parent or guardian, or, when  
 341 appropriate, the client advocate, and the administrator of the  
 342 facility to which placement is proposed shall be consulted in  
 343 determining the appropriate placement for the client.  
 344 Considerations for placement shall be made in the following  
 345 order:

346 (a) Client's own home or the home of a family member or  
 347 direct service provider.

348 (b) Foster care facility.

Page 12 of 14

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



10-01012-23

20231594\_\_

349 (c) Group home facility.

350 (d) Intermediate care facility for the developmentally

351 disabled.

352 (e) Other facilities licensed by the agency which offer

353 special programs for people with developmental disabilities.

354 (f) Developmental disabilities center.

355 (6) In developing a client's annual family or individual

356 support plan, the individual or family with the assistance of

357 the support planning team shall identify measurable objectives

358 for client progress and shall specify a time period expected for

359 achievement of each objective.

360 (7) The individual, family, and support coordinator shall

361 review progress in achieving the objectives specified in each

362 client's family or individual support plan, and shall revise the

363 plan annually, following consultation with the client, if

364 competent, or with the parent or guardian of the client, or,

365 when appropriate, the client advocate. The agency or designated

366 contractor shall annually report in writing to the client, if

367 competent, or to the parent or guardian of the client, or to the

368 client advocate, when appropriate, with respect to the client's

369 habilitative and medical progress.

370 (8) Any client, or any parent of a minor client, or

371 guardian, authorized guardian advocate, or client advocate for a

372 client, who is substantially affected by the client's initial

373 family or individual support plan, or the annual review thereof,

374 shall have the right to file a notice to challenge the decision

375 pursuant to ss. 120.569 and 120.57. Notice of such right to

376 appeal shall be included in all support plans provided by the

377 agency.

Page 13 of 14

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

10-01012-23

20231594\_\_

378 Section 3. This act shall take effect July 1, 2023.

Page 14 of 14

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations Committee on Agriculture,  
Environment, and General Government, *Chair*  
Health Policy, *Vice Chair*  
Appropriations  
Appropriations Committee on Health  
and Human Services  
Children, Families, and Elder Affairs  
Community Affairs  
Regulated Industries  
Rules

### JOINT COMMITTEE:

Joint Legislative Auditing Committee

### SENATOR JASON BRODEUR

10th District

March 27, 2023

The Honorable Colleen Burton  
Chair, Health Policy  
318 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Burton,

I respectfully request that **Senate Bill 1594, Services for Persons With Disabilities**, be placed on the agenda of the Health Policy meeting to be considered at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me or my office.

Sincerely,

A handwritten signature in black ink that reads "Jason Brodeur". The signature is written in a cursive style with a long, sweeping underline.

Senator Jason Brodeur – District 10

CC: Allen Brown – Staff Director  
Anhar Al-Asadi – Administrative Assistant  
Daniel Looke – Deputy Staff Director

### REPLY TO:

- 110 Timberlachen Circle, Suite 1012, Lake Mary, Florida 32746 (407) 333-1802
- 405 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

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

KATHLEEN PASSIDOMO  
President of the Senate

DENNIS BAXLEY  
President Pro Tempore

04/04/23

Meeting Date

HEALTH

Committee

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1594

Bill Number or Topic

663310

Amendment Barcode (if applicable)

Name

ALISON HUNNES

Phone

407-405-2210

Address

1620 RIDGE AVENUE

Email

hunnasas@aol.com

Street

LONGWOOD FL

State

32750

Zip

Speaking:

☒

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
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04/04/23

Meeting Date

HEALTH

Committee

SB 1594

Bill Number or Topic

663310

Amendment Barcode (if applicable)

Name

JJ HOLMES

Phone

407-405-2210

Address

1620 RIDGE AVENUE

Street

Email

HOLMESASSEMBLY@YAHOO.COM

LONGWOOD

City

FL

State

32750

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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04/04/23

Meeting Date

HEALTH

Committee

SB1594

Bill Number or Topic

Amendment Barcode (if applicable)

Name

JJ HOLMES

Phone

407-465-2210

Address

1620 RIDGE AVENUE

Email

~~LONGWOOD@HOLMESBOARD~~  
AHTD.com

Street

LONGWOOD

City

FL

State

32750

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

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S-001 (08/10/2021)



The Florida Senate

**APPEARANCE RECORD**

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Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

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S-001 (08/10/2021)

The Florida Senate

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Bill Number or Topic

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

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representing:

☐

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1594 as Amended

Bill Number or Topic

8/7/2023

Meeting Date

Senate Health Policy

Committee

Name Christian Harvey

Phone 850-791-0404

Address 4030 Esplanade Way

Street

Tallahassee FL 32399

City

State

Zip

Email christian.harvey@flsenate.org

Amendment Barcode (if applicable)

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

The Agency for Persons  
with Disabilities

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

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S-001 (08/10/2021)



The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
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04/04/23

Meeting Date

HEALTH

Committee

SB1594

Bill Number or Topic

Amendment Barcode (if applicable)

Name

ALISON HOLMES

Phone

407-405-2210

Address

1620 RIDGE AVENUE

Street

Email

HOLMESASSENAD@YAHOO.COM

LONGWOOD

City

FL

State

32750

Zip

Speaking:

☐

For

☒

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1594

Bill Number or Topic

Amendment Barcode (if applicable)

4/4/23  
Meeting Date

Health Policy  
Committee

Name Jewel S Dickson

Phone 386-717-4344

Address 601 N. Amelia Ave.  
Street

Email jeweldickson@mac

DeLand FL 32724  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
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sponsored by:

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

S-001 (08/10/2021)

April 4, 2023  
Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

SB 1594  
Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

\_\_\_\_\_  
Committee

\_\_\_\_\_  
Amendment Barcode (if applicable)

Name Jacqueline Moore

Phone 402 963 8574

Address 2750 Maureen Dr

Email myellowguy@aol.com

Deltona FL 32725  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
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This form is part of the public record for this meeting.

S-001 (08/10/2021)

## APPEARANCE RECORD

4/4/2023

1594

Meeting Date

Bill Number or Topic

Health Policy

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Dr. Carolyn Zonia

Phone

850-714-3793

Address

620 Pinetwoods Forest Loop

Email

zoniacarolyn@gmail.com

Street

Santa Rosa Beach FL 32459

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☒I am appearing without  
compensation or sponsorship.☐I am a registered lobbyist,  
representing:☐I am not a lobbyist, but received  
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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1594

Bill Number or Topic

Amendment Barcode (if applicable)

4-4  
Health Policy  
Meeting Date  
Committee

Name Barb Grimm

Phone \_\_\_\_\_

Address 1605 W. French Ave  
Street

Email \_\_\_\_\_

Orange City FL 32763  
City State Zip

Speaking: ☐ For ☐ Against ☒ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

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representing:

☐ I am not a lobbyist, but received  
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This form is part of the public record for this meeting.

S-001 (08/10/2021)

**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: SB 268

INTRODUCER: Senator Brodeur

SUBJECT: Health Care Expenses

DATE: April 2, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	<b>Favorable</b>
2.			AHS	
3.			FP	

---

## **I. Summary:**

SB 268 amends and creates multiple sections of law in order to limit how hospitals and ambulatory surgical centers (ASC) may collect medical debt and to exclude certain property from being collected through legal action on such debt. The bill prohibits certain billing and debt collection practices and limits legal actions on medical debt to three years after the debt has been referred to a collection service.

The bill also requires a hospital or ASC to post standard charges for specified services on its website and establish a process for reviewing and responding to grievances from patients. Additionally, the bill amends a provision of current law that requires hospitals and ASCs to provide estimates of anticipated charges for nonemergency services, to require that facilities also must provide such estimates to the patient's health insurer. The health insurer, in turn, is required under the bill to prepare an "advance explanation of benefits" for the patient, within a specified time frame prior to the service being provided, based on the facility's estimate.

The bill provides an effective date of July 1, 2023.

## **II. Present Situation:**

### **Florida Price Transparency: Florida Patient's Bill of Rights and Responsibilities**

In 1991, the Legislature enacted the Florida Patient's Bill of Rights and Responsibilities (Patient's Bill of Rights).<sup>1</sup> The statute established the right of patients to expect medical providers to observe standards of care in providing medical treatment and communicating with their patients.<sup>2</sup> The standards of care include, but are not limited to, the following aspects of medical treatment and patient communication:

---

<sup>1</sup> Section 1, Ch. 91-127, Laws of Fla. (1991); s. 381.026, F.S.

<sup>2</sup> Section 381.026(3), F.S.

- Individual dignity;
- Provision of information;
- Financial information and the disclosure of financial information;
- Access to health care;
- Experimental research; and
- Patient's knowledge of rights and responsibilities.

A patient has the right to request certain financial information from health care providers and facilities.<sup>3</sup> Specifically, upon request, a health care provider or health care facility must provide a person with a reasonable estimate of the cost of medical treatment prior to the provision of treatment.<sup>4</sup> Estimates must be written in language "comprehensible to an ordinary layperson."<sup>5</sup> The reasonable estimate does not preclude the health care provider or health care facility from exceeding the estimate or making additional charges as the patient's needs or medical condition warrant.<sup>6</sup> A patient has the right to receive a copy of an itemized bill upon request and to receive an explanation of charges upon request.<sup>7</sup>

Currently, under the financial information and disclosure provisions in the Patient's Bill of Rights:

- A request is necessary before a health care provider or health care facility must disclose to a Medicare-eligible patient whether the provider or facility accepts Medicare payment as full payment for medical services and treatment rendered in the provider's office or health care facility.
- A request is necessary before a health care provider or health care facility is required to furnish a person an estimate of charges for medical services before providing the services. The Florida Patient's Bill of Rights and Responsibilities does not require that the components making up the estimate be itemized or that the estimate be presented in a manner that is easily understood by an ordinary layperson.
- A licensed facility must place a notice in its reception area that financial information related to that facility is available on the website of the Agency for Health Care Administration (AHCA).
- The facility may indicate that the pricing information is based on a compilation of charges for the average patient and that an individual patient's charges may vary.
- A patient has the right to receive an itemized bill upon request.

Health care providers and health care facilities are required to make available to patients a summary of their rights. The applicable regulatory board or the AHCA may impose an administrative fine when a provider or facility fails to make available to patients a summary of their rights.<sup>8</sup>

---

<sup>3</sup> Section 381.026(4)(c), F.S.

<sup>4</sup> Section 381.026(4)(c)3., F.S.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Section 381.026(4)(c)5., F.S.

<sup>8</sup> Section 381.0261, F.S.

The Patient's Bill of Rights also authorizes, but does not require, primary care providers<sup>9</sup> to publish a schedule of charges for the medical services offered to patients.<sup>10</sup> The schedule must include certain price information for at least the 50 services most frequently provided by the primary care provider.<sup>11</sup> The law also requires the posting of the schedule in a conspicuous place in the reception area of the provider's office and at least 15 square feet in size.<sup>12</sup> A primary care provider who publishes and maintains a schedule of charges is exempt from licensure fees for a single renewal of a professional license and from the continuing education requirements for a single two-year period.<sup>13</sup>

The law also requires urgent care centers to publish a schedule of charges for the medical services offered to patients.<sup>14</sup> This applies to any entity that holds itself out to the general public, in any manner, as a facility or clinic where immediate, but not emergent, care is provided, expressly including offsite facilities of hospitals or hospital-physician joint ventures, and licensed health care clinics that operate in three or more locations. The schedule requirements for urgent care centers are the same as those established for primary care providers.<sup>15</sup> The schedule must describe each medical service in language comprehensible to a layperson. This provision prevents a center from using medical or billing codes, Latin phrases, or technical medical jargon as the only description of each medical service. An urgent care center that fails to publish and post the schedule of charges is subject to a fine of not more than \$1,000 per day, until the schedule is published and posted.<sup>16</sup>

### **Florida Price Transparency: Health Care Facilities**

Under s. 395.301, F.S., a health care facility<sup>17</sup> must provide, within seven days of a written request, a good faith estimate of reasonably anticipated charges for the facility to treat the patient's condition. Upon request, the facility must also provide revisions to the estimate. The estimate may represent the average charges for that diagnosis related group<sup>18</sup> or the average charges for that procedure. The facility is required to place a notice in the reception area that this information is available. A facility that fails to provide the estimate as required may be fined \$500 for each instance of the facility's failure to provide the requested information.

Also, pursuant to s. 395.301, F.S., a licensed facility must notify each patient during admission and at discharge of his or her right to receive an itemized bill upon request. If requested, within seven days of discharge or release, the licensed facility must provide an itemized statement, in

---

<sup>9</sup> Section 381.026(2)(d), F.S., defines primary care providers to include allopathic physicians, osteopathic physicians, and nurses who provide medical services that are commonly provided without referral from another health care provider, including family and general practice, general pediatrics, and general internal medicine.

<sup>10</sup> Section 381.026(4)(c)3., F.S.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Section 381.026(4)(c)4., F.S.

<sup>14</sup> Section 395.107(1), F.S.

<sup>15</sup> Section 395.107(2), F.S.

<sup>16</sup> Section 395.107(6), F.S.

<sup>17</sup> The term "health care facilities" refers to hospitals and ambulatory surgical centers, which are licensed under part I of Chapter 395, F.S.

<sup>18</sup> Diagnosis related groups (DRGs) are a patient classification scheme which provides a means of relating the type of patients a hospital treats (i.e., its case mix) to the costs incurred by the hospital. DRGs allow facilities to categorize patients based on severity of illness, prognosis, treatment difficulty, need for intervention and resource intensity.



language comprehensible to an ordinary layperson, detailing the specific nature of charges or expenses incurred by the patient. This initial bill must contain a statement of specific services received and expenses incurred for the items of service, enumerating in detail the constituent components of the services received within each department of the licensed facility and including unit price data on rates charged by the licensed facility. The patient or patient's representative may elect to receive this level of detail in subsequent billings for services.

Current law also directs these health care facilities to publish information on their websites detailing the cost of specific health care services and procedures, as well as information on financial assistance that may be available to prospective patients. The facility must disclose to the consumer that these averages and ranges of payments are estimates, and that actual charges will be based on the services actually provided.<sup>19</sup> Under s. 408.05, F.S., AHCA contracts with a vendor to collect and publish this cost information to consumers on an internet site.<sup>20</sup> Hospitals and other facilities post a link to this site – known as Florida Health Finder – to comply with the price transparency requirements. The cost information is searchable, based on descriptive bundles of commonly performed procedures and services. The information must, at a minimum, provide the estimated average payment received and the estimated range of payment from all non-governmental payers for the bundles available at the facility.<sup>21</sup>

The law also establishes the right of a patient to request a personalized estimate on the costs of care from health care practitioners who provide services in a licensed hospital facility or ambulatory surgical center.<sup>22</sup>

### **Federal Price Transparency Laws and Regulations**

Congress and federal regulatory agencies recently took steps to improve the quantity and quality of health care cost information available to patients.

#### ***Hospital Facility Transparency***

On November 15, 2019, the federal Centers for Medicare & Medicaid Services (CMS) finalized regulations<sup>23</sup> changing payment policies and rates for services furnished to Medicare beneficiaries in hospital outpatient departments. In doing so, CMS also established new requirements for hospitals to publish standard charges for a wide range of health care services offered by such facilities. Specifically, the regulations require hospitals to make public both a machine-readable file of standard charges and a consumer-friendly presentation of prices for at least 300 “shoppable” health care services. The regulations became effective on January 1, 2021.<sup>24</sup>

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<sup>19</sup> Section 395.301, F.S.

<sup>20</sup> Section 408.05(3)(c), F.S.

<sup>21</sup> *Id.*

<sup>22</sup> Section 456.0575(2), F.S.

<sup>23</sup> Medicare and Medicaid Programs: CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates. Price Transparency Requirements for Hospitals to Make Standard Charges Public, 84 FR 65524 (November 27, 2019) (codified at 45 CFR Part 180).

<sup>24</sup> *Id.*

The regulations define a “shoppable” service as one that can be scheduled in advance, effectively giving patients the opportunity to select the venue in which to receive the service. This is a more expansive designation of shoppable services than currently exists in Florida law. For each shoppable service, a hospital must disclose several pricing benchmarks to include:

- The gross charge;
- The payer-specific negotiated charge;
- A de-identified minimum negotiated charge;
- A de-identified maximum negotiated charge; and,
- The discounted cash price.

This information should provide a patient with both a reasonable estimate of the charge for a shoppable service, and also a range in which the actual charge can be expected to fall.

The penalty for facility noncompliance under the federal regulations is a maximum fine of \$300 per day.<sup>25</sup>

### ***Health Insurer Transparency***

On October 29, 2020, the federal departments of Health and Human Services, Labor, and Treasury finalized regulations<sup>26</sup> imposing new transparency requirements on issuers of individual and group health insurance plans.

### ***Estimates***

Central to the new regulations is a requirement for health plans to provide an estimate of an insured's cost-sharing liability for covered items or services furnished by a particular provider. Under the final rule, health insurance plans must disclose cost-sharing estimates at the request of an enrollee and publicly release negotiated rates for in-network providers, historical out-of-network allowed amounts and billed charges, and drug pricing information. The rule's goal is to enable insured patients to estimate their out-of-pocket costs *before* receiving health care services, to encourage shopping and price competition among providers.<sup>27</sup>

Each health plan will be required to establish an online shopping tool that will allow insureds to see the negotiated rate between their provider and their plan, as well as a personalized estimate of their out-of-pocket cost for 500 of the most shoppable items and services. Under the federal regulations, this requirement took effect January 1, 2023. Beginning in 2024, health plans will need to provide personalized cost-sharing information to patients across the full range of covered health care services.<sup>28</sup>

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<sup>25</sup> *Supra* note 23.

<sup>26</sup> Transparency in Coverage, 85 FR 73158 (November 12, 2020)(codified at 29 CFR Part 54, 29 CFR Part 2590, 45 CFR Part 147, and 45 CFR Part 158).

<sup>27</sup> Health Affairs Blog, *Trump Administration Finalizes Transparency Rule for Health Insurers*, November 1, 2020, available at <https://www.healthaffairs.org/doi/10.1377/hblog20201101.662872/full/> (last visited March 31, 2023).

<sup>28</sup> *Supra* note 23.

### ***Medical Loss Ratio***

The regulations also clarify the treatment of shared savings expenses under medical loss ratio (MLR) calculations required by the Patient Protection and Affordable Care Act (ACA). MLR refers to the percentage of insurance premium payments that are actually spent on medical claims by an insurer. In general, MLR requirements are intended to promote efficiency among insurers.<sup>29</sup> The ACA established minimum MLR requirements for group and individual health insurance plans.<sup>30</sup> Under the ACA, large-group plans must dedicate at least 85 percent of premium payments to medical claims, while small-group and individual market plans must dedicate at least 80 percent of premium payments to medical claims.<sup>31</sup> Further, the law requires a health plan that does not meet these standards to provide annual rebates to individuals enrolled in the plan.<sup>32</sup>

The regulations finalized in October 2020 specify that expenses by a health plan in direct support of a shared savings program shall be counted as medical expenditures.<sup>33</sup> Thus, a health plan providing shared savings to members will receive an equivalent credit towards meeting the MLR standards established by ACA. In theory, this policy should provide an additional incentive for insurers to adopt shared savings programs if they have not already done so.

### **The Federal “No Surprises” Act**

On December 27, 2020, Congress enacted the No Surprises Act as part of the Consolidated Appropriations Act of 2021.<sup>34</sup> The No Surprises Act includes a wide-range of provisions aimed at protecting patients from surprise billing practices and ensuring that patients have access to accurate information about the costs of care. Most sections of the Act go into effect on January 1, 2022, and the federal departments of Health and Human Services, Treasury, and Labor are tasked with issuing regulations and guidance to implement a number of the provisions.<sup>35</sup>

### ***Estimates – Facilities***

In the spirit of price transparency, the No Surprises Act establishes the concept of an “advanced explanation of benefits” (AEOB) that combines information on charges provided by a hospital facility with patient-specific cost information supplied by a health insurance plan. The process is triggered when a patient schedules a service at a hospital facility or requests cost information on a specific set of services. A hospital facility must share a “good faith estimate” of the total expected charges for scheduled items or services, including any expected ancillary services, with a health plan (if the patient is insured) or individual (if the patient is uninsured).<sup>36</sup>

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<sup>29</sup> “Explaining Health Care Reform: Medical Loss Ratio (MLR)”, Henry J Kaiser Family Foundation, February 29, 2012. Available at <https://www.kff.org/health-reform/fact-sheet/explaining-health-care-reform-medical-loss-ratio-mlr/> (last visited March 31, 2023).

<sup>30</sup> Patient Protection and Affordable Care Act, s. 1001; 42 U.S.C. 300gg-18.

<sup>31</sup> *Supra* note 23.

<sup>32</sup> *Id.*

<sup>33</sup> 45 CFR Part 158.

<sup>34</sup> Public Law 116-260. The No Surprises Act is found in Division BB of the Act.

<sup>35</sup> *Id.*

<sup>36</sup> Public Law 116-260, Division BB, Section 112.

*Estimates – Health Plans*

Under the No Surprises Act, once the “good faith estimate” has been shared with a patient’s health plan, the plan must then develop the AEOB. This personalized cost estimate must include the following:

- An indication of whether the facility participates in the patient’s health plan network. If the facility is non-participating, information on how the patient can receive services from a participating provider;
- The good-faith estimate prepared by the hospital facility based on billing/diagnostic codes;
- A good-faith estimate of the amount to be covered by the health plan;
- A good-faith estimate of the amount of the patient’s out-of-pocket costs;
- A good-faith estimate of the accrued amounts already met by the patient towards any deductible or out-of-pocket maximum under the patient’s health plan;
- A disclaimer indicating whether the services scheduled are subject to medical management techniques (e.g., medical necessity determinations, prior authorization, step therapy, etc.); and,
- A disclaimer that the information provided is only an estimate of costs and may be subject to change.<sup>37</sup>

Furthermore, the Act directs the Secretary of Health and Human Services to establish, by January 1, 2022, a “patient-provider dispute resolution process” to resolve any disputes concerning bills received by uninsured individuals that substantially differ from a provider’s good faith estimate provided prior to the service being rendered.<sup>38</sup>

The new requirements placed on hospitals and health plans by the No Surprises Act are cumulatively intended to provide patients with increased certainty about the total and out-of-pocket costs associated with health care services. In turn, patients may be more equipped to seek out cost-effective care and avoid unforeseen costs that can lead to financial strain.

Many hospitals do not comply with the federal transparency requirement. A 2021 review of more than 3,500 hospitals found that 55 percent of hospitals were not compliant with the rule and had not posted price information for commercial plans or had not posted any prices at all.<sup>39</sup> Nearly 84 percent of hospitals failed to post machine-readable files containing standard charges, and roughly 78 percent of hospitals did not provide a consumer-friendly shoppable services display.<sup>40</sup> Another review of more than 6,400 hospitals in 2022 indicated widespread non-compliance with the federal transparency rule in that more than 63 percent of hospitals were estimated to be non-compliant.<sup>41</sup> According to that review, only 38 percent of Florida hospitals were in compliance.<sup>42</sup>

<sup>37</sup> Public Law 116-260, Division BB, Section 111.

<sup>38</sup> *Supra* note 30.

<sup>39</sup> John Xuefeng Jiang, et al., *Factors associated with compliance to the hospital price transparency final rule: A national landscape study*, Journal of General Internal Medicine (2021), available at <https://link.springer.com/article/10.1007/s11606-021-07237-y> (last visited March 31, 2023).

<sup>40</sup> *Id.*

<sup>41</sup> Foundation for Government Accountability, *How America’s Hospitals Are Hiding the Cost of Health Care*, pg. 3, August 2022, available at <https://www.TheFGA.org/paper/americas-hospitals-are-hiding-the-cost-of-health-care>, (last visited March 31, 2023). Only two hospitals to date have been fined for noncompliance with the transparency rule, both of which are in Georgia’s Northside Hospital System.

<sup>42</sup> *Id.*, pg. 4.

## Medical Debt

Medical costs can result in overwhelming debts to patients, and in some cases, bankruptcy. Nationwide, over 100 million people have some form of medical debt.<sup>43</sup> A 2007 study suggested that illness and medical bills contributed to 62.1 percent of all personal bankruptcies filed in the U.S. during that year.<sup>44</sup> A more recent analysis, which considered only the impact of hospital charges, found that four percent of U.S. bankruptcies among non-elderly adults resulted from hospitalizations.<sup>45</sup> Four in ten U.S. adults have some form of health care debt.<sup>46</sup> About half of adults – including three in ten who do not currently have health care debt – are vulnerable to falling in the debt, saying they would be unable to pay a \$500 unexpected medical bill without borrowing money.<sup>47</sup> While about a third of adults with health care debt owe less than \$1,000, even small amounts of debt can have significant financial consequences for some.<sup>48</sup> Though a third of those with current debt expect to pay it off within a year and about a quarter expect to pay it within one to two years, nearly one in five adults with health care debt think they will never be able to pay it off.<sup>49</sup>

## Medical Debt Collection Process

Current law provides a court process for the collection of lawful debts, including medical debts. A creditor may sue a debtor and, if the creditor prevails, the creditor may receive a final judgment awarding monetary damages. If the debtor does not voluntarily pay the judgment, the creditor has several legal means to collect on the debt, including:

- Wage garnishment.
- Garnishment of money in a bank account.
- Directing the sheriff to seize assets, sell them, and give the proceeds to the creditor.

In order to protect debtors from being destitute, current law provides that certain property is exempt from being taken by a creditor. The Florida Constitution provides that the debtor's homestead and \$1,000 of personal property is exempt.<sup>50</sup> Statutory law provides numerous categories of exempt property, and federal statutory law also provides certain exemptions that apply in all of the states.<sup>51</sup>

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<sup>43</sup> Kaiser Health News, *Diagnosis: Debt – 100 Million People in America Are Saddled with Health Care Debt*, June 16, 2022, available at <https://khn.org/news/article/diagnosis-debt-investigation-100-million-americans-hidden-medical-debt/> (last visited March 31, 2023).

<sup>44</sup> David U. Himmelstein, et al. “*Medical Bankruptcy in the United States, 2007: Results of a National Study.*” *American Journal of Medicine* 2009; 122: 741-6. Available at [https://www.amjmed.com/article/S0002-9343\(09\)00404-5/abstract](https://www.amjmed.com/article/S0002-9343(09)00404-5/abstract) (last visited March 31, 2023)

<sup>45</sup> Carlos Dobkin, et al. “*Myth and Measurement: The Case of Medical Bankruptcies.*” *New England Journal of Medicine* 2018; 378:1076-1078, available at <https://www.nejm.org/doi/full/10.1056/NEJMp1716604> (last visited Apr. 2, 2023).

<sup>46</sup> Lopes, L., Kearney, A., et al, *Health Care Debt in the U.S.: The Broad Consequences of Medical and Dental Bills*, June 16, 2022 (using results from the Kaiser Family Foundation Health Care Debt Survey), available at <https://www.kff.org/health-costs/report/kff-health-care-debt-survey/> (last visited March 31, 2023).

<sup>47</sup> *Id.*

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> Art. X, s. 4(a), Fla. Const.

<sup>51</sup> For example, the federal ERISA law provides that most retirement plans are exempt from creditor claims.

In addition to the protection from creditors contained in the Florida Constitution, chapter 222, F.S., protects other personal property from certain claims of creditors and legal process: garnishment of wages for a head of family;<sup>52</sup> proceeds from life insurance policies;<sup>53</sup> wages or unemployment compensation payments due certain deceased employees;<sup>54</sup> disability income benefits;<sup>55</sup> assets in qualified tuition programs; medical savings accounts; Coverdell education savings accounts; hurricane savings accounts;<sup>56</sup> \$1,000 interest in a motor vehicle; professionally prescribed health aids; certain refunds or credits from financial institutions; and \$4,000 interest in personal property, if the debtor does not claim or receive the benefits of a homestead exemption under the State Constitution.<sup>57</sup>

Bankruptcy is a means by which a person's assets are liquidated in order to pay that person's debts under court supervision. The U.S. Constitution gives Congress the right to uniformly govern bankruptcy law.<sup>58</sup> Bankruptcy courts are operated by the federal government. A debtor (the bankrupt person) is not required to give up all of his or her assets in bankruptcy. Certain property is deemed "exempt" from the bankruptcy case and may be kept by the debtor without being subject to creditor claims. The Bankruptcy Code provides for exempt property in a bankruptcy case.<sup>59</sup> In general, a debtor may choose to utilize the exempt property listing in state law or the exempt property of the Bankruptcy Code. However, federal law allows a state to opt-out of the federal law and thereby insist that debtors only utilize state law exemptions.<sup>60</sup> Florida, like most states, has made the opt-out election to prohibit the use of the federal exemptions and require that debtors may only use state law exemptions.<sup>61</sup>

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

#### **Medical Debt Protections**

SB 268 amends and creates several sections of law in order to establish new protections for consumers who carry medical debt owed to a hospital or ASC.

The bill creates s. 222.26, F.S., in order to shield a debtor's interest, up to \$10,000, in a single motor vehicle and, if the debtor does not claim or receive the benefits of a homestead exemption,<sup>62</sup> up to \$10,000 of personal property. Under the bill, this property is exempt from attachment, garnishment, or other legal process in an action on such debt.

The bill also amends s. 95.11, F.S., to establish that a legal action to collect such medical debt must commence within three years starting at the time the facility refers the debt to a third party for collection.

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<sup>52</sup> Section 222.11, F.S.

<sup>53</sup> Section 222.13, F.S.

<sup>54</sup> Section 222.15, F.S.

<sup>55</sup> Section 222.18, F.S.

<sup>56</sup> Section 222.22, F.S.

<sup>57</sup> Section 222.25, F.S.

<sup>58</sup> Art. 1, s. 8, cl. 4, U.S. Const.

<sup>59</sup> 11 U.S.C. s. 522.

<sup>60</sup> 11 U.S.C. s. 522(b).

<sup>61</sup> Section 222.20, F.S.

<sup>62</sup> Under s. 4, Art. X of the State Constitution

The bill creates s. 395.3011, F.S., to prohibit certain billing and collection activities related to such medical debt. The bill defines the term “extraordinary collection action” to mean any of the following actions taken by a licensed facility against an individual in relation to obtaining payment of a bill for care covered under the facility’s financial assistance policy:

- Selling the individual’s debt to another party.
- Reporting adverse information about the individual to consumer credit reporting agencies or credit bureaus.
- Deferring, denying, or requiring a payment before providing medically necessary care because of the individual’s nonpayment of one or more bills for previously provided care covered under the facility’s financial assistance policy.
- Actions that require a legal or judicial process, including, but not limited to:
  - Placing a lien on the individual’s property;
  - Foreclosing on the individual’s real property;
  - Attaching or seizing the individual’s bank account or any other personal property;
  - Commencing a civil action against the individual;
  - Causing the individual’s arrest; or
  - Garnishing the individual’s wages.

The bill prohibits a hospital or ASC from engaging in an extraordinary collection action:

- Before the facility has made reasonable efforts to determine whether the individual is eligible for assistance under its financial assistance policy for the care provided and, if eligible, before a decision is made by the facility on the patient’s application for such financial assistance;
- Before the facility has provided the individual with an itemized statement or bill;
- During an ongoing grievance process as described in s. 395.301(6) or an ongoing appeal of a claim adjudication;
- Before billing any applicable insurer and allowing the insurer to adjudicate a claim;
- For 30 days after notifying the patient in writing, by certified mail, or by other traceable delivery method, that a collection action will commence absent additional action by the patient; or
- While the individual:
  - Negotiates in good faith the final amount of a bill for services rendered; or
  - Complies with all terms of a payment plan with the facility.

The bill amends s. 395.301, F.S., to require each hospital and ASC to establish an internal process for reviewing and responding to grievances from patients. The process must allow a patient to dispute charges that appear on the patient’s itemized statement or bill and the facility must prominently post on its website and print on each itemized statement or bill, in bold print, the instructions for initiating, and the direct contact information required to initiate, a grievance. The facility must respond to a patient’s grievance within seven business days after the patient formally files the grievance.

### **Price Transparency Provisions**

SB 268 amends s. 395.301, F.S., to require a hospital or an ASC to post on its website a consumer-friendly list of standard charges for at least 300 shoppable health care services. If the facility posts less than 300 services, it must include each service it provides. The bill defines:

- “Shoppable health care service” to mean a service that can be scheduled by a health care consumer in advance. The term includes, but is not limited to, the services described in s. 627.6387(2)(e), F.S.,<sup>63</sup> and any services defined in regulations or guidance issued by the U.S. Department of Health and Human Services.
- “Standard charge” to mean the same as that term is defined in regulations or guidance issued by the U.S. Department of Health and Human Services for purposes of hospital price transparency.

The bill also amends provisions requiring a hospital or ASC to provide a good faith estimate for nonemergency medical services to a patient. The bill requires this estimate to be provided to the patient or prospective patient upon scheduling the medical service, rather than within seven days of receiving the request for the service as under current law, and also requires the facility to provide the estimate to the patient’s health insurer<sup>64</sup> and to the patient at least three business days before the service but no more than one business day after the service is scheduled, or three business days after the service is scheduled if the service is scheduled at least ten days in advance.

The bill removes current-law provisions that require the facility to take action to educate the public that such estimates are available upon request and that specify that the estimate does not preclude the actual charges from exceeding the estimate.

The bill creates s. 627.445, F.S., to require a health insurer to prepare an “advance explanation of benefits” (AEB) after receiving an estimate from a hospital or ASC. The bill defines “health insurer” as a health insurer issuing individual or group coverage or a health maintenance organization issuing coverage through an individual or a group contract. The AEB must be provided to the patient no later than one business day after the insurer receives the estimate or no later than three business days for services scheduled at least ten business days in advance. At a minimum, the AEB must include detailed coverage and cost-sharing information pursuant to the federal No Surprises Act.

### **Shared Savings Incentive Programs**

The bill amends ss. 627.6387, 627.6648, and 641.31076, F.S. to specify that a health insurer or health maintenance organization must count a shared saving incentive program as a medical

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<sup>63</sup> These services include clinical laboratory services, infusion therapy, inpatient and outpatient surgical procedures, obstetrical and gynecological services, inpatient and outpatient nonsurgical diagnostic tests and procedures, physical and occupational therapy services, radiology and imaging services, prescription drugs, services provided through telehealth, and any additional services published by the Agency for Health Care Administration that have the most significant price variation pursuant to s. 408.05(3)(m).

<sup>64</sup> As defined in s. 627.445(1), F.S.



expense for rate development and rate filing purposes. This change removes a barrier to such programs and aligns Florida law with federal law.<sup>65</sup>

### **Conforming Changes**

The bill amends ss. 475.01 and 475.611, F.S., to make conforming cross-reference changes.

### **Effective Date**

The bill provides an effective date of July 1, 2023.

## **IV. Constitutional Issues:**

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

None.

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

None.

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

None.

### **D. State Tax or Fee Increases:**

None.

### **E. Other Constitutional Issues:**

Article II, Section 3, of the Florida Constitution has been interpreted by Florida courts to prohibit the Legislature from delegating its legislative power to others.<sup>66</sup> Under this non-delegation principle, Florida courts have held that the Legislature may enact laws that adopt federal statutes or other federal regulations in existence and in effect at the time the Legislature acts; however, if the Legislature incorporates into a Florida statute a *future* federal act or regulation, courts have held that such incorporation constitutes an unconstitutional delegation of legislative power.<sup>67</sup>

However, when a statute incorporates a federal law or regulation by reference, in order to avoid holding the subject statute unconstitutional, Florida courts generally interpret the statute as incorporating only the federal law or regulation in effect on the date of the

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<sup>65</sup> *Supra* note 23.

<sup>66</sup> *Abbott Laboratories v. Mylan Pharmaceuticals, Inc.*, 15 So.3d 642 (Fla. 1d DCA 2009), citing *Gallagher v. Motors Ins. Corp.*, 605 So.2d 62, 71 (Fla. 1992).

<sup>67</sup> *State v. Rodriquez*, 365 So.2d 157, 160 (Fla.1978).

Legislature’s action to enact the Florida law, reasoning that the Legislature is presumed to have intended to enact a valid and constitutional law.<sup>68</sup>

Lines 106-115 of the bill define the terms “shoppable health care service” and “standard charge” with reference to how those terms are defined in “regulations or guidance issued by the United States Department of Health and Human Services.” Considering that the bill does not specify that it is referring to such definitions as they exist at a specific date prior to the enactment of the bill, these references may be considered an unauthorized delegation of legislative powers if interpreted to make reference to future revisions of those definitions in federal law and may be interpreted to maintain the meaning of how those federal definitions stand on the date the bill becomes effective instead of incorporating such future revisions.

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

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

None.

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

SB 268 may have an indeterminate positive fiscal impact on consumers of health care services at hospitals and ASCs through providing additional price transparency prior to the consumer obtaining a health care service and through protecting the consumer against certain debt collection practices for medical debt. The bill may have an indeterminate negative fiscal impact on hospitals, ASCs, and health insurers related to meeting the new requirements in the bill and on hospitals and ASCs that may not be able to collect on medical debt that they may have collected prior to the passage of the bill.

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

The Office of the State Courts Administrator reports that the State Courts System receives \$195 in filing fees for each civil proceeding, and those funds are deposited into the State Courts Revenue Trust Fund (SCRTF). To the extent that the number of such proceedings will be reduced by the bill’s prohibition against hospitals and ASCs pursuing “extraordinary collection activities,” combined with the bill’s other limitations related to the collection of medical debt, the bill will negatively impact deposits into the SCRTF. The extent of this impact is indeterminate.<sup>69</sup>

The AHCA has not provided an estimate of the costs it will incur under the bill’s numerous measures that increase the regulation of hospitals and ASCs, both of which are licensed and regulated by the AHCA. By requiring new regulatory and disciplinary actions by the AHCA to enforce the bill’s new requirements, the bill will have a negative

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<sup>68</sup> *Id.*

<sup>69</sup> Office of the State Courts Administrator, *2023 Judicial Impact Statement: HB 1413*, Mar. 22, 2023 (on file with the Senate Committee on Health Policy).

fiscal impact on that agency. The extent of this impact is unknown without an estimate from the AHCA.

## **VI. Technical Deficiencies:**

Lines 121-122 of the bill require a hospital or ASC to provide the good faith estimate to a patient “upon scheduling a medical service.” However, lines 126-132 require the facility to provide the estimate to the patient “no later than one business day after the service is scheduled” (or three business days in certain scenarios). As such, it is unclear when a facility is required to provide the estimate to the patient or whether the facility must provide the estimate to the patient twice.

## **VII. Related Issues:**

Line 128 requires the good faith estimate to be provided by the hospital or ASC to the health insurer and to the patient “at least 3 business days before a service is to be furnished.” It may be impossible for a facility to meet this deadline if a service is to be furnished less than three days after it is scheduled and may preclude services from being furnished less than three days after they are scheduled.

The federal No Surprises Act requires the issuance of an “advanced” explanation of benefits. Meanwhile, SB 268 requires the issuance of an “advance” explanation of benefits.

Many of the bill’s new requirements placed on hospitals, ASCs, and insurers are already required under federal law. For example, the federal Centers for Medicare & Medicaid Services (CMS) reports that, “CMS expects hospitals to comply with these legal requirements and is actively enforcing these rules to ensure people know what a hospital charges for items and services. The public is invited to submit a complaint to CMS if it appears that a hospital has not posted information online.”<sup>70</sup> It is unclear how much duplicative effort and confusion would be created by dual enforcement of these laws under the enactment of SB 268.

## **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 95.11, 395.301, 627.6387, 627.6648, 641.31076, 475.01, 475.611, 517.191, and 768.28.

This bill creates the following sections of the Florida Statutes: 222.26, 395.3011, and 627.445.

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<sup>70</sup> Centers for Medicare & Medicaid Services, *Hospital Price Transparency Frequently Asked Questions (FAQs)*, pg. 21, available at: <https://www.cms.gov/files/document/hospital-price-transparency-frequently-asked-questions.pdf> (last visited Apr. 2, 2023).

**IX. Additional Information:**

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

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

None.

**B. Amendments:**

None.

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

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By Senator Brodeur

10-00729-23

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1 A bill to be entitled  
 2 An act relating to health care expenses; amending s.  
 3 95.11, F.S.; establishing a 3-year statute of  
 4 limitations for an action to collect medical debt for  
 5 services rendered by a health care provider or  
 6 facility; creating s. 222.26, F.S.; providing  
 7 additional personal property exemptions from legal  
 8 process for medical debts resulting from services  
 9 provided in certain licensed facilities; amending s.  
 10 395.301, F.S.; requiring a licensed facility to post  
 11 on its website a consumer-friendly list of standard  
 12 charges for a minimum number of shoppable health care  
 13 services; defining the terms "shoppable health care  
 14 service" and "standard charge"; requiring a licensed  
 15 facility to provide an estimate to a patient or  
 16 prospective patient and the patient's health insurer  
 17 within specified timeframes; requiring a licensed  
 18 facility to establish an internal grievance process  
 19 for patients to dispute charges; requiring a facility  
 20 to make available information necessary for initiating  
 21 a grievance; requiring a facility to respond to a  
 22 patient grievance within a specified timeframe;  
 23 creating s. 395.3011, F.S.; defining the term  
 24 "extraordinary collection action"; prohibiting certain  
 25 collection activities by a licensed facility; creating  
 26 s. 627.445, F.S.; defining the term "health insurer";  
 27 requiring each health insurer to provide an insured  
 28 with an advance explanation of benefits after  
 29 receiving a patient estimate from a facility for

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30 scheduled services; providing requirements for the  
 31 advance explanation of benefits; amending ss.  
 32 627.6387, 627.6648, and 641.31076, F.S.; providing  
 33 that a shared savings incentive offered by a health  
 34 insurer or health maintenance organization constitutes  
 35 a medical expense for rate development and rate filing  
 36 purposes; amending ss. 475.01, 475.611, 517.191, and  
 37 768.28, F.S.; conforming cross-references; providing  
 38 an effective date.  
 39

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

41  
 42 Section 1. Present subsections (4) through (11) of section  
 43 95.11, Florida Statutes, are redesignated as subsections (5)  
 44 through (12), a new subsection (4) is added to that section, and  
 45 paragraph (o) of subsection (3) and paragraphs (f) and (g) of  
 46 present subsection (5) of that section are amended, to read:

47 95.11 Limitations other than for the recovery of real  
 48 property.—Actions other than for recovery of real property shall  
 49 be commenced as follows:

50 (3) WITHIN FOUR YEARS.—

51 (o) An action for assault, battery, false arrest, malicious  
 52 prosecution, malicious interference, false imprisonment, or any  
 53 other intentional tort, except as provided in subsections (5),  
 54 (6), and (8) ~~(4)~~, ~~(5)~~, and ~~(7)~~.

55 (4) WITHIN THREE YEARS.—An action to collect medical debt  
 56 for services rendered by a facility licensed under chapter 395,  
 57 provided that the period of limitations shall run from the date  
 58 on which the facility refers the medical debt to a third party

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59 for collection.

60 ~~(6)-(5)~~ WITHIN ONE YEAR.—

61 (f) Except for actions described in subsection (9) ~~(8)~~, a  
62 petition for extraordinary writ, other than a petition  
63 challenging a criminal conviction, filed by or on behalf of a  
64 prisoner as defined in s. 57.085.

65 (g) Except for actions described in subsection (9) ~~(8)~~, an  
66 action brought by or on behalf of a prisoner, as defined in s.  
67 57.085, relating to the conditions of the prisoner's  
68 confinement.

69 Section 2. Section 222.26, Florida Statutes, is created to  
70 read:

71 222.26 Additional exemptions from legal process concerning  
72 medical debt.—If a debt is owed for medical services provided by  
73 a facility licensed under chapter 395, the following property is  
74 exempt from attachment, garnishment, or other legal process in  
75 an action on such debt:

76 (1) A debtor's interest, not to exceed \$10,000 in value, in  
77 a single motor vehicle as defined in s. 320.01(1).

78 (2) A debtor's interest in personal property, not to exceed  
79 \$10,000 in value, if the debtor does not claim or receive the  
80 benefits of a homestead exemption under s. 4, Art. X of the  
81 State Constitution.

82 Section 3. Present paragraphs (b), (c), and (d) of  
83 subsection (1) of section 395.301, Florida Statutes, are  
84 redesignated as paragraphs (c), (d), and (e), respectively,  
85 present subsection (6) of that section is redesignated as  
86 subsection (7), a new paragraph (b) is added to subsection (1)  
87 of that section, a new subsection (6) is added to that section,

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88 and present paragraph (b) of subsection (1) of that section is  
89 amended, to read:

90 395.301 Price transparency; itemized patient statement or  
91 bill; patient admission status notification.—

92 (1) A facility licensed under this chapter shall provide  
93 timely and accurate financial information and quality of service  
94 measures to patients and prospective patients of the facility,  
95 or to patients' survivors or legal guardians, as appropriate.  
96 Such information shall be provided in accordance with this  
97 section and rules adopted by the agency pursuant to this chapter  
98 and s. 408.05. Licensed facilities operating exclusively as  
99 state facilities are exempt from this subsection.

100 (b) Each licensed facility shall post on its website a  
101 consumer-friendly list of standard charges for at least 300  
102 shoppable health care services. If a facility provides fewer  
103 than 300 distinct shoppable health care services, it must make  
104 available on its website the standard charges for each service  
105 it provides. As used in this paragraph, the term:

106 1. "Shoppable health care service" means a service that can  
107 be scheduled by a health care consumer in advance. The term  
108 includes, but is not limited to, the services described in s.  
109 627.6387(2) (e) and any services defined in regulations or  
110 guidance issued by the United States Department of Health and  
111 Human Services.

112 2. "Standard charge" has the same meaning as that term is  
113 defined in regulations or guidance issued by the United States  
114 Department of Health and Human Services for purposes of hospital  
115 price transparency.

116 ~~(c)-(b)~~1. ~~Upon request, and~~ Before providing any

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117 nonemergency medical services, each licensed facility shall  
 118 provide in writing or by electronic means a good faith estimate  
 119 of reasonably anticipated charges by the facility for the  
 120 treatment of ~~a the~~ patient's or prospective patient's specific  
 121 condition. Such estimate must be provided to the patient or  
 122 prospective patient upon scheduling a medical service. The  
 123 facility ~~must provide the estimate to the patient or prospective~~  
 124 ~~patient within 7 business days after the receipt of the request~~  
 125 ~~and~~ is not required to adjust the estimate for any potential  
 126 insurance coverage. The facility shall provide the estimate to  
 127 the patient's health insurer, as defined in s. 627.445(1), and  
 128 to the patient at least 3 business days before a service is to  
 129 be furnished, but no later than 1 business day after the service  
 130 is scheduled or, in the case of a service scheduled at least 10  
 131 business days in advance, no later than 3 business days after  
 132 the service is scheduled. The estimate may be based on the  
 133 descriptive service bundles developed by the agency under s.  
 134 408.05(3)(c) unless the patient or prospective patient requests  
 135 a more personalized and specific estimate that accounts for the  
 136 specific condition and characteristics of the patient or  
 137 prospective patient. The facility shall inform the patient or  
 138 prospective patient that he or she may contact his or her health  
 139 insurer ~~or health maintenance organization~~ for additional  
 140 information concerning cost-sharing responsibilities.

141 2. In the estimate, the facility shall provide to the  
 142 patient or prospective patient information on the facility's  
 143 financial assistance policy, including the application process,  
 144 payment plans, and discounts and the facility's charity care  
 145 policy and collection procedures.

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146 3. The estimate ~~must shall~~ clearly identify any facility  
 147 fees and, if applicable, include a statement notifying the  
 148 patient or prospective patient that a facility fee is included  
 149 in the estimate, the purpose of the fee, and that the patient  
 150 may pay less for the procedure or service at another facility or  
 151 in another health care setting.

152 4. ~~Upon request,~~ The facility shall notify the patient or  
 153 prospective patient of any revision to the estimate.

154 5. In the estimate, the facility must notify the patient or  
 155 prospective patient that services may be provided in the health  
 156 care facility by the facility as well as by other health care  
 157 providers that may separately bill the patient, if applicable.

158 6. ~~The facility shall take action to educate the public~~  
 159 ~~that such estimates are available upon request.~~

160 7. Failure to timely provide the estimate pursuant to this  
 161 paragraph shall result in a daily fine of \$1,000 until the  
 162 estimate is provided to the patient or prospective patient and  
 163 the health insurer. The total fine per patient estimate may not  
 164 exceed \$10,000.

165 ~~The provision of an estimate does not preclude the actual~~  
 166 ~~charges from exceeding the estimate.~~

167 (6) Each facility shall establish an internal process for  
 168 reviewing and responding to grievances from patients. Such  
 169 process must allow a patient to dispute charges that appear on  
 170 the patient's itemized statement or bill. The facility shall  
 171 prominently post on its website and indicate in bold print on  
 172 each itemized statement or bill the instructions for initiating  
 173 a grievance and the direct contact information required to  
 174

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175 initiate the grievance process. The facility must provide an  
 176 initial response to a patient grievance within 7 business days  
 177 after the patient formally files a grievance disputing all or a  
 178 portion of an itemized statement or bill.

179 Section 4. Section 395.3011, Florida Statutes, is created  
 180 to read:

181 395.3011 Billing and collection activities.-

182 (1) As used in this section, the term "extraordinary  
 183 collection action" means any of the following actions taken by a  
 184 licensed facility against an individual in relation to obtaining  
 185 payment of a bill for care covered under the facility's  
 186 financial assistance policy:

187 (a) Selling the individual's debt to another party.

188 (b) Reporting adverse information about the individual to  
 189 consumer credit reporting agencies or credit bureaus.

190 (c) Deferring, denying, or requiring a payment before  
 191 providing medically necessary care because of the individual's  
 192 nonpayment of one or more bills for previously provided care  
 193 covered under the facility's financial assistance policy.

194 (d) Actions that require a legal or judicial process,  
 195 including, but not limited to:

196 1. Placing a lien on the individual's property;

197 2. Foreclosing on the individual's real property;

198 3. Attaching or seizing the individual's bank account or  
 199 any other personal property;

200 4. Commencing a civil action against the individual;

201 5. Causing the individual's arrest; or

202 6. Garnishing the individual's wages.

203 (2) A facility may not engage in an extraordinary

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204 collection action against an individual to obtain payment for  
 205 services:

206 (a) Before the facility has made reasonable efforts to  
 207 determine whether the individual is eligible for assistance  
 208 under its financial assistance policy for the care provided and,  
 209 if eligible, before a decision is made by the facility on the  
 210 patient's application for such financial assistance;

211 (b) Before the facility has provided the individual with an  
 212 itemized statement or bill;

213 (c) During an ongoing grievance process as described in s.  
 214 395.301(6) or an ongoing appeal of a claim adjudication;

215 (d) Before billing any applicable insurer and allowing the  
 216 insurer to adjudicate a claim;

217 (e) For 30 days after notifying the patient in writing, by  
 218 certified mail, or by other traceable delivery method, that a  
 219 collection action will commence absent additional action by the  
 220 patient; or

221 (f) While the individual:

222 1. Negotiates in good faith the final amount of a bill for  
 223 services rendered; or

224 2. Complies with all terms of a payment plan with the  
 225 facility.

226 Section 5. Section 627.445, Florida Statutes, is created to  
 227 read:

228 627.445 Advance explanation of benefits.-

229 (1) As used in this section, the term "health insurer"  
 230 means a health insurer issuing individual or group coverage or a  
 231 health maintenance organization issuing coverage through an  
 232 individual or a group contract.



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(2) Each health insurer shall prepare an advance explanation of benefits upon receiving a patient estimate from a facility pursuant to s. 395.301(1). The health insurer must provide the advance explanation of benefits to the insured no later than 1 business day after receiving the patient estimate from the facility or, in the case of a service scheduled at least 10 business days in advance, no later than 3 business days after receiving such estimate.

(3) At a minimum, the advance explanation of benefits must include detailed coverage and cost-sharing information pursuant to the No Surprises Act, Title I of Division BB, Pub. L. No. 116-260.

Section 6. Paragraph (a) of subsection (4) of section 627.6387, Florida Statutes, is amended to read:

627.6387 Shared savings incentive program.—

(4)(a) A shared savings incentive offered by a health insurer in accordance with this section:

1. Is not an administrative expense for rate development or rate filing purposes and must be counted as a medical expense for such purposes.

2. Does not constitute an unfair method of competition or an unfair or deceptive act or practice under s. 626.9541 and is presumed to be appropriate unless credible data clearly demonstrates otherwise.

Section 7. Paragraph (a) of subsection (4) of section 627.6648, Florida Statutes, is amended to read:

627.6648 Shared savings incentive program.—

(4)(a) A shared savings incentive offered by a health insurer in accordance with this section:

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1. Is not an administrative expense for rate development or rate filing purposes and must be counted as a medical expense for such purposes.

2. Does not constitute an unfair method of competition or an unfair or deceptive act or practice under s. 626.9541 and is presumed to be appropriate unless credible data clearly demonstrates otherwise.

Section 8. Paragraph (a) of subsection (4) of section 641.31076, Florida Statutes, is amended to read:

641.31076 Shared savings incentive program.—

(4) A shared savings incentive offered by a health maintenance organization in accordance with this section:

(a) Is not an administrative expense for rate development or rate filing purposes and must be counted as a medical expense for such purposes.

Section 9. Paragraphs (a) and (j) of subsection (1) of section 475.01, Florida Statutes, are amended to read:

475.01 Definitions.—

(1) As used in this part:

(a) "Broker" means a person who, for another, and for a compensation or valuable consideration directly or indirectly paid or promised, expressly or impliedly, or with an intent to collect or receive a compensation or valuable consideration therefor, appraises, auctions, sells, exchanges, buys, rents, or offers, attempts or agrees to appraise, auction, or negotiate the sale, exchange, purchase, or rental of business enterprises or business opportunities or any real property or any interest in or concerning the same, including mineral rights or leases, or who advertises or holds out to the public by any oral or

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printed solicitation or representation that she or he is engaged in the business of appraising, auctioning, buying, selling, exchanging, leasing, or renting business enterprises or business opportunities or real property of others or interests therein, including mineral rights, or who takes any part in the procuring of sellers, purchasers, lessors, or lessees of business enterprises or business opportunities or the real property of another, or leases, or interest therein, including mineral rights, or who directs or assists in the procuring of prospects or in the negotiation or closing of any transaction which does, or is calculated to, result in a sale, exchange, or leasing thereof, and who receives, expects, or is promised any compensation or valuable consideration, directly or indirectly therefor; and all persons who advertise rental property information or lists. A broker renders a professional service and is a professional within the meaning of s. 95.11(5)(a) ~~s. 95.11(4)(a)~~. Where the term "appraise" or "appraising" appears in the definition of the term "broker," it specifically excludes those appraisal services which must be performed only by a state-licensed or state-certified appraiser, and those appraisal services which may be performed by a registered trainee appraiser as defined in part II. The term "broker" also includes any person who is a general partner, officer, or director of a partnership or corporation which acts as a broker. The term "broker" also includes any person or entity who undertakes to list or sell one or more timeshare periods per year in one or more timeshare plans on behalf of any number of persons, except as provided in ss. 475.011 and 721.20.

(j) "Sales associate" means a person who performs any act

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specified in the definition of "broker," but who performs such act under the direction, control, or management of another person. A sales associate renders a professional service and is a professional within the meaning of s. 95.11(5)(a) ~~s. 95.11(4)(a)~~.

Section 10. Paragraph (h) of subsection (1) of section 475.611, Florida Statutes, is amended to read:

475.611 Definitions.—

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

(h) "Appraiser" means any person who is a registered trainee real estate appraiser, a licensed real estate appraiser, or a certified real estate appraiser. An appraiser renders a professional service and is a professional within the meaning of s. 95.11(5)(a) ~~s. 95.11(4)(a)~~.

Section 11. Subsection (7) of section 517.191, Florida Statutes, is amended to read:

517.191 Injunction to restrain violations; civil penalties; enforcement by Attorney General.—

(7) Notwithstanding s. 95.11(5)(e) ~~s. 95.11(4)(e)~~, an enforcement action brought under this section based on a violation of any provision of this chapter or any rule or order issued under this chapter shall be brought within 6 years after the facts giving rise to the cause of action were discovered or should have been discovered with the exercise of due diligence, but not more than 8 years after the date such violation occurred.

Section 12. Subsection (14) of section 768.28, Florida Statutes, is amended to read:

768.28 Waiver of sovereign immunity in tort actions;

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recovery limits; civil liability for damages caused during a  
riot; limitation on attorney fees; statute of limitations;  
exclusions; indemnification; risk management programs.—

(14) Every claim against the state or one of its agencies  
or subdivisions for damages for a negligent or wrongful act or  
omission pursuant to this section shall be forever barred unless  
the civil action is commenced by filing a complaint in the court  
of appropriate jurisdiction within 4 years after such claim  
accrues; except that an action for contribution must be  
commenced within the limitations provided in s. 768.31(4), and  
an action for damages arising from medical malpractice or  
wrongful death must be commenced within the limitations for such  
actions in s. 95.11(5) ~~s. 95.11(4)~~.

Section 13. This act shall take effect July 1, 2023.

OFFICE OF THE STATE COURTS ADMINISTRATOR  
2023 JUDICIAL IMPACT STATEMENT

DATE: March 22, 2023

BILL NUMBER: HB 1413

SPONSOR(S): Representative Tramont

STATUTE(S) AFFECTED: Amending ss. 95.11, 395.301, 475.01, 475.611, 517.191, 627.6387, 627.6648, 641.31076, and 768.28, F.S.; Creating ss. 222.26, 395.3011, and 627.445, F.S.

COMPANION BILL(S): SB 268 (Senator Brodeur)

AGENCY CONTACT: Tashiba Robinson, Legislative Affairs

TELEPHONE: (850) 922-5692

ASSIGNED OSCA STAFF: MEH

I. **SUMMARY:** The bill enacts a number of consumer protections regarding hospital medical debt, including:

- Establishing a three-year statute of limitations for actions to collect medical debt, running from the date on which the facility refers the debt to a third-party for collection (current statute of limitations is five years);
- Exempting certain property from attachment, garnishment, or other legal process in an action to collect medical debt;
- Establishing additional duties for licensed hospitals regarding medical charges, including providing notice to patients of standard charges, providing an estimate of charges prior to any nonemergency medical services, establishing a grievance procedure for billing disputes, and limiting certain “extraordinary collection actions” for medical debt; and
- Requiring health insurers to provide an insured with an advanced explanation of benefits for scheduled services.

The bill also provides that shared savings incentives offered by a health insurer or HMO constitutes a medical expense for rate development & rate filing purposes.

The bill takes effect July 1, 2023.

II. **ANALYSIS:**

The bill enacts a number of consumer protections regarding medical debt. Only certain provisions impact the court system, and those proposed

OFFICE OF THE STATE COURTS ADMINISTRATOR  
2023 JUDICIAL IMPACT STATEMENT

changes have the following effects:

Section 1: Amends s. 95.11, F.S., to establish that the statute of limitations for an action to collect medical debt for services rendered by a licensed facility shall run within three years from the date in which the facility refers the medical debt to a third-party for collection. Medical debt is currently subject to a five-year statute of limitations under s. 95.11(2)(b), F.S.

Section 2: Creates s. 222.26, F.S., to exempt from attachment, garnishment or other legal process in an action on hospital medical debt:

- A debtor's interest, not to exceed \$10,000 in value, in a single motor vehicle.
- A debtor's interest in personal property, not to exceed \$10,000 in value, if the debtor does not claim or receive the benefits of a homestead exemption.

Section 4: Creates s. 395.3011, F.S., to prohibit a hospital facility from engaging in extraordinary collection actions (which includes certain current legal or judicial processes such as commencing a civil action, garnishing wages, placing a lien on property, etc.) to obtain payment for services prior to taking certain actions or providing certain opportunities to help facilitate payment from a debtor.

The bill takes effect July 1, 2023.

- III. **ANTICIPATED JUDICIAL OR COURT WORKLOAD IMPACT:** The specific extent of the effect of the bill is difficult to determine. The prohibition on hospitals immediately pursuing “extraordinary collection activities,” which includes certain legal and judicial processes, to collect medical debt may reduce workload to the extent that it results in fewer actions being filed in court. However, the change to the statute of limitations could result in fewer actions being barred by the statute of limitations as the hospital facilities could determine when the statute of limitations begins to run by delaying transfer of medical debt to collection agencies. Any increase or decrease to workload is too speculative to quantify.
- IV. **IMPACT TO COURT RULES/JURY INSTRUCTIONS:** It may be necessary to create or modifying existing jury instructions and forms in the Florida Standard Jury Instructions.
- V. **ESTIMATED FISCAL IMPACTS ON THE JUDICIARY:**
- A. **Revenues:** The State Courts System receives \$195 from filing fees collected in civil proceedings into the State Courts Revenue Trust Fund (SCRTF). The

OFFICE OF THE STATE COURTS ADMINISTRATOR  
2023 JUDICIAL IMPACT STATEMENT

fiscal impact of this legislation on revenues collected and remitted to the SCRTF because of changes prohibiting hospitals from pursuing “extraordinary collection activities” and changes in the statute of limitations related to medical collections cannot be determined due to the unavailability of data.

- B. **Expenditures:** The fiscal impact of this legislation is indeterminate due to the unavailability of data needed to quantifiably establish the increase in judicial time and workload as a result of the changes to medical debt collections, as discussed in Section III, above.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations Committee on Agriculture,  
Environment, and General Government, *Chair*  
Health Policy, *Vice Chair*  
Appropriations  
Appropriations Committee on Health  
and Human Services  
Children, Families, and Elder Affairs  
Community Affairs  
Regulated Industries  
Rules

### JOINT COMMITTEE:

Joint Legislative Auditing Committee

### SENATOR JASON BRODEUR

10th District

March 6, 2023

The Honorable Colleen Burton  
Chair, Committee on Health Policy  
318 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Burton,

I respectfully request that **Senate Bill 268, Health Care Expenses**, be placed on the agenda of the Health Policy Committee meeting to be considered at your earliest convenience.

If you have any questions or concerns, please do not hesitate to reach out to me or my office.

Sincerely,

A handwritten signature in black ink that reads "Jason Brodeur". The signature is fluid and cursive, with the first name "Jason" and last name "Brodeur" clearly legible.

Senator Jason Brodeur – District 10

CC: Allen Brown – Staff Director  
Anhar Al-Asadi – Administrative Assistant  
Daniel Looke – Deputy Staff Director

### REPLY TO:

- 110 Timberlachen Circle, Suite 1012, Lake Mary, Florida 32746 (407) 333-1802
- 405 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5010

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

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore

**APPEARANCE RECORD**

4/4/23

Meeting Date

268

Bill Number or Topic

Health Policy

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Katie Rodgers, Opportunity Solutions Project

Phone

850-792-4704

Address

1400 Village Blvd 3-80038

Street

Email

Katie@ths.org

Tallahassee

City

FL

State

32312

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☒

In Support

☐

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**☐I am appearing without  
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something of value for my appearance  
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This form is part of the public record for this meeting.

S-001 (08/10/2021)



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

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

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

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BILL: SB 252

INTRODUCER: Senator Burton

SUBJECT: Protection from Discrimination Based on Health Care Choices

DATE: April 2, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	<b>Favorable</b>
2.			FP	

---

**I. Summary:**

SB 252 amends several statutes in order to prohibit mask mandates and COVID-19 vaccination and testing mandates in educational institutions, business entities, and governmental entities. The bill prohibits these entities and institutions from requiring proof of a COVID-19 vaccination or postinfection recovery or requiring a COVID-19 test to gain access to, entry upon, or service from the entity or institution. The bill also prohibits business and governmental entities from certain employment practices based on an employee's, or a future employee's, COVID-19 vaccination or postinfection status or the refusal to take a COVID-19 test.

Additionally, the bill prohibits business entities, governmental entities, and educational institutions from requiring a person to wear a mask, a face shield, or any other facial covering that covers the nose and mouth or denying a person access to, entry upon, service from, or admission to such entity or institution or otherwise discriminating against any person based on his or her refusal to wear a mask, face shield, or other facial covering. The bill provides exceptions to these prohibitions for health care providers and practitioners, as long as the provider or practitioner meets specific requirements established by the bill, and for when a mask or facial covering is required safety equipment. Business entities and governmental entities that violate these provisions are subject to discipline by the Department of Legal Affairs (DLA) while educational institutions are subject to discipline by the Department of Health (DOH). Such discipline may include fines of up to \$5,000 for each violation.

The bill establishes requirements for mandating masks in health care settings. The bill requires the DOH and the Agency for Health Care Administration (AHCA) to jointly develop standards for the use of facial coverings in such settings by August 1, 2023, and requires each health care provider and health care practitioner who operates or manages an office to establish policies and procedures for facial coverings that are consistent with the standards adopted by the DOH and the AHCA.

The bill also creates and amends several statutes related to the provision of health care for COVID-19 including:

- Prohibiting a hospital from interfering with COVID-19 treatment alternatives that are recommended by a health care practitioner with privileges at the hospital;
- Requiring a health care practitioner to obtain specified informed consent from a patient before prescribing any medication for the treatment of COVID-19 to the patient; and
- Prohibiting a pharmacist from being disciplined for properly dispensing medications prescribed for the treatment of COVID-19.

The bill provides an effective date of July 1, 2023.

## II. Present Situation:

### COVID-19 Vaccines

#### *Timeline*

In December of 2020, less than one year after the World Health Organization declared the COVID-19 outbreak to be a pandemic,<sup>1</sup> the United States Food and Drug Administration (FDA) granted the first Emergency Use Authorization (EUA) for a COVID-19 vaccine developed by Pfizer-BioNTech.<sup>2</sup> A week later, the FDA issued a second EUA for another COVID-19 vaccine developed by Moderna.<sup>3</sup>

Over the course of 2021, the FDA expanded the EUAs to include more of the population, such as children ages five and older, and to allow for more people to be eligible to receive booster vaccines.<sup>4</sup> On August 23, 2021, the FDA officially approved the Pfizer vaccine for individuals age 16 and older.<sup>5</sup> The Moderna vaccine was approved for individuals 18 and older on January 31, 2022.<sup>6</sup> On June 17, 2022, the FDA authorized the use of both vaccines for children down to six months of age and authorized the use of Bivalent COVID-19 vaccines for children six months and older on December 8, 2022.<sup>7</sup>

As of March 1, 2023, more than 672 million doses of the COVID-19 vaccine have been given in the United States.<sup>8</sup>

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<sup>1</sup> Declared on March 11, 2020. See U.S. Department of Defense, Coronavirus Timeline, available at <https://www.defense.gov/Spotlights/Coronavirus-DOD-Response/Timeline/>, (last visited March 28, 2023).

<sup>2</sup> COVID-19 Vaccines, United States Department of Health and Human Services, available at <https://www.hhs.gov/coronavirus/covid-19-vaccines/index.html>, (last visited March 28, 2023).

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Safety of COVID-19 Vaccines, Centers for Disease Control and Prevention, available at <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/safety/safety-of-vaccines.html>, (last visited March 28, 2023).

## **Federal COVID-19 Vaccine Mandates**

### ***COVID-19 Vaccination Mandates for Employment***

Since the FDA's full approval of COVID-19 vaccinations, some employers have begun to mandate vaccination.<sup>9</sup> For example on August 6, 2021, United Airlines became the first major airline to announce a COVID-19 vaccination mandate for its employees.<sup>10</sup> The airline terminated more than 230 employees who have not complied with the mandate.<sup>11</sup>

### ***Testing Mandate for Employers with more than 100 Employees***

The Occupational Safety and Health Administration (OSHA) is a regulatory agency within the United States Department of Labor, created "to ensure safe and healthful working conditions for workers by setting and enforcing standards and by providing training, outreach, education and assistance."<sup>12</sup> The Occupational Safety and Health Act (OSH Act) regulates most private sector employers as well as certain public sector employers. The OSH Act applies to employees of an organization, and does not apply to self-employed workers, immediate family members of farm employers, volunteers, or unpaid students.<sup>13</sup> The OSHA is authorized to set emergency temporary standards in certain limited circumstances which take effect immediately and are in effect until superseded by a permanent standard. "OSHA must determine that workers are in grave danger and that an emergency standard is needed to protect them. Then, OSHA publishes the emergency temporary standard in the Federal Register, where it also serves as a proposed permanent standard." The validity of an emergency temporary standard may be challenged in a U.S. Court of Appeals.<sup>14</sup>

On November 5, 2021, OSHA published an emergency temporary standard that requires every employer having 100 or more employees to implement a COVID-19 vaccination mandate.<sup>15</sup> All employers having 100 or more employees were required to ensure that their workforce is fully vaccinated or require any workers who remain unvaccinated to produce a negative test result on at least a weekly basis before coming to work and to wear personal protective equipment. Employees may be exempt from the requirement due to religious beliefs or having a severe allergic reaction to the vaccine or its ingredients. These employers were also required to provide paid time off to employees who decide to be vaccinated, to allow the employee time to receive the vaccination and recover in the event of experiencing any short-term side effects from the shot. The penalty for violation of the emergency temporary standard was up to \$14,000 per

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<sup>9</sup> NBC News, *From McDonald's to Goldman Sachs, here are the companies mandating vaccines for all or some employees* (August 3, 2021), available at <https://www.nbcnews.com/business/business-news/here-are-companies-mandating-vaccines-all-or-some-employees-n1275808> (last visited March 28, 2023).

<sup>10</sup> United, *COVID-19 vaccine required for United employees*, (Aug. 6, 2021) available at <https://www.united.com/en/us/newsroom/announcements/COVID-19-vaccine-required-for-United-employees> (last visited March 28, 2023).

<sup>11</sup> Fox Business, *United Airlines in the process of firing 232 unvaccinated employees*, (October 13, 2021), available at <https://www.foxbusiness.com/lifestyle/united-airlines-firing-unvaccinated-employees> (last visited March 28, 2023).

<sup>12</sup> Occupation Health and Safety Administration (OSHA), United States Department of Labor, *About OSHA*, <https://www.osha.gov/aboutosha> (last visited March 28, 2023).

<sup>13</sup> OSHA, *All About OSHA*, 8, [https://www.osha.gov/sites/default/files/publications/all\\_about\\_OSHA.pdf](https://www.osha.gov/sites/default/files/publications/all_about_OSHA.pdf) (last visited March 28, 2023.)

<sup>14</sup> OSHA, *OSHA Standards Development*, available at <https://www.osha.gov/laws-regs/standards-development> (last visited March 28, 2023).

<sup>15</sup> 86 Fed. Reg. 61402 (Nov. 5, 2021).

violation. The employer was required to comply with the emergency temporary standard by January 4, 2022. On January 13, 2022, the United States Supreme Court issued a stay for the vaccine requirement finding that petitioners challenging the requirement were likely to succeed in their claim.<sup>16</sup> Subsequently, OSHA withdrew the vaccination and testing temporary standard effective January 26, 2022.<sup>17</sup>

### ***Vaccine Mandate for Health Care Workers***

On November 5, 2021, the federal Centers for Medicare and Medicaid Services (CMS) published an interim final rule to require that a health care employer<sup>18</sup> participating in Medicare or Medicaid implement a COVID-19 vaccination mandate.<sup>19</sup> The vaccination mandate applies to employees, licensed practitioners, students and trainees, volunteers, and contractors (individuals who provide care, treatment, or other services for the provider and/or its residents, under contract or by other arrangement).<sup>20</sup> A person may be exempt from the requirement due to religious beliefs or having a severe allergic reaction to the vaccine or its ingredients. The United States Supreme Court stayed a preliminary injunction issued by the lower court on January 13, 2022, and subsequently declined to hear an appeal of the case effectively upholding the mandate.<sup>21</sup>

### ***Vaccine Mandate for Federal Employees and Contractors***

On September 29, 2021, the President of the United States issued an Executive Order requiring that every new federal contract after October 15, 2021, include a requirement to impose a COVID-19 vaccination requirement on the employees of federal contractors.<sup>22</sup> This Executive Order was stayed by a preliminary injunction issued by an En Banc panel of the United States Fifth District Court of Appeals.<sup>23</sup>

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<sup>16</sup> Nat'l Fed'n of Indep. Bus. v. Dep't of Lab., Occupational Safety & Health Admin., 211 L. Ed. 2d 448, 142 S. Ct. 661 (2022)

<sup>17</sup> United States Department of Labor, OSHA, Emergency Temporary Standard, COVID-19 Vaccination and Testing ETS, available at <https://www.osha.gov/coronavirus/ets2#:~:text=The%20U.S.%20Department%20of%20Labor's,from%20workplace%20exp%20to%20coronavirus.>, (last visited March 28, 2023).

<sup>18</sup> The following entities are included: ambulatory surgical centers (ASCs); hospices; psychiatric residential treatment facilities; programs of all-inclusive care for the elderly (PACE); hospitals; long term care facilities; intermediate care facilities for individuals with intellectual disabilities; home health agencies; comprehensive outpatient rehabilitation facilities; critical access hospitals; clinics, rehabilitation agencies, and public health agencies as providers of outpatient physical therapy and speech-language pathology services; community mental health centers; home infusion therapy suppliers; rural health clinics; federally qualified health centers; and end-stage renal disease facilities.

<sup>19</sup> 86 Fed. Reg. 61555 (Nov. 5, 2021).

<sup>20</sup> The requirement does not apply to staff working remotely 100 percent of the time, or to staff providing offsite support services, if they have no direct contact with patients or other staff who are subject to the requirement. Similarly, it does not apply to one-time or infrequent non-health service providers or contractors who have no contact with patients or staff who are subject to the requirement.

<sup>21</sup> Biden v. Missouri, 211 L. Ed. 2d 433, 142 S. Ct. 647 (2022)

<sup>22</sup> *Executive Order on Ensuring Adequate COVID Safety Protocols for Federal Contractors* (September 9, 2021), available at: <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/09/09/executive-order-on-ensuring-adequate-covid-safety-protocols-for-federal-contractors/> (last visited Nov. 8, 2021). See Safer Federal Workforce, *COVID-19 Workplace Safety: Guidance for Federal Contractors and Subcontractors*, available at <https://www.saferfederalworkforce.gov/overview/> (last visited Nov. 10, 2021).

<sup>23</sup> *Feds for Med. Freedom v. Biden*, No. 22-40043, 2023 WL 2609247 (5th Cir. Mar. 23, 2023)

### **Florida's COVID-19 Vaccination Prohibitions**

In special session 2021B, the Florida Legislature passed HB 1-B<sup>24</sup> which prohibited COVID-19 vaccination mandates in governmental entities and educational institutions and required businesses to provide employees the ability to opt-out of a vaccine mandate imposed by the business. Specifically, the bill:

- For private employers:
  - Prohibited private employers from mandating COVID-19 vaccination without providing employees the ability to opt-out of the mandate.
  - Required private employers that choose to impose a COVID-19 vaccination mandate to authorize all of the following exemptions: medical, which includes pregnancy or anticipated pregnancy; religious; COVID-19 immunity; periodic testing; or use of employer-provided personal protective equipment. These exemptions must be submitted to the employer on forms adopted by the DOH or substantially similar forms.
  - Authorized the Attorney General to receive and investigate complaints and impose administrative fines of up to \$50,000 per violation, if an employee was terminated for refusing vaccination and the employer failed to follow the exemption procedures.
- Prohibited public educational institutions and governmental entities from requiring COVID-19 vaccination as a condition of employment and authorized the DOH to impose a fine not to exceed \$5,000 per violation.
- Specified that employees improperly terminated on the basis of COVID-19 vaccination mandates may be eligible for reemployment benefits and established that reemployment benefits may not be denied or discontinued based on a new job offer that would require COVID-19 vaccination.
- Prohibited educational institutions and elected or appointed local officials from mandating COVID-19 vaccination for students, allowed parents and students to bring an action against educational institutions for declaratory and injunctive relief, and required courts to award attorney fees and court costs to prevailing parents and students.
- Prohibited school boards and local officials from requiring students to wear a face mask, face shield, or other face covering without providing for parental exemption from such requirements and limited the quarantining of asymptomatic students and teachers for exposure to COVID-19.

These provisions will sunset on June 1, 2023.

### **United States Food and Drug Administration (FDA) Approved COVID-19 Medications**

Currently, there are three COVID-19 medications approved by the FDA:

- Actemra (Tocilizumab) is approved for the treatment of COVID-19 in hospitalized adults who are receiving systemic corticosteroids and require supplemental oxygen, non-invasive or invasive mechanical ventilation, or extracorporeal membrane oxygenation (ECMO).
- Veklury (Remdesivir) is approved for the treatment of COVID-19 in adults and pediatric patients (28 days of age and older and weighing at least 3 kilograms) with positive results of direct SARS-CoV-2 viral testing, who are:
  - Hospitalized; or

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<sup>24</sup> Ch. 2021-272, L.O.F.

- Not hospitalized and have mild-to-moderate COVID-19 and are at high risk for progression to severe COVID-19, including hospitalization or death.
- Olumiant (baricitinib) is approved for the treatment of COVID-19 in hospitalized adults requiring supplemental oxygen, non-invasive or invasive mechanical ventilation, or ECMO.<sup>25</sup>

The following medications are authorized for treating COVID-19 under an emergency use authorization.

### ***Antiviral Drugs***

Antiviral drugs are prescription medicines (pills, liquid, an inhaled powder, or an intravenous solution) that fight against viruses in your body. These include Paxlovid (nirmatrelvir and ritonavir) and Lagevrio (molnupiravir).

### ***Immune Modulators***

Immune modulators are a category of drugs that help activate, boost, or suppress the immune function. In the case of COVID-19 infection, the immune system can become hyperactive which may result in worsening of disease. Immune modulators can help suppress this hyperinflammation. These medications include:

- Kineret (anakinra), authorized for the treatment of COVID-19 in hospitalized adults with pneumonia requiring supplemental oxygen (low- or high-flow oxygen) who are at risk of progressing to severe respiratory failure and likely to have an elevated plasma soluble urokinase plasminogen activator receptor (suPAR).
- Olumiant (baricitinib), authorized for the treatment of COVID-19 in pediatric patients two to less than 18 years of age requiring supplemental oxygen, invasive mechanical ventilation, or extracorporeal membrane oxygenation (ECMO).
- Actemra (tocilizumab), authorized for the treatment of COVID-19 in hospitalized pediatric patients two to less than 18 years of age who are receiving systemic corticosteroids and require supplemental oxygen, non-invasive or invasive mechanical ventilation, or extracorporeal membrane oxygenation (ECMO).

### ***SARS-COV-2-targeting Monoclonal Antibodies***

SARS-COV-2-targeting monoclonal antibodies (mAbs) are laboratory-produced antibodies that can help the immune system's attack on SARS-COV-2. These mAbs block entry into human cells, thus neutralizing the virus like other infectious organisms, SARS-CoV-2 can mutate over time, resulting in genetic variation in the population of circulating viral strains. Some variants can cause resistance to one or more of the mAb therapies authorized to treat COVID-19.

Due to the high frequency of variants circulating within the United States that are not susceptible to the following mAbs, the some mAbs are not currently authorized in any U.S. region until further notice by FDA and may not be administered for the pre-exposure prophylaxis for prevention or the treatment of COVID-19 under the EUA.

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<sup>25</sup> United States Food and Drug Administration, Coronavirus (COVID-19) Drugs, available at <https://www.fda.gov/drugs/emergency-preparedness-drugs/coronavirus-covid-19-drugs>, (last visited March 30, 2023)

### ***Sedatives***

Sedatives are drugs that maintain sedation, generally via continuous intravenous infusion, in patients who are intubated and require mechanical ventilation in an intensive care unit setting. The only sedative authorized for emergency use is Propofol-Lipuro 1 percent.

### ***Renal Replacement Therapies***

Continuous renal replacement therapy (CRRT) is a type of “dialysis,” which is a machine treatment that filters and purifies the blood when a patient’s kidneys are damaged or are not functioning normally. CRRT is used for patients with kidney injury in acute care settings.

SARS-CoV-2 led to an increased population with critical illness and multiple organ failure, including acute kidney injury, increasing the need for CRRT. In addition, there was an insufficient supply of replacement solutions to meet the emergency need to provide CRRT in critically ill patients.<sup>26</sup>

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

SB 252 consolidates mask mandate prohibitions and COVID-19 vaccine and testing mandate prohibitions for business entities and governmental entities in s. 381.00316, F.S., and for educational institutions in s. 381.00319, F.S. The bill repeals s. 112.0441, F.S., prohibiting public employee COVID-19 vaccine mandates and s. 381.00317, F.S., prohibiting private employer vaccine mandates. Additionally, the bill amends the sunset date for s. 1002.20, F.S., related to face covering mandates in schools, to July 1, 2023, in order to match with the effective date of the bill.

### **Legislative Findings and Intent**

The bill provides that it is the intent of the Legislature that Floridians be free from mandated facial coverings, COVID-19 vaccination mandates of any kind, and discrimination based on COVID-19 vaccination status, and receive adequate information regarding treatment alternatives for COVID-19. The bill also provides Legislative findings that society is harmed by discrimination based on COVID-19 vaccination status because healthy persons are deprived of participating in society and accessing employment opportunities and that remedies to prevent such discrimination are in the best interest of the state.

### **Definitions Related to Sections 381.00317 and 381.00319, F.S.**

The bill defines the following terms:

- “Business entity” has the same meaning as in s. 606.03, F.S.,<sup>27</sup> and also includes a charitable organization as defined in s. 496.404, a corporation not for profit as defined in s. 617.01401, a private club, or any other business operating in this state.
- “Governmental entity” means the state or any political subdivision thereof, including the Executive, Legislative, and Judicial branches of government; the independent establishments

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<sup>26</sup> *Supra* n. 25

<sup>27</sup> Defined as any form of corporation, partnership, association, cooperative, joint venture, business trust, or sole proprietorship that conducts business in this state.

of the state, counties, municipalities, districts, authorities, boards, or commissions; or any agencies that are subject to chapter 286, F.S. The term does not include an educational institution as defined in s. 381.00319, F.S.

- “Educational institution” means a public or private school, including a preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school.
- “COVID-19” means the novel coronavirus identified as SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom.

### **COVID-19 Vaccine and Testing Mandate Prohibitions**

The bill prohibits a business entity, governmental entity, or educational institution from requiring any person to provide any documentation certifying COVID-19 vaccination or postinfection recovery or requiring a COVID-19 test in order to gain access, entry upon, or service from entity or institution.

Specific to business and governmental entities, the bill prohibits:

- Requiring the above documentation or testing as a condition of contracting, hiring, promotion, or continued employment;
- Using a knowledge or belief of a person’s COVID-19 vaccination or postinfection status, or a person’s failure to take a COVID-19 test to:
  - Refuse to hire, or discharge, the person;
  - Deprive or attempt to deprive the person of employment opportunities;
  - Adversely affect the person’s status as an employee or as an applicant; or
  - Otherwise discriminate against the person.

The bill provides that if a governmental entity fails to comply with the above provisions, an employee terminated based on such noncompliance is eligible for reemployment assistance under ch. 443, F.S., in addition to any other remedies available for such violation.

Specific to educational institutions, the bill prohibits such institutions from discriminating against any person based on such person’s COVID-19 vaccination or postinfection status or such person’s failure to take a COVID-19 test.

### **Mask Mandate Prohibitions**

The bill prohibits business entities, governmental entities, and educational institutions from requiring a person to wear a face mask, face shield, or any other facial covering that covers the mouth and nose and prohibits such entities and institutions from denying a person access to, entry upon, service from, or admission to, or otherwise discriminating against the person based on the person’s refusal to wear such a mask or facial covering. The bill provides exceptions to the mandate prohibition for:



- A health care provider or health care practitioner, as defined in s. 408.833, F.S.,<sup>28</sup> provided the provider or practitioner is in compliance with that section; and
- A business entity, governmental entity, or educational institution when a face mask, a face shield, or any other facial covering that covers the mouth and nose is required safety equipment consistent with occupational or laboratory safety requirements.<sup>29</sup>

### **Enforcement Provisions**

The bill places the DLA in charge of enforcing the mandate prohibitions for business and governmental entities and the DOH in charge of enforcing the prohibitions for educational institutions. Each individual and separate violation of the respective section may incur a fine of up to \$5,000 imposed by the respective agency. Fines collected pursuant to the sections must be deposited into the General Revenue Fund. The bill grants the DLA and DOH investigative authority including to administer oaths, take depositions, make inspections when authorized by law, issue subpoenas supported by affidavit, serve subpoenas and other process, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence. The bill specifies that challenges to and enforcement of subpoenas or orders shall be in accordance with s. 120.569, F.S., and that nothing in the respective sections limits the right of the person aggrieved by a violation of this section to recover damages or other relief under any other applicable law.

### **Mask Mandates in Health Care Settings**

SB 252 creates s. 408.833, F.S., to establish requirements for mask mandates in health care settings.

### ***Definitions***

The bill establishes definitions including:

- “Facial covering” to mean a cloth or surgical face mask, a face shield, or any other facial covering that covers the mouth and nose.
- “Health care practitioner” to have the same meaning as in s. 456.001, F.S.
- “Health care provider” to mean a health care provider as defined in s. 408.07, F.S.; a service provider licensed or certified under s. 393.17, part III of chapter 401, or part IV of chapter 468, F.S.; or a provider with an active health care clinic exemption under s. 400.9935, F.S.
- “Office” to mean an office maintained by a health care practitioner for the practice of the individual’s profession, as defined in his or her practice act.

### ***AHCA and DOH rules***

The bill requires the AHCA and the DOH to jointly develop standards for the appropriate use of facial coverings for infection control in health care settings by August 1, 2023. The standards must be posted on the AHCA and the DOH’s website and must include an easily accessible link to report complaints for violations of the standards. The bill requires the AHCA and the DOH to

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<sup>28</sup> This section is created by the bill and is discussed below.

<sup>29</sup> The bill specifies that, for an educational institution, the mask or face shield must be required safety equipment in a course of study.

adopt rules to implement the standards and authorizes emergency rulemaking procedures established in s. 120.54(4), F.S.,<sup>30</sup> to adopt the rules. Any emergency rules adopted are exempt from the 90 day expiration requirement in s. 154.54(4)(c), F.S., and stay in place until rules are adopted using standard rulemaking procedures.

### ***Individual Provider and Practitioner Standards***

The bill requires that by September 1, 2023, each health care provider and each health care practitioner who runs or manages an office to establish facial covering policies and procedures for their respective health care settings. These policies and procedures must be consistent with the standards adopted by the AHCA and the DOH. Additionally, the bill requires that such policies and procedures detail the clinical circumstances under which facial coverings are required to be worn by employees and contractors and prohibits the policies and procedures from requiring patients, visitors, or guests to wear facial coverings unless it is clinically necessitated in order to stop the transmission of a confirmed or suspected infectious disease, in accordance with the standards adopted by the agency and department.

Health care providers and practitioners are required to submit their facial covering policies and procedures to the AHCA or the DOH, as applicable, for approval when applying for initial licensure, license renewal, or change of ownership. The policies and procedures must be available for review by the AHCA or the DOH upon request and be accessible to the public on the homepages of their respective websites.

### **COVID-19 Treatment Provisions**

The bill establishes several provisions related to the treatment of COVID-19.

#### ***Treatment of COVID-19 in Hospitals***

The bill creates s. 395.1057, F.S., to prohibit a hospital from interfering with a patient's right to choose COVID-19 treatment alternatives as recommended by a health care practitioner with privileges at the hospital as long as the practitioner has the informed consent of the patient as detailed below. A hospital that violates this provision is subject to AHCA disciplinary action.

#### ***Dispensing of COVID-19 Medications***

The bill amends s. 465.0266, F.S., to prohibit the DOH or the Board of Pharmacy from disciplining a pharmacist who properly dispenses an alternative medication prescribed for the treatment of COVID-19, solely for such dispensing.

#### ***COVID-19 Treatment Informed Consent***

The bill creates s. 456.62, F.S., to require that a health care practitioner treating a patient diagnosed with COVID-19 must obtain the informed consent of the patient or the patient's legal

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<sup>30</sup> Emergency rulemaking procedures allow an agency to adopt rules by any procedure which is fair under the circumstances as long as the procedure meets specified minimum procedural requirements, the agency only takes action necessary to protect the public interest, and the agency publishes specific findings. Typically, emergency rules are not effective for a period longer than 90 days and are not renewable unless the rule is challenged or is awaiting legislative ratification. Nothing prohibits an agency from adopting an identical rule through standard rulemaking procedures.

representative before prescribing any medication for the treatment of COVID-19. The practitioner must provide an explanation of alternative medications for the treatment of COVID-19 and the relative advantages, disadvantages, and risks associated with such alternative medications to the extent necessary to allow the patient or the patient's legal representative to make a prudent decision regarding treatment. In determining which alternative medications to present the health care practitioner must include any medications currently authorized or approved by the FDA for the treatment of COVID-19 and use his or her best clinical judgment to identify any alternative medications that could be reasonably expected to benefit the patient.

The bill provides an effective date of July 1, 2023.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 252 may have an indeterminate negative fiscal impacts on businesses and private educational institutions that violate the requirements established in the bill. The bill may also have a negative fiscal impact on health care providers and practitioners related to creating and enforcing policies and procedures and other meeting requirements for masking.

**C. Government Sector Impact:**

SB 252 may have an indeterminate negative fiscal impact on governmental entities and public educational institutions that violated the requirements established by the bill. The bill may have a negative fiscal impact on the AHCA and the DOH related to adopting and posting standards for masking. The bill may have an indeterminate positive fiscal impact if the DOH or the DLA collects fines for violations of 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: 381.00316, 381.00319, 465.0266, and 1002.20.

This bill creates the following sections of the Florida Statutes: 395.1057, 408.833, and 456.62.

This bill repeals the following sections of the Florida Statutes: 112.0441 and 381.00317.

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

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

None.

**B. Amendments:**

None.

By Senator Burton

12-01819B-23

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1 A bill to be entitled  
 2 An act relating to protection from discrimination  
 3 based on health care choices; repealing s. 112.0441,  
 4 F.S., relating to prohibiting public employers from  
 5 imposing COVID-19 vaccination mandates; amending s.  
 6 381.00316, F.S.; providing legislative intent and  
 7 findings; defining terms; prohibiting business  
 8 entities and governmental entities from requiring  
 9 COVID-19 testing to gain access to, entry upon, or  
 10 service from such entities; prohibiting such entities  
 11 from requiring persons to provide certain  
 12 documentation or requiring COVID-19 testing as a  
 13 condition of contracting, hiring, promotion, or  
 14 continued employment; prohibiting business and  
 15 governmental entities from refusing to hire persons,  
 16 discharging persons, depriving or attempting to  
 17 deprive persons of employment opportunities, adversely  
 18 affecting persons with respect to employment, or  
 19 otherwise discriminating against any person based on  
 20 knowledge or belief of a person's COVID-19 vaccination  
 21 or postinfection recovery status or failure to take a  
 22 COVID-19 test; prohibiting such entities from  
 23 requiring persons to wear face coverings in order to  
 24 gain access to, entry upon, services from, or  
 25 admission to such entities or from otherwise  
 26 discriminating against persons based on their refusal  
 27 to wear a facial covering; providing exceptions;  
 28 providing administrative penalties; authorizing the  
 29 Department of Legal Affairs to take specified actions

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

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30 for purposes of conducting investigations or  
 31 proceedings; requiring collected fines to be deposited  
 32 in the General Revenue Fund; providing construction;  
 33 providing that certain terminated employees are  
 34 eligible for reemployment assistance; repealing s.  
 35 381.00317, F.S., relating to prohibiting private  
 36 employers from imposing COVID-19 vaccination mandates;  
 37 amending s. 381.00319, F.S.; revising definitions;  
 38 revising provisions related to the prohibition on  
 39 COVID-19-related mandates by educational institutions;  
 40 prohibiting educational institutions from requiring a  
 41 person to provide certain documentation or requiring a  
 42 COVID-19 test to gain admission to, access to, entry  
 43 upon, or service from such institutions or otherwise  
 44 discriminating against any person based on such  
 45 person's COVID-19 vaccination or postinfection  
 46 recovery status or failure to take a COVID-19 test;  
 47 prohibiting educational institutions from requiring  
 48 persons to wear face coverings; from denying a person  
 49 access to, entry upon, services from, or admission to  
 50 such institutions; or from otherwise discriminating  
 51 against persons based on their refusal to wear a  
 52 facial covering; providing exceptions; providing  
 53 administrative penalties; authorizing the Department  
 54 of Health to take specified actions for purposes of  
 55 conducting investigations or proceedings; requiring  
 56 collected fines to be deposited in the General Revenue  
 57 Fund; providing construction; creating s. 395.1057,  
 58 F.S.; prohibiting hospitals from interfering with

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59 patients' right to choose COVID-19 treatment  
 60 alternatives if certain conditions are met; providing  
 61 for disciplinary action; creating s. 408.833, F.S.;  
 62 defining terms; requiring the Agency for Health Care  
 63 Administration and the Department of Health to jointly  
 64 develop standards for the appropriate use of facial  
 65 coverings in health care settings by a specified date;  
 66 requiring that such standards be posted on the  
 67 agency's and department's respective websites in a  
 68 specified manner; requiring their websites to include  
 69 a link for reporting related complaints; requiring the  
 70 agency and department to adopt rules; providing for  
 71 emergency rulemaking; requiring health care providers  
 72 and certain health care practitioners to establish  
 73 facial covering policies and procedures by a specified  
 74 date; providing requirements for such policies and  
 75 procedures; requiring health care providers and health  
 76 care practitioners to submit their facial covering  
 77 policies to the agency or department, as applicable,  
 78 for approval; requiring health care providers and  
 79 health care practitioners to make such policies and  
 80 procedures available to the agency or department, as  
 81 applicable, upon request and easily accessible on  
 82 their respective websites; creating s. 456.62, F.S.;  
 83 requiring health care practitioners treating patients  
 84 diagnosed with COVID-19 to obtain patients' informed  
 85 consent before prescribing any medications for  
 86 treatment of COVID-19; providing a requirement for  
 87 obtaining such informed consent; requiring health care

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88 practitioners to include certain information and use  
 89 their best clinical judgment when making certain  
 90 determinations related to alternative medications for  
 91 treatment of COVID-19; requiring health care  
 92 practitioners to indicate certain information in their  
 93 patients' medical records; providing construction;  
 94 amending s. 465.0266, F.S.; exempting certain  
 95 pharmacists from disciplinary action under certain  
 96 circumstances; amending s. 1002.20, F.S.; conforming  
 97 provisions to changes made by the act; revising the  
 98 date of the future repeal of certain provisions;  
 99 providing an effective date.

100  
 101 Be It Enacted by the Legislature of the State of Florida:

102  
 103 Section 1. Section 112.0441, Florida Statutes, is repealed.

104 Section 2. Section 381.00316, Florida Statutes, is amended  
 105 to read:

106 381.00316 Discrimination based on COVID-19 vaccination  
 107 status; prohibition vaccine documentation.-

108 (1)(a) It is the intent of the Legislature that Floridians  
 109 be free from mandated facial coverings, COVID-19 vaccination  
 110 mandates of any kind, and discrimination based on COVID-19  
 111 vaccination status, and receive adequate information regarding  
 112 treatment alternatives for COVID-19.

113 (b) The Legislature finds and declares that society is  
 114 harmed by discrimination based on COVID-19 vaccination status  
 115 because healthy persons are deprived of participating in society  
 116 and accessing employment opportunities. The Legislature further

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finds and declares that remedies to prevent such discrimination are in the best interest of this state.

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

(a) "Business entity" has the same meaning as in s. 606.03. The term also includes a charitable organization as defined in s. 496.404, a corporation not for profit as defined in s. 617.01401, a private club, or any other business operating in this state.

(b) "COVID-19" means the novel coronavirus identified as SARS-CoV-2; any disease caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom; and all conditions associated with the disease which are caused by SARS-CoV-2, its viral fragments, or a virus mutating therefrom.

(c) "Department" means the Department of Legal Affairs.

(d) "Governmental entity" means the state or any political subdivision thereof, including the executive, legislative, and judicial branches of government; the independent establishments of the state, counties, municipalities, districts, authorities, boards, or commissions; or any agencies that are subject to chapter 286. The term does not include an educational institution as defined in s. 381.00319.

~~(3)(1)~~ A business entity, ~~as defined in s. 768.38 to include any business operating in this state,~~ may not require any person patrons or customers to provide any documentation certifying COVID-19 vaccination or postinfection recovery or require a COVID-19 test to gain access to, entry upon, or service from the business operations in this state or as a condition of contracting, hiring, promotion, or continued employment from the business entity. A business entity may not

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refuse to hire, or discharge, a person; deprive or attempt to deprive a person of employment opportunities; adversely affect a person's status as an employee or as an applicant for employment; or otherwise discriminate against a person based on knowledge or belief of the person's COVID-19 vaccination or postinfection recovery status or a person's failure to take a COVID-19 test. ~~This subsection does not otherwise restrict businesses from instituting screening protocols consistent with authoritative or controlling government-issued guidance to protect public health.~~

~~(4)(2)~~ A governmental entity ~~as defined in s. 768.38~~ may not require any person ~~persons~~ to provide any documentation certifying COVID-19 vaccination or postinfection recovery or require a COVID-19 test to gain access to, entry upon, or service from the governmental entity's operations in this state or as a condition of contracting, hiring, promotion, or continued employment from the governmental entity. A governmental entity may not refuse to hire, or discharge, a person; deprive or attempt to deprive a person of employment opportunities; adversely affect a person's status as an employee; or otherwise discriminate against a person based on the knowledge or belief of the person's COVID-19 vaccination or postinfection recovery status or a person's failure to take a COVID-19 test.

(5) A business entity or governmental entity may not require a person to wear a face mask, a face shield, or any other facial covering that covers the mouth and nose. A business entity or governmental entity may not deny any person access to, entry upon, service from, or admission to such entity or

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175 otherwise discriminate against a person based on such person's  
 176 refusal to wear a face mask, a face shield, or any other facial  
 177 covering that covers the mouth and nose. This subsection does  
 178 not apply to:

179 (a) A health care provider or health care practitioner as  
 180 those terms are defined in s. 408.833, provided such health care  
 181 provider or health care practitioner is in compliance with that  
 182 section.

183 (b) A business entity or governmental entity when a face  
 184 mask, a face shield, or any other facial covering that covers  
 185 the mouth and nose is required safety equipment consistent with  
 186 occupational or laboratory safety requirements This subsection  
 187 does not otherwise restrict governmental entities from  
 188 instituting screening protocols consistent with authoritative or  
 189 controlling government-issued guidance to protect public health.

190 ~~(3) An educational institution as defined in s. 768.38 may~~  
 191 ~~not require students or residents to provide any documentation~~  
 192 ~~certifying COVID-19 vaccination or postinfection recovery for~~  
 193 ~~attendance or enrollment, or to gain access to, entry upon, or~~  
 194 ~~service from such educational institution in this state. This~~  
 195 ~~subsection does not otherwise restrict educational institutions~~  
 196 ~~from instituting screening protocols consistent with~~  
 197 ~~authoritative or controlling government-issued guidance to~~  
 198 ~~protect public health.~~

199 (6)(a)(4) The department may impose an administrative a  
 200 fine not to exceed \$5,000 for each individual and separate per  
 201 violation of this section.

202 (b) For purposes of conducting an investigation or a  
 203 proceeding, the department may administer oaths, take

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204 depositions, make inspections when authorized by law, issue  
 205 subpoenas supported by affidavit, serve subpoenas and other  
 206 process, and compel the attendance of witnesses and the  
 207 production of books, papers, documents, and other evidence.  
 208 Challenges to and enforcement of subpoenas or orders shall be in  
 209 accordance with s. 120.569.

210 (c) Fines collected pursuant to this section must be  
 211 deposited into the General Revenue Fund.

212 (7) This section does not limit the right of the person  
 213 aggrieved by a violation of this section to recover damages or  
 214 other relief under any other applicable law.

215 (8) If a governmental entity fails to comply with  
 216 subsection (4), an employee terminated based on such  
 217 noncompliance may be eligible for reemployment assistance under  
 218 chapter 443 in addition to any other remedy available to the  
 219 employee for a violation of this section.

220 ~~(5) This section does not apply to a health care provider~~  
 221 ~~as defined in s. 768.38; a service provider licensed or~~  
 222 ~~certified under s. 393.17, part III of chapter 401, or part IV~~  
 223 ~~of chapter 468; or a provider with an active health care clinic~~  
 224 ~~exemption under s. 400.9935.~~

225 (9)(6) The department may adopt rules pursuant to ss.  
 226 120.536 and 120.54 to implement this section.

227 Section 3. Section 381.00317, Florida Statutes, is  
 228 repealed.

229 Section 4. Section 381.00319, Florida Statutes, is amended  
 230 to read:

231 381.00319 Prohibition on mask mandates and COVID-19  
 232 vaccination and testing mandates for educational institutions



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233 ~~students.~~

234 (1) For purposes of this section, the term:

235 (a) "COVID-19" means the novel coronavirus identified as  
 236 SARS-CoV-2; any disease caused by SARS-CoV-2, its viral  
 237 fragments, or a virus mutating therefrom; and all conditions  
 238 associated with the disease which are caused by SARS-CoV-2, its  
 239 viral fragments, or a virus mutating therefrom ~~has the same~~  
 240 ~~meaning as in s. 381.00317(1).~~

241 (b) "Educational institution" means a public or private  
 242 school, including a preschool, elementary school, middle school,  
 243 junior high school, secondary school, career center, or  
 244 postsecondary school ~~has the same meaning as in s. 112.0441(1).~~

245 ~~(c) "Parent" has the same meaning as in s. 1000.21(5).~~

246 (2) ~~(a)~~ Notwithstanding any other law to the contrary, An  
 247 educational institution ~~or elected or appointed local official~~  
 248 may not impose a COVID-19 vaccination mandate ~~on for~~ any person  
 249 student.

250 (b) An educational institution may not require any person  
 251 to provide any documentation certifying COVID-19 vaccination or  
 252 postinfection recovery or require a COVID-19 test to gain  
 253 admission or access to, entry upon, or service from the  
 254 educational institution in this state. An educational  
 255 institution may not otherwise discriminate against any person  
 256 based on such person's COVID-19 vaccination or postinfection  
 257 recovery status or such person's failure to take a COVID-19  
 258 test.

259 (3) An educational institution may not require a person to  
 260 wear a face mask, a face shield, or any other facial covering  
 261 that covers the mouth and nose. An educational institution may

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262 not deny any person access to, entry upon, service from, or  
 263 admission to such educational institution or otherwise  
 264 discriminate against a person based on such person's refusal to  
 265 wear a face mask, a face shield, or any other facial covering  
 266 that covers the mouth and nose. This subsection does not apply  
 267 to:

268 (a) A health care provider or health care practitioner as  
 269 those terms are defined in s. 408.833, provided such health care  
 270 provider or health care practitioner is in compliance with that  
 271 section.

272 (b) An educational institution when a face mask, a face  
 273 shield, or any other facial covering that covers the mouth and  
 274 nose is used as required safety equipment in a course of study  
 275 consistent with occupational or laboratory safety requirements.

276 (4) (a) The Department of Health may impose an  
 277 administrative fine not to exceed \$5,000 for each individual and  
 278 separate violation of this section.

279 (b) For the purpose of conducting an investigation or a  
 280 proceeding, the Department of Health may administer oaths, take  
 281 depositions, make inspections when authorized by law, issue  
 282 subpoenas supported by affidavit, serve subpoenas and other  
 283 process, and compel the attendance of witnesses and the  
 284 production of books, papers, documents, and other evidence.  
 285 Challenges to and enforcement of subpoenas or orders shall be in  
 286 accordance with s. 120.569.

287 (c) Fines collected pursuant to this section must be  
 288 deposited into the General Revenue Fund.

289 (5) This section does not limit the right of the person  
 290 aggrieved by a violation of this section to recover damages or

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other relief under any other applicable law.

~~(3) A parent of a student, a student who is an emancipated minor, or a student who is 18 years of age or older may bring an action against the educational institution to obtain a declaratory judgment that an act or practice violates this section and to seek injunctive relief. A prevailing parent or student, as applicable, must be awarded reasonable attorney fees and court costs.~~

~~(4) This section expires June 1, 2023.~~

Section 5. Section 395.1057, Florida Statutes, is created to read:

395.1057 Patients' right to choose COVID-19 treatment alternatives.—A hospital may not interfere with a patient's right to choose COVID-19 treatment alternatives as recommended by a health care practitioner with privileges at the hospital if the health care practitioner has obtained informed consent from the patient in accordance with s. 456.62. Any hospital that violates this section by preventing a health care practitioner from exercising his or her sound judgment is subject to agency disciplinary action under s. 395.1065(2).

Section 6. Section 408.833, Florida Statutes, is created to read:

408.833 Facial covering requirements for health care facilities and health care providers.—

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

(a) "Department" means the Department of Health.

(b) "Facial covering" means a cloth or surgical face mask, a face shield, or any other facial covering that covers the mouth and nose.

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(c) "Health care practitioner" has the same meaning as in s. 456.001.

(d) "Health care provider" means a health care provider as defined in s. 408.07; a service provider licensed or certified under s. 393.17, part III of chapter 401, or part IV of chapter 468; or a provider with an active health care clinic exemption under s. 400.9935.

(e) "Office" means an office maintained by a health care practitioner for the practice of the individual's profession, as defined in his or her practice act.

(2) By August 1, 2023, the agency and the department shall jointly develop standards for the appropriate use of facial coverings for infection control in health care settings.

(a) The standards must be posted on the agency and department's respective websites and in a manner easily accessible from the homepage of their respective websites. Each website must also include an easily accessible link to report complaints for violations of the standards.

(b) The agency and department shall adopt rules to implement this subsection and may use emergency rulemaking procedures established in s. 120.54(4) to adopt such rules. Such emergency rules are exempt from s. 120.54(4)(c) and shall remain in effect until replaced by rules adopted under the nonemergency rulemaking procedures established in chapter 120.

(3)(a) By September 1, 2023, each health care provider and each health care practitioner who operates or manages an office shall establish facial covering policies and procedures for their respective health care settings, consistent with the standards adopted by the agency and the department. The policies

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and procedures:

1. Must detail the clinical circumstances under which facial coverings are required to be worn by employees and contractors; and

2. May not require patients, visitors, or guests to wear facial coverings unless it is clinically necessitated in order to stop the transmission of a confirmed or suspected infectious disease, in accordance with the standards adopted by the agency and department.

(b) Health care providers and health care practitioners shall submit their facial covering policies and procedures to the agency or department, as applicable, for approval when applying for initial licensure, license renewal, or change of ownership. Health care providers and health care practitioners must make such policies and procedures available to the agency or department, as applicable, for review upon request, and easily accessible to the public on the homepages of their respective websites.

Section 7. Section 456.62, Florida Statutes, is created to read:

456.62 Communication of COVID-19 treatment alternatives.—

(1) A health care practitioner treating a patient diagnosed with COVID-19 shall obtain the informed consent of the patient or the patient's legal representative before prescribing any medication for the treatment of COVID-19.

(2) To obtain informed consent, the health care practitioner must provide an explanation of alternative medications for the treatment of COVID-19 and the relative advantages, disadvantages, and risks associated with such

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alternative medications to the extent necessary to allow the patient or the patient's legal representative to make a prudent decision regarding treatment.

(3) In determining which alternative medications to present to a patient for purposes of obtaining informed consent, the health care practitioner must include any medications currently authorized or approved by the United States Food and Drug Administration for the treatment of COVID-19 and use his or her best clinical judgment to identify any alternative medications that could be reasonably expected to benefit the patient.

(4) In providing such information regarding alternative medications, the health care practitioner shall take into consideration the physical state of the patient and the patient's ability to understand the information.

(5) A health care practitioner treating a patient diagnosed with COVID-19 shall indicate on such patient's medical record the health care practitioner's compliance or noncompliance with this section.

(6) This section does not supersede any other provision of law regarding informed consent.

Section 8. Section 465.0266, Florida Statutes, is amended to read:

465.0266 Common database.—Nothing contained in this chapter shall be construed to prohibit the dispensing by a pharmacist licensed in this state or another state of a prescription contained in a common database, and such dispensing shall not constitute a transfer as defined in s. 465.026(1)-(6), provided that the following conditions are met:

(1) All pharmacies involved in the transactions pursuant to

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which the prescription is dispensed are under common ownership and utilize a common database.

(2) All pharmacies involved in the transactions pursuant to which the prescription is dispensed and all pharmacists engaging in dispensing functions are properly licensed, permitted, or registered in this state or another state.

(3) The common database maintains a record of all pharmacists involved in the process of dispensing a prescription.

(4) The owner of the common database maintains a policy and procedures manual that governs its participating pharmacies, pharmacists, and pharmacy employees and that is available to the board or its agent upon request. The policy and procedures manual shall include the following information:

(a) A best practices model detailing how each pharmacy and each pharmacist accessing the common database will comply with applicable federal and state laws, rules, and regulations.

(b) The procedure for maintaining appropriate records for regulatory oversight for tracking a prescription during each stage of the filling and dispensing process, identifying the pharmacists involved in filling and dispensing the prescription and counseling the patient, and responding to any requests for information made by the board under s. 465.0156.

(c) The policy and procedure for providing adequate security to protect the confidentiality and integrity of patient information.

(d) A quality assurance program designed to objectively and systematically monitor, evaluate, and improve the quality and appropriateness of patient care through the use of the common

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database.

Any pharmacist dispensing a prescription has at all times the right and obligation to exercise his or her independent professional judgment. Any pharmacist properly dispensing an alternative medication prescribed for the treatment of COVID-19 is not subject to disciplinary action by the board or the department based solely on such dispensing. Notwithstanding ~~other provisions in~~ this section, a ~~no~~ pharmacist licensed in this state ~~participating in the~~ dispensing of a prescription pursuant to this section is not ~~shall be~~ responsible for the acts and omissions of another person participating in the dispensing process provided such person is not under the direct supervision and control of the pharmacist licensed in this state.

Section 9. Paragraph (n) of subsection (3) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(3) HEALTH ISSUES.—

(n) *Face covering mandates and quarantine mandates in response to COVID-19.*—

1. A district school board, a district school superintendent, an elected or appointed local official, or any district school board employee may not:

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465 a. Require a student to wear a face mask, a face shield, or  
 466 any other facial covering that fits over the mouth or nose.  
 467 However, a parent, at the parent's sole discretion, may allow  
 468 his or her child to wear a face mask, a face shield, or any  
 469 other facial covering that fits over the mouth or nose. This  
 470 prohibition does not apply to safety equipment required as part  
 471 of a course of study consistent with occupational or laboratory  
 472 safety requirements.

473 b. Prohibit a student from attending school or school-  
 474 sponsored activities, prohibit a student from being on school  
 475 property, or subject a student to restrictions or disparate  
 476 treatment, based on an exposure to COVID-19, so long as the  
 477 student remains asymptomatic and has not received a positive  
 478 test for COVID-19 as defined in s. 381.00319(1) ~~s. 381.00317(1)~~.  
 479

480 A parent of a student, a student who is an emancipated minor, or  
 481 a student who is 18 years of age or older may bring an action  
 482 against the school district to obtain a declaratory judgment  
 483 that an act or practice violates this subparagraph and to seek  
 484 injunctive relief. A prevailing parent or student, as  
 485 applicable, must be awarded reasonable attorney fees and court  
 486 costs.

487 2. A district school board, a district school  
 488 superintendent, an elected or appointed local official, or any  
 489 school district employee may not prohibit an employee from  
 490 returning to work or subject an employee to restrictions or  
 491 disparate treatment based on an exposure to COVID-19 so long as  
 492 the employee remains asymptomatic and has not received a  
 493 positive test for COVID-19 as defined in s. 381.00319(1) ~~s.~~

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494 ~~381.00317(1)~~.495 3. This paragraph expires July ~~June~~ 1, 2023.

496 Section 10. This act shall take effect July 1, 2023.

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**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/4/2023

Meeting Date

Health Policy

Committee

SB 0252

Bill Number or Topic

Amendment Barcode (if applicable)

Name Mary WinnPhone (850) 766-2612Address 1006 Brookwood Dr.

Street

Email kathywinn980@gmail.comTallahassee FL 32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information**OR**Waive Speaking: ☐ In Support ☒ Against**PLEASE CHECK ONE OF THE FOLLOWING:**☒ I am appearing without  
compensation or sponsorship.☐ I am a registered lobbyist,  
representing:☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:representing League of Women Voters  
of Tallahassee

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 252

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

Committee

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☒

Information

**OR**

Waive Speaking:

☐

In Support

☒

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Meeting Date

3-4-23

Committee

Health Policy

Bill Number or Topic

252

Amendment Barcode (if applicable)

Name

DR. Diane GOWSKI, MD

Phone

727-480-7574

Address

1383 Temple St

Email

diane tg @ aol.com

Street

City

Clearwater, FL

State

Zip

33756

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)



The Florida Senate  
**APPEARANCE RECORD**

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4/4/23  
Meeting Date  
Health Policy  
Committee

SB 252  
Bill Number or Topic

Name Arcon DiPietro Phone 904-608-4471  
Amendment Barcode (if applicable)

Address 4853 S. Orange Ave Email arcond@flfamily.org  
Street  
Orlando FL 32806  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☒ I am a registered lobbyist,  
representing:

Florida Family Policy  
Council

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 252  
Bill Number or Topic

4/4/23  
Meeting Date

Health Policy  
Committee

Amendment Barcode (if applicable)

Name Jewel S Dickson Phone 386-717-4344

Address 601 N. Amelia Ave. Email jewelclackson@mac.com  
Street

DeLand, FL  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☐ In Support ☒ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

APRIL 4, 2023

Meeting Date

SENATE HEALTH POLICY

Committee

SB 252

Bill Number or Topic

Amendment Barcode (if applicable)

Name DR. YVETTE EDGILL SPANO

Phone 240-505-0125

Address 22 WOOD CENTER LANE

Street

Email ymspano@gmail.com

PAUM COAST

City

FL

State

32164

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking:

☐ In Support

☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without  
compensation or sponsorship.



I am a registered lobbyist,  
representing:



I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

April 4, 2023  
Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

SB52  
Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Jacqueline Moore

Phone 407 963-8574

Address 2250 Maureen Dr

Email myellowguy@aol.com

Deltona FL 32725  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

**OR**

Waive Speaking: ☒ In Support ☐ Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☐ I am appearing without  
compensation or sponsorship.

☐ I am a registered lobbyist,  
representing:

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

**OR**

Waive Speaking:

☐

In Support

☒

Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/4/23

Meeting Date

Health Policy

Committee

SB 252

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Nancy Olson

Phone

386 846 1415

Address

13 Cunningham Dr.

Street

Email

Olsonnancy90@gmail.com

New Smyrna Beach, FL 32168

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without  
compensation or sponsorship.

☐

I am a registered lobbyist,  
representing:

☐

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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

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

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

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BILL: CS/SB 238

INTRODUCER: Committee on Health Policy and Senator Burton

SUBJECT: Public Records/COVID-19 Vaccination Mandates

DATE: April 5, 2023

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	Fav/CS
2.			FP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 238 amends s. 381.00318, F.S., to expand and conform its public records exemption (PRE) provisions to match with the changes made to ss. 381.00316 and 381.00319, F.S., in SB 252. Specifically, the bill provides that a complaint alleging a business entity's, governmental entity's, or an educational institution's violation of ss. 381.00316 or 381.00319, F.S., held by the Department of Legal Affairs (DLA) or the Department of Health (DOH) is confidential and exempt from public records provisions of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

The exemption lasts until the investigation into the complaint is completed or ceases to be active, unless releasing the information would jeopardize the integrity of another active investigation, reveal medical information about an individual, or reveal information about an individual's religious beliefs. Information made confidential and exempt may be released to a business or governmental entity or education institution in furtherance of the entity's or institution's lawful duties and responsibilities and may also be released in aggregated format.

The bill provides legislative findings and extends the Open Government Sunset Review Act repeal date to October 2, 2028.

The bill provides that its provisions take effect on the same date that SB 252 takes effect.

## II. Present Situation:

For background and information related to ss. 381.00316 and 381.00319, F.S., please see the analysis for SB 252.

### Access to Public Records - Generally

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> The right to inspect or copy 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>

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.<sup>3</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive branch and local government agencies.

### Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.<sup>5</sup>

Section 119.011(12), F.S., defines “public records” to include:

[a] ll 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 connections with the transaction of official business by any agency.

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

<sup>2</sup> *Id.*

<sup>3</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

<sup>4</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4<sup>th</sup> DCA 2018).

<sup>5</sup> Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” 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.”



The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”<sup>6</sup>

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.<sup>9</sup> The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>10</sup>

General exemptions from the public records requirements are contained in the Public Records Act.<sup>11</sup> Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.<sup>12</sup>

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.<sup>13</sup> Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.<sup>14</sup> Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>15</sup>

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<sup>6</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>7</sup> Section 119.07(1)(a), F.S.

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST. art. I, s. 24(c).

<sup>10</sup> *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

<sup>11</sup> *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

<sup>12</sup> *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

<sup>13</sup> *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5<sup>th</sup> DCA 2004).

<sup>14</sup> *Id.*

<sup>15</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5<sup>th</sup> DCA 1991).

## Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act<sup>16</sup> (the Act), prescribe a legislative review process for newly created or substantially amended<sup>17</sup> public records or open meetings exemptions, with specified exceptions.<sup>18</sup> The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.<sup>19</sup> In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act 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>20</sup> An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption *and* it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>21</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>22</sup> or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>23</sup>

The Act also requires specified questions to be considered during the review process.<sup>24</sup> In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>25</sup> If the exemption is

<sup>16</sup> Section 119.15, F.S.

<sup>17</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>18</sup> Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>19</sup> Section 119.15(3), F.S.

<sup>20</sup> Section 119.15(6)(b), F.S.

<sup>21</sup> Section 119.15(6)(b)1., F.S.

<sup>22</sup> Section 119.15(6)(b)2., F.S.

<sup>23</sup> Section 119.15(6)(b)3., F.S.

<sup>24</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>25</sup> See generally s. 119.15, F.S.

continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.<sup>26</sup>

### III. Effect of Proposed Changes:

CS/SB 238 amends s. 381.00318, F.S., to expand and conform its PRE provisions to match with the changes made to ss. 381.00316 and 381.00319, F.S., in SB 252. Specifically, the bill provides that a complaint alleging a business entity's, governmental entity's, or an educational institution's violation of ss. 381.00316 or 381.00319, F.S., held by the Department of Legal Affairs (DLA) or the Department of Health (DOH) is confidential and exempt from public records provisions of s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. The exemption lasts until the investigation into the complaint is completed or ceases to be active, unless releasing the information would jeopardize the integrity of another active investigation, reveal medical information about an individual, or reveal information about an individual's religious beliefs. Information made confidential and exempt may be released to a business or governmental entity or education institution in furtherance of the entity's or institution's lawful duties and responsibilities and may also be released in aggregated format.

The bill extends the Open Government Sunset Review Act repeal date to October 2, 2028.

The bill provides Legislative findings that it is a public necessity that a complaint alleging a violation of ss. 381.00316 or 381.00319, F.S., and all information related to an investigation of the complaint held by the DLA or the DOH, be made confidential and exempt because protection of such information is required to safeguard an individual's private information regarding medical information or religious beliefs and to ensure the integrity of an active investigation.

The bill provides that its provisions take effect on the same date that SB 252 takes effect.

### IV. Constitutional Issues:

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

None.

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

##### **Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for records pertaining to judicial assistants; therefore, the bill requires a two-thirds vote of each chamber for enactment.

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<sup>26</sup> Section 119.15(7), F.S.

**Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

**Breadth of Exemption**

Article I, s. 24(c), of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect judicial assistants. This bill exempts only records pertaining investigations under ss. 381.00316 and 381.00319, F.S., and only while such investigations are active.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 381.00318 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 Health Policy on April 3, 2023:**

The CS incorporates a technical amendment to the bill's effective date to provide that the bill is effective on the same date that SB 252 or similar legislation takes effect, if both are adopted in the same legislative session or an extension thereof and become law.

- B. **Amendments:**

None.



874238

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
	.	
	.	
	.	

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

**Senate Amendment**

Delete line 73  
and insert:  
SB 252 or similar legislation takes effect, if such legislation

By Senator Burton

12-01820A-23

2023238\_\_

A bill to be entitled

An act relating to public records; amending s. 381.00318, F.S.; providing an exemption from public records requirements for certain information held by the Department of Legal Affairs or the Department of Health; authorizing the disclosure of such information under certain circumstances; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 381.00318, Florida Statutes, is amended to read:

381.00318 Complaints and investigations regarding ~~private employer~~ COVID-19 vaccination mandates; public records exemption.—

(1) ~~A An employee~~ complaint alleging a business entity's, a governmental entity's, or an educational institution's private employer's violation of s. 381.00316 or s. 381.00319 or s. 381.00317 regarding ~~employer COVID-19 vaccination policies or practices~~, and all information relating to an investigation of such complaint, held by the Department of Legal Affairs or the Department of Health is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation is completed or ceases to be active. For purposes of this section, an investigation is considered "active" while such investigation is being conducted by the

Page 1 of 3

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

12-01820A-23

2023238\_\_

Department of Legal Affairs or the Department of Health with a reasonable good faith belief that it may lead to a determination of whether there was a violation of s. 381.00316 or s. 381.00319 or s. 381.00317. An investigation does not cease to be active if the Department of Legal Affairs or the Department of Health is proceeding with reasonable dispatch and there is a good faith belief that action may be initiated by the Department of Legal Affairs or the Department of Health.

(2) After an investigation is completed or ceases to be active, information in records relating to the investigation remains confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if disclosure of that information would do any of the following:

(a) Jeopardize the integrity of another active investigation.

(b) Reveal medical information about an individual employee.

(c) Reveal information regarding an individual's employee's religious beliefs.

(3) Information made confidential and exempt under this section may be released to another business entity, governmental entity, or educational institution in the furtherance of that entity's or institution's lawful duties and responsibilities.

(4) This section does not prohibit the disclosure of information in an aggregated format.

(5) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature ~~This section shall stand~~

Page 2 of 3

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

12-01820A-23

2023238\_\_

59 ~~repealed on October 2, 2023.~~

60       Section 2. The Legislature finds that it is a public  
61 necessity that a complaint alleging a business entity's, a  
62 governmental entity's, or an educational institution's violation  
63 of s. 381.00316, Florida Statutes, or s. 381.00319, Florida  
64 Statutes, and all information relating to an investigation of  
65 such complaint held by the Department of Legal Affairs or the  
66 Department of Health, be made exempt from s. 119.07(1), Florida  
67 Statutes, and s. 24(a), Article I of the State Constitution.  
68 Protection of such information is required to safeguard an  
69 individual's private information regarding medical information  
70 or religious beliefs and to ensure the integrity of an active  
71 investigation, if applicable.

72       Section 3. This act shall take effect on the same date that  
73 SB \_\_\_\_ or similar legislation takes effect, if such legislation  
74 is adopted in the same legislative session or an extension  
75 thereof and becomes a law.



# CourtSmart Tag Report

**Room:** KB 412  
**Caption:** Senate Health Policy

**Case No.:** -  
**Judge:**

**Type:**

**Started:** 4/4/2023 8:30:36 AM

**Ends:** 4/4/2023 10:31:31 AM

**Length:** 02:00:56

8:30:35 AM Chair Burton calls meeting to order  
8:30:50 AM Roll call  
8:31:03 AM Quorum is present  
8:31:25 AM Take up Tab 1 SB 16 Relief of Mitchell by the South Broward Hospital District  
8:31:47 AM Chair Burton recognizes Senator Gruters to explain bill  
8:32:05 AM Chair Burton recognizes Senator Gruters to close  
8:32:45 AM Roll Call SB 16  
8:32:49 AM Vote recorded  
8:33:14 AM Take up Tab 7 SB 1352 Medicaid Enrollees with Sickle Cell Disease  
8:33:29 AM Chair Burton recognizes Senator Rouson to explain bill  
8:33:55 AM Public Appearance by Commander James Cunningham  
8:34:42 AM Public Appearance by Aaron Collins  
8:35:04 AM Chair Burton recognizes Senator Rouson to close  
8:35:12 AM Roll Call SB 1352  
8:35:18 AM Vote recorded  
8:35:50 AM Take up Tab 2 SB 858 Military Corpsmen and Medics of Florida Program  
8:36:06 AM Chair Burton recognizes Senator Avila to explain on behalf of Senator Torres  
8:36:45 AM Take up amendment barcode 903060  
8:36:57 AM Chair Burton recognizes Senator Avila to explain  
8:37:07 AM Action on amendment recorded, back on the bill  
8:37:29 AM Public Appearance by Bob Asztalos of FL Department of Veterans Affairs  
8:37:36 AM Chair Burton recognizes Senator Avila to close  
8:37:49 AM Roll Call SB 858  
8:37:54 AM Vote recorded  
8:38:21 AM Take up Tab 9 SB 56 Psychology Interjurisdictional Compact  
8:38:47 AM Chair Burton recognizes Senator Harrell to explain bill  
8:39:01 AM Take up amendment barcode 138622  
8:39:53 AM Chair Burton recognizes Senator Harrell to explain  
8:40:03 AM Action on amendment recorded, back on bill  
8:40:18 AM Public Appearance by Mary Winn of League of Women Voters  
8:40:34 AM Public Appearance by Nick Mayor of AARP  
8:40:50 AM Public Appearance by Deborah Foote of Florida Psychology Association  
8:41:11 AM Chair Burton recognizes Senator Harrell to close  
8:41:17 AM Roll Call SB 56  
8:41:28 AM Vote recorded  
8:41:33 AM Take up Tab 10 SB 58  
8:41:47 AM Chair Burton recognizes Senator Harrell to explain bill  
8:42:01 AM Take up amendment barcode 586238  
8:42:30 AM Chair Burton recognizes Senator Harrell to explain  
8:42:39 AM Action on amendment recorded, back on bill  
8:42:56 AM Chair Burton recognizes Senator Harrell to close on bill  
8:43:08 AM Roll Call SB 58  
8:43:28 AM Vote recorded  
8:43:31 AM Take up Tab 4 SB 1580 Protections of Medical Conscience  
8:43:49 AM Chair Burton recognizes Senator Trumbull to explain  
8:45:50 AM Questions by Senator Osgood  
8:49:17 AM Questions by Senator Book  
8:53:55 AM Questions by Senator Harrell  
8:55:45 AM Questions by Senator Davis  
9:01:48 AM Question by Senator Book  
9:03:42 AM Question by Senator Davis  
9:04:38 AM Question by Senator Harrell

9:05:02 AM Public Appearances  
9:22:27 AM Comment by Senator Osgood  
9:25:48 AM Comment by Senator Harrell  
9:26:47 AM Comment by Senator Davis  
9:28:05 AM Chair Burton recognizes Senator Trumbull to close  
9:28:14 AM Roll Call SB 1580  
9:28:46 AM Vote recorded  
9:29:13 AM Take up Tab 5 SB 1084 Long-term Managed Care Program  
9:29:35 AM Chair Burton recognizes Senator Trumbull to explain bill  
9:33:28 AM Questions by Senator Harrell  
9:35:59 AM Public Appearances  
9:49:23 AM Comment by Senator Harrell  
9:49:30 AM Comment by Senator Book  
9:49:37 AM Chair recognizes Senator Trumbull to close  
9:50:06 AM Roll Call SB 1084  
9:51:06 AM Vote recorded  
9:51:30 AM Chair Burton passes gavel to Vice Chair Brodeur  
9:51:40 AM Take up Tab 13 SB 252 Protection from Discrimination Based on Health Care Choices  
9:51:48 AM Chair Brodeur recognizes Senator Burton to explain bill  
9:55:03 AM Public Appearance by Mary Winn  
9:56:03 AM Public Appearance by Barb Grimm  
9:56:13 AM Public Appearance by Dr. Diane Gowski  
9:56:39 AM Public Appearance by Aaron DiPietro of Florida Family Policy Council  
9:57:09 AM Public Appearance by Jewel Dickson  
9:57:16 AM Public Appearance by Dr Yvette Edghill  
9:57:22 AM Public Appearance by Jaqueline Moore  
9:57:31 AM Public Appearance by Leslie Holton  
9:57:32 AM Public Appearance by Nancy Olson  
9:57:40 AM Chair Brodeur recognizes Senator Burton to close  
9:57:51 AM Roll Call SB 252  
9:58:17 AM Vote recorded  
9:58:20 AM Take up Tab 14 SB 238 Public Records/COVID-19 Vaccination Mandates  
9:58:48 AM Chair Brodeur recognizes Senator Burton to explain bill  
9:59:04 AM Take up amendment barcode 874238  
9:59:32 AM Chair Brodeur recognizes Senator Burton to explain  
9:59:40 AM Action on amendment, back on bill  
9:59:53 AM Chair Brodeur recognizes Senator Burton to close  
10:00:03 AM Roll Call SB 238  
10:00:08 AM Vote recorded  
10:00:27 AM Chair Brodeur passes gavel back to Chair Burton  
10:00:48 AM Take up Tab 11 SB 1594  
10:00:58 AM Chair Burton recognizes Senator Brodeur to explain bill  
10:01:11 AM Take up amendment barcode 859062  
10:01:53 AM Chair Burton recognizes Senator Brodeur to explain amendment  
10:02:01 AM Take up amendment barcode 663310  
10:02:36 AM Chair Burton recognizes Senator Book to explain the amendment to amendment  
10:02:48 AM Public Appearance by JJ Holmes  
10:03:10 AM Public Appearance by Allison Holmes  
10:03:20 AM Comment by Senator Brodeur  
10:04:19 AM Chair Burton recognizes Senator Book to close on amendment to amendment  
10:04:48 AM Action on amendment recorded  
10:05:22 AM Chair Burton recognizes Senator Brodeur to close  
10:05:43 AM Action on amendment recorded, back on bill  
10:05:52 AM Public Appearances, waiving speaking  
10:06:13 AM Public Appearance by JJ Holmes  
10:10:21 AM Public Appearance by Allison Holmes  
10:10:33 AM Questions by Senator Brodeur  
10:12:13 AM Comment by Senator Harrell  
10:14:30 AM Chair Burton recognizes Senator Brodeur to close  
10:14:38 AM Roll Call SB 1594  
10:14:52 AM Vote recorded  
10:15:05 AM Take up Tab 12 SB 268

10:15:41 AM Chair Burton recognizes Senator Brodeur to explain bill  
10:16:03 AM Public Appearance by Katie Rogers of  
10:16:24 AM Comment by Senator Harrell  
10:16:35 AM Roll Call SB 268  
10:17:22 AM Vote recorded  
10:17:25 AM Take up Tab 6 SB 1338  
10:18:25 AM Take up amendment barcode 535992  
10:18:36 AM Chair Burton recognizes Senator Martin to explain  
10:19:16 AM Chair Burton recognizes Senator Martin to close  
10:20:15 AM Action on amendment recorded, back on bill  
10:20:24 AM Public Appearance by commander James Cunningham  
10:20:34 AM Public Appearance by Aaron Collins  
10:20:41 AM Comment by Senator Osgood  
10:20:49 AM Chair Burton recognizes Senator Martin to close  
10:21:43 AM Roll Call SB 1338  
10:21:48 AM Vote recorded  
10:22:27 AM Take up Tab 8 SB 1408  
10:22:35 AM Chair Burton recognizes Senator Davis to explain  
10:22:44 AM Take up amendment barcode 712732  
10:23:19 AM Chair Burton recognizes Senator Davis to explain  
10:23:31 AM Action on amendment recorded, back on bill  
10:23:45 AM Public Appearances  
10:24:14 AM Chair Burton recognizes Senator Davis to close  
10:24:38 AM Roll Call SB 1338  
10:24:59 AM Vote recorded  
10:25:18 AM Take up Tab 3 SB 1548  
10:25:39 AM Chair Burton recognizes Senator Bradley to explain bill  
10:26:08 AM Question by Senator Harrell  
10:27:08 AM Take up amendment barcode 367336  
10:27:31 AM Chair Burton recognizes Senator Bradley to explain  
10:27:44 AM Action on amendment recorded, back on bill  
10:27:54 AM Public Appearances  
10:28:13 AM Roll call SB 1548  
10:29:13 AM Vote recorded  
10:29:44 AM Senator Brodeur moves  
10:30:26 AM Meeting adjourned  
10:31:31 AM