

<b>Tab 1</b>	<b>SB 516</b> by <b>Rodriguez</b> ; (Similar to CS/H 00201) Emergency Refills of Insulin and Insulin-related Supplies or Equipment					
701874	D	S	RCS	HP, Rodriguez	Delete everything after	01/30 11:02 AM
<b>Tab 2</b>	<b>SB 274</b> by <b>Rodriguez</b> ; (Similar to H 00123) Child Water Safety Requirements					
<b>Tab 3</b>	<b>SB 1008</b> by <b>Grall (CO-INTRODUCERS) Book</b> ; (Identical to H 00975) Background Screening Requirements for Health Care Practitioners					
<b>Tab 4</b>	<b>SB 896</b> by <b>Martin</b> ; (Similar to CS/CS/H 00197) Health Care Practitioners and Massage Therapy					
<b>Tab 5</b>	<b>SB 830</b> by <b>Collins</b> ; (Compare to CS/H 00865) Youth Athletic Activities					
339828	A	S	RCS	HP, Collins	Delete L.24 - 69.	01/30 11:02 AM
<b>Tab 6</b>	<b>SB 1112</b> by <b>Harrell</b> ; (Similar to H 01295) Health Care Practitioner Titles and Designations					
322224	D	S	RCS	HP, Harrell	Delete everything after	01/30 11:02 AM
<b>Tab 7</b>	<b>SB 1320</b> by <b>Calatayud</b> ; (Similar to H 00159) HIV Infection Prevention Drugs					
<del>587166</del>	D	S	WD	HP, Calatayud	Delete everything after	01/29 08:34 AM
157278	D	S	RCS	HP, Calatayud	Delete everything after	01/30 11:02 AM
<b>Tab 8</b>	<b>SB 458</b> by <b>Brodeur</b> ; (Compare to H 00011) Invalid Restrictive Covenants in Health Care					
110948	A	S	RCS	HP, Brodeur	Delete L.47 - 61:	01/30 11:02 AM

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

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

**MEETING DATE:** Tuesday, January 30, 2024  
**TIME:** 9:00—11:00 a.m.  
**PLACE:** *Pat Thomas Committee Room, 412 Knott Building*

**MEMBERS:** Senator Burton, Chair; Senator Brodeur, Vice Chair; Senators Albritton, Avila, Book, Calatayud, Davis, Garcia, Harrell, and Osgood

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 516</b> Rodriguez (Similar CS/H 201)	Emergency Refills of Insulin and Insulin-related Supplies or Equipment; Authorizing pharmacists to dispense an emergency refill of a standard unit of dispensing or a 30-day supply of insulin and insulin-related supplies or equipment a specified number of times per year, etc.  HP 01/30/2024 Fav/CS AHS RC	Fav/CS Yeas 9 Nays 0
2	<b>SB 274</b> Rodriguez (Similar H 123)	Child Water Safety Requirements; Citing this act as the "Kareem Angel Green Act"; providing that certain organizations that care for or supervise children must require parents or legal guardians to attest to certain information in writing before taking such children to public bathing places and public swimming pools; providing requirements for such organizations when they conduct certain activities in public bathing places or public swimming pools, etc.  HP 01/30/2024 Favorable CF RC	Favorable Yeas 9 Nays 0
3	<b>SB 1008</b> Grall (Identical H 975, Compare H 1549, CS/S 7016)	Background Screening Requirements for Health Care Practitioners; Expanding certain background screening requirements to apply to all health care practitioners, rather than specified practitioners; requiring health care practitioners licensed before a specified date to comply with the background screening requirements by a specified date, etc.  HP 01/30/2024 Favorable AHS FP	Favorable Yeas 9 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Health Policy

Tuesday, January 30, 2024, 9:00—11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 896</b> Martin (Similar CS/CS/H 197)	Health Care Practitioners and Massage Therapy; Requiring that a certain annual report required of the Department of Health include specified data; requiring the department to immediately suspend the license of massage therapists and massage establishments under certain circumstances; revising quorum requirements for the Board of Massage Therapy; prohibiting sexual activity and certain related activities in massage establishments; revising advertising requirements and prohibitions for massage therapists and massage establishments; requiring the department's investigators to request valid government identification from all employees while in a massage establishment, etc.  HP 01/30/2024 Favorable AHS FP	Favorable Yeas 9 Nays 0
5	<b>SB 830</b> Collins (Compare CS/H 865, H 1479, S 1776)	Youth Athletic Activities; Requiring an entity that administers or conducts a high-risk youth athletic activity or training related to such activity on certain property to require certain unpaid or volunteer personnel to complete a specified course; requiring such personnel to complete the course within a specified timeframe and annually thereafter; providing that the course may be offered online or in person; revising the requirements for certain athletic coaches to include certification in cardiopulmonary resuscitation, first aid, and the use of an automatic external defibrillator, etc.  HP 01/30/2024 Fav/CS AHS FP	Fav/CS Yeas 9 Nays 0
6	<b>SB 1112</b> Harrell (Similar H 1295)	Health Care Practitioner Titles and Designations; Providing that, for specified purposes, the use of specified titles or designations in connection with one's name constitutes the practice of medicine or the practice of osteopathic medicine; revising grounds for disciplinary action relating to a practitioner's use of such titles or designations in identifying himself or herself to patients or in advertisements for health care services; requiring certain health care practitioners to prominently display a copy of their license in a conspicuous area of their practice, etc.  HP 01/30/2024 Fav/CS RC	Fav/CS Yeas 9 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Health Policy

Tuesday, January 30, 2024, 9:00—11:00 a.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>SB 1320</b> Calatayud (Similar H 159)	HIV Infection Prevention Drugs; Authorizing pharmacists to screen adults for HIV exposure and provide the results to such adults; authorizing pharmacists to order and dispense HIV infection prevention drugs only pursuant to a collaborative practice agreement with a physician, etc.  HP      01/30/2024 Fav/CS AHS RC	Fav/CS Yeas 9 Nays 0
8	<b>SB 458</b> Brodeur (Compare H 11)	Invalid Restrictive Covenants in Health Care; Specifying that certain restrictive covenants in employment agreements relating to certain licensed physicians are not supported by a legitimate business interest; specifying that such restrictive covenants are void and unenforceable, etc.  HP      01/30/2024 Fav/CS CM RC	Fav/CS Yeas 9 Nays 0

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Other Related Meeting Documents

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

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

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

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BILL: CS/SB 516

INTRODUCER: Health Policy Committee and Senator Rodriguez

SUBJECT: Emergency Refills of Insulin and Insulin-related Supplies or Equipment

DATE: January 31, 2024

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 516 amends ss. 465.0275 and 893.04, F.S., relating to emergency prescription refills. The bill eliminates the current one-vial limit on emergency insulin refills and expands current law on emergency insulin refills to include related supplies and equipment.

The bill authorizes pharmacists who have received a prescription refill request from a patient but are unable to obtain an authorization from a prescriber, to dispense to the patient an emergency refill of insulin and insulin-related supplies or equipment to treat diabetes, not to exceed three nonconsecutive times per calendar year, as opposed to a “one-time emergency refill of one vial of insulin” as provided under current law.

The bill provides an effective date of July 1, 2024.

## II. Present Situation:

### Pharmacist Licensure

Pharmacy is the third largest health profession behind nursing and medicine.<sup>1</sup> The Board of Pharmacy (BOP), in conjunction with the Department of Health (DOH), regulates the practice of pharmacists pursuant to ch. 465, F.S.<sup>2</sup> To be licensed as a pharmacist, a person must:<sup>3</sup>

- Complete an application and remit an examination fee;
- Be at least 18 years of age;
- Hold a degree from an accredited and approved school or college of pharmacy;<sup>4</sup>
- Have completed a BOP approved internship; and
- Successfully complete the BOP approved examination.

A pharmacist must complete at least 30 hours of BOP-approved continuing education during each biennial renewal period.<sup>5</sup> Pharmacists who are certified to administer vaccines or epinephrine auto-injections must complete a three-hour continuing education course on the safe and effective administration of vaccines and epinephrine auto-injections as a part of the biennial licensure renewal.<sup>6</sup> Pharmacists who administer long-acting antipsychotic medications must complete an approved eight-hour continuing education course as a part of the continuing education for biennial licensure renewal.<sup>7</sup>

### Pharmacist Scope of Practice

In Florida, the practice of the profession of pharmacy includes:<sup>8</sup>

- Compounding, dispensing, and consulting concerning the contents, therapeutic values, and uses of any medicinal drug;
- Consulting concerning therapeutic values and interactions of patent or proprietary preparations;
- Monitoring a patient's drug therapy and assisting the patient in the management of his or her drug therapy, including the review of the patient's drug therapy and communication with the patient's prescribing health care provider or other persons specifically authorized by the patient, regarding the drug therapy;
- Transmitting information from prescribers to their patients;

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<sup>1</sup> American Association of Colleges of Pharmacy, *About AACP*, available at <https://www.aacp.org/about-aacp> (last visited Jan. 30, 2024).

<sup>2</sup> Sections 465.004 and 465.005, F.S.

<sup>3</sup> Section 465.007, F.S. The DOH may also issue a license by endorsement to a pharmacist who is licensed in another state upon meeting the applicable requirements set forth in law and rule. *See* s. 465.0075, F.S.

<sup>4</sup> If the applicant has graduated from a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the U.S., the applicant must demonstrate proficiency in English, pass the board-approved Foreign Pharmacy Graduate Equivalency Examination, and complete a minimum of 500 hours in a supervised work activity program within Florida under the supervision of a DOH licensed pharmacist.

<sup>5</sup> Section 465.009, F.S.

<sup>6</sup> Section 465.009(6), F.S.

<sup>7</sup> Section 465.1893, F.S.

<sup>8</sup> Section 465.003(13), F.S.

- Administering vaccines to adults and influenza vaccines to persons seven years of age or older;<sup>9</sup>
- Administering epinephrine autoinjections;<sup>10</sup> and
- Administering antipsychotic medications by injection.<sup>11</sup>

A pharmacist may not alter a prescriber's directions, diagnose or treat any disease, initiate any drug therapy, or practice medicine or osteopathic medicine, unless permitted by law.<sup>12</sup>

Pharmacists may order and dispense drugs that are included in a formulary developed by a committee composed of members of the Board of Medicine, the Board of Osteopathic Medicine, and the BOP.<sup>13</sup> The formulary may only include:<sup>14</sup>

- Any medicinal drug of single or multiple active ingredients in any strengths when such active ingredients have been approved individually or in combination for over-the-counter sale by the U.S. Food and Drug Administration (FDA);
- Any medicinal drug recommended by the FDA Advisory Panel for transfer to over-the-counter status pending approval by the FDA;
- Any medicinal drug containing any antihistamine or decongestant as a single active ingredient or in combination;
- Any medicinal drug containing fluoride in any strength;
- Any medicinal drug containing lindane in any strength;
- Any over-the-counter proprietary drug under federal law that has been approved for reimbursement by the Florida Medicaid Program; and
- Any topical anti-infectives excluding eye and ear topical anti-infectives.

A pharmacist may order the following, within his or her professional judgment and subject to the following conditions:

- Certain oral analgesics for mild to moderate pain. The pharmacist may order these drugs for minor pain and menstrual cramps for patients with no history of peptic ulcer disease. The prescription is limited to a six day supply for one treatment of:
  - Magnesium salicylate/phenyltoloxamine citrate;
  - Acetylsalicylic acid (Zero order release, long acting tablets);
  - Choline salicylate and magnesium salicylate;
  - Naproxen sodium;
  - Naproxen;
  - Ibuprofen;
  - Phenazopyridine, for urinary pain; and
  - Antipyrine 5.4%, benzocaine 1.4%, glycerin, for ear pain if clinical signs or symptoms of tympanic membrane perforation are not present;
- Anti-nausea preparations;
- Certain antihistamines and decongestants;

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<sup>9</sup> See s. 465.189, F.S.

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

<sup>11</sup> Section 465.1893, F.S.

<sup>12</sup> Section 465.003(13), F.S.

<sup>13</sup> Section 465.186, F.S.

<sup>14</sup> *Id.*

- Certain topical antifungal/antibacterials;
- Topical anti-inflammatory preparations containing hydrocortisone not exceeding 2.5%;
- Certain otic antifungal/antibacterial;
- Salicylic acid 16.7% and lactic acid 16.7% in flexible collodion, to be applied to warts, except for patients under 2 years of age, and those with diabetes or impaired circulation;
- Vitamins with fluoride, excluding vitamins with folic acid in excess of 0.9 mg.;
- Medicinal drug shampoos containing Lindane for the treatment of head lice;
- Ophthalmic. Naphazoline 0.1% ophthalmic solution;
- Certain histamine H2 antagonists;
- Acne products; and
- Topical Antiviral for herpes simplex infections of the lips.<sup>15</sup>

### **Emergency Prescription Refills**

Section 465.0275(1), F.S., authorizes a pharmacist to dispense, if the pharmacist is unable to readily obtain refill authorization from a prescriber, a one-time emergency refill of up to a 72-hour supply of a prescribed medication or a one-time emergency refill of one vial of insulin to treat diabetes. Current law however does not authorize pharmacists to dispense insulin-related supplies or equipment as part of an emergency prescription refill.

A pharmacist may also dispense an emergency refill of up to a 30-day supply if the Governor declares a state of emergency in areas affected by the order if:<sup>16</sup>

- The prescription is not for a medicinal drug listed in Schedule II of ch. 893, F.S.;
- The medication is essential to the maintenance of life or to the continuation of therapy in a chronic condition;
- In the pharmacist's professional judgment, the interruption of therapy might reasonably produce undesirable health consequences or may cause physical or mental discomfort;
- The dispensing pharmacist creates a written order containing all the prescription required by law and signs that order; and
- The dispensing pharmacist notifies the prescriber of the emergency refill within a reasonable time after such dispensing.

### **Diabetes**

Diabetes is a chronic health condition that affects how the human body converts food into energy.

The human digestive system breaks down carbohydrates consumed as food into glucose<sup>17</sup> and releases it into the bloodstream, which increases the blood's glucose level. Such an increase in blood glucose should signal the pancreas to release the hormone insulin, which acts as a catalyst to allow the body's cells to metabolize the glucose and convert it to energy, or to convert the glucose into forms suitable for short-term or long-term storage.

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<sup>15</sup> Fla. Admin. Code R. 64B16-27.220 (2023).

<sup>16</sup> Section 465.0275(2), F.S.

<sup>17</sup> Glucose is the simplest type of carbohydrate (chemical formula C<sub>6</sub>H<sub>12</sub>O<sub>6</sub>), and all carbohydrates consumed as food must be broken down into glucose before the body can metabolize them.

With diabetes, depending on the type of diabetes, the pancreas either does not make any insulin or does not make enough insulin, or the body cannot use insulin as well as it should. When there is not enough insulin or if cells stop responding to insulin, blood glucose levels elevate and stay elevated for extended periods. Over time, such elevated blood glucose levels can cause serious health problems, such as heart disease, vision loss, kidney disease, vascular disease, and other maladies. Such outcomes are often known as long-term complications of diabetes.

Approximately 2,164,009 people in Florida have diabetes, according to the American Diabetes Association.

### **Types of Diabetes**

There are three main types of diabetes: Type 1, Type 2, and gestational diabetes.

#### ***Type 1 Diabetes***

Type 1 diabetes is thought to be caused by an autoimmune reaction in which the body's immune system attacks and destroys the cells in the pancreas that normally produce insulin. Approximately 5 to 10 percent of the people with diabetes have Type 1. Symptoms of Type 1 often develop quickly. It is usually diagnosed in children, teens, and young adults. Someone with Type 1 diabetes must take insulin, usually through subcutaneous injection, on a regular basis to survive, usually one or more times per day. Currently, Type 1 diabetes can be neither prevented nor cured.<sup>18</sup>

#### ***Type 2 Diabetes***

With Type 2 diabetes, the body does not use insulin well and cannot keep blood glucose at normal levels. About 90 to 95 percent of people with diabetes have Type 2. It develops over many years and is usually diagnosed in overweight, middle-aged adults, although it can sometimes manifest in adolescents and young adults. Type 2 diabetes can often be prevented or delayed, or even eliminated altogether, with healthy lifestyle changes, such as losing weight, eating healthy food, and exercising regularly.<sup>19</sup> Type 2 diabetes is usually treated with oral medications but can require insulin injections in some cases.

#### ***Gestational Diabetes***

Gestational diabetes develops in pregnant women who have never had diabetes. In pregnant women with gestational diabetes, the baby could be at higher risk for health problems. Gestational diabetes usually goes away after the baby is born. However, it correlates to a higher risk for Type 2 diabetes later in life. A baby delivered by a woman with gestational diabetes is more likely to become obese as a child or teen and to develop Type 2 diabetes later in life.<sup>20</sup>

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<sup>18</sup> Centers for Disease Control and Prevention, *What Is Diabetes?*, available at: <https://www.cdc.gov/diabetes/basics/diabetes.html> (last visited Jan. 30, 2024).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

## Managing Diabetes

In order for Type 1 or Type 2 diabetics to avoid long-term complications, or for a pregnant woman with gestational diabetes to mitigate the effects of that condition, blood glucose levels must be managed to stay as close to normal ranges as possible.

A widely accepted “normal” level of blood glucose is 100 milligrams of glucose per deciliter (mg/dL) of whole blood, although normal levels may vary. A normal fasting blood glucose level for someone without diabetes is 70 to 99 mg/dL.<sup>21</sup>

Testing blood glucose levels is key to managing diabetes. Years of elevated blood glucose levels can lead to diabetes’ costly and disabling long-term complications, while levels that are too low (hypoglycemia) can be dangerous in an immediate sense and can lead to disorientation, unusual confusion, unconsciousness, grand mal seizure, brain damage, or death.

## Medications and Supplies

### *Insulin*

All Type 1 diabetics and some Type 2 diabetics require insulin to be artificially introduced into the diabetic’s body. Different types of insulin work at different speeds, and each lasts for different lengths of time. A patient may need to use more than one type of insulin such as long-acting and short-acting. Insulin may be administered in a number of ways. Common options include a needle and syringe, insulin pen, or insulin pump.<sup>22</sup> Inhalers and insulin jet injectors are less common ways to take insulin. Artificial pancreas systems are now approved by the U.S. Food and Drug Administration (FDA).<sup>23</sup>

### *Medication Delivery Devices*

#### *Needle and Syringe*

Insulin injections using a needle and syringe are a common way to receive insulin. Some people with diabetes who take insulin need two to four injections a day to keep their blood glucose in their target range. Others can take a single dose.<sup>24</sup>

#### *Pen*

An insulin pen looks like an oversized writing pen but has a needle for its point. Some insulin pens come filled with insulin and are disposable. Others have room for an insulin cartridge that is inserted and replaced after use. Many people find insulin pens easier to use, but pens might be more expensive than needles and syringes. Different pen types have features that can help with injections. Some reusable pens have a memory function, which can recall dose amounts and

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<sup>21</sup> Cleveland Clinic, *Blood Glucose (Sugar) Test*, available at: <https://my.clevelandclinic.org/health/diagnostics/12363-blood-glucose-test> (last visited Jan. 30, 2024).

<sup>22</sup> U.S. Department of Health and Human Services, National Institute of Diabetes and digestive and Kidney Diseases, *Type 1 Diabetes*, available at <https://www.niddk.nih.gov/health-information/diabetes/overview/what-is-diabetes/type-1-diabetes#medicines> (last visited Jan. 30, 2024).

<sup>23</sup> U.S. Department of Health and Human Services, National Institute of Diabetes and digestive and Kidney Diseases, *Insulin, Medicines, & Other Diabetes Treatments*, available at <https://www.niddk.nih.gov/health-information/diabetes/overview/insulin-medicines-treatments#waystotakeinsulin> (last visited Jan. 30, 2024).

<sup>24</sup> *Id.*

timing. Other “connected” insulin pens can be programmed to calculate insulin doses and provide downloadable data reports, which can help health care practitioners adjust insulin doses.<sup>25</sup>

#### *Pump*

An insulin pump is a small machine that gives a steady dose of insulin throughout the day, usually worn outside the body on a belt or in a pocket or pouch. The pump has a mechanism to pierce the patient’s skin with a tiny plastic tube and stay attached on the surface of the skin continuously, usually via an adhesive. The plastic tube will stay inserted for several days while attached to the insulin pump. The machine pumps insulin through the tube into the body 24 hours a day and can be programmed to give the patient more or less insulin as needed. The patient can also give himself or herself doses of insulin through the pump at mealtimes.

#### *Oral and Injectables*

Numerous types of oral medications are available for regulating the blood glucose of patients with Type 2 diabetes. In recent years, other types of medications for Type 2 diabetes have been brought to market which are administered by injection. Combining two or three kinds of diabetes medicines can lower blood glucose levels for Type 2 diabetics better than taking just one medicine.<sup>26</sup>

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

CS/SB 516 amends ss. 465.0275 and 893.04, F.S., relating to emergency prescription refills. The bill eliminates the current one-vial limit on emergency insulin refills and expands current law on emergency insulin refills to include related supplies and equipment.

The bill authorizes pharmacists who have received a prescription refill request from a patient but are unable to obtain an authorization from a prescriber, to dispense to the patient an emergency refill of insulin and insulin-related supplies or equipment to treat diabetes, not to exceed three nonconsecutive times per calendar year, as opposed to a “one-time emergency refill of one vial of insulin” as provided under current law.

The bill provides an effective date of July 1, 2024.

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<sup>25</sup> *Id.*

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

**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 may provide diabetics, during times of emergency or when their prescribers are unavailable to authorize a refill, with a way to obtain emergency refills of insulin and insulin-related supplies and equipment to treat their diabetes without having to resort to emergency room visits.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 465.0275 and 893.04.

**IX. Additional Information:**

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

**CS by Health Policy on January 30, 2024:**

The committee substitute removes the underlying bill’s reference to “a standard unit of dispensing or a 30-day supply” for emergency refills, up to three times per calendar year, and replaces that language with an emergency refill up to three nonconsecutive times per calendar year.

- B. **Amendments:**

None.



701874

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
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The Committee on Health Policy (Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (1) of section 465.0275, Florida  
Statutes, is amended to read:

465.0275 Emergency prescription refill.—

(1) In the event a pharmacist receives a request for a  
prescription refill and the pharmacist is unable to readily  
obtain refill authorization from the prescriber, the pharmacist



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11 may dispense:

12 (a) A one-time emergency refill of up to a 72-hour supply  
13 of the prescribed medication; or

14 (b) An A one-time emergency refill of one vial of insulin  
15 and insulin-related supplies or equipment to treat diabetes  
16 mellitus, not to exceed three nonconsecutive times per calendar  
17 year.

18 Section 2. Subsection (3) of section 893.04, Florida  
19 Statutes, is amended to read:

20 893.04 Pharmacist and practitioner.—

21 (3) Notwithstanding subsection (1), a pharmacist may  
22 dispense a one-time emergency refill of up to a 72-hour supply  
23 of the prescribed medication for any medicinal drug other than a  
24 medicinal drug listed in Schedule II, or an emergency refill up  
25 to one vial of insulin and insulin-related supplies or equipment  
26 to treat diabetes mellitus, not to exceed three nonconsecutive  
27 times per calendar year, in compliance with s. 465.0275.

28 Section 3. This act shall take effect July 1, 2024.

29  
30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

32 Delete everything before the enacting clause  
33 and insert:

34 A bill to be entitled  
35 An act relating to emergency refills of insulin and  
36 insulin-related supplies or equipment; amending s.  
37 465.0275, F.S.; authorizing pharmacists to dispense an  
38 emergency refill of insulin and insulin-related  
39 supplies or equipment a specified number of times per



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40 year; amending s. 893.04, F.S.; conforming a provision  
41 to changes made by the act; providing an effective  
42 date.

By Senator Rodriguez

40-00438B-24

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1 A bill to be entitled

2 An act relating to emergency refills of insulin and  
3 insulin-related supplies or equipment; amending s.  
4 465.0275, F.S.; authorizing pharmacists to dispense an  
5 emergency refill of a standard unit of dispensing or a  
6 30-day supply of insulin and insulin-related supplies  
7 or equipment a specified number of times per year;  
8 amending s. 893.04, F.S.; conforming a provision to  
9 changes made by the act; providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13 Section 1. Subsection (1) of section 465.0275, Florida  
14 Statutes, is amended to read:

15 465.0275 Emergency prescription refill.—

16 (1) In the event a pharmacist receives a request for a  
17 prescription refill and the pharmacist is unable to readily  
18 obtain refill authorization from the prescriber, the pharmacist  
19 may dispense:

20 (a) A one-time emergency refill of up to a 72-hour supply  
21 of the prescribed medication; or

22 (b) An ~~A one-time~~ emergency refill of a standard unit of  
23 dispensing or a 30-day supply ~~one-vial~~ of insulin and insulin-  
24 related supplies or equipment to treat diabetes mellitus, not to  
25 exceed three times per calendar year.

26 Section 2. Subsection (3) of section 893.04, Florida  
27 Statutes, is amended to read:

28 893.04 Pharmacist and practitioner.—

29 (3) Notwithstanding subsection (1), a pharmacist may

40-00438B-24

2024516\_\_

30 dispense a one-time emergency refill of up to a 72-hour supply  
31 of the prescribed medication for any medicinal drug other than a  
32 medicinal drug listed in Schedule II, or a standard unit of  
33 dispensing or a 30-day supply ~~up to one vial~~ of insulin and  
34 insulin-related supplies or equipment to treat diabetes  
35 mellitus, not to exceed three times per calendar year, in  
36 compliance with s. 465.0275.

37 Section 3. This act shall take effect July 1, 2024.



The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** December 5, 2023

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I respectfully request that **Senate Bill #516**, relating to Emergency Refills of Insulin and Insulin-related Supplies or Equipment, be placed on the:

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

A handwritten signature in black ink, appearing to read "A. M. Rodriguez".

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Senator Ana Maria Rodriguez  
Florida Senate, District 40

January 30, 2024

Meeting Date

Helath Policy

Committee

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB516

Bill Number or Topic

Tab 1

Amendment Barcode (if applicable)

Name **Michael Jackson**

Phone **(850) 545-9717**

Address **610 N Adams Street**

Email **mjackson@pharmview.com**

Street

**Tallahassee**

**Florida**

**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 Pharmacy 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

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SB 516

Bill Number or Topic

Health Policy

Meeting Date

Jan. 30/2024

Committee

Amendment Barcode (if applicable)

Name

E. Ivonne Fernandez

Phone

954-850-7262

Address

215 S. Monroe Street

Email

ifer Fernandez@aarp.org

Street

Tallahassee 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:

AARP

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

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30 Jan

Meeting Date

Health

Committee

516

Bill Number or Topic

-

Amendment Barcode (if applicable)

Name Matthew Holliday

Phone 239-826-7864

Address 350 7<sup>th</sup> St. N  
Street

Email Matthew.holliday@nchmd.org

Naples  
City

FL  
State

34102  
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:

NCLA

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 516

Meeting Date

1/30/24

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Bill Number or Topic

Committee

Health Policy

Amendment Barcode (if applicable)

Name

Ron Watson

Phone

850 567 1202

Address

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Email

watson.strategies@comcast.net

Street

Tallahassee

FL

32317

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 Renal 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  
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1/30/24

Meeting Date

SB 516

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name Amanda Fraser

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:

American Diabetes  
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 \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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

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

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

---

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

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BILL: SB 274

INTRODUCER: Senator Rodriguez

SUBJECT: Child Water Safety Requirements

DATE: January 29, 2024

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	<b>Favorable</b>
2.			CF	
3.			RC	

---

**I. Summary:**

SB 274 creates the Kareem Angel Green Act to require any organization<sup>1</sup> that brings a child in its care to a public bathing place or public swimming pool to require the child’s parent or legal guardian to attest whether the child is able to swim or is at risk in the water. If the child is at risk in the water, the organization must provide a specified flotation device to the child and ensure that the flotation device is properly fitted and fastened when the child is within a fenced-in area containing a public bathing place or pool or if the child is within 100 feet of an unfenced public bathing place or pool. The requirement to provide a flotation device does not apply to an organization providing swimming instruction or a swimming competition. Additionally, the bill provides specified types of organizations that are exempt from its requirements.

The bill authorizes the Department of Health (DOH) to adopt rules to administer the bill’s provisions and provides that organizations in violation are subject to disciplinary action by any state agency that has jurisdiction over that type of organization.

The bill provides an effective date of July 1, 2024.

**II. Present Situation:**

**The Danger of Drowning**

Drowning is one of the leading causes of accidental death among children. For all ages, the current annual global estimate is 295,000 drowning deaths, although this figure is thought to underreport fatal drowning, in particular boating and disaster related drowning mortality.

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<sup>1</sup> The bill defines “organization” to mean a summer day camp, a summer 24-hour camp, a school, a preschool, a kindergarten, a nursery school, or a child care facility as defined in s. 402.302, F.S.

Drowning disproportionately impacts children and young people, with over half of all drowning deaths occurring among people younger than 25 years old. In many countries, children under five years of age represent the highest rate of fatal and non-fatal drowning, with incidents commonly occurring in swimming pools and bathtubs in high-income countries and in bodies of water in and around a home in low-income contexts.<sup>2</sup>

### **Drowning Deaths in Florida**

Drowning deaths in Florida have consistently ranged between 350 and 500 deaths per year in the state from 2003 to present. Data from 2022 show that most counties suffered less than 10 deaths from drowning in that year, but many highly-populated and coastal counties suffered from a much higher rate of drowning.<sup>3</sup> For example, Broward County had 46 drowning deaths in 2022, Miami-Dade had 30, Hillsborough had 33, and Palm Beach had 42.<sup>4</sup>

### **Drowning Prevention**

The National Drowning Prevention Alliance (NDPA) recommends five items for protecting children from drowning: barriers and alarms, supervision, water competency, life jackets, and emergency preparation.<sup>5</sup> Specific to supervision, and since many drowning incidents occur when people are actively swimming, the NDPA recommends that an adult be within arms' length of any children who lack water competency.<sup>6</sup> Active supervision is recommended even in bodies of water where a lifeguard is present.<sup>7</sup>

### ***Life Jackets***

The NDPA recommends that everyone wear a life jacket or personal flotation device (PFD) approved by the United States Coast Guard (USCG) whenever boating or in a natural or open body of water. The NDPA indicates it is important that the life jacket is USCG approved and fitted for the individual. Not all devices sold by retailers are tested and approved flotation devices. Devices that are not tested and approved cannot be considered a safe layer of protection and should not be part of a family's water safety plan, according to the NDPA.<sup>8</sup>

Personal flotation devices come in four types: Types I, II, III, and V. A Type I PFD has the greatest required inherent buoyancy and turns most unconscious persons in the water from a face-down position to a vertical and slightly backward position, thereby greatly increasing the chance of survival. A Type 2 PFD is intended to turn some unconscious

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<sup>2</sup> Peden AE, Franklin RC. Learning to Swim: An Exploration of Negative Prior Aquatic Experiences among Children. *Int J Environ Res Public Health*. 2020 May 19;17(10):3557. doi: 10.3390/ijerph17103557. PMID: 32438661; PMCID: PMC7277817. Available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7277817/>. (Last visited Jan. 25, 2024).

<sup>3</sup> Florida Health Charts, Deaths from Unintentional Drowning, available at <https://www.flhealthcharts.gov/ChartsDashboards/rdPage.aspx?rdReport=Death.DataViewer&cid=0105>, (last visited Jan 25, 2024).

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

<sup>5</sup> National Drowning Prevention Alliance, Learn the 5 Layers of Protection, available at <https://ndpa.org/layers/>, (last visited Jan., 25, 2024)

<sup>6</sup> National Drowning Prevention Alliance, Supervision, available at <https://ndpa.org/supervision>, (last visited Jan., 24, 2024).

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

<sup>8</sup> National Drowning Prevention Alliance, Life Jackets, available at <https://ndpa.org/life-jackets/> <https://ndpa.org/life-jackets/>, (last visited Jan., 25, 2024).

persons from a face-down position in the water to a position where the wearer's respiration is not impeded. A Type III PFD is intended to support a conscious person in the water in an upright position. This type of device is not required to turn an unconscious person in the water from a face-down position to a position where the wearer's respiration is not impeded. A Type V PFD is approved for restricted uses or activities such as boardsailing or commercial white water rafting. These devices may not be suitable for other boating activities. The label indicates whether a particular design of Type V can be used in specific application, what restrictions or limitations apply, and its performance type.<sup>9</sup>

### III. Effect of Proposed Changes:

SB 274 creates s. 514.073, F.S., to establish the Kareem Angel Green Act. The bill defines the following terms:

- “Child” means a person younger than 12 years of age.
- “Organization” means a summer day camp, a summer 24-hour camp, a school, a preschool, a kindergarten, a nursery school, or a child care facility as defined in s. 402.302.<sup>10</sup>
- “Public swimming pool” has the same meaning as in s. 514.011(2) but does not include a wading pool.
- “Wading pool” means a pool, including a pool that contains a public interactive water feature or fountain, with a maximum water depth of no more than 18 inches.

The bill requires any organization that takes a child in its care or under its supervision to a public bathing place or public swimming pool to require the child's parent to attest in writing whether the child is able to swim or is at risk of injury or death when swimming or otherwise accessing a pool or body of water. Any organization that conducts an activity that provides a child under its care or supervision with access to a public bathing place or public swimming pool, whenever a child who is at risk of injury or death when swimming, is within a fenced-in area around the pool or bathing place, or is within 100 feet of a pool or bathing place that is not fenced-in, must:

- Provide the child with a USCG-approved Type II PFD if the child is near a public bathing place;
- Provide the child with either a USCG-approved Type II or Type III PFD if the child is near a public swimming pool; and
- Ensure that the PFD is properly fitted and fastened on the child.

The requirement to provide a PFD does not apply if the child is actively participating in swimming instruction or a swimming competition if the organization ensures that each such child is supervised during that time. Additionally, none of the requirements of the section apply to:

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<sup>9</sup> USCG, Life Jacket Wear / Wearing your Life Jacket, available at <https://uscgboating.org/recreational-boaters/life-jacket-wear-wearing-your-life-jacket.php>, (last visited Jan. 24, 2024).

<sup>10</sup> Section 402.302, F.S., defines “child care facility” as any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit. The definition specifically excludes schools, summer camps, vacation Bible schools, and operators of transient establishments under specified circumstances.

- A residential boarding school that allows employees and their family members and guests to use a body of water at the school for recreational purposes.
- A child-placing agency, family foster home, or residential child-caring agency as defined in s. 409.175(2), F.S.
- A child care facility licensed under s. 402.305, F.S.

The bill authorizes the DOH to adopt rules to administer the bill's provisions and provides that organizations in violation are subject to disciplinary action, equivalent to licensure action, by any state agency that has jurisdiction over that type of organization.

The bill provides an effective date of July 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.

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

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a negative fiscal impact on organizations that will be required to provide PFDs under the bill.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

SB 274 defines the term “public swimming pool” but uses a number of other terms throughout the bill including public bathing place, body of water, and pool. It may be advisable to define the other terms used in the bill.

SB 274 includes child care facilities, as defined in s. 402.302, F.S., in the definition of “organization” and applies the requirements of the bill to such facilities. Meanwhile, the bill exempts child care facilities licensed under s. 402.305, F.S., from the requirements of the bill. It may be advisable to clarify whether the requirements of the bill do or do not apply to the latter facilities.

**VIII. Statutes Affected:**

This bill creates section 514.073 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 Rodriguez

40-00615A-24

2024274\_\_

1                   A bill to be entitled  
2       An act relating to child water safety requirements;  
3       providing a short title; creating s. 514.073, F.S.;  
4       defining terms; providing that certain organizations  
5       that care for or supervise children must require  
6       parents or legal guardians to attest to certain  
7       information in writing before taking such children to  
8       public bathing places and public swimming pools;  
9       providing requirements for such organizations when  
10      they conduct certain activities in public bathing  
11      places or public swimming pools; providing an  
12      exception; providing for disciplinary action for  
13      certain violations; providing applicability;  
14      authorizing the Department of Health to adopt rules;  
15      providing an effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19       Section 1. This act may be cited as the "Kareem Angel Green  
20 Act."

21       Section 2. Section 514.073, Florida Statutes, is created to  
22 read:

23       514.073 Child water safety requirements for certain  
24 entities.-

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

26       (a) "Child" means a person younger than 12 years of age.

27       (b) "Organization" means a summer day camp, a summer 24-  
28 hour camp, a school, a preschool, a kindergarten, a nursery  
29 school, or a child care facility as defined in s. 402.302.

40-00615A-24

2024274\_\_

30 (c) "Public swimming pool" has the same meaning as in s.  
31 514.011(2) but does not include a wading pool.

32 (d) "Wading pool" means a pool, including a pool that  
33 contains a public interactive water feature or fountain, with a  
34 maximum water depth of no more than 18 inches.

35 (2) An organization that takes a child in its care or under  
36 its supervision to a public bathing place or public swimming  
37 pool or otherwise allows a child access to a public bathing  
38 place or public swimming pool must require the child's parent or  
39 legal guardian to attest in writing whether the child is able to  
40 swim or is at risk of injury or death when swimming or otherwise  
41 accessing a pool or body of water.

42 (3) Except as provided in subsection (4), if an  
43 organization conducts an activity that provides a child in its  
44 care or under its supervision access to a public bathing place  
45 or public swimming pool, during the time each child who is  
46 unable to swim or is at risk of injury or death when swimming or  
47 accessing a body of water is present within a fenced-in area  
48 around a public bathing place or public swimming pool, or within  
49 100 feet of a public bathing place or public swimming pool  
50 without a fenced-in area, the organization must:

51 (a) For a public bathing place, provide to the child a Type  
52 II United States Coast Guard-approved personal flotation device.

53 (b) For a public swimming pool, provide to the child a Type  
54 II or Type III United States Coast Guard-approved personal  
55 flotation device.

56 (c) Ensure that the personal flotation device that it  
57 provides to the child is properly fitted to and fastened on the  
58 child.

40-00615A-24

2024274\_\_

59       (4) An organization need not provide a child with a  
60 personal flotation device as required under subsection (3) if  
61 the child is actively participating in swimming instruction or a  
62 swimming competition and the organization ensures that each such  
63 child is supervised during the instruction or competition.

64       (5) An organization licensed or otherwise regulated by the  
65 state which violates this section or rules adopted pursuant to  
66 this section is subject to disciplinary action, including, but  
67 not limited to, the imposition of an administrative penalty by  
68 any state regulatory agency with the power to take disciplinary  
69 action against that organization in the same manner as if the  
70 organization violated that agency's licensing or other  
71 regulatory laws or rules.

72       (6) This section does not apply to:

73       (a) Residential boarding schools that allow an employee, a  
74 family member of an employee, or a guest of an employee to use a  
75 body of water at the school for recreational purposes.

76       (b) Child-placing agencies, family foster homes, or  
77 residential child-caring agencies as those terms are defined in  
78 s. 409.175(2).

79       (c) A child care facility licensed under s. 402.305.

80       (7) The department may adopt rules necessary to implement  
81 this section.

82       Section 3. This act shall take effect July 1, 2024.



The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** November 7, 2023

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I respectfully request that **Senate Bill #274**, relating to Child Water Safety Requirements, be placed on the:

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

A handwritten signature in cursive script, appearing to read "Ana Maria Rodriguez".

---

Senator Ana Maria Rodriguez  
Florida Senate, District 40

The Florida Senate

APPEARANCE RECORD

274

1.30.24

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 DAVID DANIEL

Phone

Address 311 EAST PALM AVENUE

Email ddaniel@smithbryonandmyers.com

Street

TALLAHASSEE

FL

32301

City

State

Zip

Speaking: [X] For [ ] Against [ ] Information OR Waive Speaking: [ ] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[X] 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:

FLORIDA ASSOCIATION FOR CHILD CARE MANAGEMENT

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 1008

INTRODUCER: Senator Grall and Senator Book

SUBJECT: Background Screening Requirements for Health Care Practitioners

DATE: January 29, 2024

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	<b>Favorable</b>
2.			AHS	
3.			FP	

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**I. Summary:**

SB 1008 amends s. 456.0135, F.S., to add background screening requirements to numerous health care professions where a background screening is not currently required.

The bill requires that each health care practitioner who was licensed before July 1, 2024, must comply with the background screening requirements in s. 456.0135, F.S., by July 1, 2025. Additionally, the bill amends each affected practitioner practice act to add the licensure requirement to submit to a background screening pursuant to s. 456.0135, F.S., and, for specified practitioners, to require a background screening for licensure by endorsement. The bill also makes technical and conforming changes.

The bill provides an effective date of July 1, 2024.

**II. Present Situation:**

**Background Screening**

Florida provides standard procedures for screening a prospective employee<sup>1</sup> where the Legislature has determined it is necessary to conduct a criminal history background check to protect vulnerable persons.<sup>2</sup> Chapter 435, F.S., establishes procedures for criminal history background screening of prospective employees and outlines the screening requirements. There are two levels of background screening: level 1 and level 2.

- Level 1 Screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement

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<sup>1</sup> Section 435.02, F.S., defines “employee” to mean any person required by law to be screened pursuant to this chapter, including, but not limited to, persons who are contractors, licensees, or volunteers.

<sup>2</sup> Chapter 435, F.S.

(FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,<sup>3</sup> and may include criminal records checks through local law enforcement agencies. A Level 1 screening may be paid for and conducted through FDLE's website, which provides immediate results.<sup>4</sup>

- Level 2 Screening includes, at a minimum, fingerprinting for statewide criminal history records checks through FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.<sup>5</sup>

Florida law authorizes and outlines specific elements required for Level 1 and Level 2 background screening and establishes requirements for determining whether an individual passes a screening in regard to an individual's criminal history. All individuals subject to background screening must be confirmed to have not been arrested for and waiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any of 52 offenses prohibited under Florida law, or similar law of another jurisdiction.<sup>6</sup>

### *Exemptions*

Should a person be disqualified from employment due to failing a background screening, he or she may apply to the secretary of the appropriate agency for an exemption. Current law allows the secretary to exempt applicants from disqualification under certain circumstances including:<sup>7</sup>

- Felonies for which at least three years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felony;
- Misdemeanors prohibited under any of the cited statutes or under similar statutes of other jurisdictions for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court;
- Offenses that were felonies when committed but that are now misdemeanors and for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court; or
- Findings of delinquency. For offenses that would be felonies if committed by an adult and the record has not been sealed or expunged, this exemption may not be granted until at least three years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying offense.

Receiving an exemption allows that individual to be employed in a profession or workplace where background screening is statutorily required despite the disqualifying offense in that person's past. Certain criminal backgrounds, however, render a person ineligible for an

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<sup>3</sup> The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. Available at [www.nsopw.gov](http://www.nsopw.gov) (last visited Jan. 25, 2024).

<sup>4</sup> Florida Department of Law Enforcement, State of Florida Criminal History Records Check. Available at <http://www.fdle.state.fl.us/Criminal-History-Records/Florida-Checks.aspx> (last visited Jan. 25, 2024).

<sup>5</sup> Section 435.04, F.S.

<sup>6</sup> Section 435.04(2), F.S.

<sup>7</sup> Section 435.07, F.S.

exemption; a person who is considered a sexual predator,<sup>8</sup> career offender,<sup>9</sup> or registered sexual offender<sup>10</sup> is not eligible for exemption.<sup>11</sup>

### Care Provider Background Screening Clearinghouse

Florida has established different programs for the facilitation of background screenings. The Care Provider Background Screening Clearinghouse (Clearinghouse) is used by state agencies for statutorily-required screenings, including screenings required as part of the licensure process for specified health care professionals.

In 2012, the Legislature created the Clearinghouse to create a single program of screening individuals and allow for the results of criminal history checks of persons acting as covered care providers to be shared among the specified agencies.<sup>12</sup> Current designated agencies participating in the Clearinghouse include:<sup>13</sup>

- The Agency for Health Care Administration (AHCA);
- The Department of Health (DOH);
- The Department of Children and Families (DCF);
- The Department of Elder Affairs (DOEA);
- The Agency for Persons with Disabilities (APD);
- The Department of Education (DOE);
- Regional workforce boards providing services as defined in s. 445.002(3), F.S.; and
- Local licensing agencies approved pursuant to s. 402.307, F.S., when these agencies are conducting state and national criminal history background screening on persons who work with children or persons who are elderly or disabled.

Employers whose employees are screened through an agency participating in the Clearinghouse must maintain the status of individuals being screened and update the Clearinghouse regarding any employment changes within 10 business days of the change.<sup>14</sup>

The Clearinghouse allows for constant review of new criminal history information through the federal Rap Back Service<sup>15</sup> which continually matches fingerprints against new arrests or convictions that occur after the individual was originally screened. Once a person's screening

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<sup>8</sup> Section 775.21, F.S.

<sup>9</sup> Section 775.261, F.S.

<sup>10</sup> Section 943.0435, F.S.

<sup>11</sup> Section 435.07(4)(b), F.S.

<sup>12</sup> Chapter 2012-73, L.O.F.

<sup>13</sup> Section 435.02(5), F.S. Additional entities were added to the list of designated entities beginning in 2023; these entities include district units, special district units, the Florida School for the Deaf and Blind, the Florida Virtual School, virtual instruction programs, charter schools, hope operators, private schools participating in certain scholarship programs, and alternative schools. *See also*, Ch. 2022-154, L.O.F.

<sup>14</sup> Section 435.12(2)(c), F.S.; Beginning January 1, 2024, employers must report changes in an employee's status within five business days for employees screened after January 1, 2024.

<sup>15</sup> The Rap Back Service is managed by the FBI's Criminal Justice Information Services Division. For more information, see the Federal Bureau of Investigation, Privacy Impact Assessment for the Next Generation Identification (NGI) Rap Back Service. Available at <https://www.fbi.gov/file-repository/pia-ngi-rap-back-service.pdf/view> (last visited January 25, 2024).

record is in the Clearinghouse, that person may avoid the need for any future state screens and related fees for screenings, depending on the screening agencies or organizations.<sup>16</sup>

**Background Screening of Health Care Practitioners**

The DOH received 134,362 applications last fiscal year for initial health care practitioner licensing. Of those initial applications, 68 percent of applicants were required under law to submit a Level 2 background screening for state and federal criminal history as part of the application review. These screened professionals use electronic Livescan providers to submit fingerprints at a cost of \$37.50 to the individual, plus the Livescan fees. Screening is processed by the FDLE, sent to the Clearinghouse, and matched to the application within a few days. Last year, 17,532 applicants had screenings that included criminal history and their application review often included submission of further documentation and an appearance before their profession board to be approved for licensure. Of applicants for initial licensure, 123 were denied licensure, which may have included reasons other than criminal history.<sup>17</sup>

The following table is the list of screened and non-screened health care professions.<sup>18</sup>

Professions	
Screened	Non-Screened
Athletic Trainers	Acupuncture
Chiropractic Physician	Clinical Laboratory Personnel
Certified Chiropractic Physician's Assistant	Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling
Massage Therapists and Massage Establishment Owner	Dentistry and Dental Laboratory
Orthotists, Prosthetists, Pedorthists, Orthotic Fitters, Orthotic Fitter Assistants, O&P Resident	Dietetics and Nutrition
Osteopathic Physician	Electrolysis and Electrolysis Facility
Osteopathic Resident Physicians/Interns/Fellows	Emergency Medical Technician
Medical Doctor	Genetic Counselor
Physician Assistant	Hearing Aid Specialist
Resident Physicians, Interns, Fellows, and House Physicians	Medical Physicist
Anesthesiologist Assistant	Midwifery
Advanced Practice Registered Nurse	Nursing Home Administrator

<sup>16</sup> Agency for Health Care Administration, *Clearinghouse Renewals*. Available at [https://ahca.myflorida.com/MCHQ/Central\\_Services/Background\\_Screening/Renewals.shtml](https://ahca.myflorida.com/MCHQ/Central_Services/Background_Screening/Renewals.shtml) (last visited January 25, 2024). Fingerprints are retained for five years. Employers have an option to renew screenings at the end of the five year period through a “Clearinghouse Renewal” process which allows employee’s fingerprints to be retained without being re-fingerprinted.

<sup>17</sup> DOH Staff analysis of SB 1008, January 11, 2024. On file with Senate Health Policy Committee staff.

<sup>18</sup> *Id.*

Professions	
Screened	Non-Screened
Certified Nursing Assistant	Occupational Therapy
Compact Upgrade to Multi-State License	Office Surgery Registration
License Practical Nurse	Opticianry and Optical Establishment
Registered Nurse	Optometry
Pharmacy Owner	Pain Management Clinic
Prescription Department Manager	Paramedic
Podiatric Physician	Pharmacist
Certified Podiatric X-Ray Assistant	Physical Therapy
Applicants to the Florida Veterans Application for Licensure Online Response (VALOR) System	Psychology
Exemption applications for disqualifying offenses	Radiological Technician
	Respiratory Care
	School Psychology
	Speech-Language Pathology and Audiology

In addition to individual license requirements and the requirements in ch. 435, F.S. s. 408.809, F.S., establishes background screening requirements for certain employees of facilities licensed by the AHCA pursuant to ch. 408, F.S. Specifically, the statute requires that the following employees pass a Level 2 background screening:

- The licensee, if an individual.
- The administrator or a similarly titled person who is responsible for the day-to-day operation of the facility.
- The financial officer or similarly titled individual who is responsible for the financial operation of the licensee or facility.
- Any person who is a controlling interest.
- Any person, as required by authorizing statutes, seeking employment with a licensee or facility who is expected to, or whose responsibilities may require him or her to, provide personal care or services directly to clients or have access to client funds, personal property, or living areas; and any person, as required by authorizing statutes, contracting with a licensee or facility whose responsibilities require him or her to provide personal care or personal services directly to clients, or contracting with a licensee or facility to work 20 hours a week or more who will have access to client funds, personal property, or living areas. Evidence of contractor screening may be retained by the contractor’s employer or the licensee.

Additionally, s. 408.809, F.S., provides a second list of disqualifying offenses which is additional to the list in s. 435.04(2), F.S. Overall, this statute adds 19 offenses to the list of disqualifying offenses after accounting for duplicates.

Once licensed, practitioners in screened professions with ongoing screening requirements have their fingerprints retained with FDLE so new charges are found through rerunning the criminal history checks. Licensees are also required to report any criminal charges when they occur. The process of reviewing new criminal charges may disrupt the licensee's ability to practice.<sup>19</sup>

A licensee who does not pay to retain their fingerprints receives notification from the DOH when those prints are expiring and that fingerprints must be retained or renewed. The DOH employs strategies to ensure compliance by the licensee, such as reminders, email notifications, and letters. Approximately 62,364 licensees (4.3 percent of all licensees) are required to renew their fingerprints per year. Of those, approximately 28 percent fail to do so; failure to renew fingerprints results in disciplinary cases which may ultimately cause a loss of licensure.<sup>20</sup>

### III. Effect of Proposed Changes:

Sections 1 and 2 of the bill amend s. 456.0135, F.S., to include non-screened health care practitioners licensed under chs. 462, 463, 465, 466, 467, 468 (part I, part II, part III, part V, part X, or part XIV), 478, 483, 484, 486, 490, and 491, F.S., and to require each health care practitioner as defined in s. 456.001, F.S., to comply with the requirements of s. 456.0135, F.S., by July 1, 2025.

Sections 3-41 amend various practice acts to include background screening as a licensure requirement. Specifically the bill amends:

- Acupuncture: Licensure Qualifications and Fees in s. 457.105, F.S.
- Optometry: Licensure and Certification by Examination in s. 463.006, F.S.
- Pharmacy:
  - Licensure by Examination in s. 465.007, F.S.
  - Licensure by Endorsement in s. 465.0075, F.S.
  - Registration of Pharmacy Interns in s. 465.013, F.S.
  - Pharmacy Technician in s. 465.014, F.S.
- Dentistry:
  - Dental Hygiene and Dental Laboratories: Examination of Dentists in s. 466.006, F.S.
  - Dental Hygiene and Dental Laboratories: Application for Health Access Dental License in s. 466.0067, F.S.
  - Dental Hygiene and Dental Laboratories: Examination of Dental Hygienists in s. 466.007, F.S.
- Midwifery: Licensed Midwives in s. 467.011, F.S.
- Speech Language Pathology or Audiology:
  - Licensure in s. 468.1185, F.S.
  - Assistant; Certification in s. 468.1215, F.S.
  - Licensure by Examination s. 468.1695, F.S.
- Occupational Therapy:
  - Requirements for Licensure in s. 468.209, F.S.
  - Licensure by Endorsement in s. 468.213, F.S.

<sup>19</sup> *Supra*, note **Error! Bookmark not defined.**

<sup>20</sup> *Id.*

- Respiratory Therapy:
  - Licensure Requirements in s. 468.355, F.S.
  - Licensure by Endorsement in s. 468.358, F.S.
- Dietitian/Nutritionist:
  - Requirements for Licensure in s. 468.509, F.S.
  - Requirements for Licensure by Endorsement in s. 468.513, F.S.
- Orthotics, Prosthetics, and Pedorthics: License, Registration and Examination in s. 468.803, F.S.
- Electrolysis: Requirements for Licensure in s. 478.45, F.S.
- Clinical Laboratory Personnel: Application for Clinical Laboratory Personnel License in s. 483.815, F.S.
- Medical Physicists in s. 483.901, F.S.
- Genetic Counseling in s. 483.914, F.S.
- Dispensing Optical Devices and Hearing Aids:
  - Licensure of Opticians s. 484.007, F.S.
  - Licensure by Examination in s. 484.045, F.S.
- Physical Therapy Practice:
  - Physical Therapists in s. 486.031, F.S.
  - Physical Therapist Assistant in s. 486.102, F.S.
- Psychological Services:
  - Licensure by Examination in s. 490.005, F.S.
  - Provisional Licensure in s. 490.0051, F.S.
  - Licensure by Endorsement in s. 490.006, F.S.
- Clinical Counseling and Psychotherapy Services:
  - Intern Registration Requirements in s. 491.0045, F.S.
  - Provisional License Requirements in s. 491.0046, F.S.
  - Licensure by Examination in s. 491.005, F.S.
  - Licensure or Certification by Endorsement in s. 491.006, F.S.
- Physical Therapy Practice:
  - Powers and Duties of the Board of Physical Therapy Practice in s. 486.025, F.S.
  - Physical Therapist; Issuance of Temporary Permit in s. 486.0715, F.S.
  - Physical Therapist Assistant; Issuance of Temporary Permit in s. 486.1065, F.S.
- Clinical Counseling and Psychotherapy Services: Definitions in s. 491.003, F.S.

#### **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 1008 may have a negative fiscal impact to health care practitioners who are required to submit to a background screening pursuant to the bill's provisions. The cost per practitioner will likely be the cost for the background screening, which includes a \$37.50 charge plus the Livescan provider's fee, and a \$43.25 charge every five years for finger print retention in the Clearinghouse.<sup>21</sup>

Additionally, the DOH reports that 28 percent of applicants who are required to renew fingerprints fail to do so and this can lead to licensure actions including fines and eventual revocation or non-renewal of a license. These licensure actions may have a negative fiscal impact on such practitioners.<sup>22</sup>

C. Government Sector Impact:

The DOH indicates that SB 1008 will have a significant fiscal impact on the department, with an estimated cost of approximately \$2.7 million recurring and \$1.57 million nonrecurring, as follows:

- Salary: \$2,392,571 recurring;
- Expense: \$257,375 recurring and \$193,111 nonrecurring;
- OPS: \$332,808;
- Human Resources: \$8,346 recurring;
- Contracted Services: \$250,290 nonrecurring;
- Non-operating Transfer to AHCA: \$50,000 recurring and \$800,000 nonrecurring.<sup>23</sup>

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<sup>21</sup> *Supra.* note 17

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* For further details on specific costs to the DOH, please see the DOH staff analysis as cited in note 17.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The FDLE staff analysis indicates that the surplus of additional practitioners who are required to get fingerprinted within one year of the bill's passage may cause unexpected termination of processes within the Biometric Identification System (BIS) and FALCON (the application which manages retained applicant fingerprints). At a minimum, the increase could cause significant system issues which would negatively impact the processing of criminal booking responses and all other applicant (non-criminal) background checks.<sup>24</sup>

The bill amends s. 457.105, F.S., pertaining to acupuncture for applicants and licensees to submit to background screening; however, ch. 457, F.S., was not included in the amended language for s. 456.0135(1), F.S.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 456.0135, 457.105, 463.006, 465.007, 465.0075, 465.013, 465.014, 466.006, 466.0067, 466.007, 467.011, 468.1185, 468.1215, 468.1695, 468.209, 468.213, 468.355, 468.358, 468.509, 468.513, 468.803, 478.45, 483.815, 483.901, 483.914, 484.007, 484.045, 486.031, 486.102, 490.005, 490.0051, 490.006, 491.0045, 491.0046, 491.005, 491.006, 486.025, 486.0715, 486.1065, and 491.003.

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

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

None.

**B. Amendments:**

None.

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

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<sup>24</sup> FDLE staff analysis of SB 1008, Dec. 22, 2023, revised Jan. 19, 2024, on file with Senate Health Policy Committee staff.

By Senator Grall

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1                   A bill to be entitled  
2       An act relating to background screening requirements  
3       for health care practitioners; amending s. 456.0135,  
4       F.S.; expanding certain background screening  
5       requirements to apply to all health care  
6       practitioners, rather than specified practitioners;  
7       requiring health care practitioners licensed before a  
8       specified date to comply with the background screening  
9       requirements by a specified date; amending ss.  
10      457.105, 463.006, 465.007, 465.0075, 465.013, 465.014,  
11      466.006, 466.0067, 466.007, 467.011, 468.1185,  
12      468.1215, 468.1695, 468.209, 468.213, 468.355,  
13      468.358, 468.509, 468.513, 468.803, 478.45, 483.815,  
14      483.901, 483.914, 484.007, 484.045, 486.031, 486.102,  
15      490.005, 490.0051, 490.006, 491.0045, 491.0046,  
16      491.005, and 491.006, F.S.; revising licensure,  
17      registration, or certification requirements, as  
18      applicable, for acupuncturists; optometrists;  
19      pharmacists; pharmacist licenses by endorsement;  
20      registered pharmacy interns; pharmacy technicians;  
21      dentists; health access dental licenses; dental  
22      hygienists; midwives; speech-language pathologists and  
23      audiologists; speech-language pathology assistants and  
24      audiology assistants; nursing home administrators;  
25      occupational therapists and occupational therapy  
26      assistants; occupational therapist and occupational  
27      therapy assistant licenses by endorsement; respiratory  
28      therapists; respiratory therapist licenses by  
29      endorsement; dietitian/nutritionists;

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30 dietitian/nutritionist licenses by endorsement;  
31 practitioners of orthotics, prosthetics, or  
32 pedorthics; electrologists; clinical laboratory  
33 personnel; medical physicists; genetic counselors;  
34 opticians; hearing aid specialists; physical  
35 therapists; physical therapist assistants;  
36 psychologists and school psychologists; provisional  
37 licenses for psychologists; psychologist and school  
38 psychologist licenses by endorsement; intern  
39 registrations for clinical social work, marriage and  
40 family therapy, and mental health counseling;  
41 provisional licenses for clinical social workers,  
42 marriage and family therapists, and mental health  
43 counselors; clinical social workers, marriage and  
44 family therapists, and mental health counselors; and  
45 clinical social worker, marriage and family therapist,  
46 and mental health counselor licenses by endorsement,  
47 respectively, to include background screening  
48 requirements; making conforming and technical changes;  
49 amending ss. 486.025, 486.0715, 486.1065, and 491.003,  
50 F.S.; conforming cross-references; providing an  
51 effective date.

52

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

54

55 Section 1. Subsection (1) of section 456.0135, Florida  
56 Statutes, is amended to read:

57 456.0135 General background screening provisions.—

58 (1) An application for initial licensure received on or

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59 after January 1, 2013, under chapter 458, chapter 459, chapter  
60 460, chapter 461, chapter 462, chapter 463, chapter 464, chapter  
61 465 s. 465.022, chapter 466, chapter 467, part I, part II, part  
62 III, part V, part X, part XIII, or part XIV of chapter 468,  
63 chapter 478, ~~or~~ chapter 480, chapter 483, chapter 484, chapter  
64 486, chapter 490, or chapter 491 must ~~shall~~ include fingerprints  
65 pursuant to procedures established by the department through a  
66 vendor approved by the Department of Law Enforcement and fees  
67 imposed for the initial screening and retention of fingerprints.  
68 Fingerprints must be submitted electronically to the Department  
69 of Law Enforcement for state processing, and the Department of  
70 Law Enforcement shall forward the fingerprints to the Federal  
71 Bureau of Investigation for national processing. Each board, or  
72 the department if there is no board, must ~~shall~~ screen the  
73 results to determine whether ~~if~~ an applicant meets licensure  
74 requirements. For any subsequent renewal of the applicant's  
75 license which ~~that~~ requires a national criminal history check,  
76 the department shall request the Department of Law Enforcement  
77 to forward the retained fingerprints of the applicant to the  
78 Federal Bureau of Investigation unless the fingerprints are  
79 enrolled in the national retained print arrest notification  
80 program.

81 Section 2. Health care practitioners as defined in s.  
82 456.001, Florida Statutes, who were licensed before July 1,  
83 2024, must comply with the background screening requirements of  
84 s. 456.0135, Florida Statutes, by July 1, 2025.

85 Section 3. Subsection (2) of section 457.105, Florida  
86 Statutes, is amended to read:

87 457.105 Licensure qualifications and fees.-

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88 (2) A person may become licensed to practice acupuncture if  
89 the person applies to the department and meets all of the  
90 following criteria:

91 (a) Is 21 years of age or older, has good moral character,  
92 and has the ability to communicate in English, which is  
93 demonstrated by having passed the national written examination  
94 in English or, if such examination was passed in a foreign  
95 language, by also having passed a nationally recognized English  
96 proficiency examination.~~†~~

97 (b) Has completed 60 college credits from an accredited  
98 postsecondary institution as a prerequisite to enrollment in an  
99 authorized 3-year course of study in acupuncture and oriental  
100 medicine, and has completed a 3-year course of study in  
101 acupuncture and oriental medicine, and effective July 31, 2001,  
102 a 4-year course of study in acupuncture and oriental medicine,  
103 which meets standards established by the board by rule, which  
104 standards include, but are not limited to, successful completion  
105 of academic courses in western anatomy, western physiology,  
106 western pathology, western biomedical terminology, first aid,  
107 and cardiopulmonary resuscitation (CPR). However, any person who  
108 enrolled in an authorized course of study in acupuncture before  
109 August 1, 1997, must have completed only a 2-year course of  
110 study which meets standards established by the board by rule,  
111 which standards must include, but are not limited to, successful  
112 completion of academic courses in western anatomy, western  
113 physiology, and western pathology.~~†~~

114 (c) Has successfully completed a board-approved national  
115 certification process, is actively licensed in a state that has  
116 examination requirements that are substantially equivalent to or

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117 more stringent than those of this state, or passes an  
118 examination administered by the department, which examination  
119 tests the applicant's competency and knowledge of the practice  
120 of acupuncture and oriental medicine. At the request of any  
121 applicant, oriental nomenclature for the points must ~~shall~~ be  
122 used in the examination. The examination must ~~shall~~ include a  
123 practical examination of the knowledge and skills required to  
124 practice modern and traditional acupuncture and oriental  
125 medicine, covering diagnostic and treatment techniques and  
126 procedures. ~~and~~

127 (d) Pays the required fees set by the board by rule not to  
128 exceed the following amounts:

129 1. Examination fee: \$500 plus the actual per applicant cost  
130 to the department for purchase of the written and practical  
131 portions of the examination from a national organization  
132 approved by the board.

133 2. Application fee: \$300.

134 3. Reexamination fee: \$500 plus the actual per applicant  
135 cost to the department for purchase of the written and practical  
136 portions of the examination from a national organization  
137 approved by the board.

138 4. Initial biennial licensure fee: \$400, if licensed in the  
139 first half of the biennium, and \$200, if licensed in the second  
140 half of the biennium.

141 (e) Submits to background screening in accordance with s.  
142 456.0135.

143 Section 4. Subsection (1) of section 463.006, Florida  
144 Statutes, is amended to read:

145 463.006 Licensure and certification by examination.—

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146 (1) Any person desiring to be a licensed practitioner under  
147 ~~pursuant to~~ this chapter must apply to the department, submit to  
148 background screening in accordance with s. 456.0135, and ~~must~~  
149 submit proof to the department that she or he meets all of the  
150 following criteria:

151 (a) Has completed the application forms as required by the  
152 board, remitted an application fee for certification not to  
153 exceed \$250, remitted an examination fee for certification not  
154 to exceed \$250, and remitted an examination fee for licensure  
155 not to exceed \$325, all as set by the board.

156 (b) Is at least 18 years of age.

157 (c) Has graduated from an accredited school or college of  
158 optometry approved by rule of the board.

159 (d) Is of good moral character.

160 (e) Has successfully completed at least 110 hours of  
161 transcript-quality coursework and clinical training in general  
162 and ocular pharmacology as determined by the board, at an  
163 institution that:

164 1. Has facilities for both didactic and clinical  
165 instructions in pharmacology; and

166 2. Is accredited by a regional or professional accrediting  
167 organization that is recognized and approved by the Commission  
168 on Recognition of Postsecondary Accreditation or the United  
169 States Department of Education.

170 (f) Has completed at least 1 year of supervised experience  
171 in differential diagnosis of eye disease or disorders as part of  
172 the optometric training or in a clinical setting as part of the  
173 optometric experience.

174 Section 5. Subsection (1) of section 465.007, Florida

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175 Statutes, is amended to read:

176 465.007 Licensure by examination.—

177 (1) Any person desiring to be licensed as a pharmacist  
178 shall apply to the department to take the licensure examination.  
179 The department shall examine each applicant who the board  
180 certifies has met all of the following criteria:

181 (a) Completed the application form and remitted an  
182 examination fee set by the board not to exceed \$100 plus the  
183 actual per applicant cost to the department for purchase of  
184 portions of the examination from the National Association of  
185 Boards of Pharmacy or a similar national organization. The fees  
186 authorized under this section shall be established in sufficient  
187 amounts to cover administrative costs.

188 (b) Submitted to background screening in accordance with s.  
189 456.0135.

190 (c) Submitted satisfactory proof that she or he is not less  
191 than 18 years of age and:

192 1. Is a recipient of a degree from a school or college of  
193 pharmacy accredited by an accrediting agency recognized and  
194 approved by the United States Office of Education; or

195 2. Is a graduate of a 4-year undergraduate pharmacy program  
196 of a school or college of pharmacy located outside the United  
197 States, has demonstrated proficiency in English by passing both  
198 the Test of English as a Foreign Language (TOEFL) and the Test  
199 of Spoken English (TSE), has passed the Foreign Pharmacy  
200 Graduate Equivalency Examination that is approved by rule of the  
201 board, and has completed a minimum of 500 hours in a supervised  
202 work activity program within this state under the supervision of  
203 a pharmacist licensed by the department, which program is

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204 approved by the board.

205 (d) ~~(e)~~ Submitted satisfactory proof that she or he has  
206 completed an internship program approved by the board. No such  
207 board-approved program shall exceed 2,080 hours, all of which  
208 may be obtained prior to graduation.

209 Section 6. Subsection (1) of section 465.0075, Florida  
210 Statutes, is amended to read:

211 465.0075 Licensure by endorsement; requirements; fee.—

212 (1) The department shall issue a license by endorsement to  
213 any applicant who applies to the department and remits a  
214 nonrefundable fee of not more than \$100, as set by the board,  
215 and who whom the board certifies has met all of the following  
216 criteria:

217 (a) ~~Has~~ Met the qualifications for licensure in s.  
218 465.007(1)(b), and (c), and (d).~~†~~

219 (b) ~~Has~~ Obtained a passing score, as established by rule of  
220 the board, on the licensure examination of the National  
221 Association of Boards of Pharmacy or a similar nationally  
222 recognized examination, if the board certifies that the  
223 applicant has taken the required examination.~~†~~

224 (c)1. ~~Has~~ Submitted evidence of the active licensed  
225 practice of pharmacy, including practice in community or public  
226 health by persons employed by a governmental entity, in another  
227 jurisdiction for at least 2 of the immediately preceding 5 years  
228 or evidence of successful completion of board-approved  
229 postgraduate training or a board-approved clinical competency  
230 examination within the year immediately preceding application  
231 for licensure; or

232 2. ~~Has~~ Completed an internship meeting the requirements of

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233 s. 465.007(1)(d) ~~s. 465.007(1)(e)~~ within the 2 years immediately  
234 preceding application. ~~and~~

235 (d) ~~Has~~ Obtained a passing score on the pharmacy  
236 jurisprudence portions of the licensure examination, as required  
237 by board rule.

238 Section 7. Section 465.013, Florida Statutes, is amended to  
239 read:

240 465.013 Registration of pharmacy interns.—The department  
241 shall register as pharmacy interns persons certified by the  
242 board as being enrolled in an intern program at an accredited  
243 school or college of pharmacy or who are graduates of accredited  
244 schools or colleges of pharmacy and are not yet licensed in the  
245 state. Applicants for registration must submit to background  
246 screening in accordance with s. 456.0135. The board may refuse  
247 to certify to the department or may revoke the registration of  
248 any intern for good cause, including grounds enumerated in this  
249 chapter for revocation of pharmacists' licenses.

250 Section 8. Subsection (2) of section 465.014, Florida  
251 Statutes, is amended to read:

252 465.014 Pharmacy technician.—

253 (2) Any person who wishes to work as a pharmacy technician  
254 in this state must register by filing an application with the  
255 board on a form adopted by rule of the board and submit to  
256 background screening in accordance with s. 456.0135. The board  
257 shall register each applicant who has remitted a registration  
258 fee set by the board, not to exceed \$50 biennially; has  
259 completed the application form and remitted a nonrefundable  
260 application fee set by the board, not to exceed \$50; has  
261 submitted to background screening; is at least 17 years of age;

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262 and has completed a pharmacy technician training program  
263 approved by the Board of Pharmacy. Notwithstanding any  
264 requirements in this subsection, any registered pharmacy  
265 technician registered pursuant to this section before January 1,  
266 2011, who has worked as a pharmacy technician for a minimum of  
267 1,500 hours under the supervision of a licensed pharmacist or  
268 received certification as a pharmacy technician by certification  
269 program accredited by the National Commission for Certifying  
270 Agencies is exempt from the requirement to complete an initial  
271 training program for purposes of registration as required by  
272 this subsection.

273 Section 9. Paragraph (b) of subsection (1) of section  
274 466.006, Florida Statutes, is amended to read:

275 466.006 Examination of dentists.-

276 (1)

277 (b)1. Any person desiring to be licensed as a dentist shall  
278 apply to the department to take the licensure examinations and  
279 shall verify the information required on the application by  
280 oath. The application must ~~shall~~ include two recent photographs.  
281 There shall be an application fee set by the board not to exceed  
282 \$100 which shall be nonrefundable and. ~~There shall also be an~~  
283 ~~examination fee set by the board, which shall not to exceed \$425~~  
284 plus the actual per applicant cost to the department for  
285 purchase of some or all of the examination from the American  
286 Board of Dental Examiners or its successor entity, if any,  
287 provided the board finds the successor entity's clinical  
288 examination complies with ~~the provisions of~~ this section. The  
289 examination fee may be refunded ~~refundable~~ if the applicant is  
290 found ineligible to take the examinations.

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291       2. Applicants for licensure must also submit to background  
292 screening in accordance with s. 456.0135.

293       Section 10. Section 466.0067, Florida Statutes, is amended  
294 to read:

295       466.0067 Application for health access dental license.—The  
296 Legislature finds that there is an important state interest in  
297 attracting dentists to practice in underserved health access  
298 settings in this state and further, that allowing out-of-state  
299 dentists who meet certain criteria to practice in health access  
300 settings without the supervision of a dentist licensed in this  
301 state is substantially related to achieving this important state  
302 interest. Therefore, notwithstanding the requirements of s.  
303 466.006, the board shall grant a health access dental license to  
304 practice dentistry in this state in health access settings as  
305 defined in s. 466.003 to an applicant who meets all of the  
306 following criteria:

307       (1) Files an appropriate application approved by the  
308 board.~~†~~

309       (2) Pays an application license fee for a health access  
310 dental license, laws-and-rule exam fee, and an initial licensure  
311 fee. The fees specified in this subsection may not differ from  
312 an applicant seeking licensure pursuant to s. 466.006.~~†~~

313       (3) Has submitted to background screening in accordance  
314 with s. 456.0135 and has not been convicted of or pled nolo  
315 contendere to, regardless of adjudication, any felony or  
316 misdemeanor related to the practice of a health care  
317 profession.~~†~~

318       (4) Submits proof of graduation from a dental school  
319 accredited by the Commission on Dental Accreditation of the

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320 American Dental Association or its successor agency.†

321 (5) Submits documentation that she or he has completed, or  
322 will obtain before licensure, continuing education equivalent to  
323 this state's requirement for dentists licensed under s. 466.006  
324 for the last full reporting biennium before applying for a  
325 health access dental license.†

326 (6) Submits proof of her or his successful completion of  
327 parts I and II of the dental examination by the National Board  
328 of Dental Examiners and a state or regional clinical dental  
329 licensing examination that the board has determined effectively  
330 measures the applicant's ability to practice safely.†

331 (7) Currently holds a valid, active dental license in good  
332 standing which has not been revoked, suspended, restricted, or  
333 otherwise disciplined from another of the United States, the  
334 District of Columbia, or a United States territory.†

335 (8) Has never had a license revoked from another of the  
336 United States, the District of Columbia, or a United States  
337 territory.†

338 (9) Has never failed the examination specified in s.  
339 466.006, unless the applicant was reexamined pursuant to s.  
340 466.006 and received a license to practice dentistry in this  
341 state.†

342 (10) Has not been reported to the National Practitioner  
343 Data Bank, unless the applicant successfully appealed to have  
344 his or her name removed from the data bank.†

345 (11) Submits proof that he or she has been engaged in the  
346 active, clinical practice of dentistry providing direct patient  
347 care for 5 years immediately preceding the date of application,  
348 or in instances when the applicant has graduated from an

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349 accredited dental school within the preceding 5 years, submits  
350 proof of continuous clinical practice providing direct patient  
351 care since graduation. ~~and~~

352 (12) Has passed an examination covering the laws and rules  
353 of the practice of dentistry in this state as described in s.  
354 466.006(4) (a).

355 Section 11. Subsection (1) of section 466.007, Florida  
356 Statutes, is amended to read:

357 466.007 Examination of dental hygienists.—

358 (1)1. Any person desiring to be licensed as a dental  
359 hygienist shall apply to the department to take the licensure  
360 examinations and shall verify the information required on the  
361 application by oath. The application must ~~shall~~ include two  
362 recent photographs of the applicant. There shall be a  
363 nonrefundable application fee set by the board not to exceed  
364 \$100 and an examination fee set by the board ~~which shall~~ not to  
365 exceed ~~be more than~~ \$225. The examination fee may be refunded if  
366 the applicant is found ineligible to take the examinations.

367 2. Applicants for licensure must also submit to background  
368 screening in accordance with s. 456.0135.

369 Section 12. Subsection (5) is added to section 467.011,  
370 Florida Statutes, to read:

371 467.011 Licensed midwives; qualifications; examination.—The  
372 department shall issue a license to practice midwifery to an  
373 applicant who meets all of the following criteria:

374 (5) Submits to background screening in accordance with s.  
375 456.0135.

376 Section 13. Subsections (2) and (3) of section 468.1185,  
377 Florida Statutes, are amended to read:

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378 468.1185 Licensure.—

379 (2) The board shall certify for licensure any applicant who  
380 has met all of the following criteria:

381 (a) Satisfied the education and supervised clinical  
382 requirements of s. 468.1155.

383 (b) Satisfied the professional experience requirement of s.  
384 468.1165.

385 (c) Passed the licensure examination required by s.  
386 468.1175.

387 (d) For an applicant for an audiologist license who has  
388 obtained a doctoral degree in audiology, has satisfied the  
389 education and supervised clinical requirements of paragraph (a)  
390 and the professional experience requirements of paragraph (b).

391 (e) Submitted to background screening in accordance with s.  
392 456.0135.

393 (3) The board shall certify as qualified for a license by  
394 endorsement as a speech-language pathologist or audiologist an  
395 applicant who:

396 (a) Holds a valid license or certificate in another state  
397 or territory of the United States to practice the profession for  
398 which the application for licensure is made, if the criteria for  
399 issuance of such license were substantially equivalent to or  
400 more stringent than the licensure criteria which existed in this  
401 state at the time the license was issued; or

402 (b) Holds a valid certificate of clinical competence of the  
403 American Speech-Language and Hearing Association or board  
404 certification in audiology from the American Board of Audiology;  
405 and

406 (c) Submits to background screening in accordance with s.

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407 456.0135.

408 Section 14. Subsections (1) and (2) of section 468.1215,  
409 Florida Statutes, are amended to read:

410 468.1215 Speech-language pathology assistant and audiology  
411 assistant; certification.—

412 (1) The department shall issue a certificate as a speech-  
413 language pathology assistant to each applicant who the board  
414 certifies has met all of the following criteria:

415 (a) Completed the application form and remitted the  
416 required fees, including a nonrefundable application fee.

417 (b) Submitted to background screening in accordance with s.  
418 456.0135.

419 (c) Earned a bachelor's degree from a college or university  
420 accredited by a regional association of colleges and schools  
421 recognized by the Department of Education which includes at  
422 least 24 semester hours of coursework as approved by the board  
423 at an institution accredited by an accrediting agency recognized  
424 by the Council for Higher Education Accreditation.

425 (2) The department shall issue a certificate as an  
426 audiology assistant to each applicant who the board certifies  
427 has met all of the following criteria:

428 (a) Completed the application form and remitted the  
429 required fees, including a nonrefundable application fee.

430 (b) Submitted to background screening in accordance with s.  
431 456.0135.

432 (c) Earned a high school diploma or its equivalent.

433 Section 15. Present subsections (2), (3), and (4) of  
434 section 468.1695, Florida Statutes, are redesignated as  
435 subsections (3), (4), and (5), respectively, a new subsection

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436 (2) is added to that section, and present subsection (2) of that  
437 section is amended, to read:

438 468.1695 Licensure by examination.—

439 (2) Applicants for licensure must also submit to background  
440 screening in accordance with s. 456.0135.

441 (3)~~(2)~~ The department shall examine each applicant who the  
442 board certifies has completed the application form, submitted to  
443 background screening, and remitted an examination fee set by the  
444 board not to exceed \$250 and who:

445 (a)1. Holds a baccalaureate degree from an accredited  
446 college or university and majored in health care administration,  
447 health services administration, or an equivalent major, or has  
448 credit for at least 60 semester hours in subjects, as prescribed  
449 by rule of the board, which prepare the applicant for total  
450 management of a nursing home; and

451 2. Has fulfilled the requirements of a college-affiliated  
452 or university-affiliated internship in nursing home  
453 administration or of a 1,000-hour nursing home administrator-in-  
454 training program prescribed by the board; or

455 (b)1. Holds a baccalaureate degree from an accredited  
456 college or university; and

457 2.a. Has fulfilled the requirements of a 2,000-hour nursing  
458 home administrator-in-training program prescribed by the board;  
459 or

460 b. Has 1 year of management experience allowing for the  
461 application of executive duties and skills, including the  
462 staffing, budgeting, and directing of resident care, dietary,  
463 and bookkeeping departments within a skilled nursing facility,  
464 hospital, hospice, assisted living facility with a minimum of 60

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465 licensed beds, or geriatric residential treatment program and,  
466 if such experience is not in a skilled nursing facility, has  
467 fulfilled the requirements of a 1,000-hour nursing home  
468 administrator-in-training program prescribed by the board.

469 Section 16. Subsections (1) and (2) of section 468.209,  
470 Florida Statutes, are amended to read:

471 468.209 Requirements for licensure.—

472 (1) An applicant applying for a license as an occupational  
473 therapist or as an occupational therapy assistant shall apply to  
474 the department on forms furnished by the department. The  
475 department shall license each applicant who the board certifies  
476 meets all of the following criteria:

477 (a) Has completed the file a written application form and  
478 remitted, accompanied by the application for licensure fee  
479 prescribed in s. 468.221.

480 (b) Has submitted to background screening in accordance  
481 with s. 456.0135., on forms provided by the department, showing  
482 to the satisfaction of the board that she or he:

483 (c) (a) Is of good moral character.

484 (d) (b) Has successfully completed the academic requirements  
485 of an educational program in occupational therapy recognized by  
486 the board, with concentration in biologic or physical science,  
487 psychology, and sociology, and with education in selected manual  
488 skills. Such a program shall be accredited by the American  
489 Occupational Therapy Association's Accreditation Council for  
490 Occupational Therapy Education, or its successor.

491 (e) (e) Has successfully completed a period of supervised  
492 fieldwork experience at a recognized educational institution or  
493 a training program approved by the educational institution where

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494 she or he met the academic requirements. For an occupational  
495 therapist, a minimum of 6 months of supervised fieldwork  
496 experience is required. For an occupational therapy assistant, a  
497 minimum of 2 months of supervised fieldwork experience is  
498 required.

499 (f)~~(d)~~ Has passed an examination conducted or adopted by  
500 the board as provided in s. 468.211.

501 (2) An applicant who has practiced as a state-licensed or  
502 American Occupational Therapy Association-certified occupational  
503 therapy assistant for 4 years and who, before January 24, 1988,  
504 completed a minimum of 24 weeks of supervised occupational-  
505 therapist-level fieldwork experience may take the examination to  
506 be licensed as an occupational therapist without meeting the  
507 educational requirements for occupational therapists made  
508 otherwise applicable under paragraph (1) (d) ~~(1) (b)~~.

509 Section 17. Subsection (3) is added to section 468.213,  
510 Florida Statutes, to read:

511 468.213 Licensure by endorsement.—

512 (3) Applicants for licensure by endorsement must submit to  
513 background screening in accordance with s. 456.0135.

514 Section 18. Section 468.355, Florida Statutes, is amended  
515 to read:

516 468.355 Licensure requirements.—To be eligible for  
517 licensure by the board, an applicant must be an active  
518 “certified respiratory therapist” or an active “registered  
519 respiratory therapist” as designated by the National Board for  
520 Respiratory Care, or its successor, and submit to background  
521 screening in accordance with s. 456.0135.

522 Section 19. Subsection (4) of section 468.358, Florida

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523 Statutes, is amended to read:

524 468.358 Licensure by endorsement.-

525 (4) Applicants for licensure ~~shall not be granted by~~  
526 endorsement under as provided in this section must submit  
527 ~~without the submission of a proper application, remit and the~~  
528 ~~payment of the requisite application fee, and submit to~~  
529 background screening in accordance with s. 456.0135 fees  
530 ~~therefor.~~

531 Section 20. Present subsections (2), (3), and (4) of  
532 section 468.509, Florida Statutes, are redesignated as  
533 subsections (3), (4), and (5), respectively, a new subsection  
534 (2) is added to that section, and present subsection (2) of that  
535 section is amended, to read:

536 468.509 Dietitian/nutritionist; requirements for  
537 licensure.-

538 (2) Applicants for licensure must also submit to background  
539 screening in accordance with s. 456.0135.

540 (3)~~(2)~~ The department shall examine any applicant who the  
541 board certifies has completed the application form, submitted to  
542 background screening, and remitted the application and  
543 examination fees specified in s. 468.508 and who:

544 (a)1. Possesses a baccalaureate or postbaccalaureate degree  
545 with a major course of study in human nutrition, food and  
546 nutrition, dietetics, or food management, or an equivalent major  
547 course of study, from a school or program accredited, at the  
548 time of the applicant's graduation, by the appropriate  
549 accrediting agency recognized by the Commission on Recognition  
550 of Postsecondary Accreditation and the United States Department  
551 of Education; and

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552           2. Has completed a preprofessional experience component of  
553 not less than 900 hours or has education or experience  
554 determined to be equivalent by the board; or

555           (b)1. Has an academic degree, from a foreign country, that  
556 has been validated by an accrediting agency approved by the  
557 United States Department of Education as equivalent to the  
558 baccalaureate or postbaccalaureate degree conferred by a  
559 regionally accredited college or university in the United  
560 States;

561           2. Has completed a major course of study in human  
562 nutrition, food and nutrition, dietetics, or food management;  
563 and

564           3. Has completed a preprofessional experience component of  
565 not less than 900 hours or has education or experience  
566 determined to be equivalent by the board.

567           Section 21. Subsection (1) of section 468.513, Florida  
568 Statutes, is amended to read:

569           468.513 Dietitian/nutritionist; licensure by endorsement.-

570           (1) The department shall issue a license to practice  
571 dietetics and nutrition by endorsement to any applicant who  
572 submits to background screening in accordance with s. 456.0135  
573 and the board certifies as qualified, upon receipt of a  
574 completed application and the fee specified in s. 468.508.

575           Section 22. Subsection (2) of section 468.803, Florida  
576 Statutes, is amended to read:

577           468.803 License, registration, and examination  
578 requirements.-

579           (2) An applicant for registration, examination, or  
580 licensure must apply to the department on a form prescribed by

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581 the board for consideration of board approval. Each initial  
582 applicant shall submit fingerprints to the department in  
583 accordance with s. 456.0135 and any other procedures specified  
584 by the department for state and national criminal history checks  
585 of the applicant. The board shall screen the results to  
586 determine if an applicant meets licensure requirements. The  
587 board shall consider for examination, registration, or licensure  
588 each applicant whom the board verifies meets all of the  
589 following criteria:

590 (a) Has submitted the completed application and completed  
591 the fingerprinting requirements and has paid the applicable  
592 application fee, not to exceed \$500. The application fee is  
593 nonrefundable.~~†~~

594 (b) Is of good moral character.~~†~~

595 (c) Is 18 years of age or older.~~†~~ ~~and~~

596 (d) Has completed the appropriate educational preparation.

597 Section 23. Subsection (1) of section 478.45, Florida  
598 Statutes, is amended to read:

599 478.45 Requirements for licensure.—

600 (1) An applicant applying for licensure as an electrologist  
601 shall apply to the department on forms furnished by the  
602 department. The department shall license each applicant who the  
603 board certifies meets all of the following criteria:

604 (a) Has completed the ~~file a written~~ application form and  
605 remitted, ~~accompanied by~~ the application for licensure fee  
606 prescribed in s. 478.55.

607 (b) Has submitted to background screening in accordance  
608 with s. 456.0135, ~~on a form provided by the board, showing to~~  
609 ~~the satisfaction of the board that the applicant:~~

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610        (c)~~(a)~~ Is at least 18 years old.

611        (d)~~(b)~~ Is of good moral character.

612        (e)~~(e)~~ Possesses a high school diploma or a high school  
613 equivalency diploma.

614        (f)~~(d)~~ Has not committed an act in any jurisdiction which  
615 would constitute grounds for disciplining an electrologist in  
616 this state.

617        (g)~~(e)~~ Has successfully completed the academic requirements  
618 of an electrolysis training program, not to exceed 120 hours,  
619 and the practical application thereof as approved by the board.

620        Section 24. Section 483.815, Florida Statutes, is amended  
621 to read:

622        483.815 Application for clinical laboratory personnel  
623 license.—An application for a clinical laboratory personnel  
624 license shall be made under oath on forms provided by the  
625 department and shall be accompanied by payment of fees as  
626 provided by this part. Applicants for licensure must also submit  
627 to background screening in accordance with s. 456.0135. A  
628 license may be issued authorizing the performance of procedures  
629 of one or more categories.

630        Section 25. Present paragraphs (b) through (k) of  
631 subsection (4) of section 483.901, Florida Statutes, are  
632 redesignated as paragraphs (c) through (l), respectively, a new  
633 paragraph (b) is added to that subsection, and paragraph (a) of  
634 that subsection is amended, to read:

635        483.901 Medical physicists; definitions; licensure.—

636        (4) LICENSE REQUIRED.—An individual may not engage in the  
637 practice of medical physics, including the specialties of  
638 diagnostic radiological physics, therapeutic radiological

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639 physics, medical nuclear radiological physics, or medical health  
640 physics, without a license issued by the department for the  
641 appropriate specialty.

642 (a) The department shall adopt rules to administer this  
643 section which specify license application and renewal fees,  
644 continuing education requirements, background screening  
645 requirements, and standards for practicing medical physics. The  
646 department shall require a minimum of 24 hours per biennium of  
647 continuing education offered by an organization approved by the  
648 department. The department may adopt rules to specify continuing  
649 education requirements for persons who hold a license in more  
650 than one specialty.

651 (b) Applicants for a medical physicist license must submit  
652 to background screening in accordance with s. 456.0135.

653 Section 26. Subsections (2) and (3) of section 483.914,  
654 Florida Statutes, are amended to read:

655 483.914 Licensure requirements.—

656 (2) The department shall issue a license, valid for 2  
657 years, to each applicant who meets all of the following  
658 criteria:

659 (a) Has completed an application.

660 (b) Has submitted to background screening in accordance  
661 with s. 456.0135.

662 (c) Is of good moral character.

663 (d) ~~(e)~~ Provides satisfactory documentation of having  
664 earned:

665 1. A master's degree from a genetic counseling training  
666 program or its equivalent as determined by the Accreditation  
667 Council of Genetic Counseling or its successor or an equivalent

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668 entity; or

669 2. A doctoral degree from a medical genetics training  
670 program accredited by the American Board of Medical Genetics and  
671 Genomics or the Canadian College of Medical Geneticists.

672 (e)~~(d)~~ Has passed the examination for certification as:

673 1. A genetic counselor by the American Board of Genetic  
674 Counseling, Inc., the American Board of Medical Genetics and  
675 Genomics, or the Canadian Association of Genetic Counsellors; or

676 2. A medical or clinical geneticist by the American Board  
677 of Medical Genetics and Genomics or the Canadian College of  
678 Medical Geneticists.

679 (3) The department may issue a temporary license for up to  
680 2 years to an applicant who meets all requirements for licensure  
681 except for the certification examination requirement imposed  
682 under paragraph (2)(e) ~~(2)(d)~~ and is eligible to sit for that  
683 certification examination.

684 Section 27. Subsection (1) of section 484.007, Florida  
685 Statutes, is amended to read:

686 484.007 Licensure of opticians; permitting of optical  
687 establishments.—

688 (1) Any person desiring to practice opticianry shall apply  
689 to the department, upon forms prescribed by it, to take a  
690 licensure examination. The department shall examine each  
691 applicant who the board certifies meets all of the following  
692 criteria:

693 (a) Has completed the application form and remitted a  
694 nonrefundable application fee set by the board, in the amount of  
695 \$100 or less, and an examination fee set by the board, in the  
696 amount of \$325 plus the actual per applicant cost to the

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697 department for purchase of portions of the examination from the  
698 American Board of Opticianry or a similar national organization,  
699 or less, and refundable if the board finds the applicant  
700 ineligible to take the examination.†

701 (b) Submits to background screening in accordance with s.  
702 456.0135.

703 (c) Is not less than 18 years of age.†

704 (d)~~(e)~~ Is a graduate of an accredited high school or  
705 possesses a certificate of equivalency of a high school  
706 education.† ~~and~~

707 (e)1.~~(d)1.~~ Has received an associate degree, or its  
708 equivalent, in opticianry from an educational institution the  
709 curriculum of which is accredited by an accrediting agency  
710 recognized and approved by the United States Department of  
711 Education or the Council on Postsecondary Education or approved  
712 by the board;

713 2. Is an individual licensed to practice the profession of  
714 opticianry pursuant to a regulatory licensing law of another  
715 state, territory, or jurisdiction of the United States, who has  
716 actively practiced in such other state, territory, or  
717 jurisdiction for more than 3 years immediately preceding  
718 application, and who meets the examination qualifications as  
719 provided in this subsection;

720 3. Is an individual who has actively practiced in another  
721 state, territory, or jurisdiction of the United States for more  
722 than 5 years immediately preceding application and who provides  
723 tax or business records, affidavits, or other satisfactory  
724 documentation of such practice and who meets the examination  
725 qualifications as provided in this subsection; or

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726 4. Has registered as an apprentice with the department and  
727 paid a registration fee not to exceed \$60, as set by rule of the  
728 board. The apprentice shall complete 6,240 hours of training  
729 under the supervision of an optician licensed in this state for  
730 at least 1 year or of a physician or optometrist licensed under  
731 the laws of this state. These requirements must be met within 5  
732 years after the date of registration. However, any time spent in  
733 a recognized school may be considered as part of the  
734 apprenticeship program provided herein. The board may establish  
735 administrative processing fees sufficient to cover the cost of  
736 administering apprentice rules adopted ~~as promulgated~~ by the  
737 board.

738 Section 28. Subsection (2) of section 484.045, Florida  
739 Statutes, is amended to read:

740 484.045 Licensure by examination.—

741 (2) The department shall license each applicant who the  
742 board certifies meets all of the following criteria:

743 (a) Has completed the application form and remitted the  
744 required fees.

745 (b) Has submitted to background screening in accordance  
746 with s. 456.0135.

747 (c) Is of good moral character.

748 (d) ~~(e)~~ Is 18 years of age or older.

749 (e) ~~(d)~~ Is a graduate of an accredited high school or its  
750 equivalent.

751 (f) 1. (e) 1. Has met the requirements of the training  
752 program; or

753 2.a. Has a valid, current license as a hearing aid  
754 specialist or its equivalent from another state and has been

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755 actively practicing in such capacity for at least 12 months; or

756 b. Is currently certified by the National Board for  
757 Certification in Hearing Instrument Sciences and has been  
758 actively practicing for at least 12 months.

759 (g)~~(f)~~ Has passed an examination, as prescribed by board  
760 rule.

761 (h)~~(g)~~ Has demonstrated, in a manner designated by rule of  
762 the board, knowledge of state laws and rules relating to the  
763 fitting and dispensing of prescription hearing aids.

764 Section 29. Section 486.031, Florida Statutes, is amended  
765 to read:

766 486.031 Physical therapist; licensing requirements.—To be  
767 eligible for licensing as a physical therapist, an applicant  
768 must meet all of the following criteria:

769 (1) Be at least 18 years old.†

770 (2) Be of good moral character.‡

771 (3) Have submitted to background screening in accordance  
772 with s. 456.0135.†~~and~~

773 (4) (a) ~~(3) (a)~~ Have been graduated from a school of physical  
774 therapy which has been approved for the educational preparation  
775 of physical therapists by the appropriate accrediting agency  
776 recognized by the Council for Higher Education Accreditation, or  
777 its successor entity, Commission on Recognition of Postsecondary  
778 Accreditation or the United States Department of Education at  
779 the time of her or his graduation and have passed, to the  
780 satisfaction of the board, the American Registry Examination  
781 prior to 1971 or a national examination approved by the board to  
782 determine her or his fitness for practice as a physical  
783 therapist as hereinafter provided;

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784 (b) Have received a diploma from a program in physical  
785 therapy in a foreign country and have educational credentials  
786 deemed equivalent to those required for the educational  
787 preparation of physical therapists in this country, as  
788 recognized by the appropriate agency as identified by the board,  
789 and have passed to the satisfaction of the board an examination  
790 to determine her or his fitness for practice as a physical  
791 therapist as hereinafter provided; or

792 (c) Be entitled to licensure without examination as  
793 provided in s. 486.081.

794 Section 30. Section 486.102, Florida Statutes, is amended  
795 to read:

796 486.102 Physical therapist assistant; licensing  
797 requirements.—To be eligible for licensing by the board as a  
798 physical therapist assistant, an applicant must meet all of the  
799 following criteria:

800 (1) Be at least 18 years old.~~†~~

801 (2) Be of good moral character.

802 (3) Have submitted to background screening in accordance  
803 with s. 456.0135.~~†~~ and

804 (4) (a) ~~(3) (a)~~ Have ~~been~~ graduated from a school giving a  
805 course of not less than 2 years for physical therapist  
806 assistants, which has been approved for the educational  
807 preparation of physical therapist assistants by the appropriate  
808 accrediting agency recognized by the Council for Higher  
809 Education Accreditation, or its successor entity, ~~Commission on~~  
810 ~~Recognition of Postsecondary Accreditation~~ or the United States  
811 Department of Education~~†~~ at the time of her or his graduation  
812 and have passed to the satisfaction of the board an examination

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813 to determine her or his fitness for practice as a physical  
814 therapist assistant as hereinafter provided;

815 (b) Have ~~been~~ graduated from a school giving a course for  
816 physical therapist assistants in a foreign country and have  
817 educational credentials deemed equivalent to those required for  
818 the educational preparation of physical therapist assistants in  
819 this country, as recognized by the appropriate agency as  
820 identified by the board, and passed to the satisfaction of the  
821 board an examination to determine her or his fitness for  
822 practice as a physical therapist assistant as hereinafter  
823 provided;

824 (c) Be entitled to licensure without examination as  
825 provided in s. 486.107; or

826 (d) Have been enrolled between July 1, 2014, and July 1,  
827 2016, in a physical therapist assistant school in this state  
828 which was accredited at the time of enrollment; and

829 1. Have ~~been graduated or be eligible to graduate from such~~  
830 ~~school no later than July 1, 2018; and~~

831 2. Have passed to the satisfaction of the board an  
832 examination to determine his or her fitness for practice as a  
833 physical therapist assistant as provided in s. 486.104.

834 Section 31. Present paragraphs (b), (c), and (d) of  
835 subsection (1) of section 490.005, Florida Statutes, are  
836 redesignated as paragraphs (c), (d), and (e), respectively, a  
837 new paragraph (b) is added to that subsection, and subsection  
838 (2) is amended, to read:

839 490.005 Licensure by examination.—

840 (1) Any person desiring to be licensed as a psychologist  
841 shall apply to the department to take the licensure examination.

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842 The department shall license each applicant whom the board  
843 certifies has met all of the following requirements:

844 (b) Submitted to background screening in accordance with s.  
845 456.0135.

846 (2) Any person desiring to be licensed as a school  
847 psychologist shall apply to the department to take the licensure  
848 examination. The department shall license each applicant who the  
849 department certifies has met all of the following requirements:

850 (a) Satisfactorily completed the application form and  
851 submitted a nonrefundable application fee not to exceed \$250 and  
852 an examination fee sufficient to cover the per applicant cost to  
853 the department for development, purchase, and administration of  
854 the examination, but not to exceed \$250 as set by department  
855 rule.

856 (b) Submitted to background screening in accordance with s.  
857 456.0135.

858 (c) Submitted satisfactory proof to the department that the  
859 applicant:

860 1. Has received a doctorate, specialist, or equivalent  
861 degree from a program primarily psychological in nature and has  
862 completed 60 semester hours or 90 quarter hours of graduate  
863 study, in areas related to school psychology as defined by rule  
864 of the department, from a college or university which at the  
865 time the applicant was enrolled and graduated was accredited by  
866 an accrediting agency recognized and approved by the Council for  
867 Higher Education Accreditation or its successor organization or  
868 from an institution that is a member in good standing with the  
869 Association of Universities and Colleges of Canada.

870 2. Has had a minimum of 3 years of experience in school

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871 psychology, 2 years of which must be supervised by an individual  
872 who is a licensed school psychologist or who has otherwise  
873 qualified as a school psychologist supervisor, by education and  
874 experience, as set forth by rule of the department. A doctoral  
875 internship may be applied toward the supervision requirement.

876 3. Has passed an examination provided by the department.

877 Section 32. Present paragraphs (b) and (c) of subsection  
878 (1) of section 490.0051, Florida Statutes, are redesignated as  
879 paragraphs (c) and (d), respectively, and a new paragraph (b) is  
880 added to that subsection, to read:

881 490.0051 Provisional licensure; requirements.—

882 (1) The department shall issue a provisional psychology  
883 license to each applicant whom the board certifies has met all  
884 of the following criteria:

885 (b) Submitted to background screening in accordance with s.  
886 456.0135.

887 Section 33. Subsection (1) of section 490.006, Florida  
888 Statutes, is amended to read:

889 490.006 Licensure by endorsement.—

890 (1) The department shall license a person as a psychologist  
891 or school psychologist who, upon applying to the department,  
892 submitting to background screening in accordance with s.

893 456.0135, and remitting the appropriate fee, demonstrates to the  
894 department or, in the case of psychologists, to the board that  
895 the applicant:

896 (a) Is a diplomate in good standing with the American Board  
897 of Professional Psychology, Inc.; or

898 (b) Possesses a doctoral degree in psychology and has at  
899 least 10 years of experience as a licensed psychologist in any

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900 jurisdiction or territory of the United States within the 25  
901 years preceding the date of application.

902 Section 34. Subsections (1), (2), (4), and (6) of section  
903 491.0045, Florida Statutes, are amended to read:

904 491.0045 Intern registration; requirements.—

905 (1) An individual who has not satisfied the postgraduate or  
906 post-master's level experience requirements, as specified in s.  
907 491.005(1)(d), (3)(d), or (4)(d) ~~s. 491.005(1)(e), (3)(e), or~~  
908 ~~(4)(e)~~, must register as an intern in the profession for which  
909 he or she is seeking licensure before commencing the post-  
910 master's experience requirement or an individual who intends to  
911 satisfy part of the required graduate-level practicum,  
912 internship, or field experience, outside the academic arena for  
913 any profession, and must register as an intern in the profession  
914 for which he or she is seeking licensure before commencing the  
915 practicum, internship, or field experience.

916 (2) The department shall register as a clinical social  
917 worker intern, marriage and family therapist intern, or mental  
918 health counselor intern each applicant who the board certifies  
919 has met all of the following criteria:

920 (a) Completed the application form and remitted a  
921 nonrefundable application fee not to exceed \$200, as set by  
922 board rule.†

923 (b) Submitted to background screening in accordance with s.  
924 456.0135.

925 (c) 1. Completed the education requirements as specified in  
926 s. 491.005(1)(d), (3)(d), or (4)(d) ~~s. 491.005(1)(e), (3)(e), or~~  
927 ~~(4)(e)~~ for the profession for which he or she is applying for  
928 licensure, if needed; and

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929 2. Submitted an acceptable supervision plan, as determined  
 930 by the board, for meeting the practicum, internship, or field  
 931 work required for licensure that was not satisfied in his or her  
 932 graduate program.

933 (d)~~(e)~~ Identified a qualified supervisor.

934 (4) An individual who fails to comply with this section may  
 935 not be granted a license under this chapter, and any time spent  
 936 by the individual completing the experience requirement as  
 937 specified in s. 491.005(1)(d), (3)(d), or (4)(d) ~~s.~~  
 938 ~~491.005(1)(e), (3)(e), or (4)(e)~~ before registering as an intern  
 939 does not count toward completion of the requirement.

940 (6) Any registration issued after March 31, 2017, expires  
 941 60 months after the date it is issued. The board may make a one-  
 942 time exception to the requirements of this subsection in  
 943 emergency or hardship cases, as defined by board rule, if the  
 944 candidate has passed the theory and practice examination  
 945 described in s. 491.005(1)(e), (3)(e), and (4)(e) ~~s.~~  
 946 ~~491.005(1)(d), (3)(d), and (4)(d)~~.

947 Section 35. Subsection (2) of section 491.0046, Florida  
 948 Statutes, is amended to read:

949 491.0046 Provisional license; requirements.—

950 (2) The department shall issue a provisional clinical  
 951 social worker license, provisional marriage and family therapist  
 952 license, or provisional mental health counselor license to each  
 953 applicant who the board certifies has met all of the following  
 954 criteria:

955 (a) Completed the application form and remitted a  
 956 nonrefundable application fee not to exceed \$100, as set by  
 957 board rule. ~~† and~~

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958           (b) Submitted to background screening in accordance with s.  
959 456.0135.

960           (c) Earned a graduate degree in social work, a graduate  
961 degree with a major emphasis in marriage and family therapy or a  
962 closely related field, or a graduate degree in a major related  
963 to the practice of mental health counseling, ~~and~~

964           ~~(d)-(e)~~ Met the following minimum coursework requirements:

965           1. For clinical social work, a minimum of 15 semester hours  
966 or 22 quarter hours of the coursework required by s.  
967 491.005(1)(c)2.b. ~~s. 491.005(1)(b)2.b.~~

968           2. For marriage and family therapy, 10 of the courses  
969 required by s. 491.005(3)(c) ~~s. 491.005(3)(b)~~, as determined by  
970 the board, and at least 6 semester hours or 9 quarter hours of  
971 the course credits must have been completed in the area of  
972 marriage and family systems, theories, or techniques.

973           3. For mental health counseling, a minimum of seven of the  
974 courses required under s. 491.005(4)(c)1.a., b., or c. ~~s.~~  
975 ~~491.005(4)(b)1.a.-c.~~

976           Section 36. Subsections (1) through (4) of section 491.005,  
977 Florida Statutes, are amended to read:

978           491.005 Licensure by examination.—

979           (1) CLINICAL SOCIAL WORK.—Upon verification of  
980 documentation and payment of a fee not to exceed \$200, as set by  
981 board rule, the department shall issue a license as a clinical  
982 social worker to an applicant whom the board certifies has met  
983 all of the following criteria:

984           (a) Submitted an application and paid the appropriate fee.

985           (b) Submitted to background screening in accordance with s.  
986 456.0135.

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987        (c)1. Received a doctoral degree in social work from a  
988 graduate school of social work which at the time the applicant  
989 graduated was accredited by an accrediting agency recognized by  
990 the United States Department of Education or received a master's  
991 degree in social work from a graduate school of social work  
992 which at the time the applicant graduated:

993           a. Was accredited by the Council on Social Work Education;

994           b. Was accredited by the Canadian Association for Social  
995 Work Education; or

996           c. Has been determined to have been a program equivalent to  
997 programs approved by the Council on Social Work Education by the  
998 Foreign Equivalency Determination Service of the Council on  
999 Social Work Education. An applicant who graduated from a program  
1000 at a university or college outside of the United States or  
1001 Canada must present documentation of the equivalency  
1002 determination from the council in order to qualify.

1003        2. The applicant's graduate program emphasized direct  
1004 clinical patient or client health care services, including, but  
1005 not limited to, coursework in clinical social work, psychiatric  
1006 social work, medical social work, social casework,  
1007 psychotherapy, or group therapy. The applicant's graduate  
1008 program must have included all of the following coursework:

1009           a. A supervised field placement which was part of the  
1010 applicant's advanced concentration in direct practice, during  
1011 which the applicant provided clinical services directly to  
1012 clients.

1013           b. Completion of 24 semester hours or 32 quarter hours in  
1014 theory of human behavior and practice methods as courses in  
1015 clinically oriented services, including a minimum of one course

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1016 in psychopathology, and no more than one course in research,  
1017 taken in a school of social work accredited or approved pursuant  
1018 to subparagraph 1.

1019 3. If the course title which appears on the applicant's  
1020 transcript does not clearly identify the content of the  
1021 coursework, the applicant provided additional documentation,  
1022 including, but not limited to, a syllabus or catalog description  
1023 published for the course.

1024 (d)~~(e)~~ Completed at least 2 years of clinical social work  
1025 experience, which took place subsequent to completion of a  
1026 graduate degree in social work at an institution meeting the  
1027 accreditation requirements of this section, under the  
1028 supervision of a licensed clinical social worker or the  
1029 equivalent who is a qualified supervisor as determined by the  
1030 board. An individual who intends to practice in Florida to  
1031 satisfy clinical experience requirements must register pursuant  
1032 to s. 491.0045 before commencing practice. If the applicant's  
1033 graduate program was not a program which emphasized direct  
1034 clinical patient or client health care services as described in  
1035 subparagraph (c)2. ~~(b)2.~~, the supervised experience requirement  
1036 must take place after the applicant has completed a minimum of  
1037 15 semester hours or 22 quarter hours of the coursework  
1038 required. A doctoral internship may be applied toward the  
1039 clinical social work experience requirement. A licensed mental  
1040 health professional must be on the premises when clinical  
1041 services are provided by a registered intern in a private  
1042 practice setting.

1043 (e)~~(d)~~ Passed a theory and practice examination designated  
1044 by board rule.

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1045        (f)~~(e)~~ Demonstrated, in a manner designated by board rule,  
1046 knowledge of the laws and rules governing the practice of  
1047 clinical social work, marriage and family therapy, and mental  
1048 health counseling.

1049            (2) CLINICAL SOCIAL WORK.—

1050            (a) Notwithstanding ~~the provisions of~~ paragraph (1) (c)  
1051 ~~(1) (b)~~, coursework which was taken at a baccalaureate level  
1052 shall not be considered toward completion of education  
1053 requirements for licensure unless an official of the graduate  
1054 program certifies in writing on the graduate school's stationery  
1055 that a specific course, which students enrolled in the same  
1056 graduate program were ordinarily required to complete at the  
1057 graduate level, was waived or exempted based on completion of a  
1058 similar course at the baccalaureate level. If this condition is  
1059 met, the board shall apply the baccalaureate course named toward  
1060 the education requirements.

1061            (b) An applicant from a master's or doctoral program in  
1062 social work which did not emphasize direct patient or client  
1063 services may complete the clinical curriculum content  
1064 requirement by returning to a graduate program accredited by the  
1065 Council on Social Work Education or the Canadian Association of  
1066 Schools of Social Work, or to a clinical social work graduate  
1067 program with comparable standards, in order to complete the  
1068 education requirements for examination. However, a maximum of 6  
1069 semester or 9 quarter hours of the clinical curriculum content  
1070 requirement may be completed by credit awarded for independent  
1071 study coursework as defined by board rule.

1072            (3) MARRIAGE AND FAMILY THERAPY.—Upon verification of  
1073 documentation and payment of a fee not to exceed \$200, as set by

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1074 board rule, the department shall issue a license as a marriage  
1075 and family therapist to an applicant whom the board certifies  
1076 has met all of the following criteria:

1077 (a) Submitted an application and paid the appropriate fee.

1078 (b) Submitted to background screening in accordance with s.  
1079 456.0135.

1080 (c)1. Attained one of the following:

1081 a. A minimum of a master's degree in marriage and family  
1082 therapy from a program accredited by the Commission on  
1083 Accreditation for Marriage and Family Therapy Education.

1084 b. A minimum of a master's degree with a major emphasis in  
1085 marriage and family therapy or a closely related field from a  
1086 university program accredited by the Council on Accreditation of  
1087 Counseling and Related Educational Programs and graduate courses  
1088 approved by the board.

1089 c. A minimum of a master's degree with an emphasis in  
1090 marriage and family therapy or a closely related field, with a  
1091 degree conferred before September 1, 2027, from an  
1092 institutionally accredited college or university and graduate  
1093 courses approved by the board.

1094 2. If the course title that appears on the applicant's  
1095 transcript does not clearly identify the content of the  
1096 coursework, the applicant provided additional documentation,  
1097 including, but not limited to, a syllabus or catalog description  
1098 published for the course. The required master's degree must have  
1099 been received in an institution of higher education that, at the  
1100 time the applicant graduated, was fully accredited by an  
1101 institutional accrediting body recognized by the Council for  
1102 Higher Education Accreditation or its successor organization or

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1103 was a member in good standing with Universities Canada, or an  
1104 institution of higher education located outside the United  
1105 States and Canada which, at the time the applicant was enrolled  
1106 and at the time the applicant graduated, maintained a standard  
1107 of training substantially equivalent to the standards of  
1108 training of those institutions in the United States which are  
1109 accredited by an institutional accrediting body recognized by  
1110 the Council for Higher Education Accreditation or its successor  
1111 organization. Such foreign education and training must have been  
1112 received in an institution or program of higher education  
1113 officially recognized by the government of the country in which  
1114 it is located as an institution or program to train students to  
1115 practice as professional marriage and family therapists or  
1116 psychotherapists. The applicant has the burden of establishing  
1117 that the requirements of this provision have been met, and the  
1118 board shall require documentation, such as an evaluation by a  
1119 foreign equivalency determination service, as evidence that the  
1120 applicant's graduate degree program and education were  
1121 equivalent to an accredited program in this country. An  
1122 applicant with a master's degree from a program that did not  
1123 emphasize marriage and family therapy may complete the  
1124 coursework requirement in a training institution fully  
1125 accredited by the Commission on Accreditation for Marriage and  
1126 Family Therapy Education recognized by the United States  
1127 Department of Education.

1128 (d) ~~(e)~~ Completed at least 2 years of clinical experience  
1129 during which 50 percent of the applicant's clients were  
1130 receiving marriage and family therapy services, which must be at  
1131 the post-master's level under the supervision of a licensed

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1132 marriage and family therapist with at least 5 years of  
1133 experience, or the equivalent, who is a qualified supervisor as  
1134 determined by the board. An individual who intends to practice  
1135 in Florida to satisfy the clinical experience requirements must  
1136 register pursuant to s. 491.0045 before commencing practice. If  
1137 a graduate has a master's degree with a major emphasis in  
1138 marriage and family therapy or a closely related field which did  
1139 not include all of the coursework required by paragraph (c) ~~(b)~~,  
1140 credit for the post-master's level clinical experience may not  
1141 commence until the applicant has completed a minimum of 10 of  
1142 the courses required by paragraph (c) ~~(b)~~, as determined by the  
1143 board, and at least 6 semester hours or 9 quarter hours of the  
1144 course credits must have been completed in the area of marriage  
1145 and family systems, theories, or techniques. Within the 2 years  
1146 of required experience, the applicant shall provide direct  
1147 individual, group, or family therapy and counseling to cases  
1148 including those involving unmarried dyads, married couples,  
1149 separating and divorcing couples, and family groups that include  
1150 children. A doctoral internship may be applied toward the  
1151 clinical experience requirement. A licensed mental health  
1152 professional must be on the premises when clinical services are  
1153 provided by a registered intern in a private practice setting.

1154 (e) ~~(d)~~ Passed a theory and practice examination designated  
1155 by board rule.

1156 (f) ~~(e)~~ Demonstrated, in a manner designated by board rule,  
1157 knowledge of the laws and rules governing the practice of  
1158 clinical social work, marriage and family therapy, and mental  
1159 health counseling.

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1161 For the purposes of dual licensure, the department shall license  
1162 as a marriage and family therapist any person who meets the  
1163 requirements of s. 491.0057. Fees for dual licensure may not  
1164 exceed those stated in this subsection.

1165 (4) MENTAL HEALTH COUNSELING.—Upon verification of  
1166 documentation and payment of a fee not to exceed \$200, as set by  
1167 board rule, the department shall issue a license as a mental  
1168 health counselor to an applicant whom the board certifies has  
1169 met all of the following criteria:

1170 (a) Submitted an application and paid the appropriate fee.

1171 (b) Submitted to background screening in accordance with s.  
1172 456.0135.

1173 (c)1. Attained a minimum of an earned master's degree from  
1174 a mental health counseling program accredited by the Council for  
1175 the Accreditation of Counseling and Related Educational Programs  
1176 which consists of at least 60 semester hours or 80 quarter hours  
1177 of clinical and didactic instruction, including a course in  
1178 human sexuality and a course in substance abuse. If the master's  
1179 degree is earned from a program related to the practice of  
1180 mental health counseling which is not accredited by the Council  
1181 for the Accreditation of Counseling and Related Educational  
1182 Programs, then the coursework and practicum, internship, or  
1183 fieldwork must consist of at least 60 semester hours or 80  
1184 quarter hours and meet all of the following requirements:

1185 a. Thirty-three semester hours or 44 quarter hours of  
1186 graduate coursework, which must include a minimum of 3 semester  
1187 hours or 4 quarter hours of graduate-level coursework in each of  
1188 the following 11 content areas: counseling theories and  
1189 practice; human growth and development; diagnosis and treatment

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1190 of psychopathology; human sexuality; group theories and  
1191 practice; individual evaluation and assessment; career and  
1192 lifestyle assessment; research and program evaluation; social  
1193 and cultural foundations; substance abuse; and legal, ethical,  
1194 and professional standards issues in the practice of mental  
1195 health counseling. Courses in research, thesis or dissertation  
1196 work, practicums, internships, or fieldwork may not be applied  
1197 toward this requirement.

1198       b. A minimum of 3 semester hours or 4 quarter hours of  
1199 graduate-level coursework addressing diagnostic processes,  
1200 including differential diagnosis and the use of the current  
1201 diagnostic tools, such as the current edition of the American  
1202 Psychiatric Association's Diagnostic and Statistical Manual of  
1203 Mental Disorders. The graduate program must have emphasized the  
1204 common core curricular experience.

1205       c. The equivalent, as determined by the board, of at least  
1206 700 hours of university-sponsored supervised clinical practicum,  
1207 internship, or field experience that includes at least 280 hours  
1208 of direct client services, as required in the accrediting  
1209 standards of the Council for Accreditation of Counseling and  
1210 Related Educational Programs for mental health counseling  
1211 programs. This experience may not be used to satisfy the post-  
1212 master's clinical experience requirement.

1213       2. Provided additional documentation if a course title that  
1214 appears on the applicant's transcript does not clearly identify  
1215 the content of the coursework. The documentation must include,  
1216 but is not limited to, a syllabus or catalog description  
1217 published for the course.

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1219 Education and training in mental health counseling must have  
1220 been received in an institution of higher education that, at the  
1221 time the applicant graduated, was fully accredited by an  
1222 institutional accrediting body recognized by the Council for  
1223 Higher Education Accreditation or its successor organization or  
1224 was a member in good standing with Universities Canada, or an  
1225 institution of higher education located outside the United  
1226 States and Canada which, at the time the applicant was enrolled  
1227 and at the time the applicant graduated, maintained a standard  
1228 of training substantially equivalent to the standards of  
1229 training of those institutions in the United States which are  
1230 accredited by an institutional accrediting body recognized by  
1231 the Council for Higher Education Accreditation or its successor  
1232 organization. Such foreign education and training must have been  
1233 received in an institution or program of higher education  
1234 officially recognized by the government of the country in which  
1235 it is located as an institution or program to train students to  
1236 practice as mental health counselors. The applicant has the  
1237 burden of establishing that the requirements of this provision  
1238 have been met, and the board shall require documentation, such  
1239 as an evaluation by a foreign equivalency determination service,  
1240 as evidence that the applicant's graduate degree program and  
1241 education were equivalent to an accredited program in this  
1242 country. Beginning July 1, 2025, an applicant must have a  
1243 master's degree from a program that is accredited by the Council  
1244 for Accreditation of Counseling and Related Educational  
1245 Programs, the Masters in Psychology and Counseling Accreditation  
1246 Council, or an equivalent accrediting body which consists of at  
1247 least 60 semester hours or 80 quarter hours to apply for

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1248 licensure under this paragraph.

1249 (d)~~(e)~~ Completed at least 2 years of clinical experience in  
1250 mental health counseling, which must be at the post-master's  
1251 level under the supervision of a licensed mental health  
1252 counselor or the equivalent who is a qualified supervisor as  
1253 determined by the board. An individual who intends to practice  
1254 in Florida to satisfy the clinical experience requirements must  
1255 register pursuant to s. 491.0045 before commencing practice. If  
1256 a graduate has a master's degree with a major related to the  
1257 practice of mental health counseling which did not include all  
1258 the coursework required under sub-subparagraphs (c)1.a and b.  
1259 ~~(b)1.a. and b.~~, credit for the post-master's level clinical  
1260 experience may not commence until the applicant has completed a  
1261 minimum of seven of the courses required under sub-subparagraphs  
1262 (c)1.a and b. ~~(b)1.a. and b.~~, as determined by the board, one of  
1263 which must be a course in psychopathology or abnormal  
1264 psychology. A doctoral internship may be applied toward the  
1265 clinical experience requirement. A licensed mental health  
1266 professional must be on the premises when clinical services are  
1267 provided by a registered intern in a private practice setting.  
1268 (e)~~(d)~~ Passed a theory and practice examination designated  
1269 by board rule.

1270 (f)~~(e)~~ Demonstrated, in a manner designated by board rule,  
1271 knowledge of the laws and rules governing the practice of  
1272 clinical social work, marriage and family therapy, and mental  
1273 health counseling.

1274 Section 37. Subsection (1) of section 491.006, Florida  
1275 Statutes, is amended to read:

1276 491.006 Licensure or certification by endorsement.—

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1277 (1) The department shall license or grant a certificate to  
1278 a person in a profession regulated by this chapter who, upon  
1279 applying to the department and remitting the appropriate fee,  
1280 demonstrates to the board that he or she:

1281 (a) Has demonstrated, in a manner designated by rule of the  
1282 board, knowledge of the laws and rules governing the practice of  
1283 clinical social work, marriage and family therapy, and mental  
1284 health counseling.

1285 (b) Submitted to background screening in accordance with s.  
1286 456.0135.

1287 (c)1. Holds an active valid license to practice and has  
1288 actively practiced the licensed profession in another state for  
1289 3 of the last 5 years immediately preceding licensure;

1290 2. Has passed a substantially equivalent licensing  
1291 examination in another state or has passed the licensure  
1292 examination in this state in the profession for which the  
1293 applicant seeks licensure; and

1294 3. Holds a license in good standing, is not under  
1295 investigation for an act that would constitute a violation of  
1296 this chapter, and has not been found to have committed any act  
1297 that would constitute a violation of this chapter.

1298  
1299 The fees paid by any applicant for certification as a master  
1300 social worker under this section are nonrefundable.

1301 Section 38. Section 486.025, Florida Statutes, is amended  
1302 to read:

1303 486.025 Powers and duties of the Board of Physical Therapy  
1304 Practice.—The board may administer oaths, summon witnesses, take  
1305 testimony in all matters relating to its duties under this

29-01094A-24

20241008\_\_

chapter, establish or modify minimum standards of practice of physical therapy as defined in s. 486.021, including, but not limited to, standards of practice for the performance of dry needling by physical therapists, and adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this chapter. The board may also review the standing and reputability of any school or college offering courses in physical therapy and whether the courses of such school or college in physical therapy meet the standards established by the appropriate accrediting agency referred to in s. 486.031(4) (a) ~~s. 486.031(3) (a)~~. In determining the standing and reputability of any such school and whether the school and courses meet such standards, the board may investigate and personally inspect the school and courses.

Section 39. Paragraph (b) of subsection (1) of section 486.0715, Florida Statutes, is amended to read:

486.0715 Physical therapist; issuance of temporary permit.-

(1) The board shall issue a temporary physical therapist permit to an applicant who meets the following requirements:

(b) Is a graduate of an approved United States physical therapy educational program and meets all the eligibility requirements for licensure under chapter ch. 456, s. 486.031(1)-(4) (a) ~~s. 486.031(1)-(3) (a)~~, and related rules, except passage of a national examination approved by the board is not required.

Section 40. Paragraph (b) of subsection (1) of section 486.1065, Florida Statutes, is amended to read:

486.1065 Physical therapist assistant; issuance of temporary permit.-

(1) The board shall issue a temporary physical therapist assistant permit to an applicant who meets the following

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20241008\_\_

1335 requirements:

1336 (b) Is a graduate of an approved United States physical  
1337 therapy assistant educational program and meets all the  
1338 eligibility requirements for licensure under chapter ~~ch.~~ 456, s.  
1339 486.102(1)-(4)(a) ~~s. 486.102(1)-(3)(a)~~, and related rules,  
1340 except passage of a national examination approved by the board  
1341 is not required.

1342 Section 41. Subsections (15), (16), and (17) of section  
1343 491.003, Florida Statutes, are amended to read:

1344 491.003 Definitions.—As used in this chapter:

1345 (15) "Registered clinical social worker intern" means a  
1346 person registered under this chapter who is completing the  
1347 postgraduate clinical social work experience requirement  
1348 specified in s. 491.005(1)(d) ~~s. 491.005(1)(e)~~.

1349 (16) "Registered marriage and family therapist intern"  
1350 means a person registered under this chapter who is completing  
1351 the post-master's clinical experience requirement specified in  
1352 s. 491.005(3)(d) ~~s. 491.005(3)(e)~~.

1353 (17) "Registered mental health counselor intern" means a  
1354 person registered under this chapter who is completing the post-  
1355 master's clinical experience requirement specified in s.  
1356 491.005(4)(d) ~~s. 491.005(4)(e)~~.

1357 Section 42. This act shall take effect July 1, 2024.



The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** January 5, 2024

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I respectfully request that **Senate Bill #1008**, relating to Background Screening Requirements for Health Care Practitioners, be placed on the:

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

A handwritten signature in blue ink that reads "Erin K. Grall".

---

Senator Erin Grall  
Florida Senate, District 29

Tab 3

The Florida Senate

**APPEARANCE RECORD**

SB 1008

1/30/24

Meeting Date

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

Aimee Diaz Lyon

Phone

850-205-9000

Address

119 South Monroe Street #200

Email

adl@mhdfirm.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:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

the Florida Physical therapy 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)

**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 896

INTRODUCER: Senator Martin

SUBJECT: Health Care Practitioners and Massage Therapy

DATE: January 29, 2024

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

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

---

**I. Summary:**

SB 896 expands the Surgeon General’s authority to issue mandatory ESOs to any health care practitioner generally or to the designated establishment manager (DEM) or an employee of a massage establishment directly involved in the management of the establishment upon:

- A massage therapist, massage establishment, DEM, or establishment employee being arrested for committing or attempting, soliciting, or conspiring to commit prostitution or any of the listed felonies; or
- A finding by the Surgeon General that probable cause exists to believe that any licensee has committed sexual misconduct under s. 456.063(1), F.S., or the applicable practice act, and that the violation constitutes an immediate danger to the public.

SB 896 defines the following terms for the practice of massage therapy and massage establishments: advertising medium, employee; and sexual activity.

The bill amends the definition of DEM to include an acupuncturist, medical physician, osteopathic physician, and chiropractor as additional health care practitioners who may serve as a DEM.

SB 896 authorizes the DOH and law enforcement to investigate massage establishments for new required and prohibited acts to assist in identifying persons who may be engaging in human trafficking.

The bill:

- Authorizes law enforcement to seek an abatement or injunction against a massage establishment as a nuisance when the establishment is found to have permitted sexual activity on the premises or to has failed to maintain a complete set of client medical records;

- Requires a massage establishment to confirm the identity of a client before any services or treatments are provided;
- Requires a massage establishment to maintain a complete set of legible employee records, with specific contents provided in the bill, and that such records for an employee must be created before the employee may provide any service or treatment to a client at the establishment;
- Exempts acupuncturists, medical and osteopathic physicians, and chiropractors who employ a massage therapist to perform massage therapy on their patients at their practice, from the requirements of s. 480.043, F.S., except for the requirement to implement a procedure for reporting suspected human trafficking;
- Requires any advertisement by a massage therapist or massage establishment to include the physical address of the establishment that was provided to the DOH on the licensure application and exempts establishments with more than five locations;
- Prohibits massage therapists, massage establishments, and employees of massage establishments from advertising anywhere that expressly or implicitly advertises prostitution, escort, or other sexual services;
- Prohibits a massage establishment, unless zoned residential under a local ordinance, from being used by any person as:
  - A principle or temporary domicile;
  - A shelter or a harbor; or
  - As sleeping or napping quarters;
- Requires DOH investigators to request all massage establishment employees to present a valid government identification at the time of inspection;
- Requires the DOH to notify a federal immigration office if a massage establishment employee is unable to produce a valid government identification;
- Changes the BMT quorum requirements from four members to a majority of the members of the BMT; and
- Expands the DOH’s reporting requirements for more specific information regarding massage therapists and establishments.

The bill provides an effective date of July 1, 2024.

## II. Present Situation:

### Massage Therapy Practice

Chapter 480, F.S., is the “Massage Therapy Practice Act” and governs the practice of massage therapy in Florida. A massage therapist is a health care practitioner licensed under ch. 480, F.S. The Board of Massage Therapy (BMT) is within the DOH and regulates the practice of massage therapy.<sup>1</sup> As of June 30, 2023, there were 55,409 total licensed massage therapists and establishments.<sup>2</sup>

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<sup>1</sup> Section 480.035, F.S.

<sup>2</sup> Department of Health, House Bill 197 2024 Agency Legislative Bill Analysis (Oct. 24, 2023) (On file with the Senate Committee on Health Policy).

Massage therapy is the manipulation of the soft tissues of the human body with the hands, feet, arms, or elbow, whether or not the manipulation is aided by hydrotherapy, and includes colonic irrigation, thermal therapy, the use of any electrical or mechanical device, or the application of chemical or herbal preparations to the human body.<sup>3</sup>

According to the DOH, in Fiscal Year 2022-2023, in Florida there were 191 BMT-approved licensed massage therapy schools, 34,515 in-state, active licensed massage therapists, and 8,966 massage establishments with active licenses.<sup>4</sup>

### ***Massage Therapy Licensure***

An individual seeking licensure as a massage therapist in Florida must:<sup>5</sup>

- Submit an application and the appropriate licensing fee;
- Be at least 18 years of age or have a high school diploma or high school equivalency diploma;
- Submit to background screening and be found to not have been convicted or found guilty of, or to have pled nolo contendere to, a specific list of crimes; and
- Meet specific education and training requirements, as discussed below.

### ***Massage Therapy Education and Training Requirements***

Individuals may meet their education and training requirements to earn their Florida massage therapy license in one of three manners:

- Attend a BMT-approved massage school and pass a BMT-approved examination.<sup>6</sup>
- Complete a BMT-approved massage apprenticeship program by July 1, 2023, and pass a BMT-approved examination.<sup>7</sup> This option is only available to those who had a massage apprentice license before July 1, 2020.<sup>8</sup>
- Obtain a license by endorsement, if the applicant is currently licensed in another state and meets additional requirements.<sup>9</sup>

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<sup>3</sup> Section 480.033, F.S.

<sup>4</sup> Florida Department of Health, Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2022-2023*, pgs. 27 and 31, available at <https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/annual-reports.html> (last visited Jan. 28 2024).

<sup>5</sup> Section 480.041, F.S. See also, Fla. Admin. Code R. 64B7-25, (2023).

<sup>6</sup> Fla. Admin. Code R. 64B7-25.001, (2023). See also, Florida Board of Massage Therapy, Requirements for all Applicants, *Additional Requirements for Examination Applicants*, available at <https://floridasmassagetherapy.gov/licensing/licensed-massage-therapist-lmt/> (last visited Jan, 28, 2024).

<sup>7</sup> Fla. Admin. Code R. 64B7-29.003, (2023). During the apprenticeship, the sponsor is required to file quarterly reports and the apprentice must complete the following courses of study: 300 hours of physiology, 300 hours of anatomy, 20 hours of theory and history of massage, 50 hours of theory and practice of hydro-therapy, 25 hours of statutes and rules of massage practice, 50 hours of introduction to allied modalities, 700 hours of practical massage, and three hours of BMP-approved HIV/AIDS instruction.

<sup>8</sup> See ss. 480.033(5) and 480.041(8), F.S., (2020). The DOH will no longer issued massage apprentice licenses after June 30, 2020; and it is unclear if there are any apprentices left who have yet to take and pass a BMT approved examination.

<sup>9</sup> Section 480.041(5)(c), F.S.

### ***Massage Therapy Schools***

The BMT requires applicants for licensure to practice massage therapy to complete at least 500 classroom hours at a rate of no more than six hours per day and no more than 30 classroom hours per calendar week.<sup>10</sup> Classroom education must include:<sup>11</sup>

- 150 hours of anatomy and physiology;
- 100 hours of basic massage theory and history;
- 125 hours of clinical practicum;
- 76 hours of allied modalities;
- 15 hours of business;
- 15 hours of theory and practice of hydrotherapy;
- 10 hours of Florida laws and rules;
- 4 hours of professional ethics;
- 3 hours of HIV/AIDS education; and
- 2 hours on reducing medical errors.

### ***Massage Therapy Licensure by Endorsement***

An individual who holds an active license in another state that has licensing requirements that are equivalent to, or that exceed, Florida's licensing requirements, is eligible to receive a Florida massage therapy license by endorsement if he or she has also completed 10 hours of coursework on Florida laws and rules as part of a BMT-approved education program or with an approved continuing education (CE) provider.<sup>12</sup>

### ***Massage Establishment Licensure***

A massage establishment is the premises wherein a massage therapist practices massage therapy.<sup>13</sup> A massage establishment must be licensed by the BMT and adhere to rules set by the BMT regarding facilities, personnel, safety and sanitation requirements, financial responsibility, and insurance coverage.<sup>14</sup> Massage establishments must be licensed in order to operate legally.<sup>15</sup>

The BMT requires the following to be met before a massage establishment license may be issued:<sup>16</sup>

- A completed application and appropriate licensing fee;<sup>17</sup>
- A DOH inspection;<sup>18</sup> and

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<sup>10</sup> Fla. Admin. Code R. 64B7-32.003, (2023).

<sup>11</sup> *Id.*

<sup>12</sup> Fla. Admin. Code R. 64B7-25.004, (2023). Florida-approved Massage Therapy programs are required to have 10 hours of Florida laws and rules as a part of their curriculum. Graduates from out of state programs must show that they have met the same course requirements as students who attend Florida schools.

<sup>13</sup> Section 480.033(7), F.S.

<sup>14</sup> Section 480.043, F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Fla. Admin. Code R. 64B7-26.002, (2023).

<sup>17</sup> See Board of Massage Therapy, *Application for Massage Establishment License*, available at <https://floridasmassagetherapy.gov/applications/app-bus-original-mt.pdf> (last visited Jan. 28, 2024).

<sup>18</sup> The inspection must demonstrate that the proposed massage establishment is to be used for "massage" as defined in Section 480.033(3), F.S., and that the proposed massage establishment is in compliance with chs. 456 and 480, F.S., and related rules. See Fla. Admin. Code R. 64B7-26.002, (2023).

- Proof of property damage and bodily injury liability insurance coverage.<sup>19</sup>

The application includes background screening of the establishment owner and requires the identification of a designated establishment manager (DEM).<sup>20</sup> A DEM must be a licensed massage therapist who holds a clear and active license without restriction. The DEM is responsible for the operation of a massage establishment and must be designated the manager by the rules or practices at the establishment.<sup>21</sup>

Massage establishment licenses may not be transferred from a licensee to another individual or entity.<sup>22</sup> Board approval is required for a massage establishment to move locations or change names.<sup>23</sup>

A proposed massage establishment may be denied a license for failing to meet the standards adopted by the BMT, or if the owner or DEM has been convicted of, or plead guilty to, or plead nolo contendere to, a felony or misdemeanor relating to any of the following offenses:<sup>24</sup>

- Prostitution;<sup>25</sup>
- Kidnapping;<sup>26</sup>
- False imprisonment;<sup>27</sup>
- Luring or enticing a child;<sup>28</sup>
- Human trafficking or smuggling;<sup>29</sup>
- Sexual battery;<sup>30</sup>
- Female genital mutilation;<sup>31</sup>
- Lewd or lascivious offenses in the presence of a minor, elderly, or disabled person;<sup>32</sup> or
- Obscene or sexual acts involving a minor.<sup>33</sup>

The DOH may investigate the proposed massage establishment based on the application contents.<sup>34</sup> If DOH determines that the proposed massage establishment fails to meet the standards adopted by the BMT, the DOH must deny the application for licensure and provide the denial in writing with a list of reasons for the denial. The establishment may correct the recorded deficiencies and reapply for licensure.<sup>35</sup>

<sup>19</sup> Fla. Admin. Code R. 64B7-26.002, (2023).

<sup>20</sup> *Supra*, note 17.

<sup>21</sup> Section 480.033(6), F.S.

<sup>22</sup> Section 480.043(9), F.S.

<sup>23</sup> *Id.*

<sup>24</sup> Section 480.043, F.S.

<sup>25</sup> Chapter 796, F.S.

<sup>26</sup> Section 787.01, F.S.

<sup>27</sup> Section 787.02, F.S.

<sup>28</sup> Section 787.025, F.S.

<sup>29</sup> Sections 787.06 and 787.07, F.S.

<sup>30</sup> Section 794.011, F.S.

<sup>31</sup> Section 794.08, F.S.

<sup>32</sup> Sections 800.004 and 825.1025(2)(b), F.S.

<sup>33</sup> Section 827.071 and ch. 847 F.S.

<sup>34</sup> Section 480.043(5), F.S.

<sup>35</sup> Section 480.043(6), F.S.

### ***Professional Discipline of Massage Therapists and Massage Establishments***

It is the responsibility of the BMT to discipline its licensees regulated under ch. 480, F.S., for any acts that violate ss. 480.041, 480.043, 480.0485, 480.046, and s. 456.072, F.S., or in the Florida Administrative Code Rules in ch. 64B7. In doing so, it must issue an order imposing appropriate penalties on the massage therapist or massage establishment within the ranges recommended in the disciplinary guidelines of ss. 456.072(2) and 480.046, F.S., and Florida Administrative Code Rules, ch. 64B7, after consideration of the listed aggravating and mitigating factors. Discipline may include any combination of the following:

- Letter of concern or guidance.
- Reprimand.
- Conditional license.
- Probation.
- Suspension of license.
- Revocation of license.
- Fines.

During Fiscal Year 2022-2023, 229 administrative complaints (A/C) were filed related to massage therapists and massage establishments.<sup>36</sup> Of those, 70 were related to sexual misconduct.<sup>37</sup>

### ***DOH Emergency Action Orders***

The DOH is authorized under s. 456.074, F.S., to immediately suspend the license of any health care practitioner who has plead guilty, or nolo contendere to, or has been convicted of, any of the following offenses:

- Felony Medicare or Medicaid fraud under ch. 409, F.S.;
- Felony fraud under ch. 817, F.S.;
- Felony drug offenses under ch. 893, F.S., and equivalent charges under federal law;
- Misdemeanors or felonies under federal law relating to the Medicaid program;
- Felonies under s. 784.086, F.S., relating to reproductive battery; and
- Felonies under ch. 782, F.S., relating to homicide.

The DOH may only issue an ESO, an emergency restriction order (ERO), or an order limiting a practitioner's license if the procedure leading to the order was fair under the circumstances and meets the following criteria:<sup>38</sup>

- The procedure provided at least the same procedural protection as is given by other statutes, the State Constitution, or the U.S. Constitution;
- The DOH took only the action necessary to protect the public health, safety and welfare under the emergency procedure; and
- The DOH stated, in writing, with particularity, at the time of or prior to the emergency action, the specific facts and reasons for finding that the practitioner or regulated facility

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<sup>36</sup> Department of Health, House Bill 197 2024 Agency Legislative Bill Analysis (Oct. 24, 2023) (On file with the Senate Committee on Health Policy).

<sup>37</sup> *Id.*

<sup>38</sup> Section 120.60(6), F.S.

presented an *immediate danger to the public health, safety, or welfare* and its reasons for concluding that the procedure used was fair under the circumstances.

The State Surgeon General, or his or her designee, may issue the emergency action and is required to conduct a proceeding for the purposes of making finding that a health care practitioner or regulated facility presents an immediate danger to the public health or safety, and that the least restrictive means of protecting the public welfare is an action against the health care practitioner's or facility's license.<sup>39</sup>

***Emergency Actions Specific to Massage Therapist and Massage Establishment License***

The DOH under s. 456.074(4), F.S., is required to issue an ESO of the license of a massage therapist or massage establishment when a therapist, or a person with any ownership interest in a massage establishment, has been convicted, or found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, prostitution or related acts under s. 796.07, F.S., or a felony under any of the following or similar provisions in another jurisdiction:<sup>40</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;
- 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. 796.04, 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, F.S., relating to prohibiting prostitution and related acts;
- Section 800.04, F.S., 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, F.S., relating to computer pornography;
- Section 847.0138, F.S., relating to the transmission of material harmful to minors to a minor by electronic device or equipment; and
- Section 847.0145, F.S., relating to the selling or buying of minors.

Without a conviction or the entry of a guilty or nolo contendere plea by the licensee, the DOH cannot issue an ESO.

<sup>39</sup> Sections 456.073(8) and 120.60(6), F.S.

<sup>40</sup> Section 456.074(4), F.S.

The DOH is required to annually report to the Legislature the total number of A/Cs and a description of disciplinary actions taken against health care professionals and establishments licensed and regulated by the DOH.<sup>41</sup> Such figures are required to be categorized by profession but not by the cause for the complaint or disciplinary action, such as sexual misconduct or failure to maintain a DEM.

Massage establishments are also required to maintain a DEM on file with DOH as a condition of their licensure. The DOH is authorized to issue an ESO to an establishment that fails to identify a new DEM within ten days of terminating the previous DEM.<sup>42</sup>

### **Human Trafficking**

Human trafficking is a form of modern-day slavery involving the transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploiting that person.<sup>43</sup> Human trafficking can affect individuals of any age, gender, or nationality; however, some people are more vulnerable than others. Significant risk factors include recent migration or relocation, substance abuse, mental health concerns, and involvement in the child welfare system.<sup>44</sup>

Victims of human trafficking are often subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.<sup>45</sup> It is estimated that at any given time in 2021, there were approximately 27.6 million people engaging in forced labor.<sup>46</sup> In 2021, the National Human Trafficking Hotline<sup>47</sup> (hotline) identified 16,710 trafficking victims in the U.S., of which 1,253 were in Florida.<sup>48</sup> However, these figures do not reflect the true scope and scale of the issue which cannot be easily quantified due to the underground nature of the issue. An analysis of data collected by the hotline showed that approximately six percent of reported victims in 2021 were associated with illicit massage, health, and beauty services.<sup>49</sup>

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<sup>41</sup> Section 456.026, F.S. See Department of Health, Division of Medical Quality Assurance Annual Report and Long-Range Plan (2023). available at <https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/MQAAnnualReport2022-2023.pdf> (last visited Jan. 28, 2024).

<sup>42</sup> Section 480.043(12), F.S.

<sup>43</sup> Section 787.06, F.S.

<sup>44</sup> U.S. Department of Health and Human Services, Administration of Children and Families, National Human Trafficking Hotline. *Human Trafficking: What Human Trafficking is, and isn't*. available at <https://humantraffickinghotline.org/en/human-trafficking> (last visited Jan. 28, 2024).

<sup>45</sup> *Id.*

<sup>46</sup> International Labour Organization, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Sep. 2022) available at [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---ipec/documents/publication/wcms\\_854733.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_854733.pdf) (last visited Jan. 23, 2024).

<sup>47</sup> The National Human Trafficking Hotline is a free service to connect victims and survivors of sex and labor trafficking with services and supports to find help and safety. The Hotline also receives tips about potential situations of sex and labor trafficking and facilitates reporting that information to the appropriate authorities. See also, National Human Trafficking Hotline, *About Us*, available at <https://humantraffickinghotline.org/en/about-us> (last visited Jan. 28, 2024).

<sup>48</sup> U.S. Department of Health and Human Services, Administration of Children and Families, National Human Trafficking Hotline, *National Statistics (2021)*. available at <https://humantraffickinghotline.org/en/statistics> (last visited Jan. 28, 2024).

<sup>49</sup> U.S. Department of Health and Human Services, Administration of Children and Families, National Human Trafficking Hotline, *Polaris Analysis of 2021 Data from the National Human Trafficking Hotline*. available at <https://polarisproject.org/wp-content/uploads/2020/07/Polaris-Analysis-of-2021-Data-from-the-National-Human-Trafficking-Hotline.pdf> (last visited Jan. 28, 2024).

### ***Illicit Massage Businesses***

An illicit massage business (IMB) is an establishment that puts on the façade of a legitimate massage business in order to facilitate commercial sex services. As of 2023, *The Network*, a private I.R.S. 502(c)(3) non-profit, working to counter IMBs, estimated there were more than 13,000 IMBs operating in all 50 states. As a whole, this illicit industry generates over \$5 billion per year in revenue.<sup>50</sup> IMBs are considered one of the top venues for sex trafficking involving adults and represented the largest group of citizen calls to the hotline in 2019.<sup>51</sup>

### ***Law Enforcement Response to IMBs***

Florida has implemented several law enforcement and regulatory measures in an effort to stop the operation of IMBs without interfering with legitimate massage establishments.

Traditional tactics such as sting operations, undercover work, and reactive investigations are still relied on heavily for addressing human trafficking and IMBs, though these tactics for controlling crime have proven largely ineffective in reducing the presence of IMBs and their impact on victims of human trafficking. These tactics have been ineffective in holding traffickers accountable and decreasing the risk of victimization as the sting and undercover methods and massage therapy create unique issues for law enforcement.<sup>52</sup>

Law enforcement has also attempted to prosecute IMBs as a public nuisance and sought injunctive relief.<sup>53</sup> When such a nuisance exists, the Attorney General, state attorney, city attorney, county attorney, or any citizen of the county where the nuisance allegedly exists, may bring a nuisance abatement action to enjoin the nuisance, the person maintaining it, and the owner or agent of the premises where the nuisance is located.<sup>54</sup> Such actions may result in a permanent injunction requiring the establishment to cease operations or abate any such nuisance. Massage establishments may also be declared a public nuisance if they are operating outside of legal hours, serving as a person's principal domicile,<sup>55</sup> or are unable to provide the required identification and licensure documents upon the request of a law enforcement officer or DOH investigator.<sup>56</sup>

### ***Administrative Response to IMBs***

Florida has implemented several regulatory measures in an effort to combat the operation of IMBs. These regulations include:

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<sup>50</sup> The Network, *What is the Illicit Massage Industry?*, available at <https://www.thenetworkteam.org/research/what-is-the-illicit-massage-industry> (last visited Jan. 28, 2023). The Network is an intelligence driven I.R.S. 501(c)(3) non-profit counter human traffic organization based in northern Virginia that works with partners across the U.S. with diverse strengths.

<sup>51</sup> de Vries, I. (2020). Crime, place, and networks in the age of the internet: The case of online-promoted illicit massage businesses. Northeastern University. Available at <https://repository.library.northeastern.edu/files/neu:m046sd37z/fulltext.pdf> (last visited Jan. 28, 2024).

<sup>52</sup> Vries, I. de, & Farrell, A. (2022). *Explaining the Use of Traditional Law Enforcement Responses to Human Trafficking Concerns in Illicit Massage Businesses*. Justice Quarterly, available at <https://www.tandfonline.com/doi/epdf/10.1080/07418825.2022.2051587?needAccess=true> (last visited Jan. 26, 2024).

<sup>53</sup> Section 823.05, F.S.

<sup>54</sup> Section 60.05, F.S.

<sup>55</sup> See s. 480.0475, F.S.

<sup>56</sup> See s. 480.0535, F.S.

- Massage establishments are not authorized to operate between 12:00 a.m. and 5:00 a.m.;<sup>57</sup>
- Sexual misconduct<sup>58</sup> is explicitly prohibited in massage establishments;<sup>59</sup>
- Advertisements must include the license number of the individual massage therapist or establishment being advertised;<sup>60</sup>
- Persons employed in a massage establishment must be able to produce a government-issued identification upon request of a DOH inspector or law enforcement investigator;<sup>61</sup> and
- Massage establishments are required to have a procedure for reporting suspected human trafficking and conspicuously post a sign with the relevant procedures.<sup>62</sup>

### III. Effect of Proposed Changes:

SB 896 expands the Surgeon General’s authority to issue mandatory ESOs to any health care practitioner generally and to the DEM or an employee of a massage establishment directly involved in the management of the establishment upon:

- A massage therapist, massage establishment, DEM, or establishment employee being arrested for committing or attempting, soliciting, or conspiring to commit prostitution or any of the listed felonies; or
- A finding by the Surgeon General that probable cause exists to believe that any licensee has committed sexual misconduct under s. 456.063(1), F.S., or the applicable practice act, and that the violation constitutes an immediate danger to the public.

SB 896 amends s. 480.033, F.S., to define the following terms for the practice of massage therapy and massage establishments:

- “Advertising medium,” which includes:
  - 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
  - Any other form of written or electronic advertisement.
- “Employee,” which includes any person, or independent contractor or lessee of the massage establishment, whose duties include any aspect of the massage establishment, including, cooking and cleaning, with or without compensated. The term does not include persons exclusively engaged in the repair or maintenance of the massage establishment or in the delivery of goods to the establishment.
- “Sexual activity” according to parameters provided in the bill.

<sup>57</sup> Section 480.0475, F.S.

<sup>58</sup> Fla. Admin. Code R. 64B7-26.010, (2023), specifies that the statutory prohibition of sexual misconduct extends to sexual activity occurring within any massage establishment.

<sup>59</sup> Section 480.0485, F.S.

<sup>60</sup> Section 480.0465, F.S.

<sup>61</sup> Section 480.0535, F.S.

<sup>62</sup> Section 480.043, F.S.

The bill amends the definition of DEM in s. 480.033, F.S., to include an acupuncturist, medical or osteopathic physician, or chiropractor, who holds a clear and active licenses without restrictions as additional persons who may act as a DEM.

The bill amends s. 480.035, F.S., to change the BMT quorum requirements from four members to a majority of members.

SB 896 amends s. 480.043, F.S., to authorize the DOH and law enforcement to investigate for the following new prohibited acts to assist in identifying persons who may be engaging in human trafficking at massage establishments:

- Sexual activity in a massage establishment;
- Used or unused condoms in a massage establishment;
- Failure of the outside windows in the massage establishment's reception area to allow for at least 35 percent light penetration or more than 50 percent of the outside windows obstructed by signage, blinds, curtains, or other obstructions;
- Failure to post a sign on the front window of the establishment that includes the name and license number of the massage establishment and the telephone number that has been provided to the DOH as part of the licensure application, with an exception for a massage establishment:
  - Within a public lodging establishment; or
  - Located within a county or municipality that has an ordinance that prescribes requirements related to business window light penetration or signage limitations if compliance would result in noncompliance with such ordinance;
- Failure of all employees at the massage establishment being fully clothed and the clothing being fully opaque and made of nontransparent material that does not expose the employee's genitalia, with an exception for employees of a public lodging establishment which is licensed as a clothing-optional establishment and chartered with the American Association for Nude Recreation;
- A massage establishment's failure to maintain a complete set of legible employee employment records in English or Spanish, which must include employees':
  - Start date;
  - Full legal name;
  - Date of birth;
  - Home address;
  - Telephone number;
  - Employment position; and
  - A copy of the employee's government identification.
- A massage establishment's failure to conspicuously display a two-inch by two-inch photo for each employee, which, for massage therapists, must be attached to the massage therapist's license and include the employee's full legal name and employment position. A massage establishment 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 clients or patients;

- A massage establishment's failure to maintain a complete set of legible patient or client medical records in English or Spanish which must be maintained for one year after the last date of service or treatment, and include:
  - The date and time of the service or treatment;
  - The 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 client or patient.
- An establishment's failure to confirm the identification of a client or patient before any service or treatment is provided.

Except for the requirement that a massage establishment implement a procedure for reporting suspected human trafficking to the National Human Trafficking Hotline or to a local law enforcement agency and post in a conspicuous place in the establishment, s. 480.043, F.S., acupuncturists, physician licensed ch. 458 or 459, F.S., and chiropractors who employ a massage therapist to perform massage therapy on their patients at their practice are exempt from requirements of s. 480.043, F.S.

The bill amends s. 823.05, F.S., to declare that a massage establishment found to have permitted sexual activity on the premises, or to have failed to maintain a complete set of client or patient medical records, in violation of s. 480.14(a) or (f), F.S., is a nuisance and law enforcement may abate and enjoin the establishment under ss. 60.05 and 60.06, F.S.

SB 896 amends s. 480.0465, F.S., to require that any advertisements by massage therapist or massage establishment must include the physical address of the establishment that was provided to the DOH. Massage establishments with more than five locations are exempt from this requirement. Massage therapists, massage establishments, and employees of massage establishments are prohibited under the bill from advertising in any medium or website that expressly or implicitly advertises prostitution, escort, or other sexual services. The bill deletes the statutory clause allowing new massage establishments with pending licenses to advertise using the license number of a massage therapist.

SB 896 amends s. 480.0475, F.S., to prohibit the use of a massage establishment, unless zoned residential under a local ordinance, by any person as:

- A principle or temporary domicile;
- A shelter or a harbor; or
- Sleeping or napping quarters.

The bill amends s. 480.0535, F.S., to require DOH investigators to request demonstration of a valid government identification from all employees, in addition to massage therapists, in a massage establishment at the time of inspection. If an employee is unable to provide a valid form of government identification, the bill requires the DOH to notify a federal immigration office.

SB 896 expands the DOH's reporting requirements under 456.026, F.S., regarding massage therapists and establishments. Current law requires the DOH to report the number of complaints, investigations, and disciplinary actions taken for all the DOH regulated professions, but the basis of the cause of action is not required to be reported. SB 896 requires the DOH to separately

categorize complaints, investigations, and disciplinary actions against massage therapists and establishments where the following specific statutory violations are being alleged:

- No DSM;
- No procedure for reporting suspected human trafficking to the hotline or to a local law enforcement agency;
- Sexual activity in a massage establishment;
- Window violation;
- Clothing violation;
- Employment records violation;
- License display violation; and
- Medical records violation.
- Advertising violation;
- Domicile, shelter, harbor, sleeping or napping violation;
- Sexual misconduct violation; and
- Document violation.

The bill provides an effective date of July 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.

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

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DOH advises that it will experience a significant increase in workload associated with additional complaints, investigations, and prosecution cases under the bill. The licensure pool for massage therapists and establishments is not expected to increase, yet the increase in workload cannot be absorbed with current resources and is anticipated to be substantial due to the provisions of this bill, according to the DOH.<sup>63</sup>

Based on Fiscal Year 2022-2023 data, the DOH believes it will require:<sup>64</sup>

- 46 full-time equivalent positions (FTE) for investigation;
- 23 FTE for legally sufficient cases; and
- 41 FTE for unlicensed activity investigations related to massage therapists and establishments.

The DOH estimates that the bill will result in an additional 1,869 complaints, 500 cases, and 48 unlicensed activity investigations per year. In addition, the bill requires mandatory ESOs for massage therapy and massage establishment licenses in violation of numerous statutes, which the DOH indicates will increase Prosecution Services Unit workloads and will require eight other FTE positions.

The DOH expects the bill to create a non-recurring increase in workload associated with updating the Licensing and Enforcement Information Database System (LEIDS), Iron Data Mobile (IDM) inspection software, Online Service Portal (Versa Online), artificial intelligence virtual agent (ELI) for voice and web, License Verification Search Site, board order tracking and monitoring systems, board websites, and data exchange services. Updates to fully integrate the bill are estimated to take three months. This reflects a minimum of 464 of initial non-recurring contracted hours at a rate of \$120/hr. for a total cost of \$55,680 (\$120/hr. x 464) and annual recurring system maintenance costs of \$5,100. Total estimated increase in workload and cost is \$60,780 in Contracted Services.<sup>65</sup>

The DOH's total estimated annual cost is \$1,034,032 in the following categories:<sup>66</sup>

- Salary - \$846,102/Recurring
- Expense - \$71,000/Recurring + \$53,272/Non-Recurring
- Human Resources - \$2,878/Recurring
- Contracted Services - \$5,100/Recurring \$55,680/Non-Recurring

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<sup>63</sup> Department of Health, House Bill 197 2024 Agency Legislative Bill Analysis (Oct. 24, 2023) (On file with the Senate Committee on Health Policy).

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*

<sup>66</sup> *Id.*

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 456.026, 456.074, 480.033, 480.035, 480.043, 480.0465, 480.0475, 480.0535, and 823.05.

**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 Martin

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1                                   A bill to be entitled  
2       An act relating to health care practitioners and  
3       massage therapy; amending s. 456.026, F.S.; requiring  
4       that a certain annual report required of the  
5       Department of Health include specified data; amending  
6       s. 456.074, F.S.; requiring the department to  
7       immediately suspend the license of massage therapists  
8       and massage establishments under certain  
9       circumstances; requiring the department to suspend the  
10      license of any person or entity under its jurisdiction  
11      under certain circumstances; amending s. 480.033,  
12      F.S.; revising and providing definitions; amending s.  
13      480.035, F.S.; revising quorum requirements for the  
14      Board of Massage Therapy; amending s. 480.043, F.S.;  
15      revising certain rules the board is required to adopt;  
16      prohibiting sexual activity and certain related  
17      activities in massage establishments; specifying  
18      prohibited conduct by establishment owners and  
19      employees; providing requirements for outside windows  
20      and signs in massage establishments; providing  
21      exceptions; providing employee dress code  
22      requirements, with an exception; requiring  
23      establishments to maintain certain employment records  
24      in English or Spanish; requiring that specified  
25      information be recorded before an employee may provide  
26      services or treatment; requiring massage  
27      establishments to conspicuously display a photo and  
28      specified information for each employee; requiring  
29      that such photos and information be displayed before

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30 an employee may provide services or treatment;  
31 providing for such requirements in massage  
32 establishments within public lodging establishments;  
33 requiring massage establishments to maintain customer  
34 and patient records for services and treatment  
35 provided in the massage establishment in English or  
36 Spanish; providing that medical records satisfy  
37 certain requirements; requiring massage establishments  
38 to maintain such records for a specified timeframe;  
39 requiring massage establishments to collect and record  
40 specified information; requiring massage  
41 establishments to confirm the identification of a  
42 customer or patient before providing services or  
43 treatment; amending s. 480.0465, F.S.; revising  
44 advertising requirements and prohibitions for massage  
45 therapists and massage establishments; amending s.  
46 480.0475, F.S.; prohibiting establishments from being  
47 used as a temporary domicile for, to shelter or  
48 harbor, or as sleeping quarters for any person, with  
49 an exception; amending s. 480.0535, F.S.; requiring  
50 the department's investigators to request valid  
51 government identification from all employees while in  
52 a massage establishment; specifying additional  
53 documents a person operating a massage establishment  
54 must immediately present, upon request, to department  
55 investigators and law enforcement officers; requiring  
56 the department to notify a federal immigration office  
57 if specified persons in a massage establishment fail  
58 to provide valid government identification; amending

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59 s. 823.05, F.S.; providing criminal penalties;  
60 providing an effective date.

61

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

63

64 Section 1. Section 456.026, Florida Statutes, is amended to  
65 read:

66 456.026 Annual report concerning finances, administrative  
67 complaints, disciplinary actions, and recommendations.—

68 (1) The department is directed to prepare and submit a  
69 report to the President of the Senate and the Speaker of the  
70 House of Representatives by November 1 of each year. In addition  
71 to finances and any other information the Legislature may  
72 require, the report must ~~shall~~ include statistics and relevant  
73 information, profession by profession, detailing:

74 (a) ~~(1)~~ The revenues, expenditures, and cash balances for  
75 the prior year, and a review of the adequacy of existing fees.

76 (b) ~~(2)~~ The number of complaints received and investigated.

77 (c) ~~(3)~~ The number of findings of probable cause made.

78 (d) ~~(4)~~ The number of findings of no probable cause made.

79 (e) ~~(5)~~ The number of administrative complaints filed.

80 (f) ~~(6)~~ The disposition of all administrative complaints.

81 (g) ~~(7)~~ A description of disciplinary actions taken.

82 (h) ~~(8)~~ A description of any effort by the department to  
83 reduce or otherwise close any investigation or disciplinary  
84 proceeding not before the Division of Administrative Hearings  
85 under chapter 120 or otherwise not completed within 1 year after  
86 the initial filing of a complaint under this chapter.

87 (i) ~~(9)~~ The status of the development and implementation of

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88 rules providing for disciplinary guidelines pursuant to s.  
89 456.079.

90 (j)~~(10)~~ Such recommendations for administrative and  
91 statutory changes necessary to facilitate efficient and cost-  
92 effective operation of the department and the various boards.

93 (2) The report must separately categorize all complaints,  
94 investigations, probable cause findings, and disciplinary  
95 actions against a massage therapist or massage establishment  
96 licensed under chapter 480 related to a violation of each of the  
97 following:

98 (a) Section 480.043(12).

99 (b) Section 480.043(13).

100 (c) Section 480.043(14) (a)-(f).

101 (d) Section 480.0465.

102 (e) Section 480.0475.

103 (f) Section 480.0485.

104 (g) Section 480.0535.

105 Section 2. Subsection (4) of section 456.074, Florida  
106 Statutes, is amended, and subsection (7) is added to that  
107 section, to read:

108 456.074 Certain health care practitioners; immediate  
109 suspension of license.-

110 (4) The department shall issue an emergency order  
111 suspending the license of a massage therapist and ~~or~~  
112 establishment as those terms are defined in s. 480.033 ~~chapter~~  
113 ~~480~~ upon receipt of information that the massage therapist; the  
114 designated establishment manager as defined in s. 480.033; an  
115 employee of the establishment; ~~;~~ a person with an ownership  
116 interest in the establishment; ~~;~~ or, for a corporation that has

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117 more than \$250,000 of business assets in this state, the owner,  
118 officer, or individual directly involved in the management of  
119 the establishment has been arrested for committing or  
120 attempting, soliciting, or conspiring to commit, has been  
121 convicted or found guilty of, or has entered a plea of guilty or  
122 nolo contendere to, regardless of adjudication, a violation of  
123 s. 796.07 ~~s. 796.07(2)(a) which is reclassified under s.~~  
124 ~~796.07(7)~~ or a felony offense under any of the following  
125 provisions of state law or a similar provision in another  
126 jurisdiction:

127 (a) Section 787.01, relating to kidnapping.

128 (b) Section 787.02, relating to false imprisonment.

129 (c) Section 787.025, relating to luring or enticing a  
130 child.

131 (d) Section 787.06, relating to human trafficking.

132 (e) Section 787.07, relating to human smuggling.

133 (f) Section 794.011, relating to sexual battery.

134 (g) Section 794.08, relating to female genital mutilation.

135 (h) Former s. 796.03, relating to procuring a person under  
136 the age of 18 for prostitution.

137 (i) Former s. 796.035, relating to the selling or buying of  
138 minors into prostitution.

139 (j) Section 796.04, relating to forcing, compelling, or  
140 coercing another to become a prostitute.

141 (k) Section 796.05, relating to deriving support from the  
142 proceeds of prostitution.

143 (l) Section 796.07(4)(a)3., relating to a felony of the  
144 third degree for a third or subsequent violation of s. 796.07,  
145 relating to prohibiting prostitution and related acts.

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146 (m) Section 800.04, relating to lewd or lascivious offenses  
147 committed upon or in the presence of persons less than 16 years  
148 of age.

149 (n) Section 825.1025(2) (b), relating to lewd or lascivious  
150 offenses committed upon or in the presence of an elderly or  
151 disabled person.

152 (o) Section 827.071, relating to sexual performance by a  
153 child.

154 (p) Section 847.0133, relating to the protection of minors.

155 (q) Section 847.0135, relating to computer pornography.

156 (r) Section 847.0138, relating to the transmission of  
157 material harmful to minors to a minor by electronic device or  
158 equipment.

159 (s) Section 847.0145, relating to the selling or buying of  
160 minors.

161 (7) The department shall issue an emergency order  
162 suspending the license of any licensee upon a finding of the  
163 State Surgeon General that probable cause exists to believe that  
164 the licensee has committed sexual misconduct as described and  
165 prohibited in s. 456.063(1), or the applicable practice act, and  
166 that such violation constitutes an immediate danger to the  
167 public.

168 Section 3. Present subsections (1) through (6) and (7)  
169 through (12) of section 480.033, Florida Statutes, are  
170 redesignated as subsections (2) through (7) and (9) through  
171 (14), respectively, new subsections (1) and (8) and subsection  
172 (15) are added to that section, and present subsection (6) of  
173 that section is amended, to read:

174 480.033 Definitions.—As used in this act:

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175 (1) "Advertising medium" means any newspaper; airwave or  
176 computer transmission; telephone directory listing, other than  
177 an in-column listing consisting only of a name, physical  
178 address, and telephone number; business card; handbill; flyer;  
179 sign, other than a building directory listing all building  
180 tenants and their room or suite numbers; or any other form of  
181 written or electronic advertisement.

182 (7)~~(6)~~ "Designated establishment manager" means a massage  
183 therapist; a health care practitioner licensed under chapter  
184 457; or a physician licensed under chapter 458, chapter 459, or  
185 chapter 460 who holds a clear and active license without  
186 restriction, who is responsible for the operation of a massage  
187 establishment in accordance with the provisions of this chapter,  
188 and who is designated the manager by the rules or practices at  
189 the establishment.

190 (8) "Employee" means any person, including, but not limited  
191 to, independent contractors or lessees of a massage  
192 establishment, whose duties involve any aspect or capacity of  
193 the massage establishment, including, but not limited to,  
194 preparing meals and cleaning, regardless of whether such person  
195 is compensated for the performance of such duties. The term does  
196 not include a person who is exclusively engaged in the repair or  
197 maintenance of the massage establishment or in the delivery of  
198 goods to the establishment.

199 (15) "Sexual activity" means any direct or indirect contact  
200 by any employee or person, or between any employees or persons,  
201 with the intent to abuse, humiliate, harass, degrade, or arouse,  
202 or gratify the sexual desire of, any employee or person, or  
203 which is likely to cause such abuse, humiliation, harassment,

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204 degradation, arousal, or sexual gratification:

205 (a) With or without the consent of the employee or person.

206 (b) With or without verbal or nonverbal communication that  
207 the sexual activity is undesired.

208 (c) With or without the use of any device or object.

209 (d) With or without the occurrence of penetration, orgasm,  
210 or ejaculation.

211  
212 The term includes, but is not limited to, intentional contact  
213 with the genitalia, groin, femoral triangle, anus, buttocks,  
214 gluteal cleft, breast or nipples, mouth, or tongue and the  
215 intentional removal of any drape without specific written  
216 informed consent of the patient.

217 Section 4. Subsection (5) of section 480.035, Florida  
218 Statutes, is amended to read:

219 480.035 Board of Massage Therapy.—

220 (5) The board shall hold such meetings during the year as  
221 it may determine to be necessary, one of which shall be the  
222 annual meeting. The chair of the board shall have the authority  
223 to call other meetings at her or his discretion. A quorum of the  
224 board shall consist of not less than a majority of the current  
225 membership of the board ~~four members~~.

226 Section 5. Present subsection (14) of section 480.043,  
227 Florida Statutes, is redesignated as subsection (15), a new  
228 subsection (14) is added to that section, and subsection (3) and  
229 present subsection (14) of that section are amended, to read:

230 480.043 Massage establishments; requisites; licensure;  
231 inspection; human trafficking awareness training and policies.—

232 (3) The board shall adopt rules governing the operation of

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233 massage establishments and their facilities, employees  
234 ~~personnel~~, safety and sanitary requirements, financial  
235 responsibility, insurance coverage, and the license application  
236 and granting process.

237 (14) In order to provide the department and law enforcement  
238 agencies the means to more effectively identify persons engaging  
239 in human trafficking at massage establishments, the following  
240 apply:

241 (a) Sexual activity in a massage establishment is  
242 prohibited. An establishment owner or employee may not engage in  
243 or allow any person to engage in sexual activity in the  
244 establishment or use the establishment to make arrangements to  
245 engage in sexual activity in another location. Used or unused  
246 condoms are prohibited in a massage establishment.

247 (b) If there is an outside window or windows into the  
248 massage establishment's reception area, the outside window or  
249 windows must allow for at least 35 percent light penetration,  
250 and no more than 50 percent of the outside window or windows may  
251 be obstructed with signage, blinds, curtains, or other  
252 obstructions, allowing the public to see the establishment's  
253 reception area. A sign must be posted on the front window of the  
254 establishment that includes the name and license number of the  
255 massage establishment and the telephone number that has been  
256 provided to the department as part of licensure of the  
257 establishment. This paragraph does not apply to:

258 1. A massage establishment within a public lodging  
259 establishment as defined in s. 509.013(4).

260 2. A massage establishment located within a county or  
261 municipality that has an ordinance that prescribes requirements

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262 related to business window light penetration or signage  
263 limitations if compliance with this paragraph would result in  
264 noncompliance with such ordinance.

265 (c) All employees within the massage establishment must be  
266 fully clothed, and such clothing must be fully opaque and made  
267 of nontransparent material that does not expose the employee's  
268 genitalia. This requirement does not apply to an employee,  
269 excluding a massage therapist, of a public lodging establishment  
270 as defined in s. 509.013(4) which is licensed as a clothing-  
271 optional establishment and chartered with the American  
272 Association for Nude Recreation.

273 (d) A massage establishment must maintain a complete set of  
274 legible records in English or Spanish, which must include each  
275 employee's start date of employment, full legal name, date of  
276 birth, home address, telephone number, and employment position  
277 and a copy of the employee's government identification required  
278 under s. 480.0535. All information required under this paragraph  
279 must be recorded before the employee may provide any service or  
280 treatment to a client or patient.

281 (e) A massage establishment must conspicuously display a 2  
282 inch by 2 inch photo for each employee, which, for massage  
283 therapists, must be attached to the massage therapist's license.  
284 Such display must also include the employee's full legal name  
285 and employment position. All information required under this  
286 paragraph must be displayed before the employee may provide any  
287 service or treatment to a client or patient. A massage  
288 establishment within a public lodging establishment as defined  
289 in s. 509.013(4) may satisfy this requirement by displaying the  
290 photos and required information in an employee break room or

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291 other room that is used by employees, but is not used by clients  
292 or patients.

293 (f) A massage establishment must maintain a complete set of  
294 legible records in English or Spanish which must include the  
295 date, time, and type of service or treatment provided; the full  
296 legal name of the employee who provided the service or  
297 treatment; and the full legal name, home address, and telephone  
298 number of the client or patient. Medical records may satisfy  
299 this requirement if the records include the specified  
300 information. A copy of the client's or patient's photo  
301 identification may be used to provide the full legal name and  
302 home address of the client or patient. Records required under  
303 this paragraph must be maintained for at least 1 year after a  
304 service or treatment is provided. All information required under  
305 this paragraph must be collected and recorded before any service  
306 or treatment is provided to a client or patient. The  
307 establishment must confirm the identification of the client or  
308 patient before any service or treatment is provided to the  
309 client or patient.

310 (15)~~(14)~~ Except for the requirements of subsection (13),  
311 this section does not apply to a practitioner ~~physician~~ licensed  
312 under chapter 457 or a physician licensed under~~7~~ chapter 458,  
313 chapter 459, or chapter 460 who employs a licensed massage  
314 therapist to perform massage therapy on the practitioner's or  
315 physician's patients at his or her ~~the physician's~~ place of  
316 practice. This subsection does not restrict investigations by  
317 the department for violations of chapter 456 or this chapter.

318 Section 6. Section 480.0465, Florida Statutes, is amended  
319 to read:

33-00545A-24

2024896\_\_

320 480.0465 Advertisement; prohibitions.-

321 (1) Each message therapist or message establishment  
322 licensed under this act shall include the number of the license  
323 in any advertisement of massage therapy services appearing in  
324 any advertising medium, including, but not limited to, a  
325 newspaper, airwave transmission, telephone directory, Internet,  
326 or other advertising medium. The advertisement must also include  
327 the physical address of the massage establishment and the  
328 telephone number that has been provided to the department as  
329 part of the licensing of the establishment. However, the  
330 inclusion of the physical address and telephone number is not  
331 required for an advertisement by a massage establishment whose  
332 establishment owner operates more than five locations in this  
333 state.

334 (2) A message therapist, an establishment owner, an  
335 employee, or any third party directed by the establishment owner  
336 or employee may not place, publish, or distribute, or cause to  
337 be placed, published, or distributed, any advertisement in any  
338 advertising medium which states prostitution services, escort  
339 services, or sexual services are available.

340 (3) A message therapist, an establishment owner, an  
341 employee, or any third party directed by the message therapist,  
342 establishment owner, or employee may not place, publish, or  
343 distribute, or cause to be placed, published, or distributed,  
344 any online advertisement on any website known for advertising  
345 prostitution services, escort services, or sexual services  
346 ~~Pending licensure of a new massage establishment under s.~~  
347 ~~480.043(7), the license number of a licensed massage therapist~~  
348 ~~who is an owner or principal officer of the establishment may be~~

33-00545A-24

2024896\_\_

349 ~~used in lieu of the license number for the establishment.~~

350 Section 7. Subsection (2) of section 480.0475, Florida  
351 Statutes, is amended to read:

352 480.0475 Massage establishments; prohibited practices.—

353 (2) A person operating a massage establishment may not use  
354 or permit the establishment to be used as a principal or  
355 temporary domicile for, to shelter or harbor, or as sleeping or  
356 napping quarters for any person unless the establishment is  
357 zoned for residential use under a local ordinance.

358 Section 8. Section 480.0535, Florida Statutes, is amended  
359 to read:

360 480.0535 Documents required while working in a massage  
361 establishment; penalties; reporting.—

362 (1) In order to provide the department and law enforcement  
363 agencies the means to more effectively identify, investigate,  
364 and arrest persons engaging in human trafficking, an employee a  
365 person employed by a massage establishment and any person  
366 performing massage therapy in a massage establishment ~~therein~~  
367 must immediately present, upon the request of an investigator of  
368 the department or a law enforcement officer, valid government  
369 identification while in the establishment. An investigator of  
370 the department must request valid government identification from  
371 all employees while in the establishment. A valid government  
372 identification for the purposes of this section is:

373 (a) A valid, unexpired driver license issued by any state,  
374 territory, or district of the United States;

375 (b) A valid, unexpired identification card issued by any  
376 state, territory, or district of the United States;

377 (c) A valid, unexpired United States passport;

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- 378 (d) A naturalization certificate issued by the United  
379 States Department of Homeland Security;
- 380 (e) A valid, unexpired alien registration receipt card  
381 (green card); or
- 382 (f) A valid, unexpired employment authorization card issued  
383 by the United States Department of Homeland Security.
- 384 (2) A person operating a massage establishment must:
- 385 (a) Immediately present, upon the request of an  
386 investigator of the department or a law enforcement officer:
- 387 1. Valid government identification while in the  
388 establishment.
- 389 2. A copy of the documentation specified in paragraph  
390 (1)(a) for each employee and any person performing massage  
391 therapy in the establishment.
- 392 3. A copy of the documents required under s. 480.043(14)(d)  
393 and (f).
- 394 (b) Ensure that each employee and any person performing  
395 massage therapy in the massage establishment is able to  
396 immediately present, upon the request of an investigator of the  
397 department or a law enforcement officer, valid government  
398 identification while in the establishment.
- 399 (3) A person who violates ~~any provision of~~ this section  
400 commits:
- 401 (a) For a first violation, a misdemeanor of the second  
402 degree, punishable as provided in s. 775.082 or s. 775.083.
- 403 (b) For a second violation, a misdemeanor of the first  
404 degree, punishable as provided in s. 775.082 or s. 775.083.
- 405 (c) For a third or subsequent violation, a felony of the  
406 third degree, punishable as provided in s. 775.082, s. 775.083,

33-00545A-24

2024896\_\_

407 or s. 775.084.

408 (4) The department shall notify a federal immigration  
409 office if a person operating a massage establishment, an  
410 employee, or any person performing massage therapy in a massage  
411 establishment fails to provide valid government identification  
412 as required under this section.

413 Section 9. Subsection (3) of section 823.05, Florida  
414 Statutes, is amended to read:

415 823.05 Places and groups engaged in certain activities  
416 declared a nuisance; abatement and enjoinder.—

417 (3) A massage establishment as defined in s. 480.033 which  
418 operates in violation of s. 480.043(14)(a) or (f), s. 480.0475,  
419 or s. 480.0535(2) is declared a nuisance and may be abated or  
420 enjoined as provided in ss. 60.05 and 60.06.

421 Section 10. This act shall take effect July 1, 2024.



## 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

January 10, 2024

The Honorable Colleen Burton  
Committee on Health Policy, Chair  
530 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

### RE: SB 896: Health Care Practitioners and Massage Therapy

Dear Chair Burton:

Please allow this letter to serve as my respectful request to place SB 896, relating to Health Care Practitioners and Massage Therapy, 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 Brown, Staff Director  
Daniel Looke, Deputy Staff Director  
Anhar Al-Asadi, Committee 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

Tab 11

The Florida Senate

**APPEARANCE RECORD**

SB 896

1/30/24

Meeting Date

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Health Policy

Committee

Amendment Barcode (if applicable)

Name Laura Donaldson

Phone 813-514-4700

Address 109 N. Brush St.

Street

Email ldonaldson@mansonbolives.com

Tampa

City

FL

State

33602

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:

Collier County Sheriff's Office

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)

1/30/24

Meeting Date

# The Florida Senate APPEARANCE RECORD

SB 876

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

HC

Committee

Amendment Barcode (if applicable)

Name

Ramona MAURY

Phone

850 222 1568

Address

PO Box 10245

Email

Rm@ramonamary.com

Street

TALL FL 32302

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:  
  
AANR

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 \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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 830

**INTRODUCER:** Health Policy Committee and Senator Collins

**SUBJECT:** Youth Athletic Activities

**DATE:** January 31, 2024      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Morgan	Brown	HP	Fav/CS
2.	_____	_____	AHS	_____
3.	_____	_____	FP	_____

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 830 amends the Education Code in s. 1012.55, F.S., to require that an athletic coach in any public school in the state must hold and maintain a certification in cardiopulmonary resuscitation (CPR), first aid, and the use of an automatic external defibrillator (AED). The certification must be consistent with national, evidence-based emergency cardiovascular care guidelines.

The bill provides an effective date of July 1, 2024.

**II. Present Situation:**

**Cardiopulmonary Resuscitation, First Aid, and Automatic External Defibrillation**

Many types of injuries and illnesses can occur when participating in organized sports, including sudden cardiac arrest. While rare in young, healthy athletes, it can happen, and preparation via an emergency action plan, as well as required coursework and training is pivotal in preparing coaches, parents and other athletics personnel or staff to respond in the most effective way to save lives.<sup>1</sup>

---

<sup>1</sup> Atlantic Health System, *How to Be Better Prepared at a Child's Sporting Event*, available at <https://www.atlantichealth.org/about-us/stay-connected/news/content-central/2023/cardiac-arrest-kids-sports.html> (last visited Jan. 25, 2024).

Cardiopulmonary resuscitation (CPR) is an emergency lifesaving procedure performed when the heart stops beating. Immediate CPR can double or triple chances of survival after cardiac arrest by keeping the blood flow active until the arrival of trained medical staff.<sup>2</sup>

First aid refers to medical attention that is usually administered immediately on-site after the injury occurs. It often consists of a one-time, short-term treatment and requires little technology or training to administer. First aid can include cleaning minor cuts, scrapes, or scratches; treating a minor burn; applying bandages and dressings; the use of non-prescription medicine; draining blisters; removing debris from the eyes; massage; and drinking fluids to relieve heat stress.<sup>3</sup>

An automated external defibrillator (AED) is a lightweight, portable device. It delivers an electric shock through the chest to the heart when it detects an abnormal rhythm and changes the rhythm back to normal.<sup>4</sup> AEDs can greatly increase a cardiac arrest victim's chances of survival.<sup>5</sup> Although formal AED training isn't required, it's recommended to increase the confidence level of the user, promoting better outcomes.<sup>6</sup>

### **Student Extracurricular Activities and Athletics Legislation**

Currently, the Education Code provides that each public school that is a member of the Florida High School Athletic Association (FHSAA) must have an operational AED on school grounds. The AED must be available in a clearly marked and publicized location for each athletic contest, practice, workout, or conditioning session, including those conducted outside of the school year. Public and private partnerships are encouraged to cover the cost associated with the purchase, placement, and training in the use of the AED.<sup>7</sup>

Under current law, an FHSAA member school employee or volunteer with current training in CPR and use of an AED must be present at each athletic event during and outside of the school year, including athletic contests, practices, workouts, and conditioning sessions. The training must include completion of a course in CPR or a basic first aid course that includes CPR training, and demonstrated proficiency in the use of an AED. Each employee or volunteer who is reasonably expected to use an AED must complete this training.<sup>8</sup>

The location of each AED must be registered with a local emergency medical services medical director. Each employee or volunteer required to complete the training must annually be notified in writing of the location of each AED on school grounds.<sup>9</sup> Immunity from civil liability for the

---

<sup>2</sup> American Heart Association Emergency Cardiovascular Care, *What is CPR?*, available at <https://cpr.heart.org/en/resources/what-is-cpr> (last visited Jan. 30, 2024).

<sup>3</sup> Occupational Safety and Health Administration, *What is First Aid?*, available at <https://www.osha.gov/medical-first-aid/recognition> (last visited Jan. 30, 2024).

<sup>4</sup> American Heart Association, *What Is an Automated External Defibrillator?*, available at <https://www.heart.org/-/media/files/health-topics/answers-by-heart/what-is-an-aed.pdf> (last visited Jan. 30, 2024).

<sup>5</sup> *Supra* note 2.

<sup>6</sup> *Supra* note 4.

<sup>7</sup> Section 1006.165(1)(a), F.S.

<sup>8</sup> Section 1006.165(1)(b), F.S.

<sup>9</sup> Section 1006.165(c), F.S.

use of AEDs by employees and volunteers is covered under the Good Samaritan Act<sup>10</sup> and the Cardiac Arrest Survival Act.<sup>11, 12</sup>

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

The bill amends s. 1012.55, F.S., to require that a Florida public school athletic coach must hold and maintain a certification in CPR, first aid, and the use of an AED. The certification must be consistent with national, evidence-based emergency cardiovascular care guidelines.

The bill provides an effective date of July 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.

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

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

None.

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

None.

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

None.

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<sup>10</sup> Section 768.13, F.S.

<sup>11</sup> Section 768.1325, F.S.

<sup>12</sup> Section 1006.165(d), F.S.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 1012.55 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 January 30, 2024:**

The committee substitute removes Section 1 of the underlying bill and retains only the amendment to s. 1012.55, F.S., to update the qualifications of a Florida public school athletic coach to include a certification in CPR, first aid, and the use of an AED.

- B. **Amendments:**

None.



339828

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete lines 24 - 69.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 2 - 15

and insert:

An act relating to youth athletic activities; amending  
s. 1012.55, F.S.;

By Senator Collins

14-00803A-24

2024830\_\_

1                   A bill to be entitled  
2       An act relating to youth athletic activities; creating  
3       s. 381.796, F.S.; defining terms; requiring an entity  
4       that administers or conducts a high-risk youth  
5       athletic activity or training related to such activity  
6       on certain property to require certain unpaid or  
7       volunteer personnel to complete a specified course;  
8       requiring such personnel to complete the course within  
9       a specified timeframe and annually thereafter;  
10      providing that the course may be offered online or in  
11      person; prohibiting personnel from being charged a fee  
12      for the course; requiring the course to include  
13      specified information; providing an exemption for  
14      licensed athletic trainers; requiring the Department  
15      of Health to adopt rules; amending s. 1012.55, F.S.;  
16      revising the requirements for certain athletic coaches  
17      to include certification in cardiopulmonary  
18      resuscitation, first aid, and the use of an automatic  
19      external defibrillator; providing requirements for  
20      such certification; providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24       Section 1. Section 381.796, Florida Statutes, is created to  
25 read:

26       381.796 High-risk youth athletic activities.—

27       (1) For the purposes of this section, the term:

28       (a) "Athletics personnel" means an individual who is  
29 actively involved in organizing, conducting, or coaching a high-

14-00803A-24

2024830\_\_

30 risk youth athletic activity or an individual involved with  
31 training a child for participation in a high-risk youth athletic  
32 activity.

33 (b) "High-risk youth athletic activity" means any organized  
34 sport for children 14 years of age or younger in which there is  
35 a significant possibility for the child to sustain a serious  
36 physical injury. The term includes, but is not limited to, the  
37 sports of football, basketball, baseball, volleyball, soccer,  
38 ice or field hockey, cheerleading, and lacrosse.

39 (2) Any entity that administers or conducts a high-risk  
40 youth athletic activity, or training for such activity, on land  
41 owned, leased, operated, or maintained by the state or a  
42 political subdivision of the state must require any unpaid or  
43 volunteer athletics personnel to complete a course approved by  
44 the Department of Health which provides such personnel with  
45 information on how to prevent or decrease the chances of a  
46 participant in a high-risk youth athletic activity from  
47 sustaining a serious physical injury.

48 (a) The course must be completed within 30 days after the  
49 athletics personnel's initial involvement with the high-risk  
50 youth athletic activity and must be completed annually  
51 thereafter.

52 (b) The course may be offered online or in person, and the  
53 athletics personnel may not be charged any fee relating to the  
54 course.

55 (c) The course must include information on all of the  
56 following:

57 1. Emergency preparedness, planning, and rehearsal in  
58 relation to traumatic injuries.

14-00803A-24

2024830\_\_

59       2. Concussions and head trauma.

60       3. Injuries resulting from heat or extreme weather.

61       4. Physical conditioning and the proper use of training  
62 equipment.

63       (d) The entity must maintain a record of each athletics  
64 personnel who completes the course for the entirety of his or  
65 her service as an unpaid or volunteer athletics personnel.

66       (3) An athletic trainer licensed under chapter 468 is  
67 exempt from this section.

68       (4) The department shall adopt rules to implement this  
69 section.

70       Section 2. Paragraph (a) of subsection (2) of section  
71 1012.55, Florida Statutes, is amended to read:

72       1012.55 Positions for which certificates required.—

73       (2) (a) 1. Each person who is employed and renders service as  
74 an athletic coach in any public school in any district of this  
75 state shall:

76       a. Hold a valid temporary or professional certificate or an  
77 athletic coaching certificate. The athletic coaching certificate  
78 may be used for either part-time or full-time positions.

79       b. Hold and maintain a certification in cardiopulmonary  
80 resuscitation, first aid, and the use of an automatic external  
81 defibrillator. The certification must be consistent with  
82 national evidence-based emergency cardiovascular care  
83 guidelines.

84       2. The provisions of this subsection do not apply to any  
85 athletic coach who voluntarily renders service and who is not  
86 employed by any public school district of this state.

87       Section 3. This act shall take effect July 1, 2024.



The Florida Senate

## Committee Agenda Request

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

**Subject:** Committee Agenda Request

**Date:** January 10, 2024

---

I respectfully request that **Senate Bill # 830**, relating to Youth Athletic Activities, be placed on the:

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



---

Senator Jay Collins  
Florida Senate, District 14

Tab 5

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1/30/24

Meeting Date

SB 830

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name

Tiffany McCaskill Henderson

Phone

850 933 5928

Address

(Female)

Email

tiffany.henderson@heart.org

Street

Tallahassee

FL

32317

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:

American Heart 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 the Senator or Senate Professional Staff conducting the meeting)

1/30/24  
Meeting Date

830  
Bill Number (if applicable)

Topic Youth Athletic Activities

Amendment Barcode (if applicable)

Name Edward Briggs

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

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Sunshine State Athletic Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1/30/24 Meeting Date

SB 830 Bill Number or Topic

HC Committee

Amendment Barcode (if applicable)

Name Jeff Hartley

Phone 850-228-8950

Address Street

Email

City State Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing: NFL

[ ] 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

1-30-2024

Meeting Date

830

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

FL Chapter Am College of Cardiology

Name

Dr. Mario Lopez

Phone

941-456-5800

Address

1420 Tamiami Trail Suite 308

Email

mjlopezmd@yahoo.com

Street

Port Charlotte FL 33948

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.)

---

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

---

BILL: CS/SB 1112

INTRODUCER: Health Policy Committee and Senator Harrell

SUBJECT: Health Care Practitioner Titles and Designations

DATE: January 31, 2024

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Brown</u>	<u>HP</u>	<u>Fav/CS</u>
2.	_____	_____	<u>RC</u>	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1112 creates s. 456.0651, F.S., to provide regulations for the use of health care practitioner titles and designations. The bill defines “advertisement,” “educational degree,” “misleading, deceptive, or fraudulent representation,” and “profession.”

The bill amends existing legislative intent under s. 456.003, F.S., relating to the regulation of health care professions and finds that the health, safety, and welfare of the public may be harmed or endangered under specified circumstances.

The bill provides that if a person other than an allopathic or osteopathic physician attaches to his or her name any of the terms, titles, or designations listed in the bill, in an advertisement or in a manner that is misleading, deceptive, or fraudulent, the person is practicing medicine or osteopathic medicine without a license and is subject to the provisions of s. 456.065, F.S., relating to the unlicensed practice of a health care profession. The bill provides exceptions for certain professions and certain titles and provides that practitioners may use titles and specialty designations authorized under their respective practice acts. The bill also provides that the bill’s restrictions may not be construed to interfere with a practitioner’s ability to lawfully seek payment from the Medicare program or other federal health care program.

The bill amends s. 456.072(1)(t), F.S., to provide that a practitioner's failure to wear a name tag, which must include his or her name and profession, when treating or consulting with a patient, is grounds for discipline, unless he or she is providing services in his or her own office where the practitioner's license is prominently displayed in a conspicuous area. If the practitioner chooses not to wear a name tag under those latter conditions, the practitioner must verbally identify himself or herself to all new patients by name and profession in a manner that does not constitute the unlicensed practice of medicine or osteopathic medicine.

The bill further amends s. 456.072(1)(t), F.S., to provide that any advertisement naming a practitioner must include the practitioner's profession and educational degree and to require practitioner regulatory boards,<sup>1</sup> or the Department of Health (DOH) if there is no board, to adopt rules to determine how practitioners must comply with this paragraph of statute.

The bill provides an effective date of July 1, 2024.

## **II. Present Situation:**

### **The Health, Safety, and Welfare of the Public**

Chapter 456, F.S., is entitled "Health Professions and Occupations: General Provisions." Section 456.003, F.S., in part, provides Legislative intent about the state's regulation of health care professions, as follows:

- It is the intent of the Legislature that persons desiring to engage in any lawful profession regulated by the DOH are entitled to do so as a matter of right if otherwise qualified.
- Such professions will be regulated only for the preservation of the health, safety, and welfare of the public under the police powers of the state. Such professions will be regulated when:
  - Their unregulated practice can harm or endanger the health, safety, and welfare of the public, and when the potential for such harm is recognizable and clearly outweighs any anticompetitive impact which may result from regulation.
  - The public is not effectively protected by other means, including, but not limited to, other state statutes, local ordinances, or federal legislation.
  - Less restrictive means of regulation are not available.

### **Licensure and Regulation of Health Care Practitioners**

The Division of Medical Quality Assurance (MQA), within the DOH, has general regulatory authority over health care practitioners.<sup>2</sup> The MQA works in conjunction with 22 regulatory

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<sup>1</sup> Under s. 456.001(1), F.S., the term "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 DOH or, in some cases, within DOH's Division of Medical Quality Assurance (MQA).

<sup>2</sup> Pursuant to s. 456.001(4), F.S., health care practitioners are defined to include acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dietitians, athletic trainers, orthotists, prosthetists, electrologists, massage therapists, clinical laboratory personnel, medical physicists, genetic counselors, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among others.

boards and four councils to license and regulate 364 health care professions.<sup>3</sup> Professions are generally regulated by individual practice acts and by ch. 456, F.S., which provides regulatory and licensure authority for the MQA. The MQA is statutorily responsible for the following boards and professions established within the division:<sup>4</sup>

- The Board of Acupuncture, created under ch. 457, F.S.;
- The Board of Medicine, created under ch. 458, F.S.;
- The Board of Osteopathic Medicine, created under ch. 459, F.S.;
- The Board of Chiropractic Medicine, created under ch. 460, F.S.;
- The Board of Podiatric Medicine, created under ch. 461, F.S.;
- Naturopathy, as provided under ch. 462, F.S.;
- The Board of Optometry, created under ch. 463, F.S.;
- The Board of Nursing, created under part I of ch. 464, F.S.;
- Nursing assistants, as provided under part II of ch. 464, F.S.;
- The Board of Pharmacy, created under ch. 465, F.S.;
- The Board of Dentistry, created under ch. 466, F.S.;
- Midwifery, as provided under ch. 467, F.S.;
- The Board of Speech-Language Pathology and Audiology, created under part I of ch. 468, F.S.;
- The Board of Nursing Home Administrators, created under part II of ch. 468, F.S.;
- The Board of Occupational Therapy, created under part III of ch. 468, F.S.;
- Respiratory therapy, as provided under part V of ch. 468, F.S.;
- Dietetics and nutrition practice, as provided under part X of ch. 468, F.S.;
- The Board of Athletic Training, created under part XIII of ch. 468, F.S.;
- The Board of Orthotists and Prosthetists, created under part XIV of ch. 468, F.S.;
- Electrolysis, as provided under ch. 478, F.S.;
- The Board of Massage Therapy, created under ch. 480, F.S.;
- The Board of Clinical Laboratory Personnel, created under part I of ch. 483, F.S.;
- Medical physicists, as provided under part II of ch. 483, F.S.;
- Genetic Councilors as provided under part III of ch. 483, F.S.;
- The Board of Opticianry, created under part I of ch. 484, F.S.;
- The Board of Hearing Aid Specialists, created under part II of ch. 484, F.S.;
- The Board of Physical Therapy Practice, created under ch. 486, F.S.;
- The Board of Psychology, created under ch. 490, F.S.;
- School psychologists, as provided under ch. 490, F.S.;
- The Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling, created under ch. 491, F.S.; and
- Emergency medical technicians and paramedics, as provided under part III of ch. 401, F.S.

The DOH and the practitioner boards have different roles in the regulatory system. Boards establish practice standards by rule, pursuant to statutory authority and directives. The DOH

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<sup>3</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2022-2023*, p. 4, <https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/annual-reports.html> (last visited Jan. 24, 2024).

<sup>4</sup> Section 456.001(4), F.S.

receives and investigates complaints about practitioners and prosecutes cases for disciplinary action against practitioners.

The DOH, on behalf of the professional boards, investigates complaints against practitioners.<sup>5</sup> Once an investigation is complete, the DOH presents the investigatory findings to the boards. The DOH recommends a course of action to the appropriate board's probable cause panel which may include:<sup>6</sup>

- Issuing an Emergency Order;
- Having the file reviewed by an expert;
- Issuing a closing order; or
- Filing an administrative complaint.

The boards determine the course of action and any disciplinary action to take against a practitioner under the respective practice act.<sup>7</sup> For professions for which there is no board, the DOH determines the action and discipline to take against a practitioner and issues the final orders.<sup>8</sup> The DOH is responsible for ensuring that licensees comply with the terms and penalties imposed by the boards.<sup>9</sup> If a case is appealed, DOH attorneys defend the final actions of the boards before the appropriate appellate court.<sup>10</sup>

The DOH and board rules apply to all statutory grounds for discipline against a practitioner. Under current law, the DOH takes on the disciplinary functions of a board relating to violations of a practice act only for practitioner types that do not have a board. The DOH itself takes no final disciplinary action against practitioners for which there is a board.

### **The Unlicensed Activity Unit**

The Unlicensed Activity (ULA) Unit protects Florida residents and visitors from the potentially serious and dangerous consequences of receiving medical and health care services from an unlicensed person. The ULA unit investigates and refers for prosecution all unlicensed health care activity complaints and allegations.

The ULA unit works in conjunction with law enforcement and the state attorney's offices to prosecute individuals practicing without a license. In many instances, unlicensed activity is a felony level criminal offense. More importantly, receiving health care from unlicensed persons is dangerous and could result in further injury, disease or even death.<sup>11</sup>

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<sup>5</sup> Department of Health, *Investigative Services*, <http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/isu.html> (last visited Jan. 24, 2024).

<sup>6</sup> Department of Health, *Prosecution Services*, <http://www.floridahealth.gov/licensing-and-regulation/enforcement/admin-complaint-process/psu.html> (last visited Jan. 24, 2024).

<sup>7</sup> Section 456.072(2), F.S.

<sup>8</sup> Professions which do not have a board include naturopathy, nursing assistants, midwifery, respiratory therapy, dietetics and nutrition, electrolysis, medical physicists, genetic counselors, and school psychologists.

<sup>9</sup> *Supra*, note 6.

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

<sup>11</sup> The Department of Health, Licensing and Regulation, enforcement, Unlicensed Activity, *Reporting Unlicensed Activity*, available at <https://www.floridahealth.gov/licensing-and-regulation/enforcement/report-unlicensed-activity/index.html> (last visited Jan. 24, 2024).

### ***The Unlicensed Activity Investigation Process***

The DOH assigns all ULA complaints a computer-generated complaint number for tracking purposes. If the allegations are determined to be legally sufficient, the matter will be forwarded to a ULA investigator whose office is geographically closest to the location where the alleged unlicensed activity is occurring. In cases where the person making the allegation has provided their identifying information, a ULA investigator will contact him or her to verify the allegations. The investigator may also ask for more detailed information concerning certain aspects of the complaint. He or she may also ask to meet with the complainant in person for a formal interview. All ULA investigators are empowered to take sworn statements.

After discussing the allegations with the complainant, the ULA investigator will pursue all appropriate investigative steps (gather documents, conduct surveillance, question witnesses, etc.) in order to make a determination concerning the likelihood that the offense(s) took place in the manner described by the complainant. In the event that a licensed health care provider is alleged to be somehow involved with the unlicensed activity, the ULA investigator will also coordinate his/her investigation with the Investigative Services Unit (ISU) regulatory investigator assigned to investigate the licensee.

If the complainant's allegations can be substantiated, the ULA investigation will conclude with one or more of the following outcomes:

- The subject(s) will be issued a Cease and Desist Agreement.
- The subject(s) will be issued a Uniform Unlicensed Activity Citation (fine).
- The subject(s) will be arrested by law enforcement.

If the investigation determines that the alleged acts either did not take place or if they did occur but all actions were lawful and proper, the investigation will be closed as unfounded. In the event that the allegation(s) cannot be clearly proved or disproved, the matter will be closed as unsubstantiated. In any case, a detailed investigative report will be prepared by the ULA investigator supporting the conclusions reached by the investigation.

Under s. 456.065, F.S., investigations involving the unlicensed practice of a health care profession are criminal investigations that require the development of sufficient evidence (probable cause) to present to law enforcement or file charges with the State Attorney's Office in the county of occurrence. While ULA investigators are non-sworn, many have law enforcement experience gained from prior careers as police officers and detectives. ULA investigators work cooperatively with many law enforcement agencies in joint investigations that are either initiated by the DOH or the agency concerned.<sup>12</sup>

### **Health Care Specialties and Florida Licensure**

The DOH does not license health care practitioners by specialty or subspecialty. A health care practitioner's specialty area of practice is acquired through the practitioner's additional education, training, or experience in a particular area of health care practice. Practitioners who

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<sup>12</sup> The Department of Health, Licensing and Regulation, enforcement, Unlicensed Activity, *Investigate Complaints*, available at <https://www.floridahealth.gov/licensing-and-regulation/enforcement/report-unlicensed-activity/investigate-complaints.html> (last visited Jan. 24, 2024).

have acquired additional education, training, or experience in a particular area may also elect to become board-certified in that specialty by private, national specialty boards, such as the American Board of Medical Specialties (ABMS), the Accreditation Board for Specialty Nursing Certification, and the American Board of Dental Specialties.<sup>13</sup> Board certification is not required to practice a medical or osteopathic specialty.

### **Title Prohibitions Under Current Florida Law**

Current law limits which health care practitioners may hold themselves out as board-certified specialists. An allopathic physician may not hold himself or herself out as a board-certified specialist unless he or she has received formal recognition as a specialist from a specialty board of the ABMS or other recognizing agency<sup>14</sup> approved by the Board of Medicine.<sup>15</sup> Similarly, an osteopathic physician may not hold himself or herself out as a board-certified specialist unless he or she has successfully completed the requirements for certification by the American Osteopathic Association (AOA) or the Accreditation Council on Graduate Medical Education (ACGME) and is certified as a specialist by a certifying agency<sup>16</sup> approved by the board.<sup>17</sup> In addition, an allopathic physician may not hold himself or herself out as a board-certified specialist in dermatology unless the recognizing agency, whether authorized in statute or by rule, is triennially reviewed and reauthorized by the Board of Medicine.<sup>18</sup>

A podiatric physician also may not advertise that he or she is board certified unless the organization is approved by the Board of Podiatric Medicine (BPM) for the purposes of advertising only and the name of the organization is identified in full in the advertisement. In order for an organization to obtain the BPM approval it must be the American Podiatric Medical Association, the National Council of Competency Assurance, or an organization that must:

- Be composed of podiatric physicians interested in a special area of practice demonstrated through successful completion of examinations or case reports;
- Subscribe to a code of ethics;
- Have rules and procedures for maintaining a high level of professional conduct and discipline among its membership;
- Have an active membership of at least seventy-five (75);
- Sponsor annual meeting and courses in Board approved continuing education; and
- Be a national organization in scope and give a certification examination at least once a year before the podiatric physician can advertise possession of the certification.<sup>19</sup>

A dentist may not hold himself or herself out as a specialist, or advertise membership in or specialty recognition by an accrediting organization, unless the dentist has completed a specialty

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<sup>13</sup> Examples of specialties include dermatology, emergency medicine, ophthalmology, pediatric medicine, certified registered nurse anesthetist, clinical nurse specialist, cardiac nurse, nurse practitioner, endodontics, orthodontics, and pediatric dentistry.

<sup>14</sup> The Board of Medicine has approved the specialty boards of the ABMS as recognizing agencies. See Fla. Admin. Code R. 64B8-11.001(1)(f), (2022).

<sup>15</sup> Section 458.3312, F.S.

<sup>16</sup> The osteopathic board has approved the specialty boards of the ABMS and AOA as recognizing agencies. Fla. Admin. Code R. 64B15-14.001(h), (2022).

<sup>17</sup> Section 459.0152, F.S.

<sup>18</sup> *Id.*

<sup>19</sup> Fla. Admin. Code R. 64B18-14.004 (2022).

education program approved by the American Dental Association and the Commission on Dental Accreditation and the dentist is:<sup>20</sup>

- Eligible for examination by a national specialty board recognized by the American Dental Association; or
- Is a diplomate of a national specialty board recognized by the American Dental Association.

If a dentist announces or advertises a specialty practice for which there is not an approved accrediting organization, the dentist must clearly state that the specialty is not recognized or that the accrediting organization has not been approved by the American Dental Association or the Florida Board of Dentistry.<sup>21</sup>

The Board of Chiropractic Medicine (BCM) permits a chiropractor to advertise that he or she has attained diplomate status in a chiropractic specialty area recognized by the BCM. BCM specialties include those which are recognized by the Councils of the American Chiropractic Association, the International Chiropractic Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association.<sup>22</sup>

### **Practitioner Discipline**

Section 456.072, F.S., authorizes a regulatory board, or the DOH if there is no board, to discipline a health care practitioner's licensure for a number of offenses, including but not limited to:

- Making misleading, deceptive, or fraudulent representations in or related to the practice of the licensee's profession; or
- Failing to identify through writing or orally to a patient the type of license under which the practitioner is practicing.

If a board or the DOH finds that a licensee committed a violation of a statute or rule, the board or the DOH may:<sup>23</sup>

- Refuse to certify, or to certify with restrictions, an application for a license;
- Suspend or permanently revoke a license;
- Place a restriction on the licensee's practice or license;
- Impose an administrative fine not to exceed \$10,000 for each count or separate offense; if the violation is for fraud or making a false representation, a fine of \$10,000 must be imposed for each count or separate offense;
- Issue a reprimand or letter of concern;
- Place the licensee on probation;
- Require a corrective action plan;
- Refund fees billed and collected from the patient or third party on behalf of the patient; or
- Require the licensee to undergo remedial education.

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<sup>20</sup> Section 466.0282, F.S. A dentist may also hold himself or herself out as a specialist if the dentist has continuously held himself or herself out as a specialist since December 31, 1964, in a specialty recognized by the American Dental Association.

<sup>21</sup> Section 466.0282(3), F.S.

<sup>22</sup> Fla. Admin. Code R. 64B2-15.001(2)(e), (2022). Examples of chiropractic specialties include chiropractic acupuncture, chiropractic internist, chiropractic and clinical nutrition, radiology chiropractic, and pediatric chiropractors.

<sup>23</sup> Section 456.072(2), F.S.

## State Versus Federal Practitioner Licensure

The federal government does not license health care practitioners, nor does it regulate practitioner behavior in terms of scope of practice, standards of practice, or practitioner discipline. Instead, the federal government relies on state governments to fulfill those functions.

### *Conditions of Participation in Federal Health Care Programs*

In addition to state licensure requirements, Medicare, Medicaid, and other government reimbursement programs<sup>24</sup> rely on the power of the purse to manage practitioners and facilities in the provision of health care services to persons enrolled in such programs. These programs impose “conditions of participation” and “conditions of payment,” which essentially mandate compliance with specified standards. Certification under a federal health care program is a right to participate in government payment systems. It is distinct from licensure by a state government or accreditation by a nationally-recognized board.<sup>25</sup>

### *Examples of Federal Deference to State Regulatory Authority*

For example, under federal labor law found in 29 CFR s. 825.125, the definition of “health care provider” includes, in part, a doctor of medicine or osteopathy who is authorized to practice medicine or surgery *by the state in which the doctor practices*.

That section of federal law goes on to reference other practitioners, including podiatrists, dentists, clinical psychologists, optometrists, chiropractors, nurse practitioners, nurse midwives, clinical social workers, and physician assistants who are *authorized to practice in their state and performing within the scope of their practice as defined under state law*.

Another example is found in federal law creating a workers’ compensation program for longshoremen and harbor workers.<sup>26</sup> Under that federal program, for the purpose of establishing who may be paid for providing services to persons enrolled in the program, the term “physician” includes doctors of medicine, surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors, and osteopathic practitioners *within the scope of their practice as defined by state law*.<sup>27</sup>

This federal workers’ compensation program that reimburses health care providers as described above will also reimburse for treatment based on prayer or spiritual means alone if provided by an accredited practitioner of a church or religious denomination that is recognized by the federal government in certain ways.<sup>28</sup>

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<sup>24</sup> Such as the federal workers’ compensation program for longshoremen and harbor workers found under 20 CFR Subchapter A, available at: <https://www.law.cornell.edu/cfr/text/20/chapter-VI/subchapter-A> (last visited Jan. 24, 2024).

<sup>25</sup> The Healthcare Law Review: USA, *Spotlight: The Regulation of Healthcare Providers and Professionals in the USA*, Sept. 7, 2020, available at: <https://www.lexology.com/library/detail.aspx?g=c3c193d0-753e-4244-914a-fd943e70ec8e> (last visited Jan. 24, 2024).

<sup>26</sup> *Supra* note 24.

<sup>27</sup> See 20 CFR s. 702.404.

<sup>28</sup> See 20 CFR s. 702.401(b).

### ***Federal Distinctions Between Physicians and Other Providers***

Other federal programs draw specific distinctions between “physicians” and non-physicians who are included in the “physician” payment provisions above. For example, federal Medicaid law requires that state Medicaid programs “must provide for payment of optometric services as physician services, whether furnished by *an optometrist or a physician*,” thereby differentiating between optometrists and physicians instead of classifying them jointly.<sup>29</sup>

These federal laws do not license or regulate such practitioners the way state laws do. They also do not define practitioner credentials, titles, or scopes of practice outside the provisions of state law and regulations that provide for such designations.

### **Florida Requirements for Billing Medicare Patients**

In 1992, the Legislature created s. 456.056, F.S., relating to how Florida-licensed practitioners may bill patients enrolled in Medicare. The sole purpose of this section of statute is to prohibit Florida-based practitioners who participate in Medicare from directly invoicing Medicare patients in excess of the amounts that patients owe, according to Medicare payment methodologies.

Section 456.056, F.S., provides that the term “physician” is defined in a manner consistent with federal law that governs Medicare billing. As the term is used in that section of the Florida Statutes, “physician” means:

- A *physician* licensed under ch. 458, F.S.,
- An osteopathic *physician* licensed under ch. 459, F.S.,
- A chiropractic *physician* licensed under ch. 460, F.S.,
- A podiatric *physician* licensed under ch. 461, F.S., or
- An optometrist licensed under ch. 463, F.S.<sup>30</sup>

This definition of “physician,” which was written to apply only to Medicare billing issues, is comparable to Medicare’s definition of “physician services” found in 42 CFR Part 414, which is entitled “Payment for Part B Medical and Other Health Services.” This portion of Medicare law<sup>31</sup> provides that, for payment purposes, “physician services” includes the following services, to the extent they are covered by Medicare: professional services of doctors of medicine and osteopathy, doctors of optometry, doctors of podiatry, doctors of dental surgery and dental medicine,<sup>32</sup> and chiropractors.

Section 456.056, F.S., goes on to provide that any attempt by a Florida-licensed “physician,” as defined above, to collect from a Medicare beneficiary any amount of charges in excess of an

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<sup>29</sup> See 42 CFR s. 441.30.

<sup>30</sup> See s. 456.056(1)(a), F.S.

<sup>31</sup> See 42 CFR s. 414.2.

<sup>32</sup> Dentistry is omitted from s. 456.056, F.S., since traditional Medicare does not cover most dental care apart from emergencies or dental services provided in a hospital setting. See: <https://www.medicare.gov/coverage/dental-services> (last visited Jan. 24, 2024).

unmet deductible or the 20 percent of charges that Medicare does not pay, is deemed null, void, and of no merit.<sup>33</sup>

As such, the only purpose of s. 456.056, F.S., is to regulate the dollar amounts that specified practitioners may attempt to collect from their patients as payment for Medicare services, consistent with Medicare's terminology for billing. This Florida statute does not provide authority for any health care practitioner to use certain titles.

### III. Effect of Proposed Changes:

**Section 1** of the bill amends s. 456.003(2), F.S., regarding Legislative intent for the regulation of health care professions to provide a Legislative finding that the health, safety, and welfare of the public may be harmed or endangered under any of the following conditions:

- By the unlawful practice of a profession;
- By a misleading, deceptive, or fraudulent representation relating to a person's authority to lawfully practice a profession; or
- When patients are uninformed about the profession under which a practitioner is practicing before receiving professional consultation or services from the practitioner.

The bill provides that the Legislature's regulation of health care professions as provided under current law in s. 456.003(2), F.S., is a matter of great public importance.

**Section 2** of the bill creates s. 456.0651, F.S., and defines the following terms as used in that section of statute:

- "Advertisement" means any printed, electronic, or oral, statement that:
  - Is communicated or disseminated to the general public;
  - Is prepared, communicated, or disseminated under the control of the practitioner or with the practitioner's consent; and
  - Is intended to encourage a person to use a practitioner's professional services or to promote those services or the practitioner in general; or, for commercial purposes, names a practitioner in connection with the practice, profession, or institution in which the practitioner is employed, volunteers, or provides health care services.
- "Educational degree" means a degree awarded to a practitioner by a college or university relating to the practitioner's profession or specialty designation, which degree may be referenced in an advertisement by name or acronym.
- "Misleading, deceptive, or fraudulent representation" means any information that misrepresents or falsely describes a practitioner's profession, skills, training, expertise, educational degree, board certification, or licensure.
- "Profession" means, in addition to the meaning provided in s. 456.001, the name or title of a practitioner's profession that is regulated by the DOH's Division of Medical Quality Assurance and which name or title is allowed to be used by an individual due to his or her license, license by endorsement, certification, or registration issued by a board or the DOH. The term does not include a practitioner's license or educational degree.

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<sup>33</sup> See s. 456.056(5), F.S.

The bill provides that, for purposes of s. 456.065, F.S., relating to the unlicensed practice of a health care profession, in addition to the definitions of the “practice of medicine”<sup>34</sup> and the “practice of osteopathic medicine”<sup>35</sup> found in their corresponding practice acts, those terms also include attaching to one’s name, alone or in combination, or in connection with other words, any terms indicating that a person is licensed to practice medicine or osteopathic medicine or any of the following titles or designations in an advertisement or in a manner that constitutes a misleading, deceptive, or fraudulent representation:

- Doctor of medicine.
- M.D.
- Doctor of osteopathy.
- D.O.
- Emergency physician.
- Family physician.
- Interventional pain physician.
- Medical doctor.
- Osteopath.
- Osteopathic physician.
- Doctor of osteopathic medicine.
- Surgeon.
- Neurosurgeon.
- General surgeon.
- Resident physician.
- Medical resident.
- Medical intern.
- Anesthesiologist.
- Cardiologist.
- Dermatologist.
- Endocrinologist.
- Gastroenterologist.
- Gynecologist.
- Hematologist.
- Hospitalist.
- Intensivist.
- Internist.
- Laryngologist.
- Nephrologist.
- Neurologist.
- Obstetrician.
- Oncologist.
- Ophthalmologist.
- Orthopedic surgeon.
- Orthopedist.

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<sup>34</sup> See s. 458.305, F.S.

<sup>35</sup> See s. 459.003, F.S.

- Otolologist.
- Otolaryngologist.
- Otorhinolaryngologist.
- Pathologist.
- Pediatrician.
- Primary care physician.
- Proctologist.
- Psychiatrist.
- Radiologist.
- Rheumatologist.
- Rhinologist.
- Urologist.

### *Exceptions*

Notwithstanding the provisions above, the bill authorizes all of the following.

A licensed practitioner may use any name or title of his or her profession, and any corresponding designation or initials, authorized under his or her practice act to describe himself or herself and his or her practice.

If the licensed practitioner has a specialty area of practice authorized under his or her practice act, he or she may use the following format to identify himself or herself or describe his or her practice: “...(name or title of the practitioner’s profession)..., specializing in ...(name of the practitioner’s specialty)....”

A chiropractic physician<sup>36</sup> licensed under ch. 460, F.S., may use the titles “chiropractic physician,” “doctor of chiropractic medicine,” “chiropractic radiologist,” and other titles, abbreviations, or designations authorized under his or her practice act or reflecting those chiropractic specialty areas in which the chiropractic physician has attained diplomate status as recognized by the American Chiropractic Association, the International Chiropractors Association, the International Academy of Clinical Neurology, or the International Chiropractic Pediatric Association.

A podiatric physician<sup>37</sup> licensed under ch. 461, F.S., may use the titles “podiatric physician,” “podiatric surgeon,” “Fellow in the American College of Foot and Ankle Surgeons,” and other titles or abbreviations authorized under his or her practice act.

A dentist licensed under ch. 466, F.S., may use the following titles and abbreviations as applicable to his or her license, specialty, and certification, and any other titles or abbreviations authorized under his or her practice act:

- Doctor of medicine in dentistry.

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<sup>36</sup> Under s. 460.403(5), F.S., “chiropractic physician” means any person licensed to practice chiropractic medicine pursuant to ch. 460, F.S.

<sup>37</sup> Under s. 461.003(4), F.S., “podiatric physician” means any person licensed to practice podiatric medicine pursuant to ch. 461, F.S.

- Doctor of dental medicine.
- D.M.D.
- Doctor of dental surgery.
- D.D.S.
- Oral surgeon.
- Maxillofacial surgeon.
- Oral and maxillofacial surgeon.
- O.M.S.
- Oral radiologist.
- Dental anesthesiologist.
- Oral pathologist

An anesthesiologist assistant licensed under ch. 458 or 459, F.S., may use only the titles “anesthesiologist assistant” or “certified anesthesiologist assistant” and the abbreviation “C.A.A.”

The bill also provides that the provisions above in the newly-created s. 456.0651, F.S., may not be construed to prohibit or interfere with a licensed practitioner’s ability to lawfully seek payment from the Medicare program or other federal health care program using definitions and terminology provided under applicable federal law or regulations.

### **Grounds for Discipline**

**Section 3** of the bill amends the grounds for discipline that may be imposed by practitioner regulatory boards in s. 456.072(1)(t), F.S., to specify that the following acts constitute grounds for disciplinary actions:

- A practitioner’s failure, when treating or consulting with a patient, to identify through the wearing of a name tag the practitioner’s name and profession, as defined in s. 456.0651, F.S. The information on the name tag must be consistent with the specifications of s. 456.0651(2), F.S., such that it does not constitute the unlicensed practice of medicine or osteopathic medicine.
- The failure of any advertisement for health care services naming a practitioner to identify the profession under which the practitioner is practicing and the practitioner’s educational degree in relation to the services featured in the advertisement.

The name tag requirement does not apply if the practitioner is providing services in his or her own office that houses his or her practice or group practice. In such a case:

- If the practitioner chooses not to wear a name tag, the practitioner must prominently display a copy of his or her license in a conspicuous area of the practice so that it is easily visible to patients. The copy of the license must be no smaller than the original license.
- The practitioner must also verbally identify himself or herself to a new patient by name and profession, and such identification must be consistent with the specifications of s. 456.0651(2), F.S., so that it does not constitute the unlicensed practice of medicine or osteopathic medicine.

The bill requires each board, or the DOH if there is no board, to adopt rules to determine how practitioners must comply with s. 456.072(1)(t), F.S., as amended by the bill.

**Section 4** of the bill provides an effective date of July 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.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

To the extent persons violate the bill's provisions, the bill could have a potential workload increase and an increase in costs for the DOH's ULA Unit of an indeterminate amount.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 456.003 and 456.072.

This bill creates section 456.0651 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 January 30, 2024:**

The committee substitute:

- Amends s. 456.003(2), F.S., regarding Legislative intent for the regulation of health care professions to protect the health, safety, and welfare of the public;
- Provides that, for the purposes of s. 456.065, F.S., relating to the unlicensed practice of a health care profession, in addition to the definitions of the “practice of medicine” and the “practice of osteopathic medicine” found in their corresponding practice acts, those terms also include attaching to one’s name, alone or in combination, or in connection with other words, any terms indicating that a person is licensed to practice medicine or osteopathic medicine or any of the bill’s specified titles or designations, in an advertisement or in a manner that constitutes a misleading, deceptive, or fraudulent representation; and
- Provides that s. 456.0651, F.S., as created by the bill, may not be construed to prohibit or interfere with a licensed practitioner’s ability to lawfully seek payment from the Medicare program or other federal health care program using definitions or terminology provided under applicable federal law or regulations.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
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The Committee on Health Policy (Harrell) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (2) of section 456.003, Florida  
Statutes, is amended to read:

456.003 Legislative intent; requirements.—

(2) The Legislature further finds ~~believes~~ that such  
professions shall be regulated only for the preservation of the  
health, safety, and welfare of the public under the police



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11 powers of the state, and that the health, safety, and welfare of  
12 the public may be harmed or endangered by the unlawful practice  
13 of a profession; by a misleading, deceptive, or fraudulent  
14 representation relating to a person's authority to lawfully  
15 practice a profession; or when patients are uninformed about the  
16 profession under which a practitioner is practicing before  
17 receiving professional consultation or services from the  
18 practitioner. As a matter of great public importance, such  
19 professions shall be regulated when:

20 (a) Their unregulated practice can harm or endanger the  
21 health, safety, and welfare of the public, and when the  
22 potential for such harm is recognizable and clearly outweighs  
23 any anticompetitive impact which may result from regulation.

24 (b) The public is not effectively protected by other means,  
25 including, but not limited to, other state statutes, local  
26 ordinances, or federal legislation.

27 (c) Less restrictive means of regulation are not available.

28 Section 2. Section 456.0651, Florida Statutes, is created  
29 to read:

30 456.0651 Health care practitioner titles and designations.—

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

32 (a) "Advertisement" means any printed, electronic, or oral  
33 statement that:

34 1. Is communicated or disseminated to the general public;

35 2.a. Is intended to encourage a person to use a  
36 practitioner's professional services or to promote those  
37 services or the practitioner in general; or

38 b. For commercial purposes, names a practitioner in  
39 connection with the practice, profession, or institution in



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40 which the practitioner is employed, volunteers, or provides  
41 health care services; and

42 3. Is prepared, communicated, or disseminated under the  
43 control of the practitioner or with the practitioner's consent.

44 (b) "Educational degree" means the degree awarded to a  
45 practitioner by a college or university relating to the  
46 practitioner's profession or specialty designation, which degree  
47 may be referenced in an advertisement by name or acronym.

48 (c) "Misleading, deceptive, or fraudulent representation"  
49 means any information that misrepresents or falsely describes a  
50 practitioner's profession, skills, training, expertise,  
51 educational degree, board certification, or licensure.

52 (d) "Practitioner" means a health care practitioner as  
53 defined in s. 456.001.

54 (e) "Profession," in addition to the meaning provided in s.  
55 456.001, also means the name or title of a practitioner's  
56 profession that is regulated by the department's Division of  
57 Medical Quality Assurance and which name or title is allowed to  
58 be used by an individual due to his or her license, license by  
59 endorsement, certification, or registration issued by a board or  
60 the department. The term does not include a practitioner's  
61 license or educational degree.

62 (2) For purposes of this section and s. 456.065, in  
63 addition to the definitions of the terms "practice of medicine"  
64 in s. 458.305 and "practice of osteopathic medicine" in s.  
65 459.003, the practice of medicine or osteopathic medicine also  
66 includes attaching to one's name, either alone or in  
67 combination, or in connection with other words, any terms  
68 indicating that a person is licensed to practice medicine or



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69 osteopathic medicine or any of the following titles or  
70 designations, if used in an advertisement or in a manner that  
71 constitutes a misleading, deceptive, or fraudulent  
72 representation:

- 73 (a) Doctor of medicine.
- 74 (b) M.D.
- 75 (c) Doctor of osteopathy.
- 76 (d) D.O.
- 77 (e) Emergency physician.
- 78 (f) Family physician.
- 79 (g) Interventional pain physician.
- 80 (h) Medical doctor.
- 81 (i) Osteopath.
- 82 (j) Osteopathic physician.
- 83 (k) Doctor of osteopathic medicine.
- 84 (l) Surgeon.
- 85 (m) Neurosurgeon.
- 86 (n) General surgeon.
- 87 (o) Resident physician.
- 88 (p) Medical resident.
- 89 (q) Medical intern.
- 90 (r) Anesthesiologist.
- 91 (s) Cardiologist.
- 92 (t) Dermatologist.
- 93 (u) Endocrinologist.
- 94 (v) Gastroenterologist.
- 95 (w) Gynecologist.
- 96 (x) Hematologist.
- 97 (y) Hospitalist.



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- 98           (z) Intensivist.  
99           (aa) Internist.  
100          (bb) Laryngologist.  
101          (cc) Nephrologist.  
102          (dd) Neurologist.  
103          (ee) Obstetrician.  
104          (ff) Oncologist.  
105          (gg) Ophthalmologist.  
106          (hh) Orthopedic surgeon.  
107          (ii) Orthopedist.  
108          (jj) Otologist.  
109          (kk) Otolaryngologist.  
110          (ll) Otorhinolaryngologist.  
111          (mm) Pathologist.  
112          (nn) Pediatrician.  
113          (oo) Primary care physician.  
114          (pp) Proctologist.  
115          (qq) Psychiatrist.  
116          (rr) Radiologist.  
117          (ss) Rheumatologist.  
118          (tt) Rhinologist.  
119          (uu) Urologist.  
120          (3) Notwithstanding subsection (2):  
121            (a) A licensed practitioner may use the name or title of  
122 his or her profession which is authorized under his or her  
123 practice act, and any corresponding designations or initials so  
124 authorized, to describe himself or herself and his or her  
125 practice.  
126            (b) A licensed practitioner who has a specialty area of



127 practice authorized under his or her practice act may use the  
128 following format to identify himself or herself or describe his  
129 or her practice: "... (name or title of the practitioner's  
130 profession)..., specializing in ... (name of the practitioner's  
131 specialty)...."

132 (c) A chiropractic physician licensed under chapter 460 may  
133 use the titles "chiropractic physician," "doctor of chiropractic  
134 medicine," "chiropractic radiologist," and other titles,  
135 abbreviations, or designations authorized under his or her  
136 practice act or reflecting those chiropractic specialty areas in  
137 which the chiropractic physician has attained diplomate status  
138 as recognized by the American Chiropractic Association, the  
139 International Chiropractors Association, the International  
140 Academy of Clinical Neurology, or the International Chiropractic  
141 Pediatric Association.

142 (d) A podiatric physician licensed under chapter 461 may  
143 use the following titles and abbreviations as applicable to his  
144 or her license, specialty, and certification: "podiatric  
145 physician," "podiatric surgeon," "Fellow in the American College  
146 of Foot and Ankle Surgeons," and other titles or abbreviations  
147 authorized under his or her practice act.

148 (e) A dentist licensed under chapter 466 may use the  
149 following titles and abbreviations as applicable to his or her  
150 license, specialty, and certification: "doctor of medicine in  
151 dentistry," "doctor of dental medicine," "D.M.D.," "doctor of  
152 dental surgery," "D.D.S.," "oral surgeon," "maxillofacial  
153 surgeon," "oral and maxillofacial surgeon," "O.M.S.," "oral  
154 radiologist," "dental anesthesiologist," "oral pathologist," and  
155 any other titles or abbreviations authorized under his or her



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156 practice act.

157 (f) An anesthesiologist assistant licensed under chapter  
158 458 or chapter 459 may use only the titles "anesthesiologist  
159 assistant" or "certified anesthesiologist assistant" and the  
160 abbreviation "C.A.A."

161 (4) This section may not be construed to prohibit or  
162 interfere with a licensed practitioner's ability to lawfully  
163 bill the Medicare program or other federal health care program  
164 using definitions or terminology provided under applicable  
165 federal law or regulations for services rendered to a patient  
166 enrolled in such program.

167 Section 3. Paragraph (t) of subsection (1) of section  
168 456.072, Florida Statutes, is amended to read:

169 456.072 Grounds for discipline; penalties; enforcement.—

170 (1) The following acts shall constitute grounds for which  
171 the disciplinary actions specified in subsection (2) may be  
172 taken:

173 (t) 1. A practitioner's failure, when treating or consulting  
174 with a patient, ~~Failing to identify through written notice,~~  
175 ~~which may include~~ the wearing of a name tag the practitioner's  
176 name and profession, as defined in s. 456.0651, ~~or orally to a~~  
177 ~~patient the type of license~~ under which the practitioner is  
178 practicing. The information on the name tag must be consistent  
179 with the specifications of s. 456.0651(2) such that it does not  
180 constitute the unlicensed practice of medicine or osteopathic  
181 medicine.

182 2. The failure of any advertisement for health care  
183 services naming the practitioner to ~~must~~ identify the  
184 profession, as defined in s. 456.0651, under which the



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185 practitioner is practicing and the practitioner's educational  
186 degree, as defined in s. 456.0651, in relation to the services  
187 featured in the advertisement type of license the practitioner  
188 holds.

189 3. Subparagraph 1. This paragraph does not apply to a  
190 practitioner while the practitioner is providing services in his  
191 or her own office that houses his or her practice or group  
192 practice. In such a case, if the practitioner chooses not to  
193 wear a name tag, the practitioner must prominently display a  
194 copy of his or her license in a conspicuous area of the practice  
195 so that it is easily visible to patients. The copy of the  
196 license must be no smaller than the original license. Such  
197 practitioner shall also verbally identify himself or herself to  
198 a new patient by name and identify the profession, as defined in  
199 s. 456.0651, under which the practitioner is practicing. Such  
200 verbal identification must be consistent with the specifications  
201 of s. 456.0651(2) such that it does not constitute the  
202 unlicensed practice of medicine or osteopathic medicine a  
203 facility licensed under chapter 394, chapter 395, chapter 400,  
204 or chapter 429.

205 4. Each board, or the department if where there is no  
206 board, shall is authorized by rule to determine how its  
207 practitioners must may comply with this paragraph disclosure  
208 requirement.

209 Section 4. This act shall take effect July 1, 2024.

210  
211 ===== T I T L E A M E N D M E N T =====

212 And the title is amended as follows:

213 Delete everything before the enacting clause



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214 and insert:

215                   A bill to be entitled  
216           An act relating to health care practitioner titles and  
217           designations; amending s. 456.003, F.S.; revising  
218           legislative findings; creating s. 456.0651, F.S.;  
219           defining terms; providing that, for specified  
220           purposes, the use of specified titles or designations  
221           in connection with one's name constitutes the practice  
222           of medicine or the practice of osteopathic medicine;  
223           providing exceptions; providing construction; amending  
224           s. 456.072, F.S.; revising grounds for disciplinary  
225           action relating to a practitioner's use of such titles  
226           or designations in identifying himself or herself to  
227           patients or in advertisements for health care  
228           services; revising applicability; requiring certain  
229           health care practitioners to prominently display a  
230           copy of their license in a conspicuous area of their  
231           practice; requiring that the copy of the license be a  
232           specified size; requiring such health care  
233           practitioners to also verbally identify themselves in  
234           a specified manner to new patients; requiring, rather  
235           than authorizing, certain boards, or the Department of  
236           Health if there is no board, to adopt certain rules;  
237           providing an effective date.

By Senator Harrell

31-01341-24

20241112\_\_

1                   A bill to be entitled  
2           An act relating to health care practitioner titles and  
3           designations; creating s. 456.0651, F.S.; defining  
4           terms; providing that, for specified purposes, the use  
5           of specified titles or designations in connection with  
6           one's name constitutes the practice of medicine or the  
7           practice of osteopathic medicine; providing  
8           exceptions; amending s. 456.072, F.S.; revising  
9           grounds for disciplinary action relating to a  
10          practitioner's use of such titles or designations in  
11          identifying himself or herself to patients or in  
12          advertisements for health care services; revising  
13          applicability; requiring certain health care  
14          practitioners to prominently display a copy of their  
15          license in a conspicuous area of their practice;  
16          requiring that the copy of the license be a specified  
17          size; requiring such health care practitioners to also  
18          verbally identify themselves in a specified manner to  
19          new patients; requiring, rather than authorizing,  
20          certain boards, or the Department of Health if there  
21          is no board, to adopt certain rules; providing an  
22          effective date.

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

25  
26           Section 1. Section 456.0651, Florida Statutes, is created  
27 to read:

28           456.0651 Health care practitioner titles and designations.-

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

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30 (a) "Advertisement" means any printed, electronic, or oral  
31 statement that:

32 1. Is communicated or disseminated to the general public;

33 2.a. Is intended to encourage a person to use a  
34 practitioner's professional services or to promote those  
35 services or the practitioner in general; or

36 b. For commercial purposes, names a practitioner in  
37 connection with the practice, profession, or institution in  
38 which the practitioner is employed, volunteers, or provides  
39 health care services; and

40 3. Is prepared, communicated, or disseminated under the  
41 control of the practitioner or with the practitioner's consent.

42 (b) "Educational degree" means the degree awarded to a  
43 practitioner by a college or university relating to the  
44 practitioner's profession or specialty designation, which degree  
45 may be referenced in an advertisement by name or acronym.

46 (c) "Misleading, deceptive, or fraudulent representation"  
47 means any information that misrepresents or falsely describes a  
48 practitioner's profession, skills, training, expertise,  
49 educational degree, board certification, or licensure.

50 (d) "Practitioner" means a health care practitioner as  
51 defined in s. 456.001.

52 (e) "Profession," in addition to the meaning provided in s.  
53 456.001, also means the name or title of a practitioner's  
54 profession that is regulated by the department's Division of  
55 Medical Quality Assurance and which name or title is allowed to  
56 be used by an individual due to his or her license, license by  
57 endorsement, certification, or registration issued by a board or  
58 the department. The term does not include a practitioner's

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59 license or educational degree.

60 (2) For purposes of this section and s. 456.065, in  
61 addition to the definitions of the terms "practice of medicine"  
62 in s. 458.305 and "practice of osteopathic medicine" in s.  
63 459.003, the practice of medicine or osteopathic medicine also  
64 includes attaching to one's name, either alone or in  
65 combination, or in connection with other words, any of the  
66 following titles or designations, if used in an advertisement or  
67 in a manner that constitutes a misleading, deceptive, or  
68 fraudulent representation:

69 (a) Doctor of medicine.

70 (b) M.D.

71 (c) Doctor of osteopathy.

72 (d) D.O.

73 (e) Emergency physician.

74 (f) Family physician.

75 (g) Interventional pain physician.

76 (h) Medical doctor.

77 (i) Osteopath.

78 (j) Osteopathic physician.

79 (k) Doctor of osteopathic medicine.

80 (l) Surgeon.

81 (m) Neurosurgeon.

82 (n) General surgeon.

83 (o) Resident physician.

84 (p) Medical resident.

85 (q) Medical intern.

86 (r) Anesthesiologist.

87 (s) Cardiologist.

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88       (t) Dermatologist.  
89       (u) Endocrinologist.  
90       (v) Gastroenterologist.  
91       (w) Gynecologist.  
92       (x) Hematologist.  
93       (y) Hospitalist.  
94       (z) Intensivist.  
95       (aa) Internist.  
96       (bb) Laryngologist.  
97       (cc) Nephrologist.  
98       (dd) Neurologist.  
99       (ee) Obstetrician.  
100       (ff) Oncologist.  
101       (gg) Ophthalmologist.  
102       (hh) Orthopedic surgeon.  
103       (ii) Orthopedist.  
104       (jj) Otologist.  
105       (kk) Otolaryngologist.  
106       (ll) Otorhinolaryngologist.  
107       (mm) Pathologist.  
108       (nn) Pediatrician.  
109       (oo) Primary care physician.  
110       (pp) Proctologist.  
111       (qq) Psychiatrist.  
112       (rr) Radiologist.  
113       (ss) Rheumatologist.  
114       (tt) Rhinologist.  
115       (uu) Urologist.  
116       (3) Notwithstanding subsection (2):

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117 (a) A licensed practitioner may use the name or title of  
118 his or her profession which is authorized under his or her  
119 practice act, and any corresponding designations or initials so  
120 authorized, to describe himself or herself and his or her  
121 practice.

122 (b) A licensed practitioner who has a specialty area of  
123 practice authorized under his or her practice act may use the  
124 following format to identify himself or herself or describe his  
125 or her practice: "... (name or title of the practitioner's  
126 profession)..., specializing in ... (name of the practitioner's  
127 specialty)...."

128 (c) A chiropractic physician licensed under chapter 460 may  
129 use the titles "doctor of chiropractic medicine," "chiropractic  
130 radiologist," and other titles, abbreviations, or designations  
131 authorized under his or her practice act or reflecting those  
132 chiropractic specialty areas in which the chiropractic physician  
133 has attained diplomate status as recognized by the American  
134 Chiropractic Association, the International Chiropractors  
135 Association, the International Academy of Clinical Neurology, or  
136 the International Chiropractic Pediatric Association.

137 (d) A podiatric physician licensed under chapter 461 may  
138 use the following titles and abbreviations as applicable to his  
139 or her license, specialty, and certification: "podiatric  
140 surgeon," "Fellow in the American College of Foot and Ankle  
141 Surgeons," and other titles or abbreviations authorized under  
142 his or her practice act.

143 (e) A dentist licensed under chapter 466 may use the  
144 following titles and abbreviations as applicable to his or her  
145 license, specialty, and certification: "doctor of medicine in

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146 dentistry," "doctor of dental medicine," "D.M.D.," "doctor of  
147 dental surgery," "D.D.S.," "oral surgeon," "maxillofacial  
148 surgeon," "oral and maxillofacial surgeon," "O.M.S.," "oral  
149 radiologist," "dental anesthesiologist," "oral pathologist," and  
150 any other titles or abbreviations authorized under his or her  
151 practice act.

152 (f) An anesthesiologist assistant licensed under chapter  
153 458 or chapter 459 may use only the titles "anesthesiologist  
154 assistant" or "certified anesthesiologist assistant" and the  
155 abbreviation "C.A.A."

156 Section 2. Paragraph (t) of subsection (1) of section  
157 456.072, Florida Statutes, is amended to read:

158 456.072 Grounds for discipline; penalties; enforcement.—

159 (1) The following acts shall constitute grounds for which  
160 the disciplinary actions specified in subsection (2) may be  
161 taken:

162 (t)1. A practitioner's failure, when treating or consulting  
163 with a patient, ~~Failing to identify through written notice,~~  
164 ~~which may include the wearing of a name tag~~ the practitioner's  
165 name and, or orally to a patient the profession, as defined in  
166 s. 456.0651, ~~type of license~~ under which the practitioner is  
167 practicing. The information on the name tag must be consistent  
168 with the specifications of s. 456.0651(2) such that it does not  
169 constitute the unlicensed practice of medicine or osteopathic  
170 medicine.

171 2. The failure of any advertisement for health care  
172 services naming the practitioner to ~~must~~ identify the  
173 profession, as defined in s. 456.0651, under which the  
174 practitioner is practicing and the practitioner's educational

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175 degree, as defined in s. 456.0651, in relation to the services  
176 featured in the advertisement ~~type of license the practitioner~~  
177 ~~holds.~~

178 3. Subparagraph 1. This paragraph does not apply to a  
179 practitioner while the practitioner is providing services in his  
180 or her own office that houses his or her practice or group  
181 practice. In such a case, if the practitioner chooses not to  
182 wear a name tag, the practitioner must prominently display a  
183 copy of his or her license in a conspicuous area of the practice  
184 so that it is easily visible to patients. The copy of the  
185 license must be no smaller than the original license. Such  
186 practitioner shall also verbally identify himself or herself to  
187 a new patient by name and identify the profession, as defined in  
188 s. 456.0651, under which the practitioner is practicing. Such  
189 verbal identification must be consistent with the specifications  
190 of s. 456.0651(2) such that it does not constitute the  
191 unlicensed practice of medicine or osteopathic medicine a  
192 facility licensed under chapter 394, chapter 395, chapter 400,  
193 or chapter 429.

194 4. Each board, or the department ~~if where~~ there is no  
195 board, shall ~~is authorized~~ by rule ~~to~~ determine how its  
196 practitioners must ~~may~~ comply with this paragraph ~~disclosure~~  
197 ~~requirement.~~

198 Section 3. This act shall take effect July 1, 2024.



# 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 16, 2023

Senator Burton  
530 Knott Building  
404 South Monroe Street  
Tallahassee, FL 32399

Chair Burton,

I respectfully request that SB 1112 – Health Care Practitioner Titles be placed on the next available agenda for the Health Policy 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 25

Cc: Allen Brown, Staff Director  
Anhar AlAsadi, 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

1/30/24

Meeting Date

SB 1112

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

EJ Collins (Florida Society of Anesthesiology)

Phone

910 309 8067

Address

4515 SW 105th Drive

Email

ej.collins@ufl.edu

Street

Gainesville

FL

32608

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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/30/24

Meeting Date

1112

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 Chris Nuland

Phone 904-233-3051

Address 4427 Herschel St

Email nulandlaw@aol.com

Street

Jacksonville, FL 32210

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:

Florida Chapter American College of Physicians

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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

30/JAN/24

Meeting Date

SB 1112

Bill Number or Topic

Health Pol

Committee

Amendment Barcode (if applicable)

Name James Knox Kerr III MD

Phone 904 714 7035

Address 3214 Riverside Ave

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City

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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:

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S-001 (08/10/2021)

1/30/25

Meeting Date

# The Florida Senate APPEARANCE RECORD

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1112

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Adam Fier / Brevard County  
Medical Society

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1640 N Riverside Dr

Email

afierdo@gmail.com

Street

Indiantic

Fl.

32903

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:

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S-001 (08/10/2021)

1/30/24

Meeting Date

# The Florida Senate APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 1112

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Sher-Lu Pai

Phone

904-956-3332

Address

SAMBA (Society for Ambulatory Anesthesia)

Email

pai.sherlu@mayo.edu

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4500 Sam Pardo Pd

City

Jacksonville

State

FL

Zip

32224

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

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1/30/2024

Meeting Date

1112

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name

Brence Sell, M.D.

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Email

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Street

Tallahassee

FL

32309

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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/30/24

Meeting Date

Health Policy

Committee

1112

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

CHRIS Giordano

(Florida Society of Anesthesiologists)

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Address

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Email

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Street

Gainesville, FL

State

32608

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:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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SB 1112

Bill Number or Topic

1/30/24

Meeting Date

Health Policy

Committee

Amendment Barcode (if applicable)

Name

Jeff Scott

Phone

850 224-6496

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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:

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

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1/30/24

Meeting Date

1112

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name Chris Lyon

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Street

Kilchaser

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 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 \(flsenate.gov\)](#)

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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)

Jan. 30, 2024  
Meeting Date

SB 1112  
Bill Number (if applicable)

Topic Health Care Practitioner Titles

Amendment Barcode (if applicable)

Name Dr. Beatriz Terry

Job Title President - Florida Dental Association

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Phone (305) 275-1212

Miami FL 33143  
City State Zip

Email ubetdds@aol.com

Speaking:  For  Against  Information

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

Representing Florida Dental Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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S-001 (10/14/14)

The Florida Senate

APPEARANCE RECORD

1112

Bill Number or Topic

1-30-2024

Meeting Date

Deliver both copies of this form to Senate professional staff conducting the meeting

Health Policy

Committee

Amendment Barcode (if applicable)

Name

Dr. Mario Lopez

FL Chapter, Am College of Cardiology

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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:

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

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

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

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

---

BILL: CS/SB 1320

INTRODUCER: Health Policy Committee and Senator Calatayud

SUBJECT: HIV Infection Prevention Drugs

DATE: January 31, 2024

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1320 creates s. 465.1861, F.S., authorizing a pharmacist to order and dispense postexposure HIV drugs under a collaborative practice agreement (CPA) with a medical or osteopathic physician. The bill defines the following terms: HIV, HIV infection prevention drug, HIV postexposure prophylaxis drug, and HIV preexposure prophylaxis drug.

The bill authorizes a pharmacist to screen an adult for HIV exposure and provide the results to that adult, with the advice that the patient should seek further medical consultation or treatment from a physician, regardless of the test results.

The bill authorizes a pharmacist to order and dispense HIV postexposure drugs under a written CPA with an allopathic or osteopathic physician in the same geographic area as the pharmacist. The bill defines the term “geographic area.” The written CPA must include particular terms and conditions imposed by the supervising physician relating to HIV screening and the ordering and dispensing of HIV postexposure drugs. The bill requires the CPA to include specific criteria. The pharmacist is required under the bill to file the CPA with the Board of Pharmacy (BOP).

Before a pharmacist may order or dispense HIV postexposure prophylaxis drugs pursuant to a CPA, he or she must be certified by the BOP under certain criteria. The pharmacist must provide his or her supervising physician with evidence of a current certification.

The bill requires that if a pharmacist orders and dispenses HIV postexposure drugs pursuant to a CPA, he or she must provide the patient with written information advising the patient to seek follow-up care from his or her primary care physician. If the patient indicates that he or she lacks regular access to primary care, the pharmacist must comply with the procedures set out in the pharmacy's approved access-to-care plan (ACP), as described below.

The bill requires the BOP to adopt by rule minimum standards to ensure that all pharmacies that provide adult screening for HIV exposure submit to the Department of Health (DOH) for approval an ACP for assisting patients to gain access to appropriate care settings when they present to the pharmacy for HIV screening and indicate that they lack regular access to primary care.

The bill requires that as of July 1, 2025, a pharmacy's ACP must be approved by the DOH before the pharmacy may receive initial licensure or licensure renewal occurring after that date and that a pharmacy with an approved ACP must submit data to the DOH regarding the implementation and results of its plan as part of the licensure renewal process, or as directed by the DOH, before each licensure renewal.

The bill provides an effective date of July 1, 2024.

## II. Present Situation:

### Pharmacist Licensure

Pharmacy is the third largest health profession behind nursing and medicine.<sup>1</sup> The BOP, in conjunction with the DOH, regulates the practice of pharmacists pursuant to ch. 465, F.S.<sup>2</sup> To be licensed as a pharmacist, a person must:<sup>3</sup>

- Complete an application and remit an examination fee;
- Be at least 18 years of age;
- Hold a degree from an accredited and approved school or college of pharmacy;<sup>4</sup>
- Have completed a BOP-approved internship; and
- Successfully complete the BOP-approved examination.

A pharmacist must complete at least 30 hours of BOP-approved continuing education during each biennial renewal period.<sup>5</sup> Pharmacists who are certified to administer vaccines or epinephrine auto-injections must complete a three-hour continuing education course on the safe and effective administration of vaccines and epinephrine auto-injections as a part of the biennial

---

<sup>1</sup> American Association of Colleges of Pharmacy, *About AACP*, available at <https://www.aacp.org/about-aacp> (last visited Jan. 24, 2024).

<sup>2</sup> Sections 465.004 and 465.005, F.S.

<sup>3</sup> Section 465.007, F.S. The DOH may also issue a license by endorsement to a pharmacist who is licensed in another state upon meeting the applicable requirements set forth in law and rule. *See* s. 465.0075, F.S.

<sup>4</sup> If the applicant has graduated from a 4-year undergraduate pharmacy program of a school or college of pharmacy located outside the U.S., the applicant must demonstrate proficiency in English, pass the board-approved Foreign Pharmacy Graduate Equivalency Examination, and complete a minimum of 500 hours in a supervised work activity program within Florida under the supervision of a DOH licensed pharmacist.

<sup>5</sup> Section 465.009, F.S.

licensure renewal.<sup>6</sup> Pharmacists who administer long-acting antipsychotic medications must complete an approved eight-hour continuing education course as a part of the continuing education.<sup>7</sup>

### ***Pharmacist Scope of Practice***

In Florida, the practice of the profession of pharmacy includes:<sup>8</sup>

- Compounding, dispensing, and consulting concerning the contents, therapeutic values, and uses of any medicinal drug;
- Consulting concerning therapeutic values and interactions of patent or proprietary preparations;
- Monitoring a patient's drug therapy and assisting the patient in the management of his or her drug therapy, including the review of the patient's drug therapy and communication with the patient's prescribing health care provider or other persons specifically authorized by the patient;
- Transmitting information from prescribers to their patients;
- Administering specified vaccines to adults and influenza vaccines to persons seven years of age or older;<sup>9</sup>
- Administering epinephrine autoinjections;<sup>10</sup> and
- Administering antipsychotic medications by injection.<sup>11</sup>

A pharmacist may not alter a prescriber's directions, diagnose or treat any disease, initiate any drug therapy, or practice medicine or osteopathic medicine, unless permitted by law.<sup>12</sup>

Pharmacists may order and dispense drugs that are included in a formulary developed by a committee composed of members of the Board of Medicine (BOM), the Board of Osteopathic Medicine (BOOM), and the BOP.<sup>13</sup> The formulary may only include:<sup>14</sup>

- Any medicinal drug of single or multiple active ingredients in any strengths when such active ingredients have been approved individually or in combination for over-the-counter sale by the U.S. Food and Drug Administration (FDA);
- Any medicinal drug recommended by the FDA Advisory Panel for transfer to over-the-counter status pending approval by the FDA;
- Any medicinal drug containing any antihistamine or decongestant as a single active ingredient or in combination;
- Any medicinal drug containing fluoride in any strength;
- Any medicinal drug containing lindane in any strength;
- Any over-the-counter proprietary drug under federal law that has been approved for reimbursement by the Florida Medicaid Program; and

---

<sup>6</sup> Section 465.009(6), F.S.

<sup>7</sup> Section 465.1893, F.S.

<sup>8</sup> Section 465.003(13), F.S.

<sup>9</sup> *See s. 465.189*, F.S.

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

<sup>11</sup> Section 465.1893, F.S.

<sup>12</sup> Section 465.003(13), F.S.

<sup>13</sup> Section 465.186, F.S.

<sup>14</sup> *Id.*

- Any topical anti-infectives, excluding eye and ear topical anti-infectives.

A pharmacist may order the following, within his or her professional judgment and subject to the following conditions:

- Certain oral analgesics for mild to moderate pain. The pharmacist may order these drugs for minor pain and menstrual cramps for patients with no history of peptic ulcer disease. The prescription is limited to a six-day supply for one treatment of:
  - Magnesium salicylate/phenyltoloxamine citrate;
  - Acetylsalicylic acid (zero order release, long acting tablets);
  - Choline salicylate and magnesium salicylate;
  - Naproxen sodium;
  - Naproxen;
  - Ibuprofen;
  - Phenazopyridine, for urinary pain; and
  - Antipyrine 5.4%, benzocaine 1.4%, glycerin, for ear pain if clinical signs or symptoms of tympanic membrane perforation are not present;
- Anti-nausea preparations;
- Certain antihistamines and decongestants;
- Certain topical antifungal/antibacterials;
- Topical anti-inflammatory preparations containing hydrocortisone not exceeding 2.5%;
- Certain otic antifungal/antibacterial;
- Salicylic acid 16.7% and lactic acid 16.7% in flexible collodion, to be applied to warts, except for patients under 2 years of age, and those with diabetes or impaired circulation;
- Vitamins with fluoride, excluding vitamins with folic acid in excess of 0.9 mg.;
- Medicinal drug shampoos containing lindane for the treatment of head lice;
- Ophthalmic. Naphazoline 0.1% ophthalmic solution;
- Certain histamine H2 antagonists;
- Acne products; and
- Topical antiviral for herpes simplex infections of the lips.<sup>15</sup>

### ***Collaborative Pharmacy Practice Agreements***

Under s. 465.1865, F.S., a collaborative pharmacy practice agreement (CPPA) is a formal agreement in which a physician licensed under ch. 458 or 459, F.S., makes a diagnosis, supervises patient care, and refers patients to a pharmacist under a protocol that allows the pharmacist to provide specified patient care services for certain chronic medical conditions. A CPPA specifies what functions beyond the pharmacist's typical scope of practice can be delegated to the pharmacist by the collaborating physician.<sup>16</sup> Common tasks include initiating, modifying, or discontinuing medication therapy and ordering and evaluating tests.<sup>17</sup>

---

<sup>15</sup> Fla. Admin. Code R. 64B16-27.220 (2023).

<sup>16</sup> U.S. Center for Disease Control and Prevention, *Advancing Team-Based Care Through Collaborative Practice Agreements: A Resource and Implementation Guide for Adding Pharmacists to the Care Team*, (2017) available at <https://www.cdc.gov/dhdsdp/pubs/docs/CPA-Team-Based-Care.pdf> (last visited Jan. 25, 2024).

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

### ***Pharmacist Training for Collaborative Practice***

To provide services under a CPPA, a pharmacist must be certified by the BOP. To obtain certification a pharmacist must complete a 20-hour course approved by the BOP, in consultation with the BOM and the BOOM, and:

- Hold an active and unencumbered license to practice pharmacy;
- Have a Ph.D. in pharmacy or have five years of experience as a licensed pharmacist;
- Have completed the BOP-approved, 20-hour course, eight hours of which must be live or live video conference that includes instruction in:
  - Performance of patient assessments;
  - Ordering, performing, and interpreting clinical and laboratory tests;
  - Evaluating and managing diseases and health conditions in collaboration with other health care practitioners; and
  - Writing and entering into a CPPA.
- Maintains at least \$250,000 of professional liability insurance coverage; and
- Has established a system to maintain patient records of patients receiving services under a CPPA for five years from the patient's most recent service.<sup>18</sup>

### ***Required Contents of CPPA***

The terms and conditions of the CPPA must be appropriate to the pharmacist's training, and the services delegated to the pharmacist must be within the collaborating physician's scope of practice. A copy of the certification received from the BOP must be included as an attachment to the CPPA. A CPPA must include the following:

- The name of the collaborating physician's patient(s) for whom a pharmacist may provide services;
- Each chronic health condition to be collaboratively managed;
- The specific medicinal drug(s) to be managed for each patient;
- Material terms defined as those terms enumerated in s. 465.1865(3)(a), F.S.;
- Circumstances under which the pharmacist may order or perform and evaluate laboratory or clinical tests;
- Conditions and events in which the pharmacist must notify the collaborating physician and the manner and timeframe in which notification must occur;
- The start and ending dates of the CPPA and termination procedures, including procedures for patient notification and medical records transfers;
- A statement that the CPPA may be terminated, in writing, by either party at any time; and
- In the event of an addendum to the material terms of an existing CPPA, a copy of the addendum and the initial agreement.

A CPPA will automatically terminate two years after execution if not renewed. The pharmacist, along with the collaborating physician, must maintain the CPPA on file at his or her practice location and must make the CPPA available to the DOH or BOP upon request or inspection. A pharmacist who enters into a CPPA must submit a copy of the signed agreement to the BOP before the agreement may be implemented.<sup>19</sup>

---

<sup>18</sup> Section 465.1865(2), F.S. and Fla. Admin. Code R. 64B-31.007 (2023).

<sup>19</sup> Section 465.1865(3), F.S. and Fla. Admin. Code R. 64B-31.003 (2023).

***Allowable Chronic Health Conditions for Pharmacist CPPAs***

CPPAs in Florida allow a pharmacist to provide specific patient care services for the following chronic health conditions:

- Anti-coagulation management;
- Arthritis;
- Asthma;
- Chronic obstructive pulmonary disease (COPD);
- Human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS);
- Hyperlipidemia;
- Hypertension;
- Nicotine dependence;
- Obesity;
- Opioid use disorder;
- Type 2 diabetes;
- Hepatitis C; and
- Any other chronic condition adopted in rule by the BOP, in consultation with the BOM and the BOOM.<sup>20</sup>

***Prohibited Acts Regarding a CPPA***

A pharmacist may not:

- Modify or discontinue medicinal drugs prescribed by a health care practitioner with whom he or she does not have a CPPA; or
- Enter into a CPPA while acting as a pharmacy employee without the written approval of the owner of the pharmacy.

A physician may not delegate the authority to initiate or prescribe a controlled substance listed in s. 893.03, F.S. or 21 U.S.C. s. 812, to a pharmacist.

***Continuing Education***

A pharmacist who practices under a CPPA must complete an eight-hour continuing education (CE) course approved by the BOP that addresses CPPA-related issues each biennial licensure renewal, in addition to the CE requirements under s. 465.009, F.S. A pharmacist wishing to maintain CPPA certification must submit confirmation of having completed such course when applying for licensure renewal. A pharmacist who fails to complete this CE is prohibited from practicing under a CPPA.

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<sup>20</sup> Section 465.1865, F.S. and Fla. Admin. Code R. 64B-31.005 (2023). The statute provides for arthritis, asthma, COPD, Type 2 diabetes, HIV/AIDS, and obesity. The other items in the list (anti-coagulation management, hyperlipidemia, hypertension, nicotine dependence, opioid use disorder, and hepatitis C) were added under BOP rule.

***CPPAs in Effect***

According to the DOH 2022 - 2023 Annual Report there are 39,337 licensed pharmacists in Florida.<sup>21</sup> There are 120 pharmacists certified to provide care under a CPPA. There are 37 pharmacists and 37 physicians actively engaged in collaborative practice. The BOP has received 97 CPPAs, 47 of which contain more than one chronic health condition that can be collaboratively managed.<sup>22</sup> The chart below illustrates the composition of chronic conditions treated by CPPA as of March 31, 2023.<sup>23</sup>

<b>Condition</b>	<b>Count</b>
Anti-Coagulation Management	48
Arthritis	46
Asthma	46
COPD	46
HIV/AIDS	85
Hyperlipidemia	45
Hypertension	50
Nicotine Dependence	44
Obesity	48
Opioid Use Disorder	1
Type 2 Diabetes	48

**Human Immunodeficiency Virus (HIV)**

The human immunodeficiency virus (HIV) attacks and destroys the infection-fighting CD4 cells (CD4 T lymphocyte) of the immune system. The loss of CD4 cells makes it difficult for the body to fight off infections, illnesses, and certain cancers. Without treatment, HIV can gradually destroy the immune system, causing health decline and the onset of AIDS. With treatment, the immune system can recover.<sup>24</sup>

If untreated, an HIV infection may cause acquired immunodeficiency syndrome (AIDS), the most advanced stage of HIV infection. People with HIV who are not on medication and do not have consistent control of their HIV can transmit HIV through bodily fluids exchanged via sex, sharing of needles, pregnancy, and/or breastfeeding. If HIV is controlled, the risk of transmission can be close to zero.<sup>25</sup>

<sup>21</sup> Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long-Range Plan, Fiscal Year 2022-2023*, at pg. 4, available at <https://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/annual-reports.html> (last visited Jan. 26, 2024).

<sup>22</sup> Florida Department of Health, Division of Medical Quality Assurance, *Pharmacy Collaborative Practice Agreements, Report to Senate Health Policy Committee*, Aug. 1, 2023, (on file with the senate Committee on Health Policy). While the number of participating pharmacists and physicians are identical, this does not represent a one-to-one ratio; a pharmacist may have multiple agreements with more than one physician just as multiple physicians may have multiple agreements with more than one pharmacist.

<sup>23</sup> *Id.*

<sup>24</sup> U.S. National Institute of Health, *Understanding HIV*, available at <https://hivinfo.nih.gov/understanding-hiv/fact-sheets/hiv-and-aids-basics> (last visited Jan. 25, 2024).

<sup>25</sup> *Id.*

For people without HIV, there are several ways to reduce the risk of becoming infected with HIV. Using condoms correctly with every sexual encounter, particularly with partners that are HIV positive with a detectable viral load or with partners whose HIV status is unknown, can reduce the risk of acquiring HIV. Reducing HIV risk also involves limiting and reducing sexual partners and avoiding sharing needles.<sup>26</sup>

### ***Pre-exposure Prophylaxis (PrEP)***

PrEP is an HIV prevention option for people who do not have HIV but who are at risk of becoming infected. PrEP involves taking a specific HIV medicine every day or a long-acting injection.<sup>27</sup>

### ***Post-exposure Prophylaxis (PEP)***

PEP means taking HIV medicines within 72 hours after a possible exposure to HIV to prevent HIV infection. PEP should be used only in emergency situations. It is not meant for regular use by people who may be exposed to HIV frequently. The sooner PEP is started after a possible HIV exposure, the better. Persons who are treated with PEP are directed to take the drug every day for 28 days.<sup>28</sup>

### ***HIV Testing***

Certain health care providers can give an HIV test. HIV testing is also available at many hospitals, medical clinics, substance abuse programs, and community health centers. Getting tested through a professional health care provider is recommended; however, there are HIV self-testing kits available.<sup>29</sup>

A rapid self-test is an oral fluid test done entirely at home or in private. A mail-in self-test requires a person to provide a blood sample from a finger-stick, which is then sent to a lab for testing.<sup>30</sup>

The federal Centers for Disease Control and Prevention (CDC) recommends that everyone age 13 to 64 get tested for HIV at least once as part of routine health care and that people at higher risk for HIV get tested more often. HIV testing can detect if a person has an HIV infection, but it cannot tell how long the person has had the infection or if the person has AIDS.<sup>31</sup>

There are three types of tests used to diagnose HIV infection: antibody tests, antigen/antibody tests, and nucleic acid tests:

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

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

<sup>28</sup> U.S. National Institute of Health, *HIV Prevention: Post-exposure Prophylaxis (PEP)*, available at <https://hivinfo.nih.gov/understanding-hiv/fact-sheets/post-exposure-prophylaxis-peg> (last visited Jan. 31, 2024).

<sup>29</sup> U.S. National Institute of Health, *HIV Testing, Where can someone get tested for HIV?*, <https://hivinfo.nih.gov/understanding-hiv/fact-sheets/hiv-testing> (last visited Jan. 25, 2024).

<sup>30</sup> *Id.*

<sup>31</sup> U.S. National Institute of Health, *HIV Testing*, available at <https://hivinfo.nih.gov/understanding-hiv/fact-sheets/hiv-testing> (last visited Jan. 25, 2024).

- Antibody tests check for HIV antibodies in blood or oral fluid. HIV antibodies are disease-fighting proteins that the body produces in response to HIV infection. Most rapid tests and home use tests are antibody tests;
- Antigen/antibody tests can detect both HIV antibodies and HIV antigens (a part of the virus) in the blood; and
- Nucleic acid tests look for HIV in the blood.

How soon each test can detect HIV infection differs, because each test has a different window period. The window period is the time between when a person may have been exposed to HIV and when a test can accurately detect HIV infection. A person's initial HIV test will usually be either an antibody test or an antigen/antibody test. Nucleic acid tests are very expensive and not routinely used for HIV screening unless the person had a high-risk exposure or a possible exposure with early symptoms of HIV infection.

When an HIV test is positive, a follow-up test will be conducted. Sometimes people will need to visit a health care provider to take a follow-up test. Other times, the follow-up test may be performed in a lab using the same blood sample that was provided for the first test. A positive follow-up test confirms that a person has HIV.

### ***HIV Treatment***

People with HIV should start taking HIV medicines as soon as possible after HIV is diagnosed. For people with HIV who have the following conditions, it is especially important to start taking HIV medicines right away:<sup>32</sup>

- Pregnancy;
- AIDS-defining conditions; and
- Early HIV infection.<sup>33</sup>

Antiretroviral therapy (ART) is the use of HIV medicines that reduce the level of HIV in the blood (called viral load). ART is recommended for everyone who has HIV. ART cannot cure HIV infection, but HIV medicines help people with HIV have about the same life expectancy as people without HIV. ART can eliminate the risk of HIV transmission. For mothers with HIV who want to breastfeed, the risk of transmitting HIV through breast milk is less than one percent with the consistent use of ART and an undetectable viral load. People on ART take a combination of medicines (called an HIV treatment regimen) every day (pills) or by schedule (injections). In many cases oral medicines may be combined into a single pill or capsule. There are newer long-acting medicines given by an injection every two months that may be used for some people.<sup>34</sup>

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<sup>32</sup> U.S. National Institute of Health, *When to Start HIV Medicines* (rev, Aug. 16, 2021) available at <https://hivinfo.nih.gov/understanding-hiv/fact-sheets/when-start-hiv-medicines> (last visited Jan. 25, 2024).

<sup>33</sup> *Id.* Early HIV infection, also known as acute HIV infection, is the period up to six months after a person is infected with HIV.

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

### ***FDA Approved HIV Medications***

The following is a list HIV medicines, by category, recommended for the treatment of HIV infection in the U.S., based on the U.S. Department of Health and Human Services (HHS) HIV/AIDS medical practice guidelines:<sup>35</sup>

- **Nucleoside Reverse Transcriptase Inhibitors (NRTIs):** These drugs block reverse-transcriptase, an enzyme HIV needs to make copies of itself.
  - Abacavir;
  - Emtricitabine;
  - Lamivudine;
  - Tenofovir disoproxil;
  - Fumarate; and
  - Zidovudine.
- **Non-Nucleoside Reverse Transcriptase Inhibitors (NNRTIs):** These drugs bind to and later alter reverse-transcriptase.
  - Doravirine;
  - Efavirenz;
  - Etravirine;
  - Nevirapine; and
  - Rilpivirine.
- **Protease Inhibitors (PIs):** These drugs block HIV protease, an enzyme HIV needs to make copies of itself.
  - Atazanavir;
  - Darunavir;
  - Tosamprenavir;
  - Ritonavir; and
  - Tipranavir.
- **Fusion Inhibitors:** These drugs block HIV from entering the CD4 T lymphocyte (CD4 cells) of the immune system.
  - Enfuvirtide.
- **CCR5 Antagonists:** These drugs block the CCR5 co-receptor on the surface of certain immune cells that HIV utilizes to enter the cells.
  - Maraviroc.
- **Integrase Strand Transfer Inhibitor (INSTIs):** These drugs block HIV integrase, an enzyme HIV needs to make copies of itself.
  - Cabotegravir;
  - Dolutegravir; and
  - Raltegravir.
- **Attachment Inhibitors:** These drugs bind to the gp120 protein on the outer surface of HIV, preventing HIV from entering CD4 cells.
  - Fostemsavir.
- **Post-attachment inhibitors:** These drugs block CD4 receptors on the surface of certain immune cells that HIV utilizes to enter the cells.
  - Ibalizumab-uiyk.

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<sup>35</sup> U.S. National Institute of Health, *FDA-Approved HIV Medicines*, available at <https://hivinfo.nih.gov/understanding-hiv/fact-sheets/fda-approved-hiv-medicines> (last visited Jan. 25, 2024).

- **Capsid Inhibitors:** These drugs interfere with the HIV capsid, a protein shell that protects HIV's genetic material and enzymes needed for replication.
  - Lenacapavir.
- **Pharmacokinetic Enhancers:** These drugs are used in HIV treatment to increase the effectiveness of an HIV medicine included in an HIV treatment regimen.
  - Cobicistat.
- **Combination HIV Medicines:** These medicines contain two or more HIV medicines from one or more drug classes.

### *Side Effect of HIV Medication*

Adverse effects have been reported with all ART antiretroviral (ARV) drugs. As ART is recommended for all patients regardless of CD4 T lymphocyte (CD4) cell count, and because therapy must be continued indefinitely, the focus of patient management has evolved from identifying and managing early ARV-related toxicities to individualizing therapy to avoid long-term adverse effects, including:

- Diabetes and other metabolic complications;
- Atherosclerotic cardiovascular disease;
- Kidney dysfunction;
- Bone loss; and
- Weight gain.

To achieve and sustain viral suppression over a lifetime, both long-term and short-term ART toxicities must be anticipated and managed. When selecting an ARV regimen, clinicians should consider potential adverse effects, as well as the patient's comorbidities, concomitant medications, and prior history of drug intolerances.<sup>36</sup>

### *HIV and Opportunistic Infections, Coinfections, and Conditions*

Opportunistic infections (OIs) are infections that occur more often or are more severe in people with weakened immune systems than in people with healthy immune systems. People with weakened immune systems include people living with HIV, as HIV damages the immune system. A weakened immune system makes it harder for the body to fight off OIs. HIV-related OIs include:

- Pneumonia;
- Salmonella infection;
- Candidiasis;
- Toxoplasmosis; and
- Tuberculosis.

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<sup>36</sup> U.S. National Institute of Health, Do all HIV medicines cause the same side effects?, Limitations to Treatment Safety and Efficacy, *Adverse Effects of Antiretroviral Agents*, available at <https://hivinfo.nih.gov/understanding-hiv/fact-sheets/hiv-medicines-and-side-effects> (last visited Jan. 26, 2024).

For people with HIV, the best protection against OIs is to take HIV medicines every day. HIV medicines prevent HIV from damaging the immune system. Because HIV medicines are now widely used in the United States, fewer people with HIV get OIs.<sup>37</sup>

### III. Effect of Proposed Changes:

CS/SB 1320 creates s. 465.1861, F.S., authorizing a pharmacist to order and dispense HIV postexposure drugs under a “collaborative practice agreement,” or CPA, with a medical or osteopathic physician. The bill defines the following terms:

- “HIV” means the human immunodeficiency virus;
- “HIV infection prevention drug” means preexposure prophylaxis, postexposure prophylaxis, and any other drug approved by the U.S. Food and Drug Administration for the prevention of HIV infection as of March 8, 2024;
- “HIV Postexposure prophylaxis drug” to mean a drug or drug combination that meets the clinical eligibility recommendations of CDC guidelines for antiretroviral treatment following potential exposure to HIV issued as of March 8, 2024; and
- “HIV Preexposure prophylaxis drug” means a drug or drug combination that meets the clinical eligibility recommendations of CDC guidelines for antiretroviral treatment for the prevention of HIV transmission issued as of March 8, 2024;

The bill authorizes a pharmacist to screen an adult for HIV and provide the results to that adult, with the advice that the patient should seek further medical consultation or treatment from a physician.

The bill provides that a pharmacist may dispense HIV preexposure drugs only pursuant to a valid prescription issued by a licensed health care practitioner authorized by law to prescribe such drugs.

The bill authorizes a pharmacist to order and dispense HIV postexposure drugs only under a written CPA with an allopathic or osteopathic physician in the same geographic area as the pharmacist. The bill defines the term “geographic area” for s. 465.1861, F.S., as the county or counties, or any portion of the county or counties, within which the pharmacist and the physician provide health care services.

The CPA must contain particular terms and conditions imposed by the supervising physician relating to the screening for HIV and the ordering and dispensing of HIV postexposure drugs. The CPA must include:

- Specific categories of patients the pharmacist is authorized to screen for HIV and for whom the pharmacist may order and dispense HIV postexposure drugs;
- The physician’s instructions for obtaining relevant patient medical history for the purpose of identifying disqualifying health conditions, adverse reactions, and contraindications to the use of HIV postexposure drugs;

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<sup>37</sup> U.S. National Institute of Health, HIV and Opportunistic Infections, Coinfections and Conditions, *What is an Opportunistic Infection?* available at <https://hivinfo.nih.gov/understanding-hiv/fact-sheets/what-opportunistic-infection> (last visited Jan. 25, 2024).

- A process and schedule for the physician to review the pharmacist's actions under the CPA; and
- Any additional requirements established by the BOP in consultation with the BOM and the BOOM.

A pharmacist who enters into a CPA with a supervising physician must submit the agreement to the BOP.

If a pharmacist orders and dispense HIV postexposure drugs under the CPA, he or she must provide the patient with written information advising the patient to seek follow-up care from his or her primary care physician. If the patient indicates that he or she lacks regular access to primary care, the pharmacist must comply with the procedures set out in pharmacy's approved access-to-care plan (ACP).

Before a pharmacist may order or dispense HIV postexposure drugs pursuant to a written CPA, he or she must be certified by the BOP. To be certified, a pharmacist must meet all of the following:

- Hold an active and unencumbered license to practice pharmacy;
- Be engaged in the active practice of pharmacy;
- Have a Ph.D. degree in pharmacy or have completed at least three years of experience as a licensed pharmacist;
- Maintain at least \$250,000 of liability coverage, or liability coverage.
- Have completed a course approved by the BOP, in consultation with the BOM and the BOOM, which includes, at a minimum, instruction on all of the following, but with no required number of hours:
  - Performance of patient assessments;
  - Point-of-care testing procedures;
  - Safe and effective treatment of HIV exposure with HIV infection prevention drugs, including, but not limited to:
    - Consideration of the side effects.
    - The patient's diet and activity levels.
  - Identification of contraindications;
  - Identification of comorbidities in individuals with HIV requiring further medical evaluation and treatment, including:
    - Cardiovascular disease;
    - Lung and liver cancer;
    - Chronic obstructive lung disease; and
    - Diabetes.

A pharmacist authorized to order and dispense HIV postexposure drugs pursuant to a CPA must provide his or her supervising physician with evidence of current certification.

The bill requires the BOP to adopt by rule reasonable and fair minimum standards to ensure that all pharmacies that provide adult screening for HIV exposure submit to the DOH for approval an ACP for assisting patients to gain access to appropriate care settings when they present to the pharmacy for HIV screening and indicate that they lack regular access to primary care.

An ACP must include:

- Procedures to educate patients about care that would be best provided in a primary care setting and the importance of receiving regular primary care;
- A collaborative partnership with one or more nearby federally qualified health centers (FQHC), county health departments (CHD), or other primary care settings. The goals of such partnership must include, but need not be limited to:
  - Identifying patients who have presented to the pharmacy for HIV screening or access to HIV infection prevention drugs; and
  - If such a patient indicates that he or she lacks regular access to primary care, proactively seeking to establish a relationship between the patient and an FQHC, CHD, or other primary care setting so that the patient develops a medical home at such setting for primary health care services.

The bill provides that a pharmacy that establishes one or more collaborative partnerships may not enter into an arrangement relating to such partnership which would prevent an FQHC, CHD, or other primary care setting from establishing collaborative partnerships with other pharmacies.

Under the bill, as of July 1, 2025, a pharmacy's ACP must be approved by the DOH before the pharmacy may receive initial licensure or licensure renewal occurring after that date. A pharmacy with an approved ACP must submit data to the DOH regarding the implementation and results of its plan as part of the licensure renewal process, or as directed by the DOH, before each licensure renewal.

The bill requires the BOP to adopt rules to implement s. 465.1861, F.S.

The bill provides an effective date of July 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:

The following language in the bill: “the board shall adopt by rule reasonable and fair minimum standards to ensure that all pharmacies that provide adult screening for HIV exposure submit to the department for approval an access-to-care plan (ACP) for assisting patients to gain access to appropriate care settings when they present to the pharmacy for HIV screening and indicate that they lack regular access to primary care” may present an unconstitutional delegation under Article II, Section 3 of the Florida Constitution. *Askew v. Cross Key Waterways*, 372 So. 2d 913, 925 (Fla. 1978); see also *Avatar Dev. Corp. v. State*; 723 So. 2d 199, 202 (Fla. 1998) (citing *Askew* with approval). “...fundamental and primary policy decisions must be made by members of the legislature who are elected to perform those tasks, and administration of legislative programs must be pursuant to some minimal standards and guidelines ascertainable by reference to the enactment establishing the program.”

Section 465.1861(7), F.S., as created by the bill, could be interpreted to violate Article III, Section 6 of the Florida Constitution, the single subject rule. The Florida Supreme Court has held that the single subject clause contains three requirements: first, each law must embrace only one subject; second, the law may include any matter that properly connected with the subject; and third, the subject must be briefly expressed in the title.<sup>38</sup> The subject matter to consider when determining whether a bill embraces a single subject is the bill’s title’s subject, and the test is whether the bill is designed to accomplish separate objectives with no natural or logical connection to each other.<sup>39</sup>

The bill’s title indicates it is an act relating to HIV infection prevention drugs. However, the bill’s provisions under s. 465.1861(7), F.S., relate to pharmacies that provide adult screening for HIV exposure and the requirement for an ACP, without addressing the subject of HIV infection prevention drugs that are dispensed by pharmacists under the bill’s other provisions. Subsection (7) requires pharmacies, not pharmacists, to submit to the DOH for approval an access-to-care plan (ACP), with standards set by the BOP, for assisting patients to gain access to appropriate care settings when they present to the pharmacy for HIV screening and indicate that they lack regular access to primary care, regardless of whether HIV infection prevention drugs are ordered or dispensed.

In *State vs. Lee*, 356 So. 2d 276 (Fla. 1978), citing with approval *E.g., Colonial Inv. Co. v. Nolan*, 100 Fla. 1349, 131 So. 178 (1930), the Florida Supreme Court stated that [The purpose of the constitutional prohibition against a plurality of subjects in a single legislative act is to prevent a single enactment from becoming a "cloak" for dissimilar legislation having no necessary or appropriate connection with the subject matter.]

#### F. Fiscal Impact Statement:

None.

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<sup>38</sup> *Franklin v. State*, 887 So. 1063, 1072 (Fla. 2004).

<sup>39</sup> See *Ex parte Knight*, 41 So. 786, 788 (Fla. 1906); *Bd. of Pub. Instruction v. Doran*, 224 So. 2d 693, 699 (Fla. 1969).

**G. Tax/Fee Issues:**

None.

**H. Private Sector Impact:**

To the extent that pharmacists provide HIV testing or become certified and enter into CPAs with physicians under the bill, HIV testing and treatment might become more accessible.

**I. Government Sector Impact:**

None.

**V. Technical Deficiencies:**

None.

**VI. Related Issues:**

Unlike the current statutory provisions for a “collaborative pharmacy practice agreement” (CPPA) relating to treatment of chronic conditions found in s. 465.1865, F.S., the bill does not define a “collaborative practice agreement” nor provide the level of detail regarding requirements for what the agreement must contain or what form it must take as is required of a CPPA. Notable differences can be found between the two agreements in the following examples of requirements for a CPPA that are not required for a CPA created under the bill:

- Must be signed by both practitioners.
- Pharmacist certification must be attached to CPPA;
- Applies only to the collaborating physician’s patients who are named in the agreement.
- Specific drugs to be managed for each patient must be listed in the agreement;
- Triggers for the pharmacist to notify the collaborating physician and the manner and timeframe in which notification must occur must be included in the agreement;
- Duration limitations.
- Provisions for termination of the agreement.
- Certain actions prohibited.
- Employer permission (if applicable).
- Continuing education.
- Record-keeping.

Lines 69-72 provide that a pharmacist may dispense HIV preexposure drugs *only* pursuant to a valid prescription issued by a licensed health care practitioner authorized by law to prescribe such drugs. Lines 73-81 provide that a pharmacist may order and dispense HIV postexposure drugs *only* pursuant to a written CPA with a physician who practices in the same geographic region as the pharmacist. These provisions appear to conflict with existing law in s. 465.1861, F.S., relating to authority for pharmacists to enter into a CPPA with a physician to treat chronic conditions, including HIV/AIDS. By use of the word “only” in the two instances cited above, the

bill may conflict with a pharmacist's authority to order and dispense such drugs under the existing CPPA provisions, which are separate from the bill's CPA provisions.

Lines 115-119 provide that if a patient for whom a pharmacist has ordered and dispensed postexposure HIV drugs indicates that he or she lacks regular access to primary care, the pharmacist must comply with the procedures of the pharmacy's approved ACP as provided under s. 465.1861(7), F.S., which is created later in the bill. However, the bill's provisions for the contents of an ACP include no procedures relating to such a case and only pertain to persons who receive HIV screening at the pharmacy.

Lines 179-182 require a pharmacy's ACP to be approved by the DOH before the pharmacy may receive initial licensure or licensure renewal after July 1, 2025. However, because a pharmacy may not establish an ACP until after it has been licensed, the bill's reference to "initial licensure" is not applicable. An amendment to remove the concept of initial licensure from this provision is advisable.

## **VII. Statutes Affected:**

This bill creates section 465.1861 of the Florida Statutes.

## **VIII. Additional Information:**

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

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

#### **CS by Health Policy on January 30, 2024:**

The committee substitute:

- Deletes the terms "postexposure prophylaxis" and "preexposure prophylaxis;" and replaces them with the terms, "HIV postexposure prophylaxis drug" and "HIV preexposure prophylaxis drug," but the language of the definitions does not change;
- Requires the CPA to require particular terms and conditions imposed by the supervising physician, and include:
  - Specific categories of patients the pharmacist is authorized to screen for HIV and for whom the pharmacist may order and dispense HIV postexposure prophylaxis drugs;
  - The physician's instructions for obtaining relevant patient medical history for the purpose of identifying disqualifying health conditions, adverse reactions, and contraindications to the use of HIV postexposure prophylaxis drugs;
  - A process and schedule for the physician to review the pharmacist's actions under the CPA; and
  - Any other requirements as established by the BOP in consultation with the BOM and the BOOM.
- Requires a pharmacist who screens an adult patient for HIV exposure to advise the patient to seek further medical consultation or treatment from a physician, regardless of the test results;
- Requires the BOP to adopt rules to create standards for pharmacies doing adult screening for HIV exposure to submit to the DOH for approval an ACP to assist

patients to gain access to appropriate care settings when the patient indicate that they lack regular access to primary care;

- Requires a pharmacy's ACP to include patient educational procedures, a collaborative partnership with one or more FQHCs, CHDs, or other primary care settings, and have DOH approval of the ACP before the pharmacy may receive an initial license or renewal; and
- Requires a pharmacy that establishes one or more collaborative partnerships may not enter into an arrangement relating to these partnerships which would prevent an FQHC, CHD, or other primary care setting from establishing collaborative partnerships with other pharmacies.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
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The Committee on Health Policy (Calatayud) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 465.1861, Florida Statutes, is created  
to read:

465.1861 Ordering and dispensing HIV drugs.—

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

(a) "HIV" means the human immunodeficiency virus.

(b) "HIV infection prevention drug" means preexposure



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11 prophylaxis, postexposure prophylaxis, and any other drug  
12 approved by the United States Food and Drug Administration for  
13 the prevention of HIV infection as of March 8, 2024.

14 (c) "HIV postexposure prophylaxis drug" means a drug or  
15 drug combination that meets the clinical eligibility  
16 recommendations of the United States Centers for Disease Control  
17 and Prevention guidelines for antiretroviral treatment following  
18 potential exposure to HIV issued as of March 8, 2024.

19 (d) "HIV preexposure prophylaxis drug" means a drug or drug  
20 combination that meets the clinical eligibility recommendations  
21 of the United States Centers for Disease Control and Prevention  
22 guidelines for antiretroviral treatment for the prevention of  
23 HIV transmission issued as of March 8, 2024.

24 (2) A pharmacist may screen an adult for HIV exposure and  
25 provide the results to that adult, with the advice that the  
26 patient should seek further medical consultation or treatment  
27 from a physician.

28 (3) A pharmacist may dispense HIV preexposure prophylaxis  
29 drugs only pursuant to a valid prescription issued by a licensed  
30 health care practitioner authorized by the laws of this state to  
31 prescribe such drugs.

32 (4) A pharmacist may order and dispense HIV postexposure  
33 prophylaxis drugs only pursuant to a written collaborative  
34 practice agreement between the pharmacist and a physician  
35 licensed under chapter 458 or chapter 459 who practices medicine  
36 or osteopathic medicine in the same geographic area as the  
37 pharmacist. As used in this subsection, the term "geographic  
38 area" means the county or counties, or any portion of the county  
39 or counties, within which the pharmacist and the physician



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40 provide health care services.

41 (a) The written collaborative practice agreement must  
42 include particular terms and conditions imposed by the  
43 supervising physician relating to the screening for HIV and the  
44 ordering and dispensing of HIV postexposure prophylaxis drugs  
45 under this section. The terms and conditions of the practice  
46 agreement must be appropriate for the pharmacist's training, and  
47 the supervising physician is responsible for reviewing the  
48 pharmacist's actions in accordance with the practice agreement.  
49 A pharmacist who enters into such a practice agreement with a  
50 supervising physician must submit the agreement to the board.

51 (b) At a minimum, a written collaborative practice  
52 agreement must include all of the following:

53 1. Specific categories of patients the pharmacist is  
54 authorized to screen for HIV and for whom the pharmacist may  
55 order and dispense HIV postexposure prophylaxis drugs.

56 2. The physician's instructions for obtaining relevant  
57 patient medical history for the purpose of identifying  
58 disqualifying health conditions, adverse reactions, and  
59 contraindications to the use of HIV postexposure prophylaxis  
60 drugs.

61 3. A process and schedule for the physician to review the  
62 pharmacist's actions under the practice agreement.

63 4. Any other requirements as established by the board in  
64 consultation with the Board of Medicine and the Board of  
65 Osteopathic Medicine.

66 (c) A pharmacist authorized to screen for HIV and order and  
67 dispense HIV postexposure prophylaxis drugs pursuant to a  
68 written collaborative practice agreement must provide his or her



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69 supervising physician with evidence of current certification by  
70 the board as provided in subsection (6).

71 (5) A pharmacist who orders and dispenses HIV postexposure  
72 prophylaxis drugs pursuant to subsection (4) must provide the  
73 patient with written information advising the patient to seek  
74 follow-up care from his or her primary care physician. If the  
75 patient indicates that he or she lacks regular access to primary  
76 care, the pharmacist must comply with the procedures of the  
77 pharmacy's approved access-to-care plan as provided in  
78 subsection (7).

79 (6) Before ordering or dispensing HIV postexposure  
80 prophylaxis drugs under this section, a pharmacist must be  
81 certified by the board, according to the rules adopted by the  
82 board, in consultation with the Board of Medicine and the Board  
83 of Osteopathic Medicine. To be certified, a pharmacist must, at  
84 a minimum, meet all of the following criteria:

85 (a) Hold an active and unencumbered license to practice  
86 pharmacy under this chapter.

87 (b) Be engaged in the active practice of pharmacy.

88 (c) Have earned a degree of doctor of pharmacy or have  
89 completed at least 3 years of experience as a licensed  
90 pharmacist.

91 (d) Maintain at least \$250,000 of liability coverage. A  
92 pharmacist who maintains liability coverage pursuant to s.  
93 465.1865 or s. 465.1895 satisfies this requirement.

94 (e) Have completed a course approved by the board, in  
95 consultation with the Board of Medicine and the Board of  
96 Osteopathic Medicine, which includes, at a minimum, instruction  
97 on all of the following:



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98           1. Performance of patient assessments.

99           2. Point-of-care testing procedures.

100           3. Safe and effective treatment of HIV exposure with HIV  
101 infection prevention drugs, including, but not limited to,  
102 consideration of the side effects of the drug dispensed and the  
103 patient's diet and activity levels.

104           4. Identification of contraindications.

105           5. Identification of patient comorbidities in individuals  
106 with HIV requiring further medical evaluation and treatment,  
107 including, but not limited to, cardiovascular disease, lung and  
108 liver cancer, chronic obstructive lung disease, and diabetes  
109 mellitus.

110           (7) The board shall adopt by rule reasonable and fair  
111 minimum standards to ensure that all pharmacies that provide  
112 adult screening for HIV exposure submit to the department for  
113 approval an access-to-care plan (ACP) for assisting patients to  
114 gain access to appropriate care settings when they present to  
115 the pharmacy for HIV screening and indicate that they lack  
116 regular access to primary care.

117           (a) An ACP must include:

118           1. Procedures to educate such patients about care that  
119 would be best provided in a primary care setting and the  
120 importance of receiving regular primary care.

121           2. A collaborative partnership with one or more nearby  
122 federally qualified health centers, county health departments,  
123 or other primary care settings. The goals of such partnership  
124 must include, but need not be limited to, identifying patients  
125 who have presented to the pharmacy for HIV screening or access  
126 to HIV infection prevention drugs, and, if such a patient



127 indicates that he or she lacks regular access to primary care,  
128 proactively seeking to establish a relationship between the  
129 patient and a federally qualified health center, county health  
130 department, or other primary care setting so that the patient  
131 develops a medical home at such setting for primary health care  
132 services. A pharmacy that establishes one or more collaborative  
133 partnerships under this subparagraph may not enter into an  
134 arrangement relating to such partnership which would prevent a  
135 federally qualified health center, county health department, or  
136 other primary care setting from establishing collaborative  
137 partnerships with other pharmacies.

138 (b) Effective July 1, 2025, a pharmacy's ACP must be  
139 approved by the department before the pharmacy may receive  
140 initial licensure or licensure renewal occurring after that  
141 date. A pharmacy with an approved ACP must submit data to the  
142 department regarding the implementation and results of its plan  
143 as part of the licensure renewal process, or as directed by the  
144 department, before each licensure renewal.

145 (8) The board shall adopt rules to implement this section.  
146 Section 2. This act shall take effect July 1, 2024.

147  
148 ===== T I T L E A M E N D M E N T =====

149 And the title is amended as follows:

150 Delete everything before the enacting clause  
151 and insert:

152 A bill to be entitled  
153 An act relating to HIV infection prevention drugs;  
154 creating s. 465.1861, F.S.; defining terms;  
155 authorizing pharmacists to screen adults for HIV



157278

156 exposure and provide the results to such adults, with  
157 advice to seek consultation or treatment from a  
158 physician; authorizing pharmacists to dispense HIV  
159 preexposure prophylaxis drugs only pursuant to a  
160 prescription; authorizing pharmacists to order and  
161 dispense HIV postexposure prophylaxis drugs only  
162 pursuant to a written collaborative practice agreement  
163 with a physician; defining the term "geographic area";  
164 specifying requirements for the practice agreements;  
165 requiring the supervising physician to review the  
166 pharmacist's actions in accordance with the practice  
167 agreement; requiring pharmacists who enter into such  
168 practice agreements to submit the agreements to the  
169 Board of Pharmacy; requiring pharmacists who enter  
170 into such practice agreements to provide evidence of  
171 certain certification to their supervising physician;  
172 requiring such pharmacists to provide certain written  
173 information when dispensing such drugs to patients;  
174 requiring pharmacists to comply with certain  
175 procedures under certain circumstances; requiring  
176 pharmacists to be certified by the Board of Pharmacy  
177 before ordering or dispensing HIV postexposure  
178 prophylaxis drugs; requiring the board, in  
179 consultation with the Board of Medicine and the Board  
180 of Osteopathic Medicine, to adopt rules for such  
181 certification; specifying minimum requirements for the  
182 certification; requiring the board to adopt by rule  
183 certain minimum standards to ensure that pharmacies  
184 providing adult screenings for HIV exposure submit to



157278

185 the Department of Health for approval an access-to-  
186 care plan (ACP) for a specified purpose; specifying  
187 requirements for ACPs; requiring that, beginning on a  
188 specified date, such ACPs be approved before a license  
189 may be issued or renewed; requiring such pharmacies to  
190 submit specified data to the department as part of the  
191 licensure renewal process and, or as directed by the  
192 department, before each licensure renewal; requiring  
193 the board to adopt rules; providing an effective date.

By Senator Calatayud

38-00635-24

20241320\_\_

1 A bill to be entitled  
2 An act relating to HIV infection prevention drugs;  
3 creating s. 465.1861, F.S.; defining terms;  
4 authorizing pharmacists to screen adults for HIV  
5 exposure and provide the results to such adults;  
6 requiring pharmacists to advise individuals to seek  
7 consultation and treatment from a physician if the  
8 screening results are positive; authorizing  
9 pharmacists to order and dispense HIV infection  
10 prevention drugs only pursuant to a collaborative  
11 practice agreement with a physician; requiring  
12 pharmacists to be certified by the Board of Pharmacy  
13 before ordering and dispensing HIV infection  
14 prevention drugs; requiring the board, in consultation  
15 with the Board of Medicine and the Board of  
16 Osteopathic Medicine, to adopt rules for such  
17 certification; specifying minimum requirements for the  
18 certification; requiring the board to adopt rules;  
19 providing an effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23 Section 1. Section 465.1861, Florida Statutes, is created  
24 to read:

25 465.1861 Ordering and dispensing HIV drugs.—

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

27 (a) "HIV" means the human immunodeficiency virus.

28 (b) "HIV infection prevention drug" means preexposure  
29 prophylaxis, postexposure prophylaxis, and any other drug

38-00635-24

20241320\_\_

30 approved by the United States Food and Drug Administration for  
31 the prevention of HIV infection as of March 8, 2024.

32 (c) "Postexposure prophylaxis" means a drug or drug  
33 combination that meets the clinical eligibility recommendations  
34 of the United States Centers for Disease Control and Prevention  
35 guidelines for antiretroviral treatment following potential  
36 exposure to HIV issued as of March 8, 2024.

37 (d) "Preexposure prophylaxis" means a drug or drug  
38 combination that meets the clinical eligibility recommendations  
39 of the United States Centers for Disease Control and Prevention  
40 guidelines for antiretroviral treatment for the prevention of  
41 HIV transmission issued as of March 8, 2024.

42 (2) A pharmacist may screen an adult for HIV exposure and  
43 provide the results to that adult. If the results of the  
44 screening are positive, the pharmacist must advise the patient  
45 that he or she should seek further medical consultation or  
46 treatment from a physician.

47 (3) A pharmacist may order and dispense HIV infection  
48 prevention drugs only pursuant to a collaborative practice  
49 agreement between the pharmacist and a physician licensed under  
50 chapter 458 or chapter 459.

51 (4) Before ordering or dispensing HIV infection prevention  
52 drugs under this section, a pharmacist must be certified by the  
53 board, according to the rules adopted by the board, in  
54 consultation with the Board of Medicine and the Board of  
55 Osteopathic Medicine. To be certified, a pharmacist must, at a  
56 minimum, meet all of the following criteria:

57 (a) Hold an active and unencumbered license to practice  
58 pharmacy under this chapter.

38-00635-24

20241320\_\_

59 (b) Be engaged in the active practice of pharmacy.

60 (c) Have earned a degree of doctor of pharmacy or have  
61 completed at least 5 years of experience as a licensed  
62 pharmacist.

63 (d) Maintain at least \$250,000 of liability coverage. A  
64 pharmacist who maintains liability coverage pursuant to s.  
65 465.1865 or s. 465.1895 satisfies this requirement.

66 (e) Have completed a course approved by the board, in  
67 consultation with the Board of Medicine and the Board of  
68 Osteopathic Medicine, which includes, at a minimum, instruction  
69 on all of the following:

70 1. Performance of patient assessments.

71 2. Point-of-care testing procedures.

72 3. Safe and effective treatment of HIV exposure with HIV  
73 infection prevention drugs, including, but not limited to,  
74 consideration of the side effects of the drug dispensed and the  
75 patient's diet and activity levels.

76 4. Identification of contraindications.

77 5. Identification of patient comorbidities in individuals  
78 with HIV requiring further medical evaluation and treatment,  
79 including, but not limited to, cardiovascular disease, lung and  
80 liver cancer, chronic obstructive lung disease, and diabetes  
81 mellitus.

82 (5) The board shall adopt rules to implement this section.

83 Section 2. This act shall take effect July 1, 2024.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Community Affairs, Chair  
Appropriations Committee on Education  
Education Pre-K 12  
Fiscal Policy  
Health Policy  
Select Committee on Resiliency

**SENATOR Alexis Calatayud**

38th District

January 25th, 2023

Honorable Senator Colleen Burton  
Chair - Committee on Health Policy

Honorable Chair Burton,

I respectfully request **SB- 1320 HIV Infection Prevention Drugs** be placed on the next committee agenda.

This bill authorizes pharmacists to screen adults for HIV exposure and provide the results to such adults; authorizing pharmacists to order and dispense HIV infection prevention drugs under a collaborative practice agreement with a physician.

Sincerely,

*Alexis M. Calatayud*

---

Senator Alexis M. Calatayud  
Florida Senate, District 38

CC: Allen Brown, Staff Director  
Anhar Al-Asadi, Committee Administrative Assistant

Tab 7

The Florida Senate

**APPEARANCE RECORD**

1-30-24

Meeting Date

Deliver both copies of this form to  
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SB 1320

Bill Number or Topic

Senate Health Policy

Committee

157278

Amendment Barcode (if applicable)

Name

Dr Sylvie Naar

Phone

248 207 2905

Address

Email

naarsylvie@gmail.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

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1/30/24

Meeting Date

SB 1320

Bill Number or Topic

Health policy

Committee

157278

Amendment Barcode (if applicable)

Name Jennifer Solomon

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:

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S-001 (08/10/2021)

January 30, 2024

Meeting Date

Health Policy

Committee

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
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SB1320

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Michael Jackson**

Phone **(850) 545-9717**

Address **610 N Adams Street**

Email **mjackson@pharmview.com**

Street

**Tallahassee**

**Florida**

**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 Pharmacy 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 \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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S-001 (08/10/2021)

Tab 7

The Florida Senate

**APPEARANCE RECORD**

1/30/24

Meeting Date

1320

Bill Number or Topic

Health Policy

Committee

Deliver both copies of this form to  
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Amendment Barcode (if applicable)

Name Chris Hansen

Phone 850/251-2672

Address Ballard Partners  
201 E. Park Ave.

Email Chansen@ballardpartners.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:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

WALGREENS

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 \(flsenate.gov\)](https://www.flsenate.gov/2020-2022JointRules.pdf)

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S-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

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SB 1320

Bill Number or Topic

1/30/24

Meeting Date

SEN HEALTH POLICY

Committee

Amendment Barcode (if applicable)

Name PAUL ARONS MD

Phone 850-545-8997

Address 1706 BEECHWOOD CIRCLE 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. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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The Florida Senate

APPEARANCE RECORD

SB 1320

Bill Number or Topic

1/30/2024

Meeting Date

Health Policy

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Angela Bonds

Phone

850-694-1216

Address

227 S Adams St

Email

angela@frf.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 Retail Federation

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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SB 1320

Bill Number or Topic

Amendment Barcode (if applicable)

1/30/24

Meeting Date

Health Policy

Committee

Name

Jeff Scott

Phone

850 224-6496

Address

1412 Piedmont Dr. E.

Email

jscott@flmedical.org

Street

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:

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

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1-30-2024

Meeting Date

SB 1320

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name Bill Mincy

Phone 850-322-7740

Address 2648 Bandy Bay Drive

Email billmincy52@gmail.com

Street

Tallahassee FL 32309

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] 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 1320

11/30/24

Meeting Date

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Health Policy

Committee

Amendment Barcode (if applicable)

Name Erin Bigalke

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

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SB 1320

Bill Number or Topic

1/30/24

Meeting Date

Health Policy

Committee

Amendment Barcode (if applicable)

850 561 0979

Name

Claudia DAVANT

Phone

Address

217 S Adams St

Email

claudia@adamssstates.com

Street

Tallahassee, 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:

FL Pharmacy 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**  
**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 458

**INTRODUCER:** Health Policy Committee and Senator Brodeur

**SUBJECT:** Invalid Restrictive Covenants in Health Care

**DATE:** January 31, 2024      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	<b>Fav/CS</b>
2.			CF	
3.			RC	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 458 amends s. 542.336, F.S., to prohibit any restrictive covenant entered into with an allopathic or osteopathic physician which restricts the physician from practicing medicine in any geographic area for any period of time after the termination of his or her contract or other employment relationship. The bill provides exceptions from the prohibition for restrictive covenants related to research, related to physicians whose individual compensation is \$250,000 per year or more, or related to physicians who have an ownership interest in a medical business, practice, or entity and who sells a specified type of related asset. The bill specifies that its provisions apply to restrictive covenants entered into on or after July 1, 2024.

The bill provides an effective date of July 1, 2024.

**II. Present Situation:**

**Federal Antitrust Laws**

In 1890, Congress passed the first antitrust law, the Sherman Act, as a comprehensive charter of economic liberty aimed at preserving free and unfettered competition as the rule of trade. Congress subsequently passed two additional antitrust laws in 1914: the Federal Trade

Commission Act, which created the Federal Trade Commission (FTC), and the Clayton Act. Currently, these are the three core federal antitrust laws.<sup>1</sup>

### ***The Sherman Act***

The Sherman Act outlaws every contract, combination, or conspiracy in restraint of trade, and any monopolization, attempted monopolization, or conspiracy or combination to monopolize. The Sherman Act does not prohibit every restraint of trade – only those that are unreasonable. For example, an agreement between two individuals to form a partnership may restrain trade, but may not do so unreasonably, and thus may be lawful under the antitrust laws. In contrast, certain acts are considered “per se” violations of the Sherman Act because they are harmful to competition. These include plain arrangements among competing individuals or businesses to fix prices, divide markets, or rig bids.<sup>2</sup>

The penalties for violating the Sherman Act can be severe. Although most enforcement actions are civil, the Sherman Act is also a criminal law, and individuals and businesses that violate it may be prosecuted by the U.S. Department of Justice (DOJ). Criminal prosecutions are typically limited to intentional and clear violations. The Sherman Act imposes criminal penalties of up to \$100 million for a corporation and \$1 million for an individual, along with up to 10 years in prison.<sup>3</sup> Under some circumstances, the maximum fines can reach twice the gain or loss involved.<sup>4</sup>

### ***The Federal Trade Commission Act***

The Federal Trade Commission Act prohibits unfair methods of competition and unfair or deceptive acts or practices. The U.S. Supreme Court has ruled that all violations of the Sherman Act also violate the FTC Act. Therefore, the FTC can bring cases under the FTC Act against the same kinds of activities that violate the Sherman Act. The FTC Act also reaches other practices that harm competition but may not fit neatly into categories of conduct formally prohibited by the Sherman Act. Only the FTC may bring cases under the FTC Act.<sup>5</sup>

### ***The Clayton Act***

The Clayton Act addresses specific practices that the Sherman Act does not clearly prohibit, such as mergers and interlocking directorates.<sup>6</sup> It also bans mergers and acquisitions where the effect may substantially lessen competition or create a monopoly. As amended by the Robinson-Patman Act of 1936, the Clayton Act also prohibits certain discriminatory prices, services, and allowances in dealings between merchants. The Clayton Act was amended again in 1976 by the Hart-Scott-Rodino Antitrust Improvements Act to require companies planning large mergers or

---

<sup>1</sup> See *The Antitrust Laws*, Federal Trade Commission, available at <https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws> (last visited Jan. 30, 2024).

<sup>2</sup> *Id.*

<sup>3</sup> *Antitrust Enforcement and the Consumer*, U.S. Department of Justice, available at <https://www.govinfo.gov/content/pkg/GOVPUB-J-PURL-LPS16084/pdf/GOVPUB-J-PURL-LPS16084.pdf> (last visited Jan. 30, 2024).

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

<sup>5</sup> *The Antitrust Laws*, Federal Trade Commission, available at <https://www.ftc.gov/tips-advice/competition-guidance/guide-antitrust-laws/antitrust-laws> (last visited Jan. 30, 2024).

<sup>6</sup> “Interlocking directorates” means the same person making business decisions for competing companies. See also *Id.*

acquisitions to notify the government of their plans in advance. Additionally, private parties are authorized to sue for triple damages when they have been harmed by conduct that violates either the Sherman or Clayton Act and to obtain a court order prohibiting the anticompetitive practice prospectively.<sup>7</sup>

### **Florida Antitrust Laws**

Florida law also provides protections against anticompetitive practices. Chapter 542, F.S., the Florida Antitrust Act of 1980, has a stated purpose to complement the body of federal law prohibiting restraints of trade or commerce in order to foster effective competition.<sup>8</sup> It outlaws every contract, combination, or conspiracy in restraint of trade or commerce in Florida<sup>9</sup> and any person from monopolizing or attempting or conspiring to monopolize any part of trade.<sup>10</sup>

#### ***Contracts in Restraint of Trade or Commerce***

Generally, a contract in restraint of trade or commerce in Florida is unlawful.<sup>11</sup> However, non-competition restrictive covenants<sup>12</sup> contained in employment agreements that are reasonable in time, area, and line of business, are not prohibited.<sup>13</sup> In any action concerning enforcement of a restrictive covenant, a court may not enforce a restrictive covenant unless it is set forth in a writing signed by the person against whom enforcement is sought, and the person seeking enforcement of a restrictive covenant must prove the existence of one or more legitimate business interests justifying the restrictive covenant.<sup>14</sup> The term “legitimate business interest” includes, but is not limited to:

- Trade secrets;<sup>15</sup>
- Valuable confidential business or professional information that does not otherwise qualify as trade secrets;
- Substantial relationships with specific prospective or existing customers, patients, or clients;
- Customer, patient, or client goodwill associated with:
  - An ongoing business or professional practice, by way of trade name, trademark, service mark, or “trade dress;”
  - A specific geographic location; or
  - A specific marketing or trade area; or
- Extraordinary or specialized training.<sup>16</sup>

---

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

<sup>8</sup> Section 542.16, F.S.

<sup>9</sup> Section 542.18, F.S.

<sup>10</sup> Section 542.19, F.S.

<sup>11</sup> Section 542.18, F.S.

<sup>12</sup> Section 542.335, F.S. employs the term “restrictive covenants” and includes all contractual restrictions such as noncompetition/nonsolicitation agreements, confidentiality agreements, exclusive dealing agreements, and all other contractual restraints of trade. See *Henao v. Prof'l Shoe Repair, Inc.*, 929 So.2d 723, 726 (Fla. 5th DCA 2006).

<sup>13</sup> Section 542.335(1), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> Section 688.002(4), F.S., defines a trade secret as information, including a formula, pattern, compilation, program, device, method, technique, or process that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

<sup>16</sup> Section 542.335(1)(b), F.S.

Any restrictive covenant not supported by a legitimate business interest is unlawful and is void and unenforceable.<sup>17</sup> A person seeking enforcement of a restrictive covenant must prove that the contractually specified restraint is reasonably necessary to protect the legitimate business interest or interests justifying the restriction.<sup>18</sup>

### ***Restrictive Covenants in Florida Health Care***

Under s. 542.336, F.S., a restrictive covenant entered into with a physician who practices a medical specialty in a county where one entity employs or contracts with all physicians who practice that specialty in that county, is not supported by a legitimate business interest and is void and unenforceable.<sup>19</sup> The restrictive covenant remains void and unenforceable until three years after the date on which a second entity that employs or contracts with one or more physicians who practice that specialty begins serving patients in that county.<sup>20</sup>

21<sup>st</sup> Century Oncology, Inc., sought a preliminary injunction to enjoin the application and enforcement of this statute. In August of 2019, the U.S. District Court for the Northern District of Florida denied the injunction. While s. 542.336, F.S., was found to impair the plaintiff's employment contracts within the meaning of the Contracts Clause, the court held that the degree of impairment did not outweigh the statute's significant, legitimate public purpose.<sup>21</sup>

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

CS/SB 458 amends s. 542.336, F.S., to declare that any restrictive covenant entered into with an allopathic or osteopathic physician which restricts the physician from practicing medicine in any geographic area for any period of time after the termination of his or her contract, partnership, employment, independent contractor arrangement, or professional relationship or other employment relationship is not supported by a legitimate business interest and is void and unenforceable.

The bill provides exceptions from the provisions of the bill described above for restrictive covenants that are:

- Related to any research conducted by the physician under the terms of a contract or in furtherance of a partnership, employment, or professional relationship, if the covenant does not impair the continuing care and treatment of a specific patient or patients whose care and treatment were part of the research;
- Related to physicians whose individual compensation is \$250,000 per year or more. The bill defines individual compensation to mean:

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

<sup>18</sup> Section 542.335(1)(c), F.S.

<sup>19</sup> Section 542.336, F.S.

<sup>20</sup> *Id.*

<sup>21</sup> “The ostensible public purpose of section 542.336 is to reduce healthcare costs and improve patients' access to physicians. See § 542.336, Fla. Stat. (2019); ECF No. 64 at 8 (Attorney General's post-hearing brief, stating “section 542.336 explicitly sets forth its own rational basis in declaring that the restrictive covenants addressed by it are not supported by a legitimate business interest, restrict patient access to physicians, and increase costs”). It is well settled that access to affordable healthcare is a legitimate state interest.” 21st Century Oncology, Inc. v. Moody, 402 F. Supp. 3d 1351, 1359 (N.D. Fla. 2019).

- For an employed physician, the amount of wages, bonuses, benefits, and salary paid to the physician for the previous tax year or expected to be paid for the current tax year; or
- For a physician with a partnership or similar ownership interest in the profits of a practice, the amount of business income attributed to the physician for the previous tax year or expected to be attributed to the physician for the current tax year; or
- Related to physicians who have an ownership interest in a medical business, practice, or entity of any kind and who sells:
  - The goodwill of such business, practice, or entity;
  - Any or all of his or her ownership interest in such business, practice, or entity; or
  - Any or all portions of the assets of such business, practice, or entity together with its goodwill and who contractually agrees with a buyer of such business, practice, or entity, or portion thereof, to refrain from carrying on a competing business practice, or entity within a specified geographic area reasonably necessary to protect the legitimate business interest of the acquiring party or the acquired business, practice, or entity.

The bill specifies that its provisions apply to restrictive covenants entered into on or after July 1, 2024.

The bill provides an effective date of July 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.

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

A. Tax/Fee Issues:

None.

**B. Private Sector Impact:**

Prohibiting restrictive covenants as provided in the bill may provide patients with more access to physicians and decrease health care costs.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 542.336 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 January 30, 2024:**

The committee substitute amends two exceptions allowing restrictive covenants that would have been prohibited by the underlying bill to:

- Increase the minimum salary from, \$160,000 per year to \$250,000 per year, that a physician must make in order for an otherwise prohibited restrictive covenant to be valid; and
- To rework the exception for a physician who sells a business interest in a medical practice to apply the exception to all medical entities and to add additional detail as to the types of sales of such an entity that would validate a restrictive covenant.

**B. Amendments:**

None.



110948

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/30/2024	.	
	.	
	.	
	.	

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

**Senate Amendment**

Delete lines 47 - 61  
and insert:  
totals at least \$250,000 per year. As used in this subparagraph,  
the term "compensation" means:

a. For an employed physician, the amount of wages, bonuses,  
benefits, and salary paid to the physician for the previous tax  
year or expected to be paid for the current tax year; or

b. For a physician with a partnership or similar ownership



110948

11 interest in the profits of a practice, the amount of business  
12 income attributed to the physician for the previous tax year or  
13 expected to be attributed to the physician for the current tax  
14 year.

15 3. For a physician who has any ownership interest in a  
16 medical business, practice, or entity of any kind and who sells:

17 a. The goodwill of such business, practice, or entity;

18 b. Any or all of his or her ownership interest in such  
19 business, practice, or entity; or

20 c. Any or all portions of the assets of such business,  
21 practice, or entity together with its goodwill and who  
22 contractually agrees with a buyer of such business, practice, or  
23 entity, or portion thereof, to refrain from carrying on a  
24 competing business, practice, or entity within a specified  
25 geographic area reasonably necessary to protect the legitimate  
26 business interest of the acquiring party or the acquired  
27 business, practice, or entity.

By Senator Brodeur

10-00076A-24

2024458\_\_

1                   A bill to be entitled  
2       An act relating to invalid restrictive covenants in  
3       health care; amending s. 542.336, F.S.; specifying  
4       that certain restrictive covenants in employment  
5       agreements relating to certain licensed physicians are  
6       not supported by a legitimate business interest;  
7       specifying that such restrictive covenants are void  
8       and unenforceable; providing applicability; defining  
9       the term "compensation"; providing an effective date.

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13       Section 1. Section 542.336, Florida Statutes, is amended to  
14 read:

15       542.336 Invalid restrictive covenants.—

16       (1) A restrictive covenant entered into with a physician  
17 who is licensed under chapter 458 or chapter 459 and who  
18 practices a medical specialty in a county wherein one entity  
19 employs or contracts with, either directly or through related or  
20 affiliated entities, all physicians who practice such specialty  
21 in that county is not supported by a legitimate business  
22 interest. The Legislature finds that such covenants restrict  
23 patient access to physicians, increase costs, and are void and  
24 unenforceable under current law. Such restrictive covenants  
25 ~~shall~~ remain void and unenforceable for 3 years after the date  
26 on which a second entity that employs or contracts with, either  
27 directly or through related or affiliated entities, one or more  
28 physicians who practice such specialty begins offering such  
29 specialty services in that county.

10-00076A-24

2024458\_\_

30 (2) A restrictive covenant entered into with a physician  
31 who is licensed under chapter 458 or chapter 459 which restricts  
32 the physician from practicing medicine in any geographic area  
33 for any period of time after the termination of a contract,  
34 partnership, employment, independent contractor arrangement, or  
35 professional relationship is not supported by a legitimate  
36 business interest. Such restrictive covenants are void and  
37 unenforceable.

38 (a) This subsection does not apply to a restrictive  
39 covenant that is:

40 1. Related to any research conducted by the physician under  
41 the terms of a contract or in furtherance of a partnership,  
42 employment, or professional relationship; provided, however,  
43 that the covenant does not impair the continuing care and  
44 treatment of a specific patient or patients whose care and  
45 treatment were part of the research.

46 2. Related to physicians whose individual compensation  
47 totals at least \$160,000 per year. As used in this subparagraph,  
48 the term "compensation" means:

49 a. For an employed physician, the amount of wages, bonuses,  
50 benefits, and salary paid to the physician for the previous tax  
51 year or expected to be paid for the current tax year; or

52 b. For a physician with a partnership or similar ownership  
53 interest in the profits of a practice, the amount of business  
54 income attributed to the physician for the previous tax year or  
55 expected to be attributed to the physician for the current tax  
56 year.

57 3. Related to physicians who have an ownership interest in  
58 a practice, or an affiliated entity of a practice, such as a

10-00076A-24

2024458\_\_

59 management services organization or subsidiary, or such  
60 physicians who have sold or otherwise transferred an ownership  
61 interest in a practice.

62 (b) This subsection applies to restrictive covenants  
63 entered into on or after July 1, 2024.

64 Section 2. This act shall take effect July 1, 2024.



## 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

December 5, 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 458, Invalid Restrictive Covenants in Health Care**, 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.

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

Tab 8

The Florida Senate  
**APPEARANCE RECORD**

458

1/30/24

Meeting Date

Bill Number or Topic

Health Policy

Committee

Amendment Barcode (if applicable)

Name Jay Millson

Phone 904-338-4825

Address 13241 Bartram Park Blvd

Email jmillson@patp.org

Street

JAX

FL

State

32258

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)

# CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Health Policy Committee

Judge:

Started: 1/30/2024 9:03:48 AM

Ends: 1/30/2024 10:03:55 AM

Length: 01:00:08

9:03:48 AM Chair Burton calls the meeting to order  
9:03:53 AM roll call - quorum present  
9:04:39 AM tab 1 - SB 516  
9:04:47 AM Sen. Rodriguez explains Strike All - amend. barcode 701874  
9:05:49 AM sponsor waives close - amend. adopted  
9:05:59 AM Michael Jackson, representing Fla. Pharmacy Assn., waives for bill  
9:06:04 AM Ivonne Fernandez w/ AARP, waives in support  
9:06:08 AM Matthew Holliday, w/ NCH, waives in support  
9:06:16 AM Ron Watson, representing Fla. Renal Assn., waives in support  
9:06:20 AM Amanda Fraser, representing Amer. Diabetes Assn., waives in support  
9:06:31 AM Sen. Harrell in debate  
9:06:56 AM sponsor waives close  
9:07:01 AM roll call - SB 516 reported favorable as CS  
9:07:35 AM tab 2 - SB 274  
9:07:47 AM Sen. Rodriguez explains bill  
9:08:41 AM David Daniel, representing Fla. Assn. for Child Care Mgmt., waives in support  
9:09:01 AM sponsor waives close  
9:09:08 AM SB 274 reported favorably  
9:09:31 AM tab 4 - SB 896  
9:09:39 AM Sen. Martin explains bill  
9:11:15 AM Laura Donaldson, representing Collier Co. Sheriff's Office, waives in support  
9:11:23 AM Ramon Maury, representing AANR, waives in support  
9:11:39 AM roll call SB 896 reported favorably  
9:12:10 AM tab 6 - SB 1112  
9:12:25 AM Sen. Harrell explains Strike All - amend. barcode 322224  
9:19:02 AM sponsor waives close on amend. - adopted  
9:19:19 AM EJ Collins w/ Fla. Society of Anesthesiology, speaks in support  
9:19:43 AM Chris Nuland of the Fla. Chapter of Amer. College of Physicians, waives in support  
9:20:04 AM Dr. Jamie Knox Kerne III, speaks in support  
9:20:33 AM Adam Fees of Brevard Co. Medical Society, waives in support  
9:20:42 AM Sher-Lu Pai w/ Society for Ambulatory Anesthesia, waives in support  
9:20:57 AM Dr. Brence Sell waives in support  
9:21:09 AM Chris Giordano w/ Fla. Society of Anesthesiology, waives in support  
9:21:19 AM Jeff Scott representing Fla. Medical Assn., waives in support  
9:21:23 AM Dr. Beatriz Terry w/ the Fla. Dental Assn., waives in support  
9:21:24 AM Chris Lyon representing Fla. Osteopathic Medical Assn., waives in support  
9:21:30 AM Dr. Mario Lopez of Fla. Chap. - Amer. College of Cardiology, waives in support  
9:21:49 AM sponsor closes on bill  
9:22:21 AM roll call - SB 1112 reported favorably as a CS  
9:22:53 AM tab 7 - SB 1320  
9:23:10 AM Sen. Calatayud explains Strike All amend., barcode #157278  
9:26:09 AM Sen. Harrell has question on amendment  
9:26:51 AM follow up by Harrell  
9:27:23 AM Dr. Sylvie Naar speaks for amendment  
9:28:11 AM Jennifer Solomon speaks for amendment  
9:30:52 AM sponsor waives close on amend. - adopted  
9:31:05 AM Michael Jackson representing Fla. Pharmacy Assn., waives in support  
9:31:14 AM Chris Hansen, representing Walgreen's, waives in support  
9:31:18 AM Paul Arons, MD, speaks in support  
9:34:30 AM Angela Bonds w/ AIF, waives in support  
9:34:35 AM Jeff Scott w/ FMA, waives in support  
9:34:38 AM Bill Mincy waives in support

9:34:43 AM Erin Bigalke waives in support  
9:34:59 AM Claudia Davant representing Fla. Pharmacy Assn., waives in support  
9:35:11 AM Sen. Calatayud closes on bill  
9:35:43 AM roll call - SB 1320 reported favorably as a CS  
9:36:08 AM tab 8 - SB 458  
9:36:31 AM Vice-chair Brodeur explains bill  
9:38:41 AM amendent barcode 110948 explained by sponsor  
9:39:52 AM amendment adopted  
9:39:59 AM Jay Millson speaks in support  
9:41:39 AM Sen. Harrell recognized in debate  
9:43:32 AM Sen. Albritton recognized in debate  
9:44:14 AM Sen. Book recognized in debate  
9:44:54 AM Chair Burton in debate  
9:47:48 AM Brodeur closes on bill  
9:47:54 AM roll call - SB 458 reported favorably as a CS  
9:48:24 AM tab 5 - SB 830  
9:48:42 AM Sen. Collins explains bill  
9:49:44 AM amend. barcode 339828 explained by sponsor  
9:50:06 AM amendment adopted  
9:50:14 AM Tiffany McCaskill Henderson w/ Amer. Heart Assn., speaks in support  
9:52:02 AM Edward Briggs, representing Sunshine State Athletic Assn. ,waives in support  
9:52:09 AM Jeff Hartley, representing the NFL, waives in support  
9:52:15 AM Dr. Mario Lopez waives in support  
9:52:34 AM Sen. Book recognized in debate  
9:52:51 AM Sen. Collins closes on bill  
9:53:19 AM roll call - SB 830 reported favorably as a CS  
9:53:51 AM brief recess  
9:59:55 AM meeting re-convenes  
10:00:36 AM tabs 3 - SB 1008  
10:00:48 AM Sen. Grall explains bill  
10:01:58 AM Aimee Diaz Lyon, representing Fla. Physical Therapy Assn., waives in support  
10:02:15 AM Sen. Grall waives close  
10:02:21 AM roll call - SB 1008 reported favorably  
10:02:49 AM Sen. Garcia - tabs 1, 2 in the affirmative  
10:03:01 AM Sen. Brodeur - tabs 1, 2, & 4 in the affirmative  
10:03:12 AM Sen. Calatayud - tabs 1 & 2 in the affirmative  
10:03:26 AM Sen. Avila - affirmative for tab 6  
10:03:41 AM Sen. Calatayud moves to adjourn