The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

HEALTH POLICY
Senator Diaz, Chair
Senator Brodeur, Vice Chair

MEETING DATE: Wednesday, March 31, 2021
TIME: 8:00—10:30 a.m.
PLACE: *Pat Thomas Committee Room,* 412 Knott Building

MEMBERS: Senator Diaz, Chair; Senator Brodeur, Vice Chair; Senators Albritton, Baxley, Bean, Book, Cruz, Farmer, Garcia, and Jones

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W. PENSACOLA STREET, TALLAHASSEE, FL. 32301		
1	**SB 2012** Stargel (Compare CS/H 1475)	Promoting Equality of Athletic Opportunity; Creating the "Promoting Equality of Athletic Opportunity Act"; requiring that certain athletic teams or sports sponsored by certain educational institutions be designated on the basis of students' biological sex; prohibiting athletic teams or sports designated for female students from being open to male students; specifying conditions under which persons who transition from male to female are eligible to compete in the female category; requiring a student that fails to comply with certain conditions to be suspended from female competition for 12 months; requiring the Board of Governors of the State University System to adopt regulations and the State Board of Education to adopt rules regarding the resolution of disputes, etc. ED 03/23/2021 Favorable HP 03/31/2021 Favorable RC	Favorable Yeas 6 Nays 4
2	**SB 1540** Gibson (Similar CS/H 1381, Compare H 1383, S 1556)	Maternal Health Outcomes; Revising the Department of Health's duties under the Closing the Gap grant program; requiring the department to establish telehealth minority maternity care pilot programs in Duval County and Orange County by a specified date; requiring the pilot programs to provide specified telehealth services to eligible pregnant women for a specified period; requiring the department's Division of Community Health Promotion and Office of Minority Health and Health Equity to apply for certain federal funding, etc. HP 03/31/2021 Fav/CS AHS AP	Fav/CS Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**SB 1568** Rodriguez (Compare H 1455, CS/CS/H 1565, S 1958)	Department of Health; Revising the purpose of the department's targeted outreach program for certain pregnant women; requiring the department to educate pregnant women who have HIV on certain information; revising provisions related to administrative fines for violations relating to onsite sewage treatment and disposal systems and septic tank contracting; authorizing the department to select samples of marijuana from medical marijuana treatment center facilities for certain testing; revising provisions relating to licensure of midwives; revising education requirements for psychologist licensing and provisional licensing, respectively, etc. HP 03/31/2021 Fav/CS AHS AP	Fav/CS Yeas 10 Nays 0
4	**SB 1680** Rodriguez (Similar H 803)	Access to Health Care Practitioner Services; Exempting certain physicians who provide a certain number of hours of pro bono services from continuing education requirements; establishing a registration program for volunteer retired physicians; revising the physician licensure criteria applicable to Canadian applicants; authorizing the Board of Osteopathic Medicine to issue restricted licenses to applicants who satisfy certain criteria; establishing a registration program for volunteer retired osteopathic physicians, etc. HP 03/31/2021 Favorable AHS AP	Favorable Yeas 9 Nays 1
5	**SB 1318** Harrell (Compare CS/H 1009)	Organ Donation and Transplantation; Requiring locations where certain recreational licenses or permits are sold to display and make available to the public educational materials relating to organ donation and registration; authorizing reimbursement for certain organ transplantation services under the Medicaid program; prohibiting a health insurance policy from limiting or excluding coverage solely on the basis that an insured is a living organ donor; prohibiting an organ transplantation facility from charging a donor or his or her family member any fee for services relating to the procurement or donation of organs, etc. HP 03/31/2021 Favorable AHS AP	Favorable Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	**SB 766** Rouson (Similar H 397)	Cardiovascular Emergency Protocols and Training; Requiring the Department of Health to send a list of certain providers of adult cardiovascular services to the medical directors of licensed emergency medical services providers by a specified date each year; requiring the department to develop a sample heart attack-triage assessment tool; requiring the medical director of each licensed emergency medical services provider to develop and implement certain protocols for heart attack patients; requiring certain 911 public safety telecommunicators to receive biennial telecommunicator cardiopulmonary resuscitation training, etc. HP 03/31/2021 Favorable CA RC	Favorable Yeas 10 Nays 0
7	**SB 1830** Jones (Compare CS/H 1551)	Assisted Living Facilities; Using funds appropriated by the Legislature, requiring long-term care managed care plans to pay assisted living facilities certain rates and to calculate and make special payments for certain residents; requiring plans to pay assisted living facilities for claims within a specified timeframe; providing minimum requirements and specifications for training of medication technicians; requiring the agency to authorize online materials and courses to be used for such training, etc. HP 03/31/2021 Fav/CS AHS AP	Fav/CS Yeas 9 Nays 0
8	**SB 1476** Brodeur (Identical H 6095)	Controlled Substances; Removing from Schedule V certain drug products in finished dosage formulation which have been approved by the United States Food and Drug Administration, etc. CJ 03/23/2021 Favorable HP 03/31/2021 Favorable RC	Favorable Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	**SB 1296** Brodeur (Similar H 937)	Nursing Programs; Defining the terms “average graduate passage rate” and “test takers”; revising requirements for an annual report submitted by approved nursing programs; revising specified information that the Board of Nursing must publish on its website; revising graduate passage rate requirements for approved nursing programs; requiring nursing programs to offer remediation programs to students who fail to pass a certain examination on their first attempt; prohibiting the board from considering average graduate passage rates from the 2020 and 2021 calendar years when making certain determinations, etc. HP 03/31/2021 Fav/CS ED RC	Fav/CS Yeas 10 Nays 0

Other Related Meeting Documents

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 2012
INTRODUCER:	Senator Stargel
SUBJECT:	Promoting Equality of Athletic Opportunity
DATE:	March 29, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sagues	Bouck	ED	**Favorable**
2.	Smith	Brown	HP	**Favorable**
3.			RC	

I. Summary:

SB 2012 creates the Promoting Equality of Athletic Opportunity Act with the intent of providing female athletes opportunities to demonstrate their strength, skills, and athletic abilities and enabling them to realize the long-term benefits that result from participating and competing in athletic endeavors. Specifically, the bill:

- Requires interscholastic, intercollegiate, intramural, or club athletic teams that are sponsored by, or that compete against, a public school or public postsecondary institution to be designated as male, female, or coed.
- Prohibits athletic teams designated for females to be open to students of the male sex.
- Establishes that persons who transition from male to female are eligible to compete in the female category if the student has declared a female gender identity to her school or institution and demonstrates a total testosterone level in serum below 10 nmol/L for at least 12 months before her first competition and throughout the period of desired eligibility.

The bill requires the Board of Governors to adopt regulations and the State Board of Education to adopt rules regarding the receipt and timely resolution of disputes by schools and institutions relating to provisions in the bill.

The bill provides private causes of action for injunctive relief, damages, and any other relief available under law for students, schools, and public postsecondary institutions harmed by a violation of the bill's provisions. All such civil actions must be initiated within two years after the alleged harm occurred.

The impact of state revenues or expenditures is indeterminate. *See* Section V.

The bill provides an effective date of July 1, 2021.

II. Present Situation:

Athletic Programs

The Florida High School Athletic Association (FHSAA) indicates that middle and high school interscholastic athletic programs play a vital role in the education of students who participate in them.[1] Through their participation in interscholastic athletics, students are provided character-building opportunities to demonstrate honesty, integrity, respect, caring, cooperation, trustworthiness, leadership, tolerance, and personal responsibility. These fundamental values enable participants to realize and fulfill their potential as students, athletes, individuals, and citizens.[2]

Athletics programs are widely accepted as integral parts of the college experience as well.[3] The National Collegiate Athletic Association (NCAA) indicates that the benefits of athletics participation include many positive effects on physical, social, and emotional well-being. Playing sports can teach student-athletes important lessons about self-discipline, teamwork, success, and failure and allow student athletes to experience the joy and shared excitement that being a member of a sports team can bring.[4]

Title IX and Sex Discrimination

Title IX is a federal civil rights law passed as part of the Education Amendments of 1972.[5] This law protects people from discrimination based on sex in education programs or activities that receive federal financial assistance. Title IX states that:[6]

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

Athletic programs are considered educational programs and activities.[7] Title IX gives women athletes the right to equal opportunity in sports in educational institutions that receive federal funds, from elementary schools to colleges and universities. While there are few private elementary schools, middle schools, or high schools that receive federal funds, almost all colleges and universities, private and public, receive such funding.[8]

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[1] Florida High School Athletic Association, *Bylaws of the Florida High School Athletic Association, Inc. (2020-2021)* (2020), at 6, *available at* https://s3.amazonaws.com/fhsaa.org/documents/2020/10/1/2021_handbook_website_1001.pdf (last visited Mar. 26, 2021).
[2] *Id.*
[3] National Collegiate Athletic Association, *NCAA Inclusion of Transgender Student-Athletes* (2011), *available at* https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf (last visited Mar. 26, 2021).
[4] *Id.*
[5] Harvard University, *What is Title IX, available at* https://titleix.harvard.edu/what-title-ix (last visited Mar. 26, 2021).
[6] U.S. Department of Education, Title IX and Sex Discrimination, *available at* https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html#:~:text=No%20person%20in%20the%20United%20States%20shall,%20on,education%20program%20or%20activity%20receiving%20Federal%20financial%20assistance (last visited Mar. 26, 2021).
[7] Women's Sports Foundation, *What is Title IX, available at* https://www.womenssportsfoundation.org/advocacy/what-is-title-ix/ (last visited Mar. 26, 2021).
[8] *Id.*

Approximately 16,500 local school districts, 7,000 postsecondary institutions, as well as charter schools, for-profit schools, libraries, and museums are receiving federal financial assistance that requires them to observe Title IX regulations. Also included are vocational rehabilitation agencies and education agencies of 50 states, the District of Columbia, and territories and possessions of the United States.[9]

Title IX regulations require institutions that receive federal education funds to provide equal opportunities in athletics for both sexes.[10] Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes is considered when determining whether an institution has provided equal opportunities for both sexes.[11] With respect to scholarships, Title IX regulations require educational institutions that award athletic scholarships or grants-in-aid to provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.[12]

Title IX regulations also authorize educational institutions to sponsor separate athletics teams for members of each sex.[13]

According to the NCAA, there are three areas where Title IX applies to athletics. Title IX: [14]

- Requires institutions to offer both sexes an equal opportunity to play but does not require both sexes to be offered identical sports;
- Requires that female and male student-athletes receive athletics scholarship dollars proportional to their participation; and
- Requires equal treatment of female and male athletes in the following: provision of equipment and supplies; scheduling of games and practice times; travel and daily allowance and per diem; access to tutoring; coaching; locker rooms, practice and competitive facilities; medical and training facilities and services; housing and dining facilities and services; publicity and promotions; support services; and recruitment of student-athletes.[15]

[9] U.S. Department of Education, *Title IX and Sex Discrimination*, *available at* https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html (last visited Mar. 26, 2021).
[10] *See* U.S. Department of Education, Office of Civil Rights, *Athletics*, *available at* https://www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/issues/sex-issue04.html (last visited Mar. 26, 2021).
[11] 34 C.F.R. s 106.41(c).
[12] 34 C.F.R. s 106.37(c).
[13] 34 C.F.R. s 106.41(c).
[14] NCAA, *Title IX Frequently Asked Questions*, *available at* https://www.ncaa.org/about/resources/inclusion/title-ix-frequently-asked-questions#how (last visited Mar. 26, 2021).
[15] *Id.*

Transgender Participation in Athletic Programs

The number of students who identify as transgender[16] has steadily increased during the last decade. One estimate indicates that approximately 150,000 students 13 to 17 years of age identify as transgender in the United States.[17]

Federal Legislation

Currently, there is no federal law governing transgender participation in sports.[18] However, the U.S. Supreme Court recently ruled that discrimination in employment based on gender identity is illegal.[19] In addition, the U.S. Eleventh Circuit recently affirmed that a Florida school district's policy barring a transgender male student from the boys' restroom did not comport with the Constitution's guarantee of equal protection and Title IX's prohibition of sex discrimination.[20]

Currently, 25 states are proposing legislation related to transgender student athletics.[21] Both the NCAA and the FHSAA have issued guidance for transgender participation in athletic programs.

NCAA Inclusion of Transgender Student Athletes

Providing equal opportunities in all aspects of school programming is a core value in education. According to the NCAA, college athletic programs, as integral parts of higher educational institutions, are responsible and accountable for reflecting the goals and values of the educational institutions of which they are a part.[22]

The NCAA recommends that policies governing the participation of transgender student-athletes be informed by the following principles and be included in the institution's transgender student-athlete policy statement:[23]

- Participation in intercollegiate athletics is a valuable part of the education experience for all students.
- Transgender student-athletes should have equal opportunity to participate in sports.
- The integrity of women's sports should be preserved.
- Policies governing sports should be based on sound medical knowledge and scientific validity.

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[16] Transathlete.com, *Trans Terminology*, https://www.transathlete.com/starthere (last visited Mar. 26, 2021). NCAA, *NCAA Inclusion of Transgender Student-Athletes* (2011), *available at* https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf (last visited Mar. 26, 2021).
[17] UCLA School of Law, Williams Institute, *LGBT FAQs*, https://williamsinstitute.law.ucla.edu/quick-facts/lgbt-faqs/ (last visited Mar. 26, 2021).
[18] Boston College Journal of Law and Social Justice, *Hurdling Gender Identity discrimination: The Implications of State Participation Policies on Transgender Youth Athletes Ability to Thrive* (2017), *available at* https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?article=1108&context=jlsj (last visited Mar. 26, 2021).
[19] *Bostock v. Clayton County, Georgia*, 140 S. Ct. 1731 (2020).
[20] *Adams by & through Kasper v. Sch. Bd. of St. Johns County*, 968 F.3d 1286 (11th Cir. 2020).
[21] The New York Times, *How Some States Are Moving to Restrict Transgender Women in Sports, available at* https://www.nytimes.com/2021/03/11/sports/transgender-athletes-bills.html (last visited Mar. 26, 2021).
[22] NCAA, *NCAA Inclusion of Transgender Student-Athletes* (2011), at 6, *available at* https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf (last visited Mar. 26, 2021).
[23] *Id* at 10.

- Policies governing sports should be objective, workable, and practicable and should also be written, available, and equitably enforced.
- Policies governing the participation of transgender students in sports should be fair in light of the tremendous variation among individuals in strength, size, musculature, and ability.
- The legitimate privacy interests of all student-athletes should be protected.
- The medical privacy of transgender students should be preserved.
- Athletics administrators, staff, parents of athletes, and student-athletes should have access to sound and effective educational resources and training related to the participation of transgender and gender-variant[24] students in athletics.
- Policies governing the participation of transgender students in athletics should comply with state and federal laws protecting students from discrimination based on sex, disability, and gender identity[25] and expression.

The NCAA has published policies to clarify participation of transgender student-athletes undergoing hormonal treatment for gender transition:[26]

- A transgender male, a female transitioning to a male, student-athlete who has received a medical exception for treatment with testosterone[27] for diagnosed Gender Identity Disorder or gender dysphoria[28] and/or Transsexualism,[29] for purposes of NCAA competition, may compete on a men's team but is no longer eligible to compete on a women's team without changing that team status to a mixed team.[30]
- A transgender female, a male transitioning to a female, student-athlete being treated with testosterone suppression medication for Gender Identity Disorder or gender dysphoria and/or Transsexualism, for the purposes of NCAA competition, may continue to compete on a men's team but may not compete on a women's team without changing it to a mixed team status until completing one calendar year of testosterone suppression treatment.

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[24] Gender-variant refers to gender nonconforming. Merriam-Webster Dictionary, *gender variance*, *available at* https://www.merriam-webster.com/dictionary/gender%20variance (last visited Mar. 26, 2021).

[25] Gender Identity is defined as a person's internal sense of being male, female, some combination of male and female, or neither male nor female. Merriam-Webster Dictionary, *gender identity*, *available at* https://www.merriam-webster.com/dictionary/gender%20identity (last visited Mar. 26, 2021).

[26] NCAA, *NCAA Inclusion of Transgender Student-Athletes* (2011), at 13, *available at* https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf (last visited Mar. 26, 2021).

[27] Testosterone is defined as a hormone that is hydroxy steroid ketone $C_{19}H_{28}O_2$ produced especially by the testes or made synthetically and that is responsible for inducing and maintaining male secondary sex characters. Merriam-Webster Dictionary, *testosterone*, *available at* https://www.merriam-webster.com/dictionary/testosterone (last visited Mar. 26, 2021).

[28] Gender Identity Disorder and gender dysphoria are defined as a distressed state arising from conflict between a person's gender identity and the sex the person has or was identified as having at birth. Merriam-Webster Dictionary, *gender dysphoria*, *available at* https://www.merriam-webster.com/dictionary/gender%20dysphoria (last visited Mar. 26, 2021). Merriam-Webster Dictionary, *gender identity disorder*, *available at* https://www.merriam-webster.com/dictionary/gender%20identity%20disorder (last visited Mar. 26, 2021).

[29] Transsexual is defined as of, relating to, or being a person whose gender identity is opposite the sex the person had or was identified as having at birth. Merriam-Webster Dictionary, *transsexual*, *available at* https://www.merriam-webster.com/dictionary/transsexualism (last visited Mar. 26, 2021).

[30] A mixed team is a varsity intercollegiate sports team on which at least home individual of each gender competes. A mixed team must be counted as one team. A male participating in competition on a female team makes the team a mixed team. Such a team is ineligible for a women's NCAA championship but is eligible for a men's NCAA championship. A female on a men's team is eligible for a men's NCAA championship. NCAA, *NCAA Inclusion of Transgender Student-Athletes* (2011), at 12, *available at* https://www.ncaa.org/sites/default/files/Transgender_Handbook_2011_Final.pdf (last visited Mar. 26, 2021).

- Any transgender student-athlete who is not taking hormone treatment related to gender transition may participate in sex-separated sports activities in accordance with his or her assigned birth gender.
- A transgender male student-athlete who is not taking testosterone related to gender transition may participate on a men's or women's team.
- A transgender female student-athlete who is not taking hormone treatments related to gender transition may not compete on a women's team.

FHSAA Policies for Transgender Athletes

The FHSAA is designated by law as the governing nonprofit organization of athletics in Florida public schools.[31] The FHSAA is not a state agency but performs similar functions.[32] The FHSAA is required to adopt bylaws regulating student eligibility, student residency and transfer, recruiting, and health and safety. Such bylaws include requiring all students participating in interscholastic athletic competition or who are candidates for an interscholastic athletic team, to satisfactorily pass a medical evaluation each year before participating in interscholastic athletic competition or engaging in any practice, tryout, workout, conditioning, or other physical activity associated with the student's candidacy.[33] The bylaws of the FHSAA govern high school athletic programs in its member schools, unless otherwise specifically provided by law.[34]

The FHSAA's bylaws state that the FHSAA will not discriminate in its governance policies, programs, and employment practices on the basis of age, color, disability, gender, national origin, race, religion, creed, sexual orientation, or educational choice.[35] The FHSAA bylaws further state the FHSAA will conduct its activities in a manner free of gender bias and will adopt rules that enhance schools' efforts to comply with applicable gender-equity laws.[36]

The FHSAA bylaws[37] on athletic participation by gender state the following:
- Girls may play on a boys' team in a sport if the school does not sponsor a girls' team in that sport.
- Team sports that have boys on a girls' team are required to compete in the boys division in that sport.
- Team sports that have both boys and girls on a mixed team are required to compete in the boys division in that sport.
- In an individual sport, girls may not participate on boys' teams in the Florida High School State Championship Series when a sport is offered in the Florida High School State Championship Series for girls.

Under the FHSAA administrative policies, all eligible students should have the opportunity to participate in interscholastic athletics in a manner that is consistent with their gender identity and

[31] Section 1006.20(1), F.S.
[32] *Id.*
[33] Section 1006.20(2), F.S.
[34] Section 1006.20(1), F.S.
[35] Florida High School Athletic Association, *Bylaws of the Florida High School Athletic Association, Inc. (2020-2021)* (2020), at 7, *available at* https://s3.amazonaws.com/fhsaa.org/documents/2020/10/1/2021_handbook_website_1001.pdf (last visited Mar. 26, 2021).
[36] *Id.*
[37] *Id.* at 23.

expression, irrespective of the gender listed on a student's birth certificate or records.[38] Under this situation, a student may seek review of his or her eligibility for participation through the following process:[39]

- The student and his or her parent(s) must contact the school administrator or athletic director, prior to the official start date of the sport season, indicating the student has a consistent gender identity and expression different than the gender listed on the student's school registration records and the student desires to participate in a gender-segregated athletic sport in a manner consistent with his or her gender identity and expression.
- The student must provide the principal or athletic director, and the FHSAA, with specified documentation.[40]
- The school administrator must contact the FHSAA, which will assign a facilitator to assist the school and student in preparation and completion of the process.
- The student will be scheduled for a review hearing before a committee[41] specifically established to preside over gender identity reviews.

An appeal process is available to any school on behalf of a student-athlete who is denied participation. If a student is granted eligibility consistent with his or her gender identity and expression, the eligibility is binding for the duration of the student's participation in every sport season of every school year.[42]

The Role of Testosterone in Athletic Performance

Both males and females produce testosterone naturally in their bodies, males primarily in the testes and females primarily in the ovaries.[43] Starting from the onset of male puberty, generally about age 11, testes begin to produce much more testosterone than ovaries. From that point forward, the normal female range is between 0.06 and 1.68 nanomoles[44] per liter (nmol/L), and

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[38] *Id*. at 73.

[39] This policy does not apply to a private school member of the FHSAA which, because of its strongly held religious beliefs, would be entitled to the exemption provided to educational institutions of religious organizations by law. *Id.*

[40] Documentation includes current transcript and school registration information; information required for participation and eligibility in FHSAA athletics; written statement from the student affirming the consistent identity and expression to which the student self-relates; documentation from individuals such as, but not limited to, parents, friends and teachers, which affirm that the actions, attitudes, dress and manner demonstrate the student's consistent gender identification and expression; a complete list of all the student's prescribed, non-prescribed or over the counter, treatments or medications; written verification from an appropriate health-care professional of the student's consistent gender identification and expression; and any other pertinent documentation or information which the student or parent believe relevant and appropriate. *Id.*

[41] The committee must be comprised of a minimum of three of the following categories, one of which must be from the physical or mental health profession category: Physician with experience in gender identity health care and the World Professional Association for Transgender Health (WPATH) Standards of Care; psychiatrist, psychologist, or licensed mental health professional familiar with the WPATH Standards of Care; school administrator from outside the member school's FHSAA administrative section; athletic director from outside the member school's FHSAA administrative section; an athletic coach of the sport in which participation is desired, from outside the member school's FHSAA administrative section; an individual selected by the FHSAA familiar with Gender Identity and Expression issues. *Id*.

[42] *Id*.

[43] Women's Sports Policy Working Group, *Frequently Asked Questions – About Science and Sex* (2020), *available at* https://womenssportspolicy.org/wp-content/uploads/2021/01/faq-q09-male-and-female-range-testosterone.pdf (last visited Mar. 26, 2021).

[44] One mole contains exactly $6.02214076 \times 10^{23}$ elementary entities; an elementary entity may be an atom, a molecule, an ion, an electron, any other particle or specified group of particles. National Institute of Standards and Technology, *Definitions of SI Base Units, available at* https://www.nist.gov/si-redefinition/definitions-si-base-units (last visited Mar. 26, 2021). A

the normal male range is between 7.7 and 29.4 nmol/L. The gap between the top of the female range and the bottom of the male range is 6.02 nmol/L.[45]

International experts[46] in the sports science and sports medicine communities agree that males and females are materially different with respect to the main physical attributes that contribute to athletic performance and that the primary reason for sex differences in these attributes is exposure in gonadal males to much higher levels of testosterone during growth and development, and throughout the athletic career.[47]

The Connecticut Interscholastic Athletics Conference (CIAC)[48] permits transgender girls to compete in girls' events even if they have not yet gone on puberty blockers[49] or gender affirming hormones.[50] Two transgender girls who used to compete on their schools' boys' teams moved to the girls' teams when they began to identify as transgender.[51] Cisgender[52] female high school students have sued the CIAC and their respective boards of education alleging that the defendants' practice of permitting biological males who claim a female gender identity to compete in girls' athletic competitions violates Title IX because it displaces girls from track events and excludes them from honors and opportunities to compete at higher levels critical to college recruitment and scholarship opportunities.[53]

A study[54] conducted on transgender males and females in the United States Air Force with an average age of 26.2 years, concluded that transgender females displayed a 15 to 31 percent athletic advantage displayed over cisgender females prior to the commencement of gender-affirming hormones. This advantage declined with feminizing therapy. However, transgender

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Nanomole is defined as one billionth of a mole. Merriam-Webster Dictionary, *nanomole, available at* https://www.merriam-webster.com/medical/nanomole (last visited Mar. 26, 2021).

[45] Women's Sports Policy Working Group, *Frequently Asked Questions – About Science and Sex* (2020), *available at* https://womenssportspolicy.org/wp-content/uploads/2021/01/faq-q09-male-and-female-range-testosterone.pdf (last visited Mar. 26, 2021).

[46] International Experts Statement of the Role of Testosterone in Athletic Performances. Duke Law Center for Sports Law and Policy, Sex in Sport, *available at* https://law.duke.edu/sports/sex-sport/ (last visited Mar. 26, 2021). Duke Law, The Role of Testosterone in Athletic Performance (2019), *available at* https://web.law.duke.edu/sites/default/files/centers/sportslaw/Experts_T_Statement_2019.pdf (last visited Mar. 26, 2021).

[47] Duke Law, *The Role of Testosterone in Athletic Performance* (2019), *available at* https://web.law.duke.edu/sites/default/files/centers/sportslaw/Experts_T_Statement_2019.pdf (last visited Mar. 26, 2021).

[48] CIAC, CIAC Statement on Office of Civil Rights Decision, *available at* http://ciacsports.com/site/?p=14508 (last visited Mar. 26, 2021).

[49] A puberty blocker is a type of medicine that is used to prevent puberty from happening. Macmillian Dictionary, *puberty blocker, available at* https://www.macmillandictionary.com/dictionary/british/puberty-blocker (last visited Mar. 26, 2021).

[50] Women's Sports Policy Working Group, *Frequently Asked Questions – About Science and Sex*, (2020), *available at* https://womenssportspolicy.org/wp-content/uploads/2021/01/faq-q21-impact-of-trans-girls-on-hs-sports.pdf (last visited Mar. 26, 2021) *Soule et al v. Connecticut Association of Schools, Inc. et al*, 3:20-CV-00201 (2020).

[51] *Id.*

[52] Cisgender is defined as of, relating to, or being a person whose gender identity corresponds with the sex the person had or was identified as having at birth. Merriam-Webster Dictionary, *cisgender available at* https://www.merriam-webster.com/dictionary/cisgender (last visited Mar. 26, 2021).

[53] Justia Dockets & Filings, Soule et al v. Connecticut Association of Schools, Inc. et al, *available at* https://dockets.justia.com/docket/connecticut/ctdce/3:2020cv00201/137997 (last visited Mar. 26, 2021). *Soule et al v. Connecticut Association of Schools, Inc. et al*, 3:20-CV-00201 (2020).

[54] Roberts T.A., Smalley J., Ahrendt D., *Effect of gender affirming hormones on athletic performance in transwomen and transmen: implications for sporting organisations and legislators*. *British Journal of Sports Medicine* (2020), *available at* https://bjsm.bmj.com/content/early/2020/11/06/bjsports-2020-102329 (last visited Mar. 26, 2021).

females still had a nine percent faster mean run speed after the one year period of testosterone suppression that is recommended by World Athletics (WA)[55] or the International Olympic Committee (IOC)[56] for inclusion in women's events.[57] The study confirmed that use of gender-affirming hormones are associated with changes in athletic performance and demonstrated that the pretreatment differences between transgender and cisgender women persist beyond the 12-month time requirement currently being proposed for athletic competition by the WA and the IOC. The study suggests that more than 12 months of testosterone suppression may be needed to ensure that transgender women do not have an unfair competitive advantage when participating in elite level athletic competition.[58]

WA also requires that for a transgender female to be eligible she must demonstrate to the satisfaction of an expert panel that the concentration of testosterone in her serum has been less than 5 nmol/L continuously for a period of at least 12 months and she must keep her serum testosterone concentration below 5 nmol/L for so long as she wishes to maintain eligibility to compete in the female category of competition.[59]

The IOC requires that for a transgender female to be eligible, she:[60]

- Must have declared that her gender identity is female. The declaration cannot be changed, for sporting purposes, for a minimum of four years.
- Must demonstrate that her total testosterone level in serum has been below 10 nmol/L for at least 12 months prior to her first competition.

III. Effect of Proposed Changes:

SB 2012 creates s. 1006.205, F.S., the Promoting Equality of Athletic Opportunity Act. The bill specifies that it is the intent of the Legislature to provide opportunities for female athletes to demonstrate their strength, skills, and athletic abilities and to provide them with opportunities to obtain recognition and accolades, college scholarships, and the numerous other long-term benefits that result from participating and competing in athletic endeavors. The bill makes a Legislative finding that promoting the equality of athletic opportunity is an important state interest and that requiring the designation of separate sex-specific athletic teams or sports is necessary to promote such equality.

---

[55] World Athletics, *World Athletics Eligibility Regulations for Transgender Athletes* (2019), *available at* http://www.athletics.org.tw/Upload/Web_Page/WA/Eligibility%20Regulations%20for%20Transgender%20Athletes,%20.pdf (last visited Mar. 27, 2021).

[56] Those who transition from female to male are eligible to compete in the male category without restriction. International Olympic Committee, *IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism* (2015), *available at* https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf (last visited Mar. 26, 2021).

[57] Roberts T.A., Smalley J., Ahrendt D., *Effect of gender affirming hormones on athletic performance in transwomen and transmen: implications for sporting organisations and legislators*. *British Journal of Sports Medicine* (2020), *available at* https://bjsm.bmj.com/content/early/2020/11/06/bjsports-2020-102329 (last visited Mar. 26, 2021).

[58] *Id.*

[59] *Supra* note 56.

[60] International Olympic Committee, *IOC Consensus Meeting on Sex Reassignment and Hyperandrogenism* (2015), *available at* https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf (last visited Mar. 26, 2021).

The bill provides a pathway for transgender females to participate on female teams while also protecting competition for female athletes. Specifically, the bill:

- Requires interscholastic, intercollegiate, intramural, or club athletic teams that are sponsored by a public school or public postsecondary institution, or any school or institution whose students or teams compete against a public school or public postsecondary institution, to be designated as one of the following based on the biological sex of the team members:
  - Males, men, or boys;
  - Females, women, or girls; or
  - Coed or mixed, including both males and females.
- Prohibits athletic teams or sports designated for females to be open to students of the male sex.
- Specifies that persons who transition from male to female are eligible to compete in the female category if the student has declared a female gender identity to her school or institution and meets both of the following conditions:
  - The student demonstrates that her total testosterone level in serum has been below 10 nanomoles per liter (nmol/L) for at least 12 months before her first competition and monthly throughout the period of desired eligibility; and
  - The student's total testosterone level remains below 10 nmol/L throughout the period of desired eligibility.

If the student does not meet both conditions the student must be suspended from female competition for 12 months.

The bill requires the Board of Governors to adopt regulations and the State Board of Education to adopt rules regarding the receipt and timely resolution of disputes by schools and institutions relating to provisions in the bill.

The bill provides protections for educational institutions by prohibiting a governmental entity, a licensing or accrediting organization, or an athletic association or organization from entertaining a complaint, opening an investigation, or taking any other adverse action against any school or public postsecondary institution in Florida for maintaining separate athletic teams or sports for female students.

The bill also provides private causes of action to any student who is deprived of an athletic opportunity, or to a school or institution that suffers harm, as a result of a violation of the bill's provisions and to a student who is subject to retaliation by a school or athletic association for reporting a violation. All such civil actions must be initiated within two years after the alleged harm occurred.

The bill provides an effective date of July 1, 2021.

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:

Classifications based on transgender status are subject to heightened scrutiny under the Equal Protection Clause of the Fourteenth Amendment.[61] The Equal Protection Clause does not require courts to disregard the physiological differences between men and women.[62]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The fiscal impact of the bill is indeterminate. School districts, postsecondary institutions, the State Board of Education, and the Board of Governors may incur costs to establish and administer transgender policies required by the Act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

[61] Amend. XIV, U.S. Const. *See also Hecox v. Little*, 479 F. Supp. 3d 930, 975 (D. Idaho 2020) citing *Karnoski v. Trump*, 926 F.3d 1180, 1201 (9th Cir. 2019).
[62] *Hecox v. Little*, 479 F. Supp. 3d 930, 976 (D. Idaho 2020) (citing *Michael M. v. Superior Court of Sonoma County*, 450 U.S. 464, 481 (1981).

VIII. Statutes Affected:

This bill creates section 1006.205 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 Stargel

22-01360A-21 20212012__

A bill to be entitled

An act relating to promoting equality of athletic opportunity; creating s. 1006.205, F.S.; providing a short title; providing legislative intent and findings; requiring that certain athletic teams or sports sponsored by certain educational institutions be designated on the basis of students' biological sex; prohibiting athletic teams or sports designated for female students from being open to male students; specifying conditions under which persons who transition from male to female are eligible to compete in the female category; requiring a student that fails to comply with certain conditions to be suspended from female competition for 12 months; requiring the Board of Governors of the State University System to adopt regulations and the State Board of Education to adopt rules regarding the resolution of disputes; providing protections for educational institutions from certain adverse actions taken by a governmental entity, any licensing or accrediting organization, or any athletic association or organization; providing civil remedies for students and educational institutions; providing a statute of limitation; providing for damages; providing an effective date.

WHEREAS, the United States Supreme Court recognized in United States v. Virginia, 518 U.S. 515 (1996), that there are inherent differences between men and women and these differences remain cause for celebration, but not for denigration of the

22-01360A-21 20212012__

members of either sex for artificial constraints on an individual's opportunity, and

WHEREAS, the Supreme Court recognized that sex classifications may be used to compensate women for particular economic disabilities they have suffered, to promote equal employment opportunity, and to advance full development of the talent and capacities of our nation's people, and

WHEREAS, one area where sex classifications allow for the full development of the talent and capacities of our nation's people is in the context of sports and athletics, and

WHEREAS, the Olympic Games are considered the world's foremost sporting competitions in which thousands of male and female athletes from more than 200 nations participate, and

WHEREAS, the biological differences between females and males, especially as it relates to natural levels of testosterone, explain the male and female secondary sex characteristics, including physical strength, speed, and endurance, and

WHEREAS, after consulting with hundreds of athletes, doctors, and human rights experts, in November 2015, the International Olympic Committee issued guidelines specifying that an athlete who has transitioned from male to female is eligible to compete if she demonstrates that her total testosterone level in serum has been below 10 nmol/L for at least 12 months before her first competition, with the requirement for any longer period to be based on a confidential case-by-case evaluation considering whether 12 months is a sufficient length of time to minimize any advantage in women's competition, and

WHEREAS, the athlete's total testosterone level in serum must remain below 10 nmol/L throughout the period of desired eligibility to compete in the female category, and

WHEREAS, these guidelines remain in effect and have successfully led to parity between athletes who have transitioned from male to female and cisgender female athletes, and

WHEREAS, the use of cross-sex hormone therapy is increasing nationwide and in this state, and

WHEREAS, the number of transgender athletes is also increasing in this state, and

WHEREAS, athletes who have transitioned from male to female generally have higher levels of testosterone and may excel in physical strength, speed, and endurance in comparison to cisgender females, and

WHEREAS, the increase in athletes who have transitioned from male to female has and will continue to displace cisgender female athletes in this state and prevent them from excelling in athletic competitions, and

WHEREAS, transgender athletes should compete against athletes with similar abilities, and

WHEREAS, this act, which requires the designation of separate sex-specific athletic teams, is necessary to redress past discrimination against female athletes and to avoid jeopardizing the equality of athletic opportunity in this state, NOW, THEREFORE,

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

Section 1. Section 1006.205, Florida Statutes, is created to read:

1006.205 Promoting Equality of Athletic Opportunity Act.—

(1) SHORT TITLE.—This section may be cited as the "Promoting Equality of Athletic Opportunity Act."

(2) LEGISLATIVE INTENT AND FINDINGS.—

(a) It is the intent of the Legislature to provide opportunities for female athletes to demonstrate their strength, skills, and athletic abilities and to provide them with opportunities to obtain recognition and accolades, college scholarships, and the numerous other long-term benefits that result from participating and competing in athletic endeavors.

(b) The Legislature finds that promoting the equality of athletic opportunity is an important state interest. The Legislature finds that requiring the designation of separate sex-specific athletic teams or sports is necessary to promote equality of athletic opportunity.

(3) DESIGNATION OF ATHLETIC TEAMS OR SPORTS.—

(a) Interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by a public primary or secondary school, a public postsecondary institution, or any school or institution whose students or teams compete against a public school or public postsecondary institution must be expressly designated as one of the following based on the biological sex of team members:

1. Males, men, or boys;

2. Females, women, or girls; or

3. Coed or mixed, including both males and females.

(b) Athletic teams or sports designated for females, women,

or girls may not be open to students of the male sex.

(c) Persons who transition from male to female are eligible to compete in the female category if all of the following conditions are met:

1. The student has declared a female gender identity to her school or institution.

2. The student demonstrates that her total testosterone level in serum has been below 10 nmol/L for at least 12 months before her first competition and monthly throughout the period of desired eligibility to compete in the female category.

3. The student's total testosterone level in serum must remain below 10 nmol/L throughout the period of desired eligibility to compete in the female category.

A student that fails to comply with the requirements of subparagraphs 2. or 3. must be suspended from female competition for 12 months.

(d) The Board of Governors of the State University System shall adopt regulations, and the State Board of Education shall adopt rules, regarding the receipt and timely resolution of disputes by schools and institutions, consistent with this subsection.

(4) PROTECTION FOR EDUCATIONAL INSTITUTIONS.—A governmental entity, licensing or accrediting organization, or an athletic association or organization may not entertain a complaint, open an investigation, or take any other adverse action against any school or public postsecondary institution in this state for maintaining separate interscholastic, intercollegiate, intramural, or club athletic teams or sports for students of the

female sex.

(5) CAUSE OF ACTION; CIVIL REMEDIES.—

(a) Any student who is deprived of an athletic opportunity or suffers any direct or indirect harm as a result of a violation of this section has a private cause of action for injunctive relief, damages, and any other relief available under law against the school or public postsecondary institution.

(b) Any student who is subject to retaliation or other adverse action by a school, a public postsecondary institution, or an athletic association or organization as a result of reporting a violation of this section to an employee or a representative of the school, institution, or athletic association or organization, or to any state or federal agency with oversight of schools or public postsecondary institutions in this state, has a private cause of action for injunctive relief, damages, and any other relief available under law against the school, institution, or athletic association or organization.

(c) Any public school or public postsecondary institution that suffers any direct or indirect harm as a result of a violation of this section shall have a private cause of action for injunctive relief, damages, and any other relief available under law against the governmental entity, licensing or accrediting organization, or athletic association or organization.

(d) A civil action brought under this section must be initiated within 2 years after the alleged harm occurred. Persons or organizations who prevail on a claim brought under this section are entitled to monetary damages, including for any

psychological, emotional, or physical harm suffered, reasonable attorney fees and costs, and any other appropriate relief.

Section 2. This act shall take effect July 1, 2021.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Banking and Insurance
Governmental Oversight and Accountability
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission, Alternating Chair

SENATOR KELLI STARGEL
22nd District

March 23, 2021

The Honorable Manny Diaz, Jr.
Senate Committee on Health Policy, Chair
306 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Diaz:

I respectfully request that SB 2012, related to *Promoting Equality of Athletic Opportunity*, be placed on the Health Policy meeting agenda at your earliest convenience.

The purpose of SB 2012 is to protect female athletes in our public primary, secondary, and postsecondary schools from unfair competition against persons who transition from male to female and wish to compete in female athletic events. Persons who transition from male to female would need to demonstrate a certain low level of testosterone in order to compete against biological females.

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

Sincerely,

Kelli Stargel

Kelli Stargel
State Senator, District 22

Cc: Allen Brown/Staff Director
Lynn Wells/AA

REPLY TO:
❒ 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803 (863) 668-3028
❒ 420 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: *www.flsenate.gov*

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/2021
Meeting Date

SB2012
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 2012

Name Ana Soto

Job Title Student

Address 228 Dixie Dr. Apt. 1206
Street

Phone (954) 643-0903

Tallahassee FL 32304
City *State* *Zip*

Email as19cn@my.fsu.edu

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Reset Form

THE FLORIDA SENATE

APPEARANCE RECORD

3/31/2021
Meeting Date

2012
Bill Number (if applicable)

Topic Promoting Equality of Athletic Opportunity

Amendment Barcode (if applicable)

Name Pamela Burch Fort

Job Title

Address 104 South Monroe Street
Street

Phone 850-425-1344

Tallahassee FL 32301
City *State* *Zip*

Email TcgLobby@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ACLU of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

2012
Bill Number (if applicable)

Topic Transgender rights in sports

Amendment Barcode (if applicable)

Name Elliott Bertrand

Job Title Student

Address 12 Lemay Place
Street

Phone 813-541-6649

Palm Coast FL 32137
City *State* *Zip*

Email bertfamily@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03-31-21
Meeting Date

SB 2012
Bill Number (if applicable)

Topic Promoting Equality of Athletic Opportunity

Amendment Barcode (if applicable)

Name Donnie McMillon

Job Title Legislation Committee Member

Address 1747 Orlando Central Pky
Street
Orlando FL 32809
City *State* *Zip*

Phone 407-855-7604

Email mcmillonactivist@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-31-21
Meeting Date

2012
Bill Number (if applicable)

Topic Transgender Sports Ban

Amendment Barcode (if applicable)

Name Barbara DeBree

Job Title

Address 625 E Brevard St
Street

Phone 257-4280

Tallahassee FL 32308
City *State* *Zip*

Email barbaradebree70@yahoo.com

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

Representing FCRW

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3.31.21
Meeting Date

SB 2012
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Transphobia

Name Vincenza Birardo

Job Title Graduate Assistant

Address 803 Timberlake Dr
Street

Tallahassee FL 32308
City *State* *Zip*

Phone 407-766-9049

Email Vbirardo21@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing /

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/21
Meeting Date

2012
Bill Number (if applicable)

Topic Transgender rights in Sports

Amendment Barcode (if applicable)

Name Randy Bertrand

Job Title Engineer

Address 12 Lemay Place
Street

Phone 386-276-1091

Palm Coast FL 32137
City *State* *Zip*

Email Bertfam99@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/2021
Meeting Date

SB 2012
Bill Number (if applicable)

Topic Trans Athletes Bill

Amendment Barcode (if applicable)

Name Chloe Icus

Job Title

Address 75 N Woodward Ave
Street

Phone

Tallahassee FL 32313
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/31
Meeting Date

SB 1012
Bill Number (if applicable)

Topic Trans in Sports

Amendment Barcode (if applicable)

Name Abigail O'Laughlin

Job Title Student

Address 854 Coldwater Creek Circle
Street

Phone

Nicevile FL 32578
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/30 — *Meeting Date*

2012 — *Bill Number (if applicable)*

Topic Trans athletes

Amendment Barcode (if applicable)

Name Lauren Brenzel

Job Title

Address — *Street*

Phone 850-574-7455

Tallahassee — *City* — FL — *State* — 32301 — *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/31/2021
Meeting Date

SB 2012
Bill Number (if applicable)

Topic Trans Athletes Bill

Amendment Barcode (if applicable)

Name Andrew Coleman

Job Title

Address 2700 W Pensacola St
Street

Tallahassee FL 32304
City *State* *Zip*

Phone (407) 429 8926

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/30
Meeting Date

2012
Bill Number (if applicable)

Topic Trans Athlete

Amendment Barcode (if applicable)

Name Madeline Riley

Job Title

Address
Street

Phone (941)275-5006

Sarasota FL 34239
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/21
Meeting Date

2012
Bill Number (if applicable)

Topic Trans girl Sports Ban

Amendment Barcode (if applicable)

Name Kim Porteous

Job Title President of FLNOW

Address Lelolla Crenshaw Dr.
Street
Orlando. FL. 32835
City *State* *Zip*

Phone 706-669-8192

Email Kim4FLNOW@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FL. National Organization FOR Women

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

2012
Bill Number (if applicable)

Topic Trans Sports Ban

Amendment Barcode (if applicable)

Name Jon Harris Maurer

Job Title Public Policy Dir.

Address 201 E Park Ave., Ste. 200A
Street

Phone 850 681 0980

TLH FL 32301
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Equality Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/31/21
Meeting Date

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

2012
Bill Number (if applicable)

Topic Trans Athletes Ban

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title

Address
Street

Phone 4073764801

City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Rising

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-31
Meeting Date

2019
Bill Number (if applicable)

Topic ~~Transparency~~ Sports bill

Amendment Barcode (if applicable)

Name Berkilmer

Job Title President

Address 2849 Appalachee Trl
Street
Marianna FL 32446
City *State* *Zip*

Phone 8509336446

Email bfree@freedomspeaks.us

Speaking: [X] For [ ] Against [ ] Information

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

Representing Freedom Speaks

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [X] No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

SB 2012
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic TRANSGENDER SPORTS

Name PAUL ARONS MD

Job Title PHYSICIAN

Address 1706 BEECHWOOD CIR
Street
TALLAHASSEE FL 32301
City *State* *Zip*

Phone 850-545-8997

Email paronsmd@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing [redacted] SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

2012
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Equality of Athletic Opportunity

Name Anthony Verdugo

Job Title Ex. Director

Address P.O. Box 650216 Phone 786 447 6431
Street

Miami FL. 33265 Email averdugo@cfcflorida.net
City *State* *Zip*

Speaking: [X] For [ ] Against [ ] Information

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

Representing Christian Family Coalition Florida

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] Yes [ ] No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

2012
Bill Number (if applicable)

Topic Equality of Athletic Opportunity
Amendment Barcode (if applicable)

Name Armando V. Pomar

Job Title President

Address 7710 Abbott Ave #4
Street

Phone 786-285-4090

Miami Beach Fl. 33141
City *State* *Zip*

Email armandovpomar@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Hispanic American Diabetes Association (HADA)

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31
Meeting Date

2012
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Heidi Daniels

Job Title _____

Address 3278 Lord Murphy Trail
Street

Phone 904 472 3283

Tallahassee FL 32309
City *State* *Zip*

Email sinjap@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Citizens' Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/2021
Meeting Date

SB 2012
Bill Number (if applicable)

Topic Anti-trans youth athlete ban

Amendment Barcode (if applicable)

Name Lakey Love

Job Title

Address 1571 Melvin Street
Street

Phone 850-345-0018

Tallahassee FL 32301
City *State* *Zip*

Email lakey@lovejustwerks.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Coalition for Transgender Liberation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

SB 2012
Bill Number (if applicable)

Topic Transgender Sports Ban

Amendment Barcode (if applicable)

Name Annie Filkowski

Job Title Legislative Representative

Address _____ Phone (239) 849-2644
Street

Tallahassee FL 32311 Email anniejae.filkowski@ppcentfl.org
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Florida Alliance of Planned Parenthood Affiliates

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3.31.21
Meeting Date

SB2012
Bill Number (if applicable)

Topic Promoting Equality of Athletic Opportunity

Amendment Barcode (if applicable)

Name Damaris Allen

Job Title

Address 1709 S. Grady Ave.
Street

Phone 813.843.6210

Tampa, FL 33629
City *State* *Zip*

Email allendamaris@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 1540
INTRODUCER:	Health Policy Committee and Senator Gibson
SUBJECT:	Maternal Health Outcomes
DATE:	March 31, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Brown	HP	**Fav/CS**
2.			AHS	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1540 authorizes "Closing the Gap" grants to be awarded to projects that aim to decrease racial and ethnic disparities in severe maternal morbidity rates and other maternal health outcomes. The bill requires the Department of Health (DOH) to coordinate with existing community-based maternal health programs.

The bill creates telehealth minority maternity care pilot programs in Duval and Orange counties to use telehealth to expand capacity for positive maternal health outcomes in racial and ethnic minority populations. The bill provides detailed requirements for the pilot programs, including specifying services for eligible pregnant women that the programs must provide or coordinate with prenatal home visiting services to provide. The bill authorizes the DOH to adopt rules to implement the pilot programs.

The bill requires that funds appropriated by the Legislature for the Closing the Gap grant program be used to fund the pilot programs. The bill requires the DOH's Division of Community Health Promotion and its Office of Minority Health and Health Equity to work together to apply for available federal funds to assist in the implementation of the bill.

The bill provides an effective date of July 1, 2021.

II. Present Situation:

History of the Office of Minority Health and Health Equity

In 1993, Florida's Minority Health Improvement Act authorized the Minority Health Commission. In 1995, the Commission sunset.[1] In 1998, the DOH established the Office of Equal Opportunity and Minority Health.[2] In 2004, the Legislature established the Office of Minority Health within the DOH, pursuant to s. 20.43(9), F.S.[3] In 2016, the Legislature renamed it as the Office of Minority Health and Health Equity (office).[4]

Currently, under s. 20.43, F.S., the office must be headed by a senior health equity officer who administers the Closing the Gap grant program in a manner that maximizes the impact of the grants in achieving health equity. The senior health equity officer must evaluate the grants awarded by the program and assess the effectiveness and efficiency of the use of funds to determine best practices. The senior health equity officer is also responsible for disseminating information on best practices to stakeholders and for ensuring that the assessments inform future grant award decisions.

The office currently has five FTE staff positions: one senior health equity officer, one grants administrator, two Florida-certified contract managers, and one administrative assistant. The office also has four OPS staff positions: one program evaluator, two program analysts, and one senior clerk.

Closing the Gap Grant Program

In 2000, the Florida Legislature created the Reducing the Racial and Ethnic Health Disparities: "Closing the Gap" (CTG) grant program.[5] The program is administered through the office and its implementation is subject to a specific appropriation in the General Appropriations Act.[6] The purposes of the grant program is to improve health outcomes of racial and ethnic populations and promote disease prevention activities in the following priority areas:

- Maternal and infant mortality;
- Cancer;
- HIV/AIDS;
- Cardiovascular disease;
- Diabetes;
- Adult and child immunization;
- Oral health care;
- Sickle cell disease;
- Lupus; and

[1] Florida Department of Health, History of the Office of Minority Health and Health Equity, *available at* http://www.floridahealth.gov/programs-and-services/minority-health/about-us.html (last visited Feb. 2, 2021).
[2] *Id.*
[3] Chapter 2004-350, s. 2, Laws of Fla.
[4] Chapter 2016-230, Laws of Fla.
[5] Chapter 2000-256, ss. 31-32, Laws of Fla.
[6] Section 381.7356(7), F.S.

- Alzheimer's disease and dementia.[7]

Closing the Gap grants are intended to stimulate the development of community and neighborhood-based projects that impact health outcomes of racial and ethnic populations and stimulate partnerships between state and local governments, faith-based organizations, private sector organizations, and other non-traditional partners.[8] Priority is given to grant proposals that:

- Represent areas with the greatest documented ethnic and racial health status disparities;
- Exceed the statutory local match requirement;[9]
- Demonstrate broad-based local community support from entities representing racial and ethnic populations;
- Demonstrate high levels of participation by the heath care community in clinical preventive services and health promotion activities;
- Have been submitted by counties with high levels of residents living in poverty and with poor health status indicators;
- Demonstrate a coordinated community approach to addressing racial and ethnic health disparities within existing publicly financed health care programs;
- Incorporate intervention mechanisms that have a high probability of improving the targeted populations health status;
- Demonstrate a commitment to quality management in all aspects of project administration and implementation; and
- Incorporate policy approaches that will lead to long-term sustainability and improvement.[10]

Projects receiving grants are required to provide matching funds of one dollar for every three dollars awarded.[11] In counties with populations greater than 50,000, up to 50 percent of the local matching funds may be in-kind in the form of free services or human resources.[12] In counties with populations of 50,000 or less, local matching funds may be provided entirely through in-kind contributions.[13]

The office is responsible for:

- Publicizing the availability of funds and establishing an application process for submitting a grant proposal;
- Providing technical assistance and training, including a statewide meeting promoting best practice programs, as requested, to grant recipients;
- Developing uniform data reporting requirements for the purpose of evaluating the performance of the grant recipients and demonstrating improved health outcomes;
- Developing a monitoring process to evaluate progress toward meeting grant objectives; and
- Coordinating with existing community-based programs, such as chronic disease community intervention programs, cancer prevention and control programs, diabetes control programs, the Healthy Start program, the Florida Kidcare Program, the HIV/AIDS program,

[7] Section 381.7355(2)(a), F.S.
[8] Section 381.7352, F.S.
[9] Section 381.7356, F.S.
[10] Section 381.7355(3), F.S.
[11] Section 381.7356(2), F.S.
[12] *Id.*
[13] *Id.*

immunization programs, and other related programs at the state and local levels, to avoid duplication of effort and promote consistency.[14]

In relation to the Closing the Gap grant program, the DOH must coordinate with existing community-based programs to avoid duplication of effort and promote consistency, such as:

- Chronic disease community intervention programs;
- Cancer prevention and control programs;
- Diabetes control programs;
- The Healthy Start program;
- The Florida Kidcare Program;
- The HIV/AIDS program;
- Immunization programs; and
- Other related programs at the state and local levels.[15]

Current DOH Initiatives and Programs relating to Maternal Health

Pregnancy-Associated Mortality Review[16]

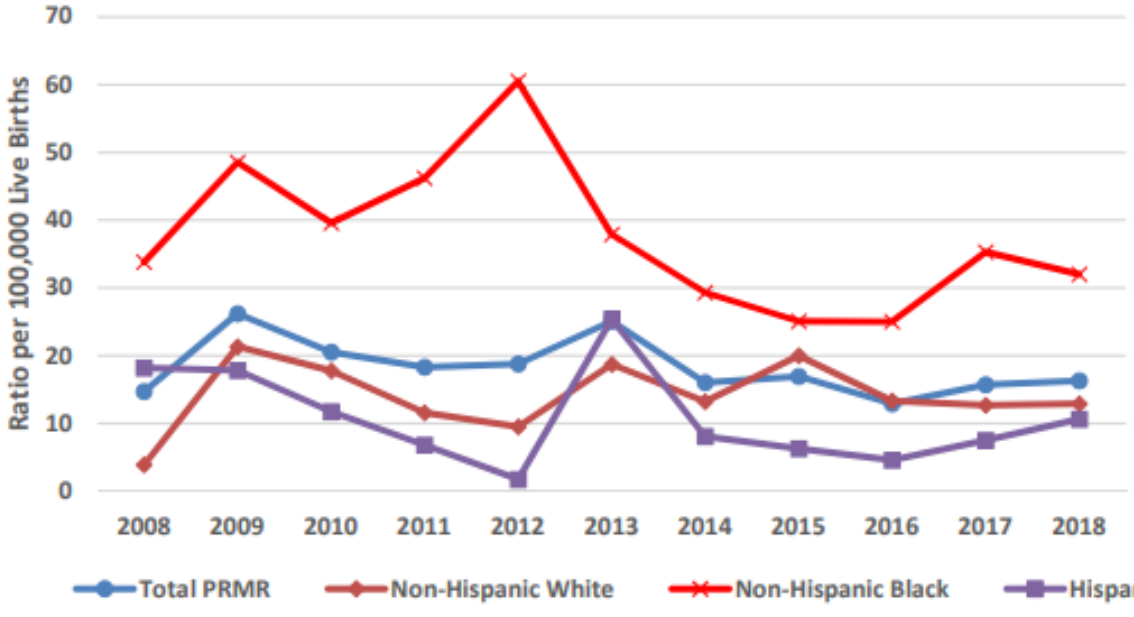
In 1996, the DOH established the Pregnancy-Associated Mortality Review (PAMR) process to improve surveillance and analysis of pregnancy-related deaths in Florida. This case review program seeks to close gaps in care, identify systemic service delivery issues, and make recommendations to facilitate improvements in the overall systems of care. The PAMR Committee consists to two co-chairs and committee membership representative of diverse geographic, medical, psychosocial, community and epidemiological expertise.[17] The PAMR Committee reviews all deaths identified as pregnancy-related and reviews the medical records to see what, if anything, could have been done to prevent this death.

The PAMR defines "pregnancy-associated death" as a death to a woman from any cause while she is pregnant or within one year of termination of the pregnancy, regardless of duration and site of the pregnancy. Before they are reviewed and found to be "pregnancy-associated", such deaths are identified through:

- Death certificates identified by the assigned cause of death being in the category of Pregnancy, Childbirth and the Puerperium (pregnancy related);
- Florida's Prenatal Risk Screen (formerly known as the Healthy Start screen);
- Birth Certificate/Fetal death certificate;
- Death certificates with a checked box identifying the woman as either pregnant at time of death, pregnant within 42 days of death, or pregnant between 43 days to one year before death.

[14] Department of Health, *Committee Substitute for Senate Bill 404 Analysis* (March 9, 2021) (on file with the Senate Committee on Health Policy).
[15] Section 381.7353(2)(e), F.S.
[16] Florida Department of Health, Pregnancy-Associated Mortality Review (PAMR) *available at* http://www.floridahealth.gov/statistics-and-data/PAMR/index.html (last visited Mar. 27, 2021).
[17] Department of Health, *House Bill 1383 Fiscal Analysis* (Mar. 12, 2021) (on file with the Senate Committee on Health Policy).

Figure 3. Pregnancy-Related Mortality Ratios (PRMRs) by Race/Ethnicity, Florida, 2008–2018



[18]

The 2018 PAMR Report found that the pregnancy-related mortality ratio (PRMR) in Florida was 16.3 per 100,000 live births.[19] Although the 2018 PRMR was lower than the 2009 ratio (26.2 per 100,000 live births), the trend for the period 2008-2018 was not statistically significant.[20] The 2018 PAMR Report noted a significant decrease in the Black-White racial disparity gap from 8.7 in 2008 to 2.5 in 2018.[21] Throughout the study period, non-Hispanic Black women exhibited higher PRMRs than non-Hispanic White or Hispanic women.[22] During 2012, the PRMR for non-Hispanic Black women was 60.5, an all-time high. In 2018, the PRMR per 100,000 live births was 32.0 for non-Hispanic Black women, 12.9 for non-Hispanic White women, and 10.6 for Hispanic women.[23]

The report issued recommendations relating to improved training for providers and education for patients, earlier access to prenatal care, assessment standards, and screening procedures.[24]

Florida Perinatal Quality Collaborative (FPQC)[25]

The FPQC was established in 2010 to improve Florida's maternal and infant health outcomes through the delivery of high quality, evidence-based perinatal care. The DOH works with the

[18] Florida Department of Health, Florida's Pregnancy-Associated Mortality Review 2018 Update (May 2020) *available at* http://www.floridahealth.gov/statistics-and-data/PAMR/_documents/pamr-2018-update.pdf at 7. (last visited Mar. 27, 2021).
[19] *Id.* at 3.
[20] *Id.*
[21] *Id.* at 7.
[22] *Id.*
[23] *Id.*
[24] *Id.* at 21-23.
[25] University for South Florida, College of Public Health, Florida Perinatal Quality Collaborative *available at* https://health.usf.edu/publichealth/chiles/fpqc (last visited Mar. 27, 2021).

Florida Perinatal Quality Collaborative (FPQC) which is housed in the Chiles Center at the University Of South Florida College Of Public Health. Led by a Steering Committee (that the DOH remains engaged in)[26] and a leadership team, the FPQC engages all its stakeholders to identify the priority perinatal quality improvement issues and to determine which initiatives are appropriate, feasible, engaging, measurable and supportable. PAMR findings have often been used to help inform initiatives addressed by the FPQC.

Florida Healthy Start Program[27]

The DOH's Division of Community Health Promotion, Bureau of Family Health Services, Maternal and Child Health Section oversees the Florida Healthy Start program.[28] Healthy Start is a voluntary program that provides home visiting services that include prenatal education and support, screening and services, parenting education, and care coordination to assure access to needed services. These services may include psychosocial, nutritional, smoking cessation counseling, childbirth, breastfeeding, substance abuse education, and interconception education and counseling. Healthy Start services pregnant women and children up to three years of age in all 67 counties. Duval County is provided services through the Northeast Healthy Start Coalition and Orange County is provided services through the Healthy Start Coalition of Orange County.[29]

HRSA Grant to Address Perinatal Mental Health and Substance Abuse[30]

The DOH has a grant from the federal Health Resources and Services Administration (HRSA) to administer a pilot program to address perinatal mental health and substance use. The DOH has partnered with Florida State University, the University of Florida, and the Florida Association of Healthy Start Coalitions to implement this pilot program with plans to expand statewide. The pilot program expands screening for depression, anxiety, and substance use and access to needed services for pregnant and postpartum women. The pilot program aims to promote maternal and child health by building the capacity of health care providers to address these critical issues through professional development, expert consultation and support, and dissemination of best practices.

Florida Pregnancy Support Services Program[31]

The DOH has a contract with the Florida Pregnancy Care Network to implement the Florida Pregnancy Support Services Program (FPSSP). The FPSSP's network of pregnancy support centers located throughout the state provide pregnancy support services to women and their families. Pregnancy help centers are local, non-profit organizations that provide support and assistance to women and men. In addition to free pregnancy tests, peer counseling, and referrals, most centers offer free classes on pregnancy, childbirth, parenting, and life skills. Participation is encouraged by offering free items such as maternity and baby clothing, diapers, formula, cribs, and car seats to women participating in the FPSSP throughout their pregnancy and the first year

[26] Department of Health, *House Bill 1383 Fiscal Analysis* (Mar. 12, 2021) (on file with the Senate Committee on Health Policy).
[27] *Id.*
[28] Department of Health, *Senate Bill 1540 Fiscal Analysis* (Feb. 26, 2021) (on file with the Senate Committee on Health Policy).
[29] *Id.*
[30] *Supra* note 26.
[31] *Id.*

of their baby's life. The FPSSP also has a wellness program that offers referrals to health care providers that will provide free well-woman exams performed by a physician, nurse practitioner, or physician assistant.

"My Birth Matters" Florida Campaign[32]

The DOH the Agency for Health Care Administration, the FPQC, and the Florida Hospital Association have launched the "My Birth Matters" Florida campaign, modeled after the California "My Birth Matters" campaign (MyBirthMatters.org). The purpose of the campaign is to promote vaginal deliveries and reduce unnecessary caesarean section deliveries for expectant mothers with low-risk pregnancies. The campaign offers free educational materials and resources for parents and providers, including posters, brochures, videos, and social media messages.

Nurse Family Partnership program

The DOH has implemented the Nurse Family Partnership program which serves 20 counties throughout the state.[33] In this program, specially trained nurses visit young, first-time moms-to-be, beginning in early pregnancy and continuing through the child's second birthday.[34] The goal of the program is to improve pregnancy outcomes by helping women utilize preventive health practices, including:

- Thorough prenatal care from their health care providers,
- Improving diets;
- Reducing consumption of nicotine, alcohol, and illegal substances;
- Improving child health and development by helping parents provide responsible and competent care; and
- Improving the economic self-sufficiency of the family by helping parents to develop a vision for their own future, plan future pregnancies, continue their education, and find work.[35]

Telehealth

In 2019, the Legislature passed and the Governor approved CS/CS/HB 23 which created s. 456.47, F.S. The bill became effective on July 1, 2019.[36] It authorizes Florida-licensed health care providers[37] to use telehealth to deliver health care services within their respective scopes of practice and also authorizes out-of-state health care providers to use telehealth to deliver health care services to Florida patients if they register with the DOH or the applicable board[38] and meet

[32] Florida Department of Health, My Birth Matters Florida *available* at http://www.floridahealth.gov/programs-and-services/womens-health/pregnancy/my-birth-matters/index.html (last visited Mar. 27, 2021).
[33] Nurse-Family Partnership Florida *available at* https://www.nursefamilypartnership.org/wp-content/uploads/2020/11/FL_2020-State-Profile-1.pdf (last visited Mar. 27, 2021).
[34] *Id.*
[35] Department of Health, *House Bill 1383 Fiscal Analysis* (Mar. 12, 2021) (on file with the Senate Committee on Health Policy).
[36] Chapter 2019-137, s. 6, Laws of Fla.
[37] Section 467.47(1)(b), F.S.
[38] 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 the DOH or, in some cases, within the DOH's Division of Medical Quality Assurance.

certain eligibility requirements.[39] A registered out-of-state telehealth provider may use telehealth, within the relevant scope of practice established by Florida law and rule, to provide health care services to Florida patients but is prohibited from opening an office in Florida and from providing in-person health care services to patients located in Florida while registered as an out-of-state telehealth provider.

Section 456.47, F.S., defines the term "telehealth" as the use of synchronous (real-time) or asynchronous (in separate time frames) telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration. The term does not include audio-only telephone calls, e-mail messages, or facsimile transmissions.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 381.7353, F.S., to require the DOH to coordinate with community-based maternal health programs at the state and local levels to avoid duplication of effort and promote consistency.

A Closing the Gap grant proposal must address one or more priority areas, as listed in s. 381.7355, F.S. **Section 2** of the bill amends that section of statute to add "decreasing racial and ethnic disparities in severe maternal morbidity rates and other maternal health outcomes" as a priority area.

Section 3 of the bill creates s. 383.2163, F.S., to require the DOH to establish a telehealth minority maternity care pilot program in Duval County and Orange County by July 1, 2022. The pilot programs would use telehealth to expand the capacity for positive maternal health outcomes in racial and ethnic minority populations. Under the bill, the DOH must direct and assist the county health departments in Duval County and Orange County to implement the pilot programs. Under the bill, the pilot programs must use telehealth to provide, or coordinate with prenatal home visiting programs to provide, all of the following services and education to eligible pregnant women[40] up to the last day of their postpartum[41] periods, as applicable:

- Referrals to Healthy Start's coordinated intake and referral program to offer families prenatal home visiting services.

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[39] On March 16, 2020, Surgeon General Scott Rivkees executed DOH Emergency Order 20-002 authorizing certain out-of-state physicians, osteopathic physicians, physician assistants, and advanced practice registered nurses to provide telehealth in Florida without the need to register as a telehealth provider under s. 456.47(4), F.S. This emergency order was extended and will remain in effect until the expiration of the Governor's Executive Order No. 20-52 and extensions thereof. Department of Health, State of Florida, *Emergency Order DOH No. 20-003* (Mar. 21, 2020) *available at* https://s33330.pcdn.co/wp-content/uploads/2020/03/DOH-EO-20-003-3.21.2020.pdf (last visited Mar. 27, 2021).

[39] Department of Health, State of Florida, *Emergency Order DOH No. 20-005* (Apr. 21, 2020) *available at* https://s33330.pcdn.co/wp-content/uploads/2020/04/DOH-Emergency-Order-20-005-extending-20-003.pdf (last visited Mar. 27, 2021).

[39] Section 20.42, F.S.

[40] Under the bill, "eligible pregnant woman" means a pregnant woman who is receiving, or is eligible to receive, maternal or infant care services from the department under ch. 381 or ch. 383, F.S.

[41] Under the bill, "postpartum" means the 1-year period beginning on the last day of a woman's pregnancy.

- Services and education addressing social determinants of health, including, but not limited to, all of the following:
  - Housing placement options;
  - Transportation services or information on how to access such services;
  - Nutrition counseling;
  - Access to healthy foods;
  - Lactation support;
  - Lead abatement and other efforts to improve air and water quality;
  - Child care options;
  - Car seat installation and training;
  - Wellness and stress management programs; and
  - Coordination across safety net and social support services and programs.
- Evidence-based health literacy and pregnancy, childbirth, and parenting education for women in the prenatal and postpartum periods.
- For women during their pregnancies through the postpartum periods, connection to support from doulas and other perinatal health workers.
- Tools to conduct key components of maternal wellness checks, including, but not limited to, all of the following:
  - A scale to measure body weight;
  - A device to measure blood pressure;
  - A device to measure blood sugar levels; and
  - Any other device that the health care practitioner performing wellness checks through telehealth deems necessary.

The pilot programs created in the bill must also provide training to health care practitioners and perinatal professionals[42] participating in the plan on:

- Implicit and explicit biases, racism, and discrimination in the provision of maternity care and how to eliminate them.
- Remote patient monitoring tools for pregnancy-related complications.
- Screening for social determinants of health risks in the prenatal and postpartum periods.
- Best practices in screening for evaluating and treating maternal mental health conditions and substance use disorders.
- Information collection, recording, and evaluation activities to:
  - Study the impact of the pilot program;
  - Ensure access to and the quality of care;
  - Evaluate patient outcomes;
  - Measure patient experience; and
  - Identify best practices for the expansion of the pilot program.

The bill provides that the pilot programs are to be funded using funds appropriated by the Legislature for the Closing the Gap grant program. The bill requires the DOH's Division of Community Health Promotion and its Office of Minority Health and Health Equity to work in

[42] Under the bill, "perinatal professionals" means doulas, personnel from Healthy Start and home visiting programs, childbirth educators, community health workers, peer supporters, certified lactation consultants, nutritionists and dietitians, social workers, and other licensed and non-licensed professionals who assist women through their prenatal or postpartum periods.

partnership and apply for federal funds that are available to assist the DOH in accomplishing the purpose of the pilot programs and in successfully implementing the programs.

The bill authorizes the DOH to adopt rules to implement the pilot programs.

Section 4 of the bill provides an effective date of July 1, 2021.

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:

Adding "decreasing racial and ethnic disparities in severe maternal morbidity rates and other maternal health outcomes" as a priority area may reduce the funds available for Closing the Gap grant awards for other priority areas.

C. Government Sector Impact:

CS/SB 1540 does not have a direct fiscal impact on the state because the bill provides that the pilot programs will be funded from appropriations made by the Legislature for the Closing the Gap grant program. Therefore, implementation of the pilot programs is subject to such appropriation. The 2020-2021 General Appropriations Act provided $4,850,354 in recurring general revenue for Minority Health Initiatives, which includes the Closing the Gap grant program. (Specific Appropriation 429).

The DOH estimates, based on the number of pregnancies in Duval and Orange counties and the number of those pregnancies that may be covered by Medicaid, that it would cost $5,465,197.01 to provide a scale ($40.73 each), blood pressure cuff ($79.96 each), and glucose monitor ($206.00 each) to each woman who may be eligible for the pilot programs in those counties.[43] That estimate is for medical equipment only. The DOH indicates that the department will use existing resources to fulfill other requirements of the bill.[44]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 381.7353 and 381.7355 of the Florida Statutes.

This bill creates section 383.2163 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 March 31, 2021:
The CS:

- Adds personnel from Healthy Start and home visiting programs to the definition of "perinatal professionals."
- Deletes the underlying bill's definition of "telehealth" that included audio-only telephone calls, e-mail messages, and facsimile transmissions.
- Authorizes a pilot program to coordinate with prenatal visiting programs to provide services specified in the bill, in lieu of providing the services through telehealth.
- Requires a pilot program to provide referrals to Healthy Start's coordinated program intake and referral program to offer families prenatal home visiting services.
- Authorizes a pilot program to provide a device to a woman that a health care practitioner performing wellness checks through telehealth deems necessary, regardless of whether that device is necessary to ensure that an accurate assessment of a pregnant women participating in the program is conducted.

B. Amendments:

None.

[43] *Supra* note 28.
[44] *Id.*

659422

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 110 - 190

and insert:

(h) "Perinatal professionals" means doulas, personnel from Healthy Start and home visiting programs, childbirth educators, community health workers, peer supporters, certified lactation consultants, nutritionists and dietitians, social workers, and other licensed and nonlicensed professionals who assist women through their prenatal or postpartum periods.


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(i) "Postpartum" means the 1-year period beginning on the last day of a woman's pregnancy.

(j) "Severe maternal morbidity" means an unexpected outcome caused by a woman's labor and delivery which results in significant short-term or long-term consequences to the woman's health.

(k) "Technology-enabled collaborative learning and capacity building model" means a distance health care education model that connects health care professionals, particularly specialists, with other health care professionals through simultaneous interactive videoconferencing for the purpose of facilitating case-based learning, disseminating best practices, and evaluating outcomes in the context of maternal health care.

(2) PURPOSE.—The purpose of the pilot programs is to:

(a) Expand the use of technology-enabled collaborative learning and capacity building models to improve maternal health outcomes for the following populations and demographics:

1. Ethnic and minority populations.

2. Health professional shortage areas.

3. Areas with significant racial and ethnic disparities in maternal health outcomes and high rates of adverse maternal health outcomes, including, but not limited to, maternal mortality and severe maternal morbidity.

4. Medically underserved populations.

5. Indigenous populations.

(b) Provide for the adoption and use of telehealth services that allow for screening and treatment of common pregnancy-related complications, including, but not limited to, anxiety, depression, substance use disorder, hemorrhage, infection,

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amniotic fluid embolism, thrombotic pulmonary or other embolism, hypertensive disorders relating to pregnancy, diabetes, cerebrovascular accidents, cardiomyopathy, and other cardiovascular conditions.

(3) TELEHEALTH SERVICES AND EDUCATION.—The pilot programs shall adopt the use of telehealth or coordinate with prenatal home visiting programs to provide all of the following services and education to eligible pregnant women up to the last day of their postpartum periods, as applicable:

(a) Referrals to Healthy Start's coordinated intake and referral program to offer families prenatal home visiting services.

(b) Services and education addressing social determinants of health, including, but not limited to, all of the following:

1. Housing placement options.

2. Transportation services or information on how to access such services.

3. Nutrition counseling.

4. Access to healthy foods.

5. Lactation support.

6. Lead abatement and other efforts to improve air and water quality.

7. Child care options.

8. Car seat installation and training.

9. Wellness and stress management programs.

10. Coordination across safety net and social support services and programs.

(c) Evidence-based health literacy and pregnancy, childbirth, and parenting education for women in the prenatal

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and postpartum periods.

(d) For women during their pregnancies through the postpartum periods, connection to support from doulas and other perinatal health workers.

(e) Tools for prenatal women to conduct key components of maternal wellness checks, including, but not limited to, all of the following:

1. A device to measure body weight, such as a scale.

2. A device to measure blood pressure which has a verbal reader to assist the pregnant woman in reading the device and to ensure that the health care practitioner performing the wellness check through telehealth is able to hear the reading.

3. A device to measure blood sugar levels with a verbal reader to assist the pregnant woman in reading the device and to ensure that the health care practitioner performing the wellness check through telehealth is able to hear the reading.

4. Any other device that the health care practitioner performing wellness checks through telehealth deems necessary.

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

And the title is amended as follows:

Delete line 12

and insert:

services, or coordinate with prenatal home visiting programs to provide specified services, to eligible pregnant women for a specified

By Senator Gibson

6-01876-21 20211540__

A bill to be entitled

An act relating to maternal health outcomes; amending s. 381.7353, F.S.; revising the Department of Health's duties under the Closing the Gap grant program; amending s. 381.7355, F.S.; revising the requirements for Closing the Gap grant proposals; creating s. 383.2163, F.S.; requiring the department to establish telehealth minority maternity care pilot programs in Duval County and Orange County by a specified date; defining terms; providing program purposes; requiring the pilot programs to provide specified telehealth services to eligible pregnant women for a specified period; requiring pilot programs to train participating health care practitioners and perinatal professionals on specified topics; providing for funding for the pilot programs; requiring the department's Division of Community Health Promotion and Office of Minority Health and Health Equity to apply for certain federal funding; authorizing the department to adopt rules; providing an effective date.

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

Section 1. Paragraph (e) of subsection (2) of section 381.7353, Florida Statutes, is amended to read:

381.7353 Reducing Racial and Ethnic Health Disparities: Closing the Gap grant program; administration; department duties.—

6-01876-21 20211540__

(2) The department shall:

(e) Coordinate with existing community-based programs, such as chronic disease community intervention programs, cancer prevention and control programs, diabetes control programs, the Healthy Start program, the Florida Kidcare Program, the HIV/AIDS program, immunization programs, maternal health programs, and other related programs at the state and local levels, to avoid duplication of effort and promote consistency.

Section 2. Paragraph (a) of subsection (2) of section 381.7355, Florida Statutes, is amended to read:

381.7355 Project requirements; review criteria.—

(2) A proposal must include each of the following elements:

(a) The purpose and objectives of the proposal, including identification of the particular racial or ethnic disparity the project will address. The proposal must address one or more of the following priority areas:

1. Decreasing racial and ethnic disparities in maternal and infant mortality rates.

2. Decreasing racial and ethnic disparities in severe maternal morbidity rates and other maternal health outcomes.

3. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to cancer.

4.~~3.~~ Decreasing racial and ethnic disparities in morbidity and mortality rates relating to HIV/AIDS.

5.~~4.~~ Decreasing racial and ethnic disparities in morbidity and mortality rates relating to cardiovascular disease.

6.~~5.~~ Decreasing racial and ethnic disparities in morbidity and mortality rates relating to diabetes.

7.~~6.~~ Increasing adult and child immunization rates in

certain racial and ethnic populations.

8.~~7.~~ Decreasing racial and ethnic disparities in oral health care.

9.~~8.~~ Decreasing racial and ethnic disparities in morbidity and mortality rates relating to sickle cell disease.

10.~~9.~~ Decreasing racial and ethnic disparities in morbidity and mortality rates relating to Lupus.

11.~~10.~~ Decreasing racial and ethnic disparities in morbidity and mortality rates relating to Alzheimer's disease and dementia.

12.~~11.~~ Improving neighborhood social determinants of health, such as transportation, safety, and food access, as outlined by the Centers for Disease Control and Prevention's "Tools for Putting Social Determinants of Health into Action."

Section 3. Effective January 1, 2022, section 383.2163, Florida Statutes, is created to read:

383.2163 Telehealth minority maternity care pilot programs.—By July 1, 2022, the department shall establish a telehealth minority maternity care pilot program in Duval County and Orange County which uses telehealth to expand the capacity for positive maternal health outcomes in racial and ethnic minority populations. The department shall direct and assist the county health departments in Duval County and Orange County to implement the programs.

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

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

(b) "Eligible pregnant woman" means a pregnant woman who is receiving, or is eligible to receive, maternal or infant care services from the department under chapter 381 or chapter 383.

(c) "Health care practitioner" has the same meaning as in s. 456.001.

(d) "Health professional shortage area" means a geographic area designated as such by the Health Resources and Services Administration of the United States Department of Health and Human Services.

(e) "Indigenous population" means any Indian tribe, band, or nation or other organized group or community of Indians recognized as eligible for services provided to Indians by the United States Secretary of the Interior because of their status as Indians, including any Alaskan native village as defined in 43 U.S.C. s. 1602(c), the Alaska Native Claims Settlement Act, as that definition existed on the effective date of this act.

(f) "Maternal mortality" means a death occurring during pregnancy or the postpartum period which is caused by pregnancy or childbirth complications.

(g) "Medically underserved population" means the population of an urban or rural area designated by the United States Secretary of Health and Human Services as an area with a shortage of personal health care services or a population group designated by the United States Secretary of Health and Human Services as having a shortage of such services.

(h) "Perinatal professionals" means doulas, childbirth educators, community health workers, peer supporters, certified lactation consultants, nutritionists and dietitians, social workers, and other licensed and nonlicensed professionals who assist women through their prenatal or postpartum periods.

(i) "Postpartum" means the 1-year period beginning on the last day of a woman's pregnancy.

(j) "Severe maternal morbidity" means an unexpected outcome caused by a woman's labor and delivery which results in significant short-term or long-term consequences to the woman's health.

(k) "Technology-enabled collaborative learning and capacity building model" means a distance health care education model that connects health care professionals, particularly specialists, with other health care professionals through simultaneous interactive videoconferencing for the purpose of facilitating case-based learning, disseminating best practices, and evaluating outcomes in the context of maternal health care.

(l) "Telehealth" has the same meaning as in s. 456.47 but includes audio-only telephone calls, e-mail messages, and facsimile transmissions.

(2) PURPOSE.—The purpose of the pilot programs is to:

(a) Expand the use of technology-enabled collaborative learning and capacity building models to improve maternal health outcomes for the following populations and demographics:

1. Ethnic and minority populations.

2. Health professional shortage areas.

3. Areas with significant racial and ethnic disparities in maternal health outcomes and high rates of adverse maternal health outcomes, including, but not limited to, maternal mortality and severe maternal morbidity.

4. Medically underserved populations.

5. Indigenous populations.

(b) Provide for the adoption of and use of telehealth services that allow for screening and treatment of common pregnancy-related complications, including, but not limited to,

anxiety, depression, substance use disorder, hemorrhage, infection, amniotic fluid embolism, thrombotic pulmonary or other embolism, hypertensive disorders relating to pregnancy, diabetes, cerebrovascular accidents, cardiomyopathy, and other cardiovascular conditions.

(3) TELEHEALTH SERVICES AND EDUCATION.—The pilot programs shall adopt the use of telehealth to provide all of the following services and education to eligible pregnant women up to the last day of their postpartum periods, as applicable:

(a) Services and education addressing social determinants of health, including, but not limited to, all of the following:

1. Housing placement options.

2. Transportation services or information on how to access such services.

3. Nutrition counseling.

4. Access to healthy foods.

5. Lactation support.

6. Lead abatement and other efforts to improve air and water quality.

7. Child care options.

8. Car seat installation and training.

9. Wellness and stress management programs.

10. Coordination across safety net and social support services and programs.

(b) Evidence-based health literacy and pregnancy, childbirth, and parenting education for women in the prenatal and postpartum periods.

(c) For women during their pregnancies through the postpartum periods, connection to support from doulas and other

perinatal health workers.

(d) Tools to conduct key components of maternal wellness checks, including, but not limited to, all of the following:

1. A device to measure body weight, such as a scale.

2. A device to measure blood pressure which has a verbal reader to assist the pregnant woman in reading the device and to ensure that the health care practitioner performing the wellness check through telehealth is able to hear the reading.

3. A device to measure blood sugar levels with a verbal reader to assist the pregnant woman in reading the device and to ensure that the health care practitioner performing the wellness check through telehealth is able to hear the reading.

4. Any other device that the health care practitioner performing wellness checks through telehealth deems necessary to ensure an accurate assessment of pregnant women participating in the program is conducted.

(4) TRAINING.—The pilot programs shall provide training to participating health care practitioners and other perinatal professionals on all of the following:

(a) Implicit and explicit biases, racism, and discrimination in the provision of maternity care and how to eliminate these barriers to accessing adequate and competent maternity care.

(b) The use of remote patient monitoring tools for pregnancy-related complications.

(c) How to screen for social determinants of health risks in the prenatal and postpartum periods, such as inadequate housing, lack of access to nutritional foods, environmental risks, transportation barriers, and lack of continuity of care.

(d) Best practices in screening for and, as needed, evaluating and treating maternal mental health conditions and substance use disorders.

(e) Information collection, recording, and evaluation activities to:

1. Study the impact of the pilot program;

2. Ensure access to and the quality of care;

3. Evaluate patient outcomes as a result of the pilot program;

4. Measure patient experience; and

5. Identify best practices for the future expansion of the pilot program.

(5) FUNDING.—The pilot programs shall be funded using funds appropriated by the Legislature for the Closing the Gap grant program. The department's Division of Community Health Promotion and Office of Minority Health and Health Equity shall also work in partnership to apply for federal funds that are available to assist the department in accomplishing the program's purpose and successfully implementing the pilot programs.

(6) RULES.—The department may adopt rules to implement this section.

Section 4. This act shall take effect July 1, 2021.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Vice Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Military and Veterans Affairs, Space, and Domestic Security
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR AUDREY GIBSON
6th District

March 16, 2021

Senator Manny Diaz Jr., Chair
Committee on Health Policy
530 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Diaz:

I respectfully request that SB 1540, be placed on the next committee agenda.

SB 1540, directs Closing the Gap grant proposals through the Department of Health to establish a telehealth minority maternity care pilot programs in Duval and Orange counties. The pilot programs will use telehealth to expand the capacity for positive maternal outcomes in racial and ethnic minority populations and track reduction in maternal mortality. The bill will also identify barriers to decreasing maternal and infant mortality rates and other maternal health outcomes in medically underserved populations.

Thank you for your kind and consideration.

Sincerely,

Audrey Gibson
State Senator
District 6

101 East Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553
410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

2021 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION	
BILL NUMBER:	CS 404
BILL TITLE:	Office of Minority Health and Health Equity
BILL SPONSOR:	Rouson
EFFECTIVE DATE:	July 1, 2021

COMMITTEES OF REFERENCE
1) Health Policy
2) Appropriations Subcommittee on Health & Human Services
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE
Appropriations Subcommittee on Health & Human Services

SIMILAR BILLS	
BILL NUMBER:	183
SPONSOR:	Brown

PREVIOUS LEGISLATION	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	March 9, 2021
LEAD AGENCY ANALYST:	Walter Niles
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Louise St. Laurent
FISCAL ANALYST:	Ty Gentle

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill:

- Creates section 381.735, Florida Statutes.
- Requires the Office of Minority Health and Health Equity (OMHHE) to develop and promote statewide implementation of policies, programs, and practices that increase health equity in Florida.
- Requires one representative from each county health department to serve as a minority health liaison for a specified purpose.
- Requires the OMHHE to use all available resources and pursue funding opportunities to achieve a specified purpose.
- Specifies duties for the OMHHE that must be done in coordination with agencies, organizations, and providers.
- Requires the OMHHE to maintain and update at least annually its website with specified information.
- Requires the OMHHE to serve as a liaison to and assist the federal Offices of Minority Health and Regional Health Operations.
- Authorizes the Florida Department of Health (FDOH) to adopt rules.
  The FDOH will experience an increase in workload and operational costs to implement this bill. The FDOH will incur indeterminate expenses that may have significant technology and fiscal impacts.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Office of Minority Health and Health Equity (OMHHE)

The OMHHE is headed by a Senior Health Equity Officer who administers the Reducing Racial and Ethnic Health Disparities: Closing the Gap (CTG) grant program in a manner that maximizes the impact of the grants in achieving health equity. The Senior Health Equity Officer evaluates awarded grants to assess the effectiveness and efficiency of the use of funds and to determine best practices. The Senior Health Equity Officer disseminates information on best practices to stakeholders and ensures that the assessments inform future grant award decisions.

Current OMHHE staffing:

- 5 Full Time Equivalent (FTE) Positions: 1 Senior Health Equity Officer, 1 Grants Administrator, 2 Florida Certified Contract Managers, and 1 Administrative Assistant.
- 4 Other Personal Services (OPS) Positions: 1 OPS Program Evaluator, 2 OPS Program Analysts, and 1 OPS Senior Clerk.

Reducing Racial and Ethnic Health Disparities: Closing the Gap (CTG) Grant Program

The CTG grant program awards funds to grantees to stimulate the development of community-based and neighborhood-based projects to improve health outcomes of racial and ethnic minority populations. Projects funded through the CTG grant program must address racial and ethnic disparities associated with one or more of the following 11 statutorily designated priority areas:

1. Maternal and Infant Mortality
2. Cancer
3. HIV/AIDS
4. Cardiovascular Disease
5. Diabetes

6. Adult and Child Immunizations
7. Oral Health Care
8. Sickle Cell Disease
9. Lupus
10. Alzheimer's Disease and Related Dementia
11. Social Determinants of Health

OMHHE CTG grant program responsibilities include:

- Publicizing the availability of funds and establishing an application process for submitting a grant proposal.
- Providing technical assistance and training, including a statewide meeting promoting best practice programs, as requested, to grant recipients.
- Developing uniform data reporting requirements for the purpose of evaluating the performance of the grant recipients and demonstrating improved health outcomes.
- Developing a monitoring process to evaluate progress toward meeting grant objectives.
- Coordinating with existing community-based programs, such as chronic disease community intervention programs, cancer prevention and control programs, diabetes control programs, the Healthy Start program, the Florida Kidcare Program, the HIV/AIDS program, immunization programs, and other related programs at the state and local levels, to avoid duplication of effort and promote consistency.

CTG grant program funding:

- Implementation of the CTG grant program is subject to a specific appropriation provided in the General Appropriations Act.

2. EFFECT OF THE BILL:

The bill requires the OMHHE to develop and promote statewide implementation of policies, programs, and practices that increase health equity in Florida, including, but not limited to, increased access to and quality of health care services for racial and ethnic minority populations.

The bill also requires one representative from each county health department to serve as a minority health liaison to assist the OMHHE in implementing this section.

The bill further requires the OMHHE to use all available resources and pursue funding opportunities to achieve the purpose of this section, and the bill requires the OMHHE to coordinate with agencies, organizations, and providers to:

- Collect and analyze data regarding disparities in health status, access to health care services, and quality of health care for racial and ethnic minority populations in Florida.
- Develop mechanisms that support better information dissemination and education regarding health disparities.
- Develop mechanisms that improve access to and delivery of health care services to racial and ethnic minority populations in Florida.
- Support county health department minority health liaisons by facilitating access to and exchange of information related to health promotion, preventive health services, and education in the appropriate use of care.
- Conduct demonstration projects and evaluations to ensure the success and sustainability of policies, programs, and practices that increase health equity in Florida.
- Promote the use of community health workers.
- Collect and analyze data regarding the prevalence of racial and ethnic minority populations at risk of involvement with the criminal justice system, the juvenile justice system, and the foster care system or at risk for homelessness, and any disparities in such involvement or access to appropriate behavioral health services by those populations when compared to other populations in Florida.
- Promote the creation of or participation in programs that divert individuals with mental health and substance use disorders from the criminal justice system.

- Ensure the availability of quality behavioral health services to racial and ethnic minority populations at risk of involvement with the criminal justice system, the juvenile justice system, and the foster care system or at risk for homelessness.
- Develop and implement programs that provide access to bilingual providers or interpretive services for individuals with limited proficiency in the English language.

The bill requires the OMHHE to maintain and update at least annually the following on its website:

- Current data on health disparities and issues affecting racial and ethnic minority populations in Florida.
- Information about and links to available resources for racial and ethnic minority populations in Florida.
- Resources for providers regarding improving cultural competency, understanding health disparities, and increasing the quality of and access to health care services for racial and ethnic minority populations in Florida. Resources must include, but are not limited to, minority health literature, research, and referrals; capacity-building and technical assistance services; and training materials for implementing nationally recognized evidence-based practices for culturally and linguistically appropriate health care services.
- Contact information for county health department minority health liaisons.

The bill requires the OMHHE to serve as a liaison to and assist the federal Offices of Minority Health and Regional Health Operations, and it authorizes the FDOH to adopt rules to implement this section.

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

If yes, explain:	N/A
Is the change consistent with the agency's core mission?	Y☐ N☒
Rule(s) impacted (provide references to F.A.C., etc.):	N/A

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

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

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

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

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

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

FISCAL ANALYSIS

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

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

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

Revenues:	N/A
Expenditures:	The bill is projected to increase the department's workload and operational costs. The total projected fiscal impact is $6,079,202 in the General Revenue Fund including $5,728,124 in recurring and $351,078 in nonrecurring. The workload increase is projected to require 11 full time equivalent (FTE) in the central office and 67 OPS staff in the County Health Departments (one in each). These funds will facilitate development of mechanisms that improve access to and delivery of health care services; conducting demonstration projects and evaluations; increased data collection and analyses activities; ensuring the availability of quality behavioral health services; the provision of bilingual providers or interpretive services for individuals with limited proficiency in English; and updating and maintaining new website requirements. The committee substitute does not change the fiscal impact.

Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

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

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

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

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

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	The bill has an insignificant impact on the FDOH's technology systems and staff as it relates to the annual update and maintenance of the OMHHE's website. The bill requires the FDOH to "gather and analyze comprehensive data regarding disparities in health status, quality of health care, and access to health care services for racial and ethnic minority populations in this state." The FDOH currently gathers, analyzes, and publishes data regarding disparities in health status and access to health care services on FDOH's Florida Health Community Health Assessment Resource Tool Set (FLHealthCHARTS) website. However, the FDOH does not currently gather, analyze, and publish data on quality of health care. Adding this element may have technology and fiscal impacts. However, it should be noted that the federal Agency for Healthcare Research and Quality does publish these data that can be viewed at the state-level and provides a list of measures and supporting data that can be viewed by race and ethnicity. The bill requires the FDOH to "gather and analyze data regarding the prevalence of racial and ethnic minority populations at risk of involvement with the criminal justice system, the juvenile justice system, and the foster care system or at risk for homelessness, and any disparities in such involvement or access to appropriate behavioral health services by those populations when compared to other populations in this state." This may have significant technology and fiscal impacts to the FDOH's technology systems and staff. Further, this may require interagency agreements with the Florida Department of Children and Families (DCF), the Florida Department of Corrections (FDC), and the Florida Department of Juvenile Justice (DJJ). If DCF, FDC, and/or DJJ do not already collect and/or electronically store these data, existing FDOH data systems may have to be modified and/or new data systems created to accommodate this activity.

FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.	The bill requires the OMHHE to serve as a liaison to and assist the federal Offices of Minority Health and Regional Health Operations. The FDOH may experience an insignificant increase in workload associated with this activity, but no fiscal impacts are anticipated.

ADDITIONAL COMMENTS

This bill will have financial impacts to the Department of Health, Office of Minority Health and Health Equity in the amount of $6,079,202. Of this amount, the recurring portion is $5,728,124 and non-recurring portion is $351,078.
Section 1:
Section 381.735(g) of the bill requires the FDOH to:

- Promote the creation of or participation in programs that divert individuals with mental health and substance use disorders from the criminal justice system.
- Ensure the availability of quality behavioral health services to racial and ethnic minority populations at risk of involvement with the criminal justice system, the juvenile justice system, and the foster care system or at risk for homelessness.

The FDOH can promote the creation of or participation in programs that divert individuals with mental health and substance use disorders from the criminal justice system with no anticipated fiscal impacts. However, ensuring the availability of quality behavioral health services may fall outside the scope and statutory authority of the FDOH.[1]

Statutorily, the DCF is the designated “Mental Health Authority” for Florida. The DCF and the Agency for Health Care Administration have executive and administrative supervision over all mental health facilities, programs, and services.[2]

[1]Section 20.43, Florida Statutes.
[2]Section 394.457, Florida Statutes.
[3]Section 20.43, Florida Statutes.

LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

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

2021 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION	
BILL NUMBER:	1383
BILL TITLE:	Maternal Health Care Services
BILL SPONSOR:	Brown
EFFECTIVE DATE:	July 1, 2021

COMMITTEES OF REFERENCE
1) Professions & Public Health Subcommittee
2) Health Care Appropriations Subcommittee
3) Health & Human Services Committee
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE
Professions & Public Health Subcommittee

SIMILAR BILLS	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS	
BILL NUMBER:	1556
SPONSOR:	Gibson

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	March 12, 2021
LEAD AGENCY ANALYST:	Anna Simmons
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Louise St. Laurent
FISCAL ANALYST:	Matthew Martin

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill requires the Department of Health (the Department) to develop and implement the Prevention of Maternal Mortality Grant Program by July 1, 2022; requiring the department to award grants to certain training programs; requiring the department, in consultation with the Office of Program Policy Analysis and Government Accountability (OPPAGA), to conduct a certain study and submit a report to the Governor and Legislature by a specified date; requiring the department to develop and implement the Investments in Digital Tools to Promote Equity in Maternal Health Outcomes Program by a specified date.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Currently the Department of Health, has multiple program and initiatives to address maternal health outcomes, social determinants of health and racial disparities.

The Division of Community Health Promotion, Bureau of Family Health Services, Maternal and Child Health Section oversees the Florida Healthy Start Program. Healthy Start is a voluntary program that provides home visiting services that include prenatal education and support, screening and services, parenting education, and care coordination to assure access to needed services. These services may include psychosocial, nutritional, smoking cessation counseling, childbirth, breastfeeding, and substance abuse education, interconception education and counseling. Healthy Start services pregnant women and children up to age three years of age. Healthy Start is available in all 67 counties.

The Department currently has a grant from HRSA to address perinatal mental health and substance use. This program expands screening for depression, anxiety and substance use; and access to needed services for prenatal, pregnant and postpartum women. The program aims to promote maternal and child health by building the capacity of health care providers to address these critical issues through professional development, expert consultation and support, and dissemination of best practices. The Department has partnered with Florida State University, the University of Florida and the Florida Association of Healthy Start Coalitions to implement this pilot program with plans to expand statewide over the coming years.

The Department has a contract with the Florida Pregnancy Care Network to implement the Florida Pregnancy Support Services Program (FPSSP). The FPSSP's network of pregnancy support centers provides pregnancy support services to women and their families. Participating pregnancy centers are located throughout the state. Pregnancy help centers are local, non-profit organizations that provide support and assistance to women and men faced with difficult pregnancy decisions. In addition to free pregnancy tests, peer counseling and referrals, most centers offer classes on pregnancy, childbirth, parenting, and life skills at no cost to clients. Participation is encouraged with free items such as maternity and baby clothing, diapers, formula, cribs and care seats. These services are available to women participating in the FPSSP throughout their pregnancy and the first year of their baby's life. The FPSSP also has a wellness program that offers referrals to health care providers that will provide well woman exams free of charge. All exams are done by a physician, nurse practitioner, or physician assistant.

Additionally, in 1996, the Florida Department of Health established the Pregnancy-Associated Mortality Review (PAMR) process to improve surveillance and analysis of pregnancy-related deaths in Florida. This case review program seeks to close gaps in care, identify systemic service delivery issues, and make recommendations to facilitate improvements in the overall systems of care. The PAMR Committee consists to two co-chairs and committee membership representative of diverse geographic, medical, psychosocial, community and epidemiological expertise. The PAMR Committee reviews all deaths identified as pregnancy-related and reviews the medical records to see what, if anything, could have been done to prevent this death. The 2018 PAMR Report noted a significant decrease in the Black-White racial disparity gap from 8.7 in 2008 to 2.5 in 2018.

The Department also works with the Florida Perinatal Quality Collaborative (FPQC). The FPQC was established in 2010 to improve Florida's maternal and infant health outcomes through the delivery of high quality, evidence-based perinatal care. Led by a Steering Committee (that the Department is engaged in) and a leadership team, the FPQC engages all its stakeholders to identify the priority perinatal quality improvement issues and to determine which initiatives are appropriate, feasible, engaging, measurable and supportable. PAMR findings have often been used to help inform initiatives addressed by the FPQC.

In collaboration with the Agency for Health Care Administration, the Department has launched the My Birth Matters Florida campaign. This campaign is based off a C-section reduction campaign that has proven to be effective in California. The goal of this campaign is to educate mothers and providers about birthing options and the overuse and risks of medically unnecessary C-sections. The campaign offers free educational materials including posters, brochures, videos, and social media messages.

Finally, the Department has implemented the Nurse Family Partnership program in various regions of the state. Nurse-Family Partnership works by having specially trained nurses regularly visit young, first-time moms-to-be, starting early in the pregnancy and continuing through the child's second birthday. The goals of Nurse Family Partnership are to improve pregnancy outcomes by helping women engage in good preventive health practices, including thorough prenatal care from their healthcare providers, improving their diets and reducing their use of cigarettes, alcohol and illegal substances; improve child health and development by helping parents provide responsible and competent care; and improve the economic self-sufficiency of the family by helping parents develop a vision for their own future, plan future pregnancies, continue their education and find work.

2. EFFECT OF THE BILL:

GRANT PROGRAM NUMBER ONE

The bill creates section 383.52, Florida Statutes requiring the Department to create and implement the "Prevention of Maternal Mortality Grant Program." The purpose of this program will be to award grants to eligible entities to establish or expand programs to prevent maternal mortality and severe maternal morbidity among black women. To be eligible to seek a grant, an entity must be a community-based organization offering programs and resources aligned with evidence-based practices for improving maternal health outcomes for black women.

Starting on July 1, 2021 the bill requires the Department to conduct outreach to encourage eligible entities to apply for these grants and provide technical assistance to eligible entities on best practices for applying for these grants. The Department will give special consideration to the following when conducting outreach: entities that are based in and provide support for, communities with high rates of adverse maternal health outcomes and significant racial and ethnic disparities in maternal health outcomes; are led by black women; and offer programs and resources that are aligned with evidence-based practices for improving maternal health outcomes for black women.

When awarding grants, the Department will give special consideration to the eligible entities that meet the following criteria:

- Offer programs and resources designed in consultation with and intended for black women.
- Offer programs and resources in the communities in which they are located which include any of the following activities:
    - Promotion of maternal mental health and maternal substance use disorder treatments that are aligned with evidence-based practices for improving maternal mental health outcomes for black women.
    - Addressing social determinants of health for women in the prenatal and postpartum periods.
    - Promotion of evidence-based health literacy and pregnancy, childbirth, and parenting education for women in the prenatal and postpartum periods.
    - Providing support from doulas and other perinatal health workers to women from pregnancy through the postpartum period.

- Providing culturally congruent training to perinatal health workers such as doulas, community health workers, peer supporters, certified lactation consultants, nutritionists and dietitians, social workers, home visitors, and navigators.
- Conducting or supporting research on issues affecting black maternal health.
- Development of other programs and resources that address community specific needs for women in the prenatal and postpartum periods and are aligned with evidence-based practices for improving maternal health outcomes for black women.

The bill directs the Department to provide technical assistance to grant recipients for all the following criteria:

- Capacity building to establish or expand programs to prevent adverse maternal health outcomes among black women.
- Best practices in data collection, measurement, evaluation, and reporting.
- Planning for sustaining programs to prevent maternal mortality and severe maternal morbidity among black women when the grant expires.

Starting July 1, 2023, and annually thereafter, this bill requires a report be submitted to the Governor, the President of the Senate and the Speaker of the House of Representatives that includes the following:

- Assessment of the effectiveness of outreach efforts during the application process in diversifying the pool of grant recipients.
- Recommendations for future outreach efforts to diversify the pool of grant recipients for department grant programs and funding opportunities.
- Assessment of the effectiveness of programs funded by grants awarded under this section in improving maternal health outcomes for black women.
- Recommendations for future department grant programs and funding opportunities that deliver funding to community based organizations to improve maternal health outcomes for black women through programs and resources that are aligned with evidence-based practices for improving maternal health outcomes for black women.

GRANT PROGRAM NUMBER TWO

The bill also creates 383.53, Florida Statutes for training programs for employees in maternity care settings. The Department will award grants to training programs that reduce and prevent bias, racism and discrimination in maternity care settings. Special consideration will be given to programs that would do the following:

- Apply to all birthing professionals and any employees who interact with pregnant and postpartum women, as the term “postpartum” is defined in s. 383.52(1), in the provider setting, including front desk employees, technicians, schedulers, health care professionals, hospital or health system administrators, and security staff.
- Emphasize periodic, as opposed to one-time, trainings for all birthing professionals and employees
- Address implicit bias and explicit bias
- Be delivered in continuing education settings for providers maintaining their licenses, with a preference for training programs that provide continuing education units and continuing medical education
- Include trauma-informed care best practices and an emphasis on shared decision making between providers and patients.
- Include a service-learning component that sends providers to work in underserved communities to better understand patients’ life experiences
- Be delivered in undergraduate degree programs, such as biology and pre-medicine, which generally lead to enrollment in or are prerequisite programs for medical schools

- Be delivered in settings where providers of the federal Special Supplemental Nutrition Program for Women, Infants, and Children would receive the training
- Integrate bias training in obstetric emergency simulation trainings
- Offer training to all maternity care providers on the value of racially, ethnically, and professionally diverse maternity care teams to provide culturally congruent care as defined in s. 383.52(1), including doulas, community health workers, peer supporters, certified lactation consultants, nutritionists and dietitians, social workers, home visitors, and navigators
- Be based on one or more programs designed by a historically black college or university

Applications will be submitted to the Department based on the requirements of the Department. Each grant recipient will be required to submit an annual report to the Department on the status of activities conducted under the grant including a description of the impact of training provided through the grant on patient outcomes and patient experiences for minority women and their families.

Based on the annual reports submitted by the grant recipients, the Department will produce an annual report on the findings resulting from programs funded through this section; will disseminate the report to all recipients of grants under this section and to the public; and may include in the report, findings on best practices for improving patient outcomes and patient experiences for minority women and their families in maternity care settings.

The bill also directs the Department, in collaboration with the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study on the design and implementation of the program to reduce and prevent bias, racism and discrimination in maternity care settings. The Department and OPPAGA will submit a report to the Governor, the President of the Senate and the Speaker of the House of Representatives by December 1, 2022. It is unclear if this report is an annual requirement.

GRANT PROGRAM NUMBER THREE

The bill creates section 383.54, Florida Statutes to expand capacity for positive maternal health outcomes. This will be achieved by directing the Department to award grants by July 1, 2022, to eligible entities: to evaluate, develop, and as appropriate, expand the use of technology-enabled collaborative learning and capacity building models; improve maternal health outcomes in health professional shortage areas; in areas with high rates of maternal mortality and severe maternal morbidity and significant racial and ethnic disparities in maternal health outcomes; and for medically underserved populations, including, but not limited to, indigenous populations.

Grants may be used for the following:

- The development and acquisition of instructional programming and the training of maternal health care providers and other health care professionals that provide or assist in the provision of health care services through models such as:
    - Training on adopting and effectively implementing Alliance for Innovation on Maternal Health safety and quality improvement bundles
    - Training on implicit and explicit bias, racism, and discrimination for maternity care providers
    - Training on best practices in screening for and, as needed, evaluating, and treating maternal mental health conditions and substance use disorders
    - Training on how to screen for social determinants of health risks in the prenatal and postpartum periods, such as inadequate housing, lack of access to nutrition, environmental risks, and transportation barriers
    - Training on the use of remote patient monitoring tools for pregnancy related complications
- Information collection and evaluation activities that study the impact of models on all the following:
    - Access to and quality of care
    - Patient outcomes
    - Subjective measures of patient experiences
    - Cost-effectiveness

- Identify best practices for the expansion and use of such models
- Information collection and evaluation activities that study the impact of models on patient outcomes and maternal health care providers and that identify best practices for the expansion and use of such models
- Any other activity consistent with achieving the objectives of grants awarded under this section, as determined by the department
- Equipment to support the use and expansion of technology enabled collaborative learning and capacity building models, including hardware and software that enables distance learning, maternal health care provider support, and the secure exchange of electronic health information
- Support for maternal health care providers and other health care professionals that provide or assist in the provision of maternity care services through such models

Under this section, the Department is limited to awarding one grant per entity and each grant cannot exceed five years. The Department will determine the maximum amount of each grant awarded under this section. However, the Department will require entities awarded a grant under this section to collect information on the effect of the use of technology enabled collaborative learning and capacity building models. The Department may award a grant or contract to assist in the coordination of such models, including to assess outcomes associated with the use of such models in grants awarded under this section.

The bill does not describe a minimum amount for each grant.

Applications will be submitted to the Department based on the requirements of the Department. The application must include plans to assess the effect of technology-enabled collaborative learning and capacity building models on indicators, including access to and quality of care, patient outcomes, subjective measures of patient experiences, and cost-effectiveness. The Department may coordinate with other state agencies to ensure that funding opportunities are available to support access to reliable, high-speed Internet for grantees.

The Department will provide technical assistance to eligible entities, including recipients of grants. Additionally, in consultation with stakeholders the Department will develop a strategic plan to research and evaluate the evidence for such models. The Department will use this plan to implement this section of statute.

Grantees will submit a report to the Department based on guidelines developed by the Department. The Department will in turn submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and post on the Department's website a report that includes a description of any new and continuing grants, their specific purpose and amounts; an overview of evaluations conducted, technical assistance provided and activities; a description of significant findings related to patient outcomes or maternal health care providers and best practices for expanding, using or evaluating technology-enabled collaborative learning and capacity building models.

GRANT PROGRAM NUMBER FOUR

This bill creates Section 383.55, Florida Statutes directing the Department to develop and implement the "Investments in Digital Tools to Promote Equity in Maternal Health Outcomes Program." The Department will award grants to eligible entities to reduce racial and ethnic disparities in maternal health outcomes by increasing access to digital tools related to maternal health care.

The Department may award one grant under this section and the grant cannot be awarded for a period of more than five years. The Department will determine the maximum amount of each grant. The bill does not establish what a minimum amount must be. The bill states the Department will prioritize selection of an eligible entity that:

- Operates in an area with high rates of adverse maternal health outcomes and significant racial and ethnic disparities in maternal health outcomes.
- Promotes technology that addresses racial and ethnic disparities in maternal health outcomes.

The Department will provide technical assistance to any eligible entity on the development, use, evaluation and post grant sustainability of digital tools for purposes of promoting equity in maternal health outcomes.

The grantee will be required to submit to the Department a report that meets the requirements determined by the Department. The bill does not specify what the report from the grantee must include. However, the Department will submit a report to the Governor, President of the Senate and the Speaker of the House of Representatives that includes:

- Evaluation of the effectiveness of the grants awarded in improving maternal health outcomes for minority women.
- Recommendations for future grant programs that promote the use of technology to improve maternal health outcomes for minority women.
- Recommendations that address:
    - Privacy and security safeguards that should be implemented in the use of technology in maternal health care.
    - Reimbursement rates for maternal telehealth services.
    - The use of digital tools to analyze large data sets for identifying potential pregnancy related complications as early as possible.
    - Barriers that prevent maternal health care providers from providing telehealth services across state lines and recommendations from the Centers for Medicare and Medicaid Services for addressing such barriers in the state Medicaid program.
    - The use of consumer digital tools, such as mobile telephone applications, patient portals, and wearable technologies to improve maternal health outcomes.
    - Barriers that prevent consumers from accessing telehealth services or other digital technologies to improve maternal health outcomes, including a lack of access to reliable, highspeed Internet or a lack of access to electronic devices needed to use such services and technologies.
    - Any other related issues as determined by the department.

Digital tools and wearable technologies are not clearly defined and are open to interpretation. The Department has no jurisdiction over high-speed internet or electronic devices needed for this service or technology.

The Department will collaborate with OPPAGA to conduct a study on the use of technology to reduce maternal mortality and morbidity and eliminate racial and ethnic disparities in maternal health outcomes. The study will assess current and future uses of artificial intelligence technologies, including all the following:

- The extent to which artificial intelligence technologies are currently being used in maternal health care.
- The extent to which artificial intelligence technologies have exacerbated racial or ethnic biases in maternal health care.
- Recommendations for reducing racial or ethnic biases in artificial intelligence technologies used in maternal health care.
- Recommendations for potential applications of artificial intelligence technologies that could improve maternal health outcomes, particularly for minority women.
- Recommendations for privacy and security safeguards that should be implemented in the development of artificial intelligence technologies in maternal health care.

Artificial intelligence technologies are not clearly defined in the context of this bill.

The Department will submit a report to the Governor, President of the Senate and the Speaker of the House of Representatives with the findings of the above-mentioned study by July 1, 2023.

There are no specified amounts or appropriations associated with this bill.

To implement all the sections created by this bill, the Department anticipates hiring additional staff to run a Maternal Mortality Grant program. This program will be designed to specifically implement, monitor and provide technical

assistance to the grants listed above. This team will have one professional FTE program supervisor, three professional FTE grant managers, and one professional FTE epidemiologist/economist.

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

If yes, explain:	This bill requires the Department to adopt rules to implement multiple sections of the Florida Statutes.
Is the change consistent with the agency's core mission?	Y☐ N☒
Rule(s) impacted (provide references to F.A.C., etc.):	New rules will need to be promulgated by the Department.

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

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

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

If yes, provide a description:	There are several reports that the Department is required to submit as part of this bill. First, starting July 1, 2023, and annually thereafter, this bill requires a report be submitted to the Governor, the President of the Senate and the Speaker of the House of Representatives that includes the following: assessment of the effectiveness of outreach efforts during the application process in diversifying the pool of grant recipients; recommendations for future outreach efforts to diversify the pool of grant recipients for department grant programs and funding opportunities; assessment of the effectiveness of programs funded by grants awarded under this section in improving maternal health outcomes for black women; recommendations for future department grant programs and funding opportunities that deliver funding to community based organizations to improve maternal health outcomes for black women through programs and resources that are aligned with evidence-based practices for improving maternal health outcomes for black women. Second, the Department in collaboration with OPPAGA, will submit a report to the Governor, the President of the Senate and the Speaker of the House of Representatives which includes findings and recommendations based on the study completed on the design and implementation of programs to reduce and prevent bias, racism and discrimination in maternity care settings. This is due by December 1, 2022. Third, the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, and post on its Internet website, a report that includes, at a minimum: description of any new and continuing grants awarded under this section and the specific purposes and amounts of such grants; An overview of: evaluations

	conducted; technical assistance; and activities conducted by entities awarded grants; and a description of any significant findings related to patient outcomes or maternal health care providers and best practices for eligible entities that are expanding, using, or evaluating technology enabled collaborative learning and capacity-building models. This is due July 1, 2023. Lastly, the Department will submit a report to the Governor, President of the Senate and the Speaker of the House of Representatives with the findings of the Department's collaboration with OPPAGA on the use of technology to reduce maternal mortality and morbidity and eliminate racial and ethnic disparities in maternal health outcomes. by July 1, 2023.
Date Due:	12/1/2022
Bill Section Number(s):	Section 1.

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

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

FISCAL ANALYSIS

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

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

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

Revenues:	None
Expenditures:	010000 Salaries: $321,751 040000 Non-Recurring: $22,145 040000 Recurring: $97,900 100777 Contractual $500,000 107040 HR Outsourcing: $1,650 XXXXXX Grant Funding $2,550,000 Total: $3,493,446 The Department anticipates hiring one professional FTE program supervisor, three professional FTE grant managers, and one professional FTE epidemiologist/economist. This bill lays the foundation for four grants that will be provided to multiple vendors. The first grant is estimated at $750,000 divided among three grantees; the second grant is estimated to be $300,000 divided among three grantees; the third grant is estimated at $750,000 divided among three grantees; the fourth grant is estimated at $750,000 divided among three grantees. The Department also anticipates a $500,000 cost for providing statewide advertising and outreach to prospective vendors as described in the bill
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

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

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

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

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

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A

FEDERAL IMPACT

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

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

ADDITIONAL COMMENTS

None.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

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

2020 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION	
BILL NUMBER:	SB 1540
BILL TITLE:	Maternal Health Outcomes
BILL SPONSOR:	Gibson
EFFECTIVE DATE:	7/1/2021

COMMITTEES OF REFERENCE
1) None assigned at this time.
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5) Click or tap here to enter text.

CURRENT COMMITTEE
Filed 02/23/2021

SIMILAR BILLS	
BILL NUMBER:	SB 1556
SPONSOR:	Gibson

PREVIOUS LEGISLATION	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	02/26/2021
LEAD AGENCY ANALYST:	Anna Simmons
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Click or tap here to enter text.
FISCAL ANALYST:	Click or tap here to enter text.

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill revises the Department's duties under the Closing the Gap grant program; requiring the department to establish telehealth minority maternity care pilot programs in Duval County and Orange County by a specified date; requiring the pilot programs to provide specified telehealth services to eligible pregnant women for a specified period; requiring the department's Division of Community Health Promotion and Office of Minority Health and Health Equity to apply for certain federal funding, etc. This bill take effect on July 1, 2021.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Currently the Office of Minority Health, within the Department of Health, oversees and facilitates the Closing the Gap grant program. Historically, Closing the Gap has been focused on and collaborated with chronic disease community intervention programs, cancer prevention and control programs, diabetes control programs, the Healthy Start program, the Florida Kidcare Program, the HIV/AIDS program, immunization programs, and other related programs at the state and local levels, to avoid duplication of effort and promote consistency.

Community organizations submit project proposals that must address one of the following areas: Decreasing racial and ethnic disparities in maternal and infant mortality rates. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to cancer. Decreasing racial and ethnic disparities in morbidity mortality rates relating to HIV/AIDS. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to cardiovascular disease. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to diabetes. Increasing adult and child immunization rates in certain racial and ethnic populations. Decreasing racial and ethnic disparities in oral health care. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to sickle cell disease. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to Lupus. Decreasing racial and ethnic disparities in morbidity and mortality rates relating to Alzheimer's disease and dementia. Improving neighborhood social determinants of health, such as transportation, safety, and food access, as outlined by the Centers for Disease Control and Prevention's "Tools for Putting Social Determinants of Health into Action."

The Division of Community Health Promotion, Bureau of Family Health Services, Maternal and Child Health Section oversees the Florida Healthy Start Program. Healthy Start a voluntary program that provides home visiting services that include prenatal education and support, screening and services, parenting education, and care coordination to assure access to needed services. These services may include psychosocial, nutritional, smoking cessation counseling, childbirth, breastfeeding, and substance abuse education, interconception education and counseling. Healthy Start services pregnant women and children up to age three years of age. Healthy Start is available in all 67 counties. Duval and Orange county are provided services through the Northeast Healthy Start Coalition and the Healthy Start Coalition of Orange County respectively.

The Department currently has a grant from HRSA to address perinatal mental health and substance use. This program expands screening for depression, anxiety and substance use; and access to needed services for prenatal, pregnant and postpartum women. The program aims to promote maternal and child health by building the capacity of health care providers to address these critical issues through professional development, expert consultation and support, and dissemination of best practices. The Department has partnered with Florida State University, the University of Florida and the Florida Association of Healthy Start Coalitions to implement this pilot program with plans to expand statewide over the coming years.

2. EFFECT OF THE BILL:

The bill expands the scope of Closing the Gap grants to specifically include maternal health programs with a focus on decreasing racial and ethnic disparities in severe maternal morbidity rates and other maternal health outcomes.

This bill also creates section 383.2163 for a telehealth minority maternity care pilot program. By July 1, 2022 the Department will establish a telehealth minority maternity care pilot program in Duval and Orange counties. This pilot program will use telehealth to expand the capacity for positive maternal health outcomes in racial and ethnic minority populations. The Department will direct and assist the county health departments in Duval and Orange counties to implement the program.

The pilot programs shall be funded using funds appropriated by the Legislature for the Closing the Gap grant program. The Department's Division of Community Health Promotion and Office of Minority Health and Health Equity shall also work in

partnership to apply for federal funds that are available to assist the department in accomplishing the program's purpose and successfully implementing the pilot programs.

Closing the Gap grants are awarded annually based on an application process. The total available amount of funding for the program for FY 21-23 is $4 million. This amount can vary based on the appropriation from the legislature. Grant applications are currently being accepted for a July 1, 2021 start date for a period of FY 21-23. With funding currently being obligated through June 30, 2023, current Closing the Gap grant funds cannot be used for this program until after this timeframe. It is unknown what will be appropriated in the future.

The purpose of this program is to expand the use of technology-enabled collaborative learning and capacity building models to improve maternal health outcomes for ethnic and minority populations, health professional shortage areas, and areas with racial and ethnic disparities in maternal health outcomes, medically underserved populations and indigenous populations. This bill also provides for the adoption of and use of telehealth services that allow for screening and treatment of common pregnancy-related complications, including but not limited to: anxiety, depression, substance use disorder, hemorrhage, infection, amniotic fluid embolism, thrombotic pulmonary or other embolism, hypertensive disorders relating to pregnancy, diabetes, cerebrovascular accidents, cardiomyopathy, and other cardiovascular conditions.

"Telehealth" means the use of synchronous or asynchronous telecommunications technology by a telehealth provider to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient; transfer of medical data; patient and professional health-related education; public health services; and health administration.

The pilot programs will use telehealth to provide the following services to eligible women: services and education addressing social determinants of health; evidence-based health literacy and pregnancy, childbirth, and parenting education for women in the prenatal and postpartum periods; for women during their pregnancies through the postpartum periods, connection to support from doulas and other perinatal health workers; tools to conduct key components of maternal wellness checks (scale, blood pressure monitor with a verbal reader, glucose monitor with a verbal reader); and any other device the health care practitioner deems necessary.

To estimate the potential number of pregnant women in each county, the Department combined the total number of live births and total number of fetal deaths that occurred in 2019 (the most recent year for which complete data are available). Medicaid pays for 56 percent of births; therefore, the Department applied this percentage to the total number of live births and total number of fetal deaths to estimate the number of pregnant women who may qualify for this pilot program.

The below table includes estimates of the number of pregnancies in each county, the number of these pregnancies that may be covered by Medicaid, and the cost of a scale, blood pressure cuff and glucose monitor for each pregnant woman. This pricing for the medical equipment is based on available products on the State Term Contract. This does not include estimates for any additional equipment a provider may prescribe.

Duval County			
2019 Total Live Births and Fetal Deaths	13,129	13,129 (56%)	7,352
Scale	$40.73 each	$40.73 (7,352)	$299,446.96
Blood Pressure Cuff	$79.96 each	$79.96 (7,352)	$587,865.92
Glucose Monitor	$206.00 each	$206.00 (7,352)	$1,514,512.00
		DUVAL COUNTY TOTAL	**$2,401,824.88**
Orange County			
2019 Total Live Births and Fetal Deaths	16,745	16,745 (56%)	9,377
Scale	$40.73 each	$40.73 (9,377)	$381,925.21
Blood Pressure Cuff	$79.96 each	$79.96 (9,377)	$749,784.92
Glucose Monitor	$206.00 each	$206.00 (9,377)	$1,931,662.00
		ORANGE COUNTY TOTAL	**$3,063,372.13**
		COMBINED TOTAL	**$5,465.197.01**

The pilot programs will provide training to participating health care practitioners and other perinatal professionals on: implicit and explicit biases, racism, and discrimination in the provision of maternity care; the use of remote patient monitoring tools for pregnancy complications; how to screen for social determinants of health risks in the prenatal and postpartum periods; best

practices in screening for, evaluating and treating maternal mental health conditions; and finally, information collection, recording and evaluation activities.

The Department anticipates utilizing existing staff at the Duval and Orange county health departments, that are funded by the Maternal and Child Health Block grant and work on the Florida Healthy Babies initiative, to engage with their local obstetric providers to distribute the equipment. This will allow the obstetric providers to use their existing telehealth platforms and encourage women to enroll in this pilot program. County health department staff will also be responsible for providing the required training to obstetric providers in their communities and advertising the pilot program in their communities.

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

If yes, explain:	The bill allows the Department to adopt rules to implement proposed section 383.2163 of Florida Statutes.
Is the change consistent with the agency's core mission?	Y☐ N☒
Rule(s) impacted (provide references to F.A.C., etc.):	New rules will need to be promulgated by the Department.

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

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

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

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

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

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

FISCAL ANALYSIS

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

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

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

Revenues:	None.
Expenditures:	010000 Salaries: $0.00 040000 Non-Recurring: $0.00 040000 Recurring: $5,465.197.01 107040 HR Outsourcing: $0.00 Total: $5,465.197.01 The total listed above is for medical equipment only. The Department will use existing resources to fulfill any additional requirements of the bill.
Does the legislation contain a State Government appropriation?	No. The bill directs the Department to use funding from an existing grant program and to apply for federal grants.
If yes, was this appropriated last year?	N/A

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

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

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

If yes, explain impact.	No
Bill Section Number:	N/A

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	Yes. This bill implements a telehealth system of care. It is unknown what the technological impacts will be to ensure data security for a variety of technology interfaces and devices.

FEDERAL IMPACT

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

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

ADDITIONAL COMMENTS

None.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	Lines 128-130 of the proposed legislation adds audio-only telephone calls, email messages and facsimile transmissions to the definition for telehealth. This definition is more broad than that contained in section 456.47, Florida Statutes. If these extended methods of providing telehealth services are used to prescribe a controlled substance, the practitioner may find they are in violation of portions of 21 CFR s. 829 and section 456.44, Florida Statutes, if he or she has not previously conducted an in-person evaluation or physical examination of the patient. These two laws, in addition to Florida Rules of Administrative Procedure promulgated by practitioner licensing boards, require a prescriber to perform a physical examination prior to prescribing scheduled controlled substance. The federal in-person requirement has been waived by the public health emergency order issued by the Secretary of Health and Human Services, effective March 31, 2020, for the duration of the public health emergency if certain conditions are met. One of those conditions is that the communication be conducted using an audio-visual, real-time, two-way interactive communication system, which would preclude the prescribing controlled substances after a telehealth visit via telephone, email or fax.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/31/2021
Meeting Date

1540
Bill Number (if applicable)

659422
Amendment Barcode (if applicable)

Topic Maternal and Child Health

Name Brian Jogerst

Job Title

Address PO Box 11094
Street

Tallahassee FL 32302
City *State* *Zip*

Phone 850-222-0191

Email brian@waypointstrat.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Association of Healthy Start Coalitions

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-31-21
Meeting Date

1540
Bill Number (if applicable)

Topic Maternal Health Outcomes

Amendment Barcode (if applicable)

Name Barbara DeBose

Job Title

Address 625 E Brevard St
Street
Tallahassee FL 32308
City *State* *Zip*

Phone 257-4280

Email barbaradebose

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL NOW

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

1540
Bill Number (if applicable)

Topic Maternal Health Outcomes

Amendment Barcode (if applicable)

Name Ron Watson

Job Title Lobbyist

Address 9114 Seafair Lane
Street
Tallahassee FL 32317
City *State* *Zip*

Phone 850 567 1202

Email Watson.Strategies@Comcast.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Midwife Association of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

1540
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Maternal Health

Name Ida V. Eskamani

Job Title

Address
Street

Phone 4073764801

City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Rising

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/3/21
Meeting Date

1540
Bill Number (if applicable)

Topic Maternal Health Outcomes
Amendment Barcode (if applicable)

Name Kim Porteas

Job Title President of FL NOW

Address 1611 McCrenshaw Dr.
Street
Orlando FL 32835
City *State* *Zip*

Phone 706-669-8192

Email Kim4FLNOW@gmail.com

Speaking: [X] For [ ] Against [ ] Information

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

Representing FL NOW

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 1568
INTRODUCER:	Health Policy Committee and Senator Rodriguez
SUBJECT:	Department of Health
DATE:	March 31, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke/Rossitto Van-Winkle	Brown	HP	**Fav/CS**
2.			AHS	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1568 addresses numerous health care-related issues regulated by the Department of Health (DOH).

The bill updates the "Targeted Outreach for Pregnant Women Act of 1998." The bill also amends statutes regulating several types of health care practitioners. The bill:

- Updates ch. 467, F.S., relating to midwifery, by removing duplicative or obsolete language and duplicative rulemaking authority and clarifying language regarding preceptorships, approval of midwifery programs, and minimum standards.
- Amends ss. 490.003, 490.005, and 490.051, F.S., to clarify the educational requirements for psychologists applying for licensure by examination or endorsement;
- Amends s 491.005, regarding mental health counselors to update educational requirements and authorize a licensed mental health professional to be available by phone or other electronic methods when clinical services are being provided by a registered intern by telehealth methods; and
- Amends ss. 460.406, 468.803, 483.824, 490.005, F.S., to deletes references to the term "regional" and replace it with the term "institutional" to conform with the U.S. Department of Education accreditation nomenclature for approving educational institutions.

The bill amends and creates sections of the Florida Statutes relating to the DOH's regulation of Onsite Sewage Treatment and Disposal Systems (OSTDS). The bill:

- Amends s. 381.0061, F.S., as amended by s. 41 of ch. 2020-150, Laws of Florida, to strike the DOH's authority to assess fines related to OSTDS and septic tank contracting. The regulation of these programs will transfer to the Department of Environmental Protection (DEP) on July 1, 2021.[1]
- Creates s. 381.00635, F.S., to authorize the DOH to issue an order requiring a correction to improper conditions of any private or public water system not covered or included in the Florida Safe Drinking Water Act[2] which constitutes a nuisance or menace to public health.
- Amends s. 381.0067, F.S., to eliminate DEP authority over public and private water systems not included in the Florida Safe Drinking Water Act, the regulation of which is retained by the DOH.
- Amends s. 381.0101, F.S., to retain the requirement that onsite evaluations of OSTDS be done by certified environmental health professionals.

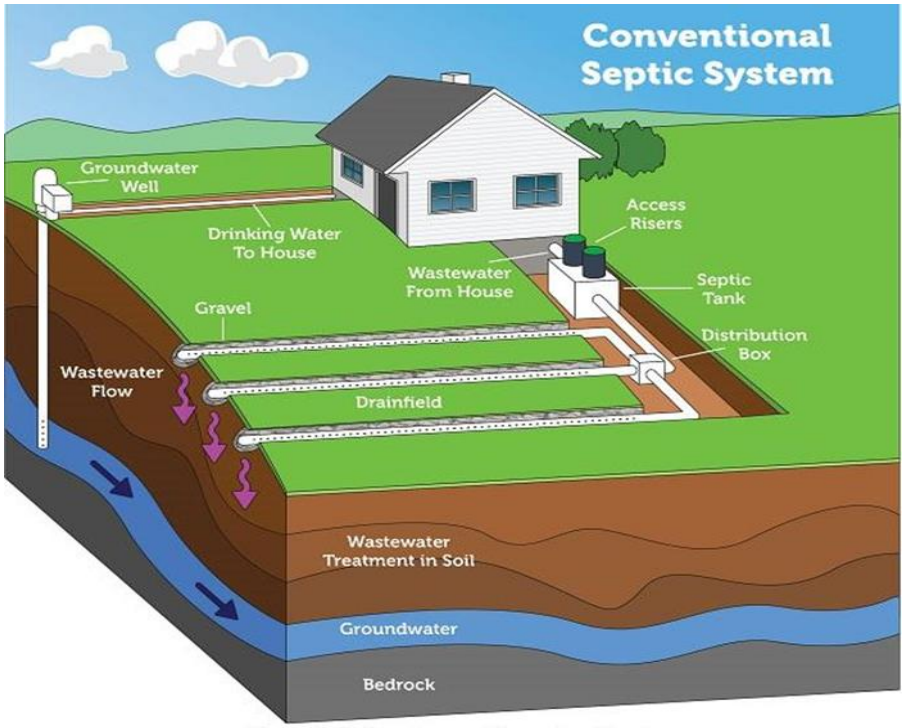
The bill provides an effective date of July 1, 2021.

II. Present Situation:

Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems (OSTDSs), commonly referred to as "septic systems," generally consist of two basic parts: the septic tank and the drainfield.[3] Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.[4]

[1] Chapter 2020-150, Laws of Fla.
[2] Part VI of ch. 403, F.S.
[3] DOH, *Septic System Information and Care*, *available at* http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html (last visited March 25, 2021); EPA, *Types of Septic Systems*, https://www.epa.gov/septic/types-septic-systems (last visited March 25, 2021) (showing the graphic provided in the analysis.)
[4] *Id.*



Until July 1, 2021, the DOH administers OSTDS programs, develops statewide rules, and provides training and standardization for county health department employees responsible for issuing permits for the installation and repair of OSTDSs within the state.[5] DOH regulations focus on construction standards and setback distances. The DOH also conducts research to evaluate performance, environmental health, and public health effects of OSTDSs. Innovative OSTDS products and technologies must be approved by the DOH.[6]

The DOH and the DEP have an interagency agreement that standardizes procedures and clarifies responsibilities between them regarding the regulation of OSTDSs.[7] The DEP has jurisdiction over OSTDSs when: domestic sewage flow exceeds 10,000 gallons per day; commercial sewage flow exceeds 5,000 gallons per day; there is a likelihood of hazardous or industrial wastes; a sewer system is available; or if any system or flow from the establishment is currently regulated by the DEP (unless the DOH grants a variance).[8] In all other circumstances, the DOH regulates OSTDSs.

[5] Section 381.0065(3), F.S.
[6] Section 381.0065(3), F.S.
[7] *Interagency Agreement between the Department of Environmental Protection and the Department of Health for Onsite Sewage Treatment and Disposal Systems* (Sept. 30, 2015), *available at* https://floridadep.gov/sites/default/files/HOHOSTDS_9_30_15.pdf
[8] *Id.* at 6-13; s. 381.0065(3)(b), F.S.; DEP, *Septic Systems*, *available at* https://floridadep.gov/water/domestic-wastewater/content/septic-systems (last visited March 25, 2021).

There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.[9] In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.[10] For example, in rural areas and low-density developments, central sewer systems are not cost-effective. Less than one percent of OSTDSs in Florida are actively managed under operating permits and maintenance agreements.[11] The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.[12]

In a conventional OSTDS, a septic tank does not reduce nitrogen from the raw sewage. In Florida, approximately 30-40 percent of the nitrogen levels are reduced in the drainfield of a system that is installed 24 inches or more from groundwater.[13] This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from OSTDSs a potential contaminant in groundwater.[14]

Different types of advanced OSTDSs exist that can remove greater amounts of nitrogen than a typical septic system (often referred to as "advanced" or "nutrient-reducing" septic systems).[15] The DOH publishes on its website approved products and resources on advanced systems.[16] Determining which advanced system is the best option can depend on site-specific conditions.

The owner of a properly functioning OSTDS must connect to a sewer system within one year of receiving notification that a sewer system is available for connection.[17] Owners of an OSTDS in need of repair or modification must connect within 90 days of notification from the DOH.[18]

The Blue-Green Algae Task Force made the following recommendations relating to OSTDSs:

- The DEP should develop a more comprehensive regulatory program to ensure that OSTDSs are sized, designed, constructed, installed, operated, and maintained to prevent nutrient pollution, reduce environmental impact, and preserve human health.
- More post-permitting septic tank inspections should take place.
- Protections for vulnerable areas in the state should be expanded.

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[9] DOH, *Onsite Sewage*, *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html (last visited March 25, 2021).
[10] DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, Executive Summary (Oct. 1, 2008), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/research/_documents/rrac/2008-11-06.pdf p. 59 (last visited March 25, 2021).
[11] *Id*.
[12] *Id*.
[13] DOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study*, *Final Report 2008-2015*, 21 (Dec. 2015), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/research/draftlegreportsm.pdf (last visited March 25, 2021) *See* Fla. Admin. Code R. 64E-6.006(2).
[14] University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Feb. 2014), *available at* http://edis.ifas.ufl.edu/pdffiles/SS/SS55000.pdf (last visited March 25, 2021).
[15] DOH, *Nitrogen-Reducing Systems for Areas Affected by the Florida Springs and Aquifer Protection Act* (2019), *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/products/_documents/bmap-n-reducing-tech-18-10-29.pdf (last visited March 25, 2021).
[16] DOH, *Onsite Sewage Programs*, *Product Listings and Approval Requirements*, *available at* http://www.floridahealth.gov/environmental-health/onsite-sewage/products/index.html (last visited March 25, 2021).
[17] Section 381.00655, F.S.
[18] *Id*.

- Additional funding to accelerate septic to sewer conversions.[19]

Chapter 2020-150, Laws of Florida

In 2020, the Legislature passed ch. 2020-150, Laws of Florida to respond to recommendations from the Blue-Green Algae Task Force. Regarding OSTDSs, the law:

- Transfers the regulation of OSTDSs from the DOH to the DEP.
- Directs the DEP to adopt rules to locate OSTDSs by July 1, 2022:
  - These rules will take into consideration conventional and advanced OSTDS designs, impaired water bodies, wastewater and drinking water infrastructure, potable water sources, non-potable wells, stormwater infrastructure, OSTDS remediation plans, nutrient pollution, and the recommendations of an OSTDS technical advisory committee;
  - Once those rules are adopted, they will supersede the existing statutory requirements for setbacks.
- To meet the requirements of a TMDL, the law requires DEP to implement a fast-track approval process for the use in this state of American National Standards Institute 245 systems approved by NSF International before July 1, 2020.
- Deletes the DOH OSTDS technical advisory committee and creates a DEP OSTDS technical advisory committee that will expire on August 15, 2022, after making recommendations to the Governor and the Legislature regarding the regulation of OSTDSs.
- Requires local governments to develop OSTDS remediation plans within BMAPs if the DEP determines that OSTDSs contribute at least 20 percent of the nutrient pollution or if the DEP determines remediation is necessary to achieve the total maximum daily load. Such plans must be adopted as part of the BMAPs no later than July 1, 2025.[20]

Targeted Outreach for Pregnant Women

The Targeted Outreach for Pregnant Women Act (TOPWA) was enacted by the Florida Legislature in 1998. The TOPWA program is designed to establish targeted outreach to high-risk pregnant women who may not be receiving proper prenatal care, who suffer from substance abuse problems, or who may be infected with the human immunodeficiency virus (HIV). The goal of the program is to provide these high-risk pregnant women with referrals for information and services.

In 2019, there were 453 HIV-exposed births in Florida. Without proper care for both mother and newborn, each of these births risks vertical transmission. The TOPWA supports outreach programs aimed at preventing vertical HIV transmission and other health issues by linking high-risk pregnant women with services that can help them have healthier pregnancies and deliveries and can aid them in ensuring their newborn gets a healthy start.[21]

Many of the women targeted by TOPWA programs would not otherwise receive prenatal care or know their HIV status. In 2019, there were seven TOPWA programs in Florida. The TOPWA

[19] DEP, *Blue-Green Algae Task Force Consensus Document #1*, 6-7 (Oct. 11, 2019), *available at* https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf (last visited March 25, 2021).
[20] Analysis of CS/CS/SB 712 (Feb. 24, 2020), *available at* https://www.flsenate.gov/Session/Bill/2020/712/Analyses/2020s00712.ap.PDF (last visited, March 25, 2021).
[21] Section 381.0045(2), F.S.

programs, which are funded through General Revenue (GR) dollars and grant funds from the federal Centers for Disease Control and Prevention (CDC), provided services to 7,703 women from January 2016 to July 2020. Women living with HIV made up just under 10 percent of TOPWA program enrollments.[22]

If a pregnant woman tests positive for HIV, medical interventions and prevention, such as the following, can greatly reduce her risk of transmitting the virus to her baby during childbirth:
- Antiretroviral medication to the mother;
- Delivery by caesarian section;
- Avoiding breastfeeding; and
- Antiretroviral medication to the newborn.[23]

Chiropractic Licensure

The "practice of chiropractic medicine" is a non-combative principle and practice consisting of the science, philosophy, and art of the adjustment, manipulation, and treatment of the human body to restore the normal flow of nerve impulse which produces normal function and health by chiropractic physicians using specific chiropractic adjustment or manipulation techniques taught in chiropractic colleges accredited by the Council on Chiropractic Education.

Section 460.406, F.S., requires:
- An applicant matriculating in a chiropractic college after July 1, 1990, to hold a bachelor's degree awarded by a college or university accredited by a regional accrediting agency recognized and approved by the U.S. Department of Education; and
- An applicant after July 1, 2000, to complete, prior to matriculating in a chiropractic college, a bachelor's degree from a college or university accredited by a regional accrediting agency recognized and approved by the U.S. Department of Education.

The U.S. Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published in that year omit references to "regional" and "national" accreditation. The letter specifies that "[b]ecause the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. § 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.

Dentistry

Any person wishing to practice dentistry in this state must apply to DOH and meet specified requirements. Section 466.006, F.S., requires dentistry licensure applicants to sit for and pass the following licensure examinations:
- The National Board of Dental Examiners dental examination (NBDE);
- A written examination on Florida laws and rules regulating the practice of dentistry; and

[22] Department of Health, *Senate Bill 1568 Fiscal Analysis* (Mar, 12, 2021) (on file with the Senate Committee on Health Policy.)
[23] *Id.*

- A practical examination, which is the American Dental Licensing Examination developed by the American Board of Dental Examiners, Inc., and graded by a Florida-licensed dentist employed by DOH for such purpose.[24]

To qualify to take the Florida dental licensure examination, an applicant must be 18 years of age or older, be a graduate of a dental school accredited by the American Dental Association Commission on Dental Accreditation (CODA) or be a student in the final year of a program at an accredited institution, and have successfully completed the NBDE dental examination.[25] If the applicant is not a graduate of a CODA-accredited program, the applicant must demonstrate that he or she holds a degree from an accredited American dental school or has completed two years at a full-time supplemental general dentistry program accredited by CODA.[26]

Under Florida law non-dentists are prohibited from influencing or otherwise interfering with a dentist's exercise of his or her independent professional judgment. The profession of dentistry prohibits persons other than a dentist or professional corporation or limited liability company composed of dentists, from:

- Employing a dentist or dental hygienist in a dental office;
- Controlling the use of any dental equipment or material; or
- Directing, controlling, or interfering with a dentist's clinical judgment.[27]

Conversely, dentists who are employed by any corporation, organization, group, or person other than a dentist or a professional corporation or limited liability company composed of dentists to practice dentistry will subject a dentist to a denial of license or disciplinary action.[28]

Midwifery

"Midwifery" is the practice of supervising the conduct of a normal labor and childbirth, with the informed consent of the parent; the practice of advising the parents as to the progress of the childbirth; and the practice of rendering prenatal and postpartal care.[29]

Chapter 467, F.S., is the Midwifery Practice Act. Any person who seeks to practice midwifery in Florida must be at least 21 years of age and:

- Licensed under s. 464.012, F.S., as an APRN nurse midwife; or
- Licensed as a midwife under ch. 467, F.S.

Section 467.009, F.S., governs midwifery programs and education and training requirements which are a minimum of three years in an approved program. An applicant must have:

- A high school diploma or the equivalent.
- Taken at least three college-level credits such as math and English.

[24] A passing score is valid for 365 days after the date the official examination results are published. A passing score on an examination obtained in another jurisdiction must be completed on or after October 1, 2011.
[25] Section 466.006(2), F.S.
[26] Section 466.006(3), F.S.
[27] Section 466.00285, F.S.
[28] Section 466.028, F.S.
[29] Section 467.003(8), F.S.

It is unclear under current law whether both a high school diploma and three college level credits are required for admission, or whether one or the other will satisfy the admission requirement.

Section 467.009, F.S., also requires a student midwife, during training, to undertake the care of 50 women in each of the prenatal, intrapartal, and postpartal periods, and observe an additional 25 women in the intrapartal period under the supervision of a preceptor, but the same women need not be seen through all periods. Prenatal, intrapartal, and postpartal periods are not defined and the statute is unclear as to whether this requires 150 patients prenatal, intrapartal, and postpartal periods, or just 50 in any one of the three phases of pregnancy and delivery. The statute is also unclear as to whether the two references to intrapartal care and observation may be the same patient or require different patient contacts.

Section 467.009, F.S., uses the terms, "applicant" and "student midwife" interchangeably, which is inaccurate. These sections frame standards for admission, education, and clinical training in the context of student requirements. Preceptors direct, teach, supervise, and evaluate the learning experiences of the student midwife and may be physicians, licensed midwives, or a certified nurse midwife, who have a minimum of three years professional experience.[30] Persons with previous midwifery education, RNs, and LPNs may have a reduced training period, but in no case less than two years.

Chapter 467.009, F.S., does not include any provisions explicitly allowing a new midwifery program to be provisionally approved nor does it provide guidance to schools regarding the circumstances under which the DOH may rescind the approval of program.

Section 467.011, F.S., licensure by examination, requires the DOH to:

- Administer the licensure examination to test the proficiency of applicants in the core competencies required to practice midwifery as specified in s. 467.009, F.S.;
- Develop, publish, and make available to interested parties at a reasonable cost a bibliography and guide for the examination; and
- Issue a license to practice midwifery to an applicant who has graduated from an approved midwifery program, successfully completed the examination, and paid a licensure fee.

The DOH no longer administers midwifery examinations, and, pursuant to s. 456.017(c), F.S., the DOH has approved the use of a national examination for midwives seeking to become licensed.[31]

In lieu of examination, an applicant may apply for a license by endorsement based on verification that the applicant holds a current valid license to practice in another jurisdiction that has equivalent or more stringent licensure requirements than those in Florida.[32]

A midwife may only accept and provide care for those women who are expected to have a normal pregnancy, labor, and delivery and must ensure that:

[30] Section 467.003(12), F.S.
[31] Department of Health, *Senate Bill 1568 Fiscal Analysis -Midwifery* (July 16, 2020) (on file with the Senate Committee on Health Policy.)
[32] Section 467.0125, F.S.

- The patient has signed an informed consent form; and
- If the patient is delivering at home, the home is safe and hygienic.

The statute does not define "normal delivery," "low risk pregnancy," or "high risk pregnancy."

A midwife licensed under ch. 467, F.S., may administer the following:
- Prophylactic ophthalmic medication;
- Oxygen;
- Postpartum oxytocin;
- Vitamin K;
- Rho immune globulin (human); and
- Local anesthetic and other medications prescribed by practitioner.[33]

A midwife's care of mothers and infants throughout the prenatal, intrapartal, and postpartal periods must be in conformity with DOH rules and the public health laws of this state. The midwife must:
- Prepare a written plan of action with the family to ensure continuity of medical care throughout labor and delivery and to provide for immediate medical care if an emergency arises;
- Instruct the patient and family regarding the preparation of the environment and ensure availability of equipment and supplies needed for delivery and infant care;
- Instruct the patient in the hygiene of pregnancy and nutrition as it relates to prenatal care;
- Maintain equipment and supplies;
- Determine the progress of labor and, when birth is imminent, be immediately available until delivery is accomplished and must:
  - Maintain a safe and hygienic environment;
  - Monitor the progress of labor and the status of the fetus;
  - Recognizing early signs of distress or complications; and
  - Enact the written emergency plan when indicated;
- Remain with the postpartal mother until the conditions of the mother and the neonate are stabilized; and
- Instill into each eye of the newborn infant a prophylactic in accordance with s. 383.04, F.S.

Section 467.0125, F.S., also includes provisions for licensure by endorsement and temporary certification of a midwife who is qualifying for endorsement to practice in an area of critical need. This statute defines the term "area of critical need" differently from every other profession which has temporary certification that allows practice in an area of critical need. In addition, the current provisions for temporary certification of midwives require revocation if the area in which they practice loses its designation as an area of critical need.

Section 467.205, F.S., provides that any accredited or state-licensed institution of higher learning, public or private, may provide midwifery education and training. The statute sets out the DOH approval requirements for programs desiring to conduct an approved midwifery education program. Under the application and recertification process:

[33] Section 467.015, F.S.

- The applicant must submit evidence of the program's compliance with the requirements in s. 467.009, F.S.
- The DOH must survey the organization applying for approval. If the department is satisfied that the program meets the requirements of s. 467.009, F.S., it must approve the program.
- The DOH must certify whether each approved midwifery program complies with the standards developed under s. 467.009, F.S., at least every three years.
  - If the DOH finds that an approved program no longer meets the required standards, it may place the program on probation until such time as the standards are restored.
  - If a program fails to correct these conditions within a specified period of time, the department may rescind the approval.
  - Any program having its approval rescinded has the right to reapply.
- Provisional approval of a new program may be granted pending the licensure results of the first graduating class.

Practice of Orthotics, Prosthetics, and Pedorthics

The practice of Orthotics, Prosthetics, and Pedorthics is governed by part XIV of ch. 468, F.S., and all three professions have to do with evaluating, treatment formulating, measuring, designing, fabricating, assembling, fitting, adjusting, servicing, or providing the initial training necessary to accomplish the fitting of an orthosis or pedorthic device.[34]

Section 468.803, F.S., provides minimum qualifications for licensure to practice orthotics, prosthetics, and pedorthics. Each profession includes the requirement of completion of a program from a "regionally accredited" institution. The U.S. Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published that year omit references to "regional" and "national" accreditation. The letter specifies, "Because the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. § 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.

Section 468.803 (2)(a), F.S., requires an applicant for licensure to as submit to the DOH, along with the application, the fingerprint forms and to pay the cost of the state and national criminal history checks. The DOH no longer collects forms or fees from applicants to process the initial criminal history check for licensure. Applicants are required to complete fingerprinting electronically through independent vendors and provide an originating agency identifier number specific to the profession for the results to be submitted to the DOH. If a criminal history is indicated, the Board of Orthotists and Prosthetists will review the application for consideration of licensure.[35]

[34] Section 468.80, F.S.
[35] Department of Health, *Senate Bill 1568 Fiscal Analysis - Practice of Orthotics, Prosthetics, and Pedorthics* (July 15, 2020) (on file with the Senate Committee on Health Policy.)

Clinical Lab Personnel

Part I of ch. 483, F.S., regulates clinical laboratory personnel. "Clinical laboratory personnel" includes a clinical laboratory director, supervisor, technologist, blood gas analyst, or technician who performs or is responsible for laboratory test procedures, but the term does not include trainees, persons who perform screening for blood banks or plasmapheresis centers, phlebotomists, or persons employed by a clinical laboratory to perform manual pretesting duties or clerical, personnel, or other administrative responsibilities.[36]

Section 483.824(2), F.S., requires the doctoral degree held by a clinical laboratory director be from a regionally-accredited institution in a chemical, physical, or biological science.

The U.S. Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published that year omit references to "regional" and "national" accreditation. The letter specifies, "[b]ecause the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. s. 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.[37]

Psychologists

Chapter 490, F.S., regulates the practice of psychology by psychologists. "Psychologist" is a person licensed by examination under s. 490.005(1), F.S., or endorsement under s. 490.006, F.S.

Section 390.003. F.S., defines a "doctoral-level psychological education" and "doctoral degree in psychology" as of July 1, 1999, to include a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from a psychology program at an educational institution that, at the time the applicant was enrolled and graduated:

- Had institutional accreditation from an agency recognized and approved by the U.S. Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and
- Had programmatic accreditation from the American Psychological Association.

Section 490.005, F.S., provides that any person desiring to be licensed by examination as a psychologist must apply to the DOH to take the licensure examination. The DOH will license each applicant who the Board of Psychology (BOP) certifies has:

- Completed an application and submitted a fee;
- Submitted proof satisfactory to the BOP that the applicant has received:
  - Doctoral-level psychological education; or
  - The equivalent of a doctoral-level psychological education, from a program at a school or university located outside the U.S.;
  - Had at least two years or 4,000 hours of experience in the field of psychology; and
  - Passed the licensing examination.

[36] Section 483.803(4), F.S.

[37] Department of Health, *Senate Bill 1568 Fiscal Analysis - Clinical Lab Personnel* (July 16, 2020) (on file with the Senate Committee on Health Policy.)

Section 490.0051, F.S., also requires the DOH to issue a provisional psychology license to each applicant who the BOP certifies has:

- Completed the application form and paid the fee;
- Earned a doctoral degree in psychology as defined in s. 490.003(3); and
- Met any additional requirements established by BOP rule.

Provisional licensees must practice under the supervision of a licensed psychologist until the provisional licensee receives a license or a letter from the DOH stating that he or she is licensed as a psychologist. A provisional license expires 24 months after the date it is issued and may not be renewed or reissued.

Mental Health Professionals

Section 491.005, F.S., sets out the educational and examination requirements for a clinical social worker, marriage and family therapist, and mental health counselor to obtain a license by examination in Florida. An individual applying for licensure by examination who has satisfied the clinical experience requirements of s. 491.005, F.S., or an individual applying for licensure by endorsement pursuant to s. 491.006, F.S., intending to provide clinical social work, marriage and family therapy, or mental health counseling services in Florida, while satisfying coursework or examination requirements for licensure, must obtain a provisional license in the profession for which he or she is seeking licensure prior to beginning practice.[38]

An individual who has not satisfied the postgraduate or post-master's level of experience requirements under s. 491.005, F.S., must register as an intern in the profession for which he or she is seeking licensure before commencing the post-master's experience requirement. An individual who intends to satisfy part of the required graduate-level practicum, internship, or field experience outside the academic arena, must register as an intern in the profession for which he or she is seeking licensure before commencing the practicum, internship, or field experience.[39]

Section 491.005(1), F.S., relates to licensure by examination for social workers. Section 491.005(3), F.S., relates to licensure by examination for marriage and family therapists. Section 491.005(4), F.S., relates to licensure by examination for mental health counselors.

Marriage and Family Therapy – Minimum Educational Requirements

During the 2020 Legislative Session, s. 491.0045, F.S., was amended to revise the minimum requirements for licensure as a marriage and family therapist to include graduation from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) or from a Florida university program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP). The minimum requirement for licensure revision was effective July 1, 2020.

Currently, there are six universities in Florida with a marriage and family program that is not accredited by either COAMFTE or CACREP, they are: Carlos Albizu, Jacksonville University,

[38] Section 491.0046, F.S.
[39] Section 491.0045, F.S.

Palm Beach Atlantic University, St. Thomas University, University of Miami, and University of Phoenix. As a result, students who are presently enrolled in a marriage and family program at one of the specified universities will not meet minimum requirements for Florida licensure upon graduation, although the programs did meet the requirements at the time of enrollment.[40]

Mental Health Counseling – Minimum Education Requirements

A mental health counselor is an individual who uses scientific and applied behavioral science theories, methods, and techniques to describe, prevent, and treat undesired behavior and enhance mental health and human development and is based on research and theory in personality, family, group, and organizational dynamics and development, career planning, cultural diversity, human growth and development, human sexuality, normal and abnormal behavior, psychopathology, psychotherapy, and rehabilitation.[41] To qualify for licensure as a mental health counselor, an individual must:[42]

- Have a master's degree from a mental health counseling program accredited by the Council of the Accreditation of Counseling and Related Educational Programs, or a program related to the practice of mental health counseling that includes coursework and a 1,000-hour practicum, internship, or fieldwork of at least 60 semester hours that meet certain requirements;
- Have at least two years of post-master's supervised clinical experience in mental health counseling;
- Have passed a theory and practice examination provided by the DOH; and
- Have passed an eight-hour course on Florida laws and rules approved by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.[43]

Beginning July 1, 2025, an applicant must have a master's degree from a program that is accredited by the Council for Accreditation of Counseling and Related Educational Programs which consists of at least 60 semester hours or 80 quarter hours to apply for licensure.

Registered Interns – Licensed Professional on Premises

As documented in the DOH Annual Report and Long-Range Plan, Fiscal Year 2018-2019, there are 13,474 registered mental health interns in Florida. To qualify as a registered intern, the applicant must have completed a master's or doctoral degree in a clinical counseling field and a practicum including face-to-face psychotherapy (clinical-level therapy sessions) under direct supervision of a licensed practitioner. Some registered interns may also complete internships prior to graduation. Registered interns routinely provide counseling and psychotherapy including the use of methods to evaluate, assess, diagnose, and treat emotional and mental dysfunctions or disorders, behavioral disorders, interpersonal relationships, and addictions.

Psychotherapy and counseling may be provided in a variety of settings. Registered interns provide services at facilities including, but not limited to:

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[40] Department of Health, *Senate Bill 1568 Fiscal Analysis - Mental Health Professionals* (July 15, 2020) (on file with the Senate Committee on Health Policy.)
[41] Sections 491.003(6) and (9), F.S.
[42] Section 491.005(4), F.S.
[43] Section 491.005(4), F.S., and Fla. Admin. Code R. 64B4-3.0035, (2021).

- Crisis Centers – e.g. suicide prevention programs, shelters for abuse victims, child endangerment response;
- Inpatient and outpatient behavioral health centers;
- Private practice settings;
- Hospitals;
- Hospice; and
- Rehabilitation centers.

Registered interns are required to complete 1,500 face-to-face psychotherapy hours prior to applying for full licensure. The face-to-face psychotherapy hours must be completed within five years. Registered interns are a force multiplier to increase the number of educated and prepared mental health practitioners to manage growing mental health concerns and currently provide these services in a variety of face-to-face settings.

In accordance with s. 491.005, F.S., registered interns are required to have a licensed professional on the premises during counseling sessions. The licensed professional is not required to be in the counseling room observing the session, but must be on the premises to provide oversight, guidance, and evaluation. This provision ensures that registered interns have a licensed professional readily available, if necessary, during a therapeutic session and to restrict registered interns from operating an independent practice without direct oversight available.

In response to the COVID-19 pandemic, the board revised Rule 64B4-2.002 of the Florida Administrative Code, defining supervision, to authorize registered interns to provide face-to-face psychotherapy by electronic methods (telehealth) if the intern establishes a written telehealth protocol and safety plan with their qualified supervisor. The protocol must include a provision that the supervisor remain readily available during electronic therapy sessions and that the registered intern and their qualified supervisor have determined that providing face-to-face psychotherapy by electronic methods is not detrimental to the patient, is necessary to protect the health, safety, or welfare of the patient, and does not violate any existing statutes.[44]

Regional Accreditation

The minimum qualifications for licensure specified in s. 491.005(3), F.S., includes the requirement of completion of a graduate program from a "regionally accredited body recognized by the Commission on Recognition of Postsecondary Accreditation." The U.S. Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published that year omit references to "regional" and "national" accreditation. The letter specifies, "Because the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. s. 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.[45]

[44] *Id.*
[45] *Id.*

Department Examination

The DOH has discontinued the practice of conducting examinations or purchasing examinations for licensure. Applicants are presently responsible for coordinating the completion of an examination with an approved vendor and submitting passing scores to the board to meet minimum qualifications. Current statutory references to the department collecting fees for examinations or conducting examinations is not consistent with current practice.[46]

III. Effect of Proposed Changes:

Onsite Sewage Treatment and Disposal Systems

CS/SB 1568 amends and creates multiple sections of the Florida statutes related to the DOH regulation of OSTDS. The bill:

- Amends s. 381.0061, F.S., as amended by s. 41 of ch. 2020-150, Laws of Florida to strike DOH's authority to assess fines related to OSTDS and septic tank contracting. The regulation of these programs will transfer to the DEP on July 1, 2021.[47]
- Creates s. 381.00635, F.S., to authorize the DOH to issue an order requiring a correction to improper conditions of any private or public water system not covered or included in the Florida Safe Drinking Water Act[48] which constitutes a nuisance or menace to public health.
- Amends s. 381.0067, F.S., to eliminate DEP authority over public and private water systems not included in the Florida Safe Drinking Water Act, the regulation of which is retained by the DOH.
- Amends s. 381.0101, F.S., to retain the requirement that onsite evaluations of OSTDS be done by certified environmental health professionals.

Targeted Outreach for Pregnant Women

The bill amends s. 381.0045, F.S., to:

- Add pregnant women who are suffering from mental health problems to the list of outreach targets;
- Encourage high risk pregnant women to get tested for other sexually transmissible diseases, as well as HIV, per DOH rule;
- Provide pregnant women with information on:
  - The need for antiretroviral medications, deleting reference to a single type of antiretroviral (AZT), for themselves and their newborn; and
  - How to access antiretroviral medications after discharge from the hospital;
- Link women to mental health services; and
- Require additional follow up for HIV-exposed newborns to determine final HIV status and ensure continued linkages to care, if needed.

[46] *Id.*
[47] Chapter 2020-150, Laws of Fla.
[48] Part VI of ch. 403, F.S.

Chiropractic Licensure

The bill amends s. 460.406, F.S., to deletes references to the term "regional" and replaces it with the term "institutional" to conform with the U.S. Department of Education accreditation nomenclature for approving educational institutions.

Dentistry

The bill amends ss. 466.028 and 466.0285, F.S., to provide that a dentist may be employed by a hospital and adds children's hospitals licensed as of January 1, 2021, to the list of entities that may employ a dentist or dental hygienist in the operation of a dental office or that may control specified aspects of a dental practice.

Midwifery

The bill:

- Amends the definition of "preceptor" to clearly define that role in the midwifery education process. Specifically, it explicitly states that a preceptor may not supervise an individual as a midwifery student unless the student has been enrolled in an approved midwifery program;
- Defines "pre-licensure course" to mean a course of study, offered by an approved midwifery program and approved by the DOH, which an applicant for licensure must complete before a license may be issued and which provides instruction in the laws and rules of this state and demonstrates the student's competency to practice midwifery;
- Clarifies language to promote consistency in terminology and that midwifery programs must incorporate all required standards, guidelines, and education objectives;
- Clarifies that both of the following may be required for admission to a midwifery program:
  - A high school diploma or the equivalent; and
  - Three college-level credits in math and English or demonstration of competency in communication and computation.
- Requires that clinical training include all of the following:
  - Care for 50 women in each of the prenatal, intrapartal, and postpartal periods under the supervision of a preceptor, and
  - Observation of an additional 25 women in the intrapartal period before qualifying for a license.
  - Training in a hospital and alternate birth settings or both; and
  - Assessment and differentiation between a high risk and low risk pregnancy.
- Amends s. 467,011, F,S., to require the following for the issuance of a midwifery license:
  - Application and fee;
  - Graduation from:
    - An approved midwifery program.
    - A medical or midwifery program offered in another jurisdiction whose graduation requirements were equivalent to or exceeded those required in Florida;
  - Completion of a pre-licensure course offered by an approved midwifery program; and
  - A passing score on the examination specified by the DOH.
- Amends s. 467.0125, F.S, to repeal the abbreviated oral examination to determine the applicant's competency without a written examination for temporary certificates and clarifies criteria for obtaining a license by endorsement and temporary certificate to practice in areas

of critical need. The bill does not define "areas of critical need" directly for temporary certificates, but requires the applicant to:
  - Specify that he or she will only practice in one or more of the following areas:
    - A county health department;
    - A correctional facility;
    - A Department of Veterans' Affairs clinic;
    - A community health center funded by s. 329, s. 330, or s. 340 of the United States Public Health Service Act; or
    - Any other agency or institution that is approved by the State Surgeon General that provides health care to meet the needs of an underserved populations in this state; and those specific areas;
  - Practice only under the supervision of a physician, an APRN certified nurse midwife or a midwife licensed under ch. 467, F.S., who has a minimum of three years professional experience; and
  - Voluntarily relinquish the temporary certificate, or report a new practice area of critical need to the DOH, if his or her current practice area ceases to be an area of critical need.
- Amends s. 467.205, F.S., to update the DOH's approval process of midwifery programs to allow midwifery programs to be provisionally approved for five years. This conforms to the five-year period provisional licensure period the Department of Education's Commission for Independent Education uses when seeking accreditation status. For private institutions, adds to the Council for Higher Education Accreditation, an accrediting agency approved by the United States Department of Education. The DOH will be able to give provisional approval to a new program who has meet all requirements except for showing their students have an 80-percent passage rate on the national exam. Programs provisionally approved will have five years to demonstrate the required exam approval rate after they are preliminary approved. This time period should allow completion the three-year education program for at least one cohort of students, and for those students to take the exam before the DOH tries to determine the passing rate.[49]

Practice of Orthotics, Prosthetics, and Pedorthics

The bill amends part XIV of ch. 468, F.S., to update the statute and reflect current procedures for applicants to obtain a criminal history check and the method of transmission to the DOH for review.

The bill deletes references to the term "regionally accredited" and replaces it with the term "institutionally accredited" or simply references the programmatic accrediting body to conform with the United States Department of Education accreditation nomenclature for approving educational institutions.[50]

[49] Department of Health, *Senate Bill 1568 Fiscal Analysis - Midwifery* (July 16, 2020) (on file with the Senate Committee on Health Policy.)
[50] Department of Health, *Senate Bill 1568 Fiscal Analysis - Practice of Orthotics, Prosthetics, and Pedorthics* (July 15, 2020) (on file with the Senate Committee on Health Policy.)

Clinical Lab personnel

The bill amends s. 483.801, F.S., to exempt persons performing alternate-site testing within a hospital or off site emergency hospital department and amends s. 483.824, F.S., to delete the reference to the term "regionally" in regard to the accredited institution that a clinical laboratory director is required to old a doctoral degree in a chemical, physical, or biological science from.

Psychologists

The bill amends ss. 490.003, 490.005, 490.0051, and 491.005, F.S., to clarify the educational requirements for psychologists applying for licensure by examination or endorsement. Under the bill, psychologists may obtain a doctoral degree from:

- An American Psychological Association (APA) accredited program; or
- An institution accredited from an agency recognized by the United States Department of Education or Association of Universities and colleges of Canada.

Mental Health Counselors

The bill amends 491.005, to:

- Authorize programs not yet accredited by COAMFTE, CACREP, the Masters in Psychology and Counseling Accreditation Council or equivalent accrediting body a period of five years to become accredited:
- Authorize a licensed mental health professional to be available by phone or other electronic methods when clinical services are being provided by a registered intern by telehealth methods:
- Delete references to the term "regional" in s. 491.005(3), F.S., and replaces it with the term "institutional" to conform with the U.S. Department of Education accreditation nomenclature for approving educational institutions; and
- Delete current statutory references to the DOH collecting fees for examinations or conducting examinations;

The bill provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.0045, 381.0061, 381.0067, 381.0101, 460.406, 464.018, 466.028, 466.0285, 467.003, 467.009, 467.011, 467.0125, 467.205, 468.803, 483.801, 483.824, 490.003, and 491.005.

This bill creates section 381.00635 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 March 31, 2021:
The CS:

- Removes the underlying bill's revisions to medical marijuana statutes;
- Makes technical corrections to the underlying bill's provisions relating to onsite sewage treatment and disposal systems;

- Provides that a dentist may be employed by a hospital and adds children's hospitals licensed as of January 1, 2021, to the list of entities that may employ a dentist or dental hygienist in the operation of a dental office or that may control specified aspects of a dental practice;
- Amends s. 467.205, F.S., to add an accrediting agency approved by the United States Department of Education to those agencies that may accredit private midwifery programs;
- Amends s. 483.801. F.S., to exempt persons performing alternate-site testing within a hospital or off-site emergency department from statutory provisions and DOH regulations pertaining to clinical laboratories and clinical laboratory personnel; and
- Provides an additional accreditation, plus other equivalent accreditations, that a master's degree program may have in order to qualify an applicant for a mental health counseling license, beginning July 1, 2025.

B. Amendments:

None.

334918

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2021	.	
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The Committee on Health Policy (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete lines 139 - 243

and insert:

Section 4. Section 381.0067, Florida Statutes, is amended to read:

381.0067 Corrective orders; ~~private and certain public water systems and~~ onsite sewage treatment and disposal systems.—When the department or its agents, through investigation, find that any ~~private water system, public water system not covered~~

~~or included in the Florida Safe Drinking Water Act (part VI of chapter 403), or~~ onsite sewage treatment and disposal system constitutes a nuisance or menace to the public health or significantly degrades the groundwater or surface water, the department or its agents may issue an order requiring the owner to correct the improper condition. If the improper condition relates to the drainfield of an onsite sewage treatment and disposal system, the department or its agents may issue an order requiring the owner to repair or replace the drainfield. If an onsite sewage treatment and disposal system has failed, the department or its agents shall issue an order requiring the owner to replace the system. For purposes of this section, an onsite sewage treatment and disposal system has failed if the operation of the system constitutes a nuisance or menace to the public health or significantly degrades the groundwater or surface water and the system cannot be repaired.

Section 5. Subsections (2) and (4) of section 381.0101, Florida Statutes, are amended to read:

381.0101 Environmental health professionals.—

(2) CERTIFICATION REQUIRED.—A person may not perform environmental health or sanitary evaluations in any primary program area of environmental health or an onsite sewage treatment and disposal program under ss. 381.0065 and 381.00651 without being certified by the department as competent to perform such evaluations. This section does not apply to:

(a) Persons performing inspections of public food service establishments licensed under chapter 509; or

(b) Persons performing site evaluations in order to determine proper placement and installation of onsite sewage

334918

~~wastewater~~ treatment and disposal systems who have successfully completed a department-approved soils morphology course and who are working under the direct responsible charge of an engineer licensed under chapter 471.

(4) STANDARDS FOR CERTIFICATION.—The department shall adopt rules that establish definitions of terms and minimum standards of education, training, or experience for those persons subject to this section. The rules must also address the process for application, examination, issuance, expiration, and renewal of certification and ethical standards of practice for the profession.

(a) Persons employed as environmental health professionals shall exhibit a knowledge of rules and principles of environmental and public health law in Florida through examination. A person may not conduct environmental health evaluations in a primary program area or an onsite sewage treatment and disposal program under ss. 381.0065 and 381.00651 unless he or she is currently certified in that program area or works under the direct supervision of a certified environmental health professional.

1. All persons who begin employment in a primary environmental health program or an onsite sewage treatment and disposal system program on or after September 21, 1994, must be certified in that program within 6 months after employment.

2. Persons employed in the primary environmental health program of a food protection program or an onsite sewage treatment and disposal system program before ~~prior to~~ September 21, 1994, are ~~shall be~~ considered certified while employed in that position and are ~~shall be~~ required to adhere to any

334918

professional standards established by the department pursuant to paragraph (b), complete any continuing education requirements imposed under paragraph (d), and pay the certificate renewal fee imposed under subsection (6).

3. Persons employed in the primary environmental health program of a food protection program or an onsite sewage treatment and disposal system program before ~~prior to~~ September 21, 1994, who change positions or program areas and transfer into another primary environmental health program area on or after September 21, 1994, must be certified in that program within 6 months after such transfer, except that they are ~~will~~ not ~~be~~ required to possess the college degree required under paragraph (e).

4. Registered sanitarians are ~~shall be~~ considered certified and are ~~shall be~~ required to adhere to any professional standards established by the department pursuant to paragraph (b).

(b) At a minimum, the department shall establish standards for professionals in the areas of food hygiene and onsite sewage treatment and disposal.

(c) Those persons conducting primary environmental health evaluations or evaluations of onsite sewage treatment and disposal systems must ~~shall~~ be certified by examination to be

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

And the title is amended as follows:

Delete lines 23 - 33

and insert:

systems; amending s. 381.0067, F.S.; conforming

334918

provisions to changes made by the act; amending s. 381.0101, F.S.; revising certification requirements for persons performing evaluations of onsite sewage treatment and disposal systems; making technical changes;

521406

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2021	.	
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The Committee on Health Policy (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete lines 258 - 571.

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

And the title is amended as follows:

Delete lines 34 - 46

and insert:

amending s. 460.406, F.S.; revising

721272

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2021	.	
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The Committee on Health Policy (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 662 and 663
insert:

Section 10. Paragraph (h) of subsection (1) of section 466.028, Florida Statutes, is amended to read:

466.028 Grounds for disciplinary action; action by the board.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

721272

(h) Being employed by any corporation, organization, group, or person other than a dentist, a hospital, or a professional corporation or limited liability company composed of dentists to practice dentistry.

Section 11. Section 466.0285, Florida Statutes, is amended to read:

466.0285 Proprietorship by nondentists.—

(1) A person or an entity ~~No person~~ other than a dentist licensed under ~~pursuant to~~ this chapter, a specialty-licensed children's hospital licensed under chapter 395 as of January 1, 2021, or ~~nor any entity other than~~ a professional corporation or limited liability company composed of dentists, may not:

(a) Employ a dentist or dental hygienist in the operation of a dental office.

(b) Control the use of any dental equipment or material while such equipment or material is being used for the provision of dental services, whether those services are provided by a dentist, a dental hygienist, or a dental assistant.

(c) Direct, control, or interfere with a dentist's clinical judgment. To direct, control, or interfere with a dentist's clinical judgment does not mean ~~may not be interpreted to mean~~ dental services contractually excluded, the application of alternative benefits that may be appropriate given the dentist's prescribed course of treatment, or the application of contractual provisions and scope of coverage determinations in comparison with a dentist's prescribed treatment on behalf of a covered person by an insurer, health maintenance organization, or a prepaid limited health service organization.

721272

Any lease agreement, rental agreement, or other arrangement between a nondentist and a dentist whereby the nondentist provides the dentist with dental equipment or dental materials must ~~shall~~ contain a provision whereby the dentist expressly maintains complete care, custody, and control of the equipment or practice.

(2) The purpose of this section is to prevent a nondentist from influencing or otherwise interfering with the exercise of a dentist's independent professional judgment. In addition to the acts specified in subsection (1), a ~~no~~ person or an entity that ~~who~~ is not a dentist licensed under ~~pursuant to~~ this chapter, a specialty-licensed children's hospital licensed under chapter 395 as of January 1, 2021, or ~~nor any entity that is not~~ a professional corporation or limited liability company composed of dentists may not ~~shall~~ enter into a relationship with a licensee pursuant to which such unlicensed person or such entity exercises control over any of the following:

(a) The selection of a course of treatment for a patient, the procedures or materials to be used as part of such course of treatment, and the manner in which such course of treatment is carried out by the licensee.~~;~~

(b) The patient records of a dentist.~~;~~

(c) Policies and decisions relating to pricing, credit, refunds, warranties, and advertising.~~; and~~

(d) Decisions relating to office personnel and hours of practice.

(3) Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

721272

(4) Any contract or arrangement entered into or undertaken in violation of this section is ~~shall be~~ void as contrary to public policy. This section applies to contracts entered into or renewed on or after October 1, 1997.

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

And the title is amended as follows:

Between lines 49 and 50

insert:

amending s. 466.028, F.S.; revising grounds for disciplinary action by the Board of Dentistry; amending s. 466.0285, F.S.; exempting certain specialty hospitals from prohibitions relating to the employment of dentists and dental hygienists and the control of dental equipment and materials by nondentists; exempting such hospitals from a prohibition on nondentists entering into certain agreements with dentists or dental hygienists; making technical changes;

237798

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2021	.	
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The Committee on Health Policy (Rodriguez) recommended the following:

Senate Amendment

Delete line 930
and insert:
Accreditation or an accrediting agency approved by the United States Department of Education and its licensing or provisional licensing by the

117184

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2021	.	
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The Committee on Health Policy (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 1121 and 1122

insert:

Section 16. Subsection (7) is added to section 483.801, Florida Statutes, to read:

483.801 Exemptions.—This part applies to all clinical laboratories and clinical laboratory personnel within this state, except:

(7) Persons performing alternate-site testing within a

117184

hospital or offsite emergency department licensed under chapter 395.

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

And the title is amended as follows:

Delete line 64

and insert:

and licensing; amending s. 483.801, F.S.; exempting certain persons from clinical laboratory personnel regulations; amending s. 483.824, F.S.; revising

276700

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2021	.	
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The Committee on Health Policy (Rodriguez) recommended the following:

Senate Amendment

Delete line 1482
and insert:
Educational Programs, the Masters in Psychology and Counseling Accreditation Council, or an equivalent accrediting body which consists of at least 60 semester

557514

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/31/2021	.	
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The Committee on Health Policy (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 151 and 152
insert:

Section 5. Paragraph (c) of subsection (2) of section 381.00655, Florida Statutes, is amended to read

381.00655 Connection of existing onsite sewage treatment and disposal systems to central sewerage system; requirements.—

(2) The provisions of subsection (1) or any other provision of law to the contrary notwithstanding:

557514

(c) A local government or water and sewer district responsible for the operation of a centralized sewer system under s. 153.62 may grant a variance to an owner of a performance-based onsite sewage treatment and disposal system permitted by the department as long as the onsite system is functioning properly and satisfying the conditions of the operating permit. The department or a district created under chapter 189 may waive the requirements for the owner of an individual septic system to connect to a centralized sewer system or construct an onsite treatment system provided the individual lots operating on a septic system was identified in the master plan of the centralized sewer plan and approved by the permitting entities as being excluded for service by the centralized sewer system. ~~Nothing in~~ This paragraph may not ~~shall~~ be construed to require a local government or water and sewer district to issue a variance under any circumstance. ~~Nothing in~~ This paragraph may not ~~shall~~ be construed as limiting local government authority to enact ordinances under s. 4, chapter 99-395, Laws of Florida. A local government or water and sewer district located in any of the following areas is ~~shall~~ not ~~be~~ required to issue a variance under any circumstance:

1. An area of critical state concern.

2. An area that was designated as an area of critical state concern for at least 20 consecutive years prior to removal of the designation.

3. An area in the South Florida Water Management District west C-11 basin that discharges through the S-9 pump into the Everglades.

4. An area designated by the Lake Okeechobee Protection

557514

Act.

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

And the title is amended as follows:

Delete line 20

and insert:

contracting; amending s. 381.00655, F.S.; authorizing the department or certain districts to waive requirements related to conversion of septic systems to centralized sewer systems under certain circumstances; creating s. 381.00635, F.S.; transferring

By Senator Rodriguez

39-01572A-21 20211568__

A bill to be entitled

An act relating to the Department of Health; amending s. 381.0045, F.S.; revising the purpose of the department's targeted outreach program for certain pregnant women; requiring the department to encourage high-risk pregnant women of unknown status to be tested for sexually transmissible diseases; requiring the department to provide specified information to pregnant women who have human immunodeficiency virus (HIV); requiring the department to link women with mental health services when available; requiring the department to educate pregnant women who have HIV on certain information; requiring the department to provide, for a specified purpose, continued oversight of newborns exposed to HIV; amending s. 381.0061, F.S., as amended by s. 41 of chapter 2020-150, Laws of Florida; revising provisions related to administrative fines for violations relating to onsite sewage treatment and disposal systems and septic tank contracting; creating s. 381.00635, F.S.; transferring provisions from s. 381.0067, F.S., relating to corrective orders for private and certain public water systems; amending s. 381.0064, F.S., as amended by s. 42 of chapter 2020-150,, Laws of Florida; conforming provisions to changes made by the act; amending s. 381.0067, F.S.; conforming provisions to changes made by the act; amending s. 381.0101, F.S., as amended by s. 44 of chapter 2020-150, Laws of Florida; revising the definition of the term "primary environmental

39-01572A-21 20211568__

health program"; revising certification requirements for persons performing certain environmental health and sanitary evaluations; conforming provisions to changes made by the act; making technical changes; amending s. 381.986, F.S.; authorizing the department to select samples of marijuana from medical marijuana treatment center facilities for certain testing; authorizing the department to select samples of marijuana delivery devices from dispensing facilities to determine whether they are safe for use; requiring medical marijuana treatment centers to recall marijuana, instead of just edibles, under certain circumstances; providing an exemption from criminal provisions for department employees who acquire, possess, test, transport, and lawfully dispose of marijuana and marijuana delivery devices under certain circumstances; amending s. 460.406, F.S.; revising provisions related to chiropractic physician licensing; amending s. 464.018, F.S.; revising grounds for disciplinary action against licensed nurses; amending s. 467.003, F.S.; revising and defining terms; amending s. 467.009, F.S.; revising provisions related to approved midwifery programs; amending s. 467.011, F.S.; revising provisions relating to licensure of midwives; amending s. 467.0125, F.S.; revising provisions relating to licensure by endorsement of midwives; revising requirements for temporary certificates to practice midwifery in this state; amending s. 467.205, F.S.; revising provisions

relating to approval, continued monitoring, probationary status, provisional approval, and approval rescission of midwifery programs; amending s. 468.803, F.S.; revising provisions related to orthotist and prosthetist registration, examination, and licensing; amending 483.824, F.S.; revising educational requirements for clinical laboratory directors; amending s. 490.003, F.S.; defining the terms "doctoral degree from an American Psychological Association accredited program" and "doctoral degree in psychology"; amending ss. 490.005 and 490.0051, F.S.; revising education requirements for psychologist licensing and provisional licensing, respectively; amending s. 491.005, F.S.; revising licensing requirements for clinical social workers, marriage and family therapists, and mental health counselors; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 381.0045, Florida Statutes, are amended to read:

381.0045 Targeted outreach for pregnant women.—

(2) It is the purpose of this section to establish a targeted outreach program for high-risk pregnant women who may not seek proper prenatal care, who suffer from substance abuse or mental health problems, or who have ~~are infected with~~ human immunodeficiency virus (HIV), and to provide these women with links to much needed services and information.

(3) The department shall:

(a) Conduct outreach programs through contracts with, grants to, or other working relationships with persons or entities where the target population is likely to be found.

(b) Provide outreach that is peer-based, culturally sensitive, and performed in a nonjudgmental manner.

(c) Encourage high-risk pregnant women of unknown status to be tested for HIV and other sexually transmissible diseases as specified by department rule.

(d) Educate women not receiving prenatal care as to the benefits of such care.

(e) Provide ~~HIV-infected~~ pregnant women who have HIV with information on the need for antiretroviral medication for their newborn, their medication options, and how they can access the medication after their discharge from the hospital ~~so they can make an informed decision about the use of Zidovudine (AZT)~~.

(f) Link women with substance abuse treatment and mental health services, when available, and act as a liaison with Healthy Start coalitions, children's medical services, Ryan White-funded providers, and other services of the Department of Health.

(g) Educate pregnant women who have HIV on the importance of engaging in and continuing HIV care.

(h) Provide continued oversight of ~~to HIV-exposed~~ newborns exposed to HIV to determine the newborn's final HIV status and ensure continued linkage to care if the newborn is diagnosed with HIV.

Section 2. Subsection (1) of section 381.0061, Florida Statutes, as amended by section 41 of chapter 2020-150, Laws of

Florida, is amended to read:

381.0061 Administrative fines.—

(1) In addition to any administrative action authorized by chapter 120 or by other law, the department may impose a fine, which may not exceed $500 for each violation, for a violation of s. 381.006(15), ~~s. 381.0065, s. 381.0066,~~ s. 381.0072, ~~or part III of chapter 489, for a violation of~~ any rule adopted under this chapter, or ~~for a violation of~~ chapter 386. Notice of intent to impose such fine shall be given by the department to the alleged violator. Each day that a violation continues may constitute a separate violation.

Section 3. Section 381.00635, Florida Statutes, is created to read:

381.00635 Corrective orders; private and certain public water systems.—When the department or its agents, through investigation, find that any private water system or public water system not covered or included in the Florida Safe Drinking Water Act, part VI of chapter 403, constitutes a nuisance or menace to the public health or significantly degrades the groundwater or surface water, the department or its agents may issue an order requiring the owner to correct the improper condition.

Section 4. Subsection (1) of section 381.0064, Florida Statutes, as amended by section 42 of chapter 2020-150, Laws of Florida, is amended to read:

381.0064 Continuing education courses for persons installing or servicing septic tanks.—

(1) The Department of Environmental Protection shall establish a program for continuing education which meets the

purposes of s. 489.554 ~~ss. 381.0101 and 489.554~~ regarding the public health and environmental effects of onsite sewage treatment and disposal systems and any other matters the department determines desirable for the safe installation and use of onsite sewage treatment and disposal systems. The department may charge a fee to cover the cost of such program.

Section 5. Section 381.0067, Florida Statutes, is amended to read:

381.0067 Corrective orders; ~~private and certain public water systems and~~ onsite sewage treatment and disposal systems.—When the department or its agents, through investigation, find that any ~~private water system, public water system not covered or included in the Florida Safe Drinking Water Act (part VI of chapter 403), or~~ onsite sewage treatment and disposal system constitutes a nuisance or menace to the public health or significantly degrades the groundwater or surface water, the department or its agents may issue an order requiring the owner to correct the improper condition. If the improper condition relates to the drainfield of an onsite sewage treatment and disposal system, the department or its agents may issue an order requiring the owner to repair or replace the drainfield. If an onsite sewage treatment and disposal system has failed, the department or its agents shall issue an order requiring the owner to replace the system. For purposes of this section, an onsite sewage treatment and disposal system has failed if the operation of the system constitutes a nuisance or menace to the public health or significantly degrades the groundwater or surface water and the system cannot be repaired.

Section 6. Paragraph (g) of subsection (1) of section

381.0101, Florida Statutes, as amended by section 44 of chapter 2020-150, Laws of Florida, and subsections (2) and (4) of that section are amended to read:

381.0101 Environmental health professionals.—

(1) DEFINITIONS.—As used in this section:

(g) "Primary environmental health program" means those programs determined by the department to be essential for providing basic environmental and sanitary protection to the public. At a minimum, these programs shall include food protection program work and onsite sewage treatment and disposal system evaluations.

(2) CERTIFICATION REQUIRED.—A person may not perform environmental health or sanitary evaluations in any primary program area of environmental health without being certified by the department as competent to perform such evaluations. This section does not apply to~~:~~

~~(a)~~ persons performing inspections of public food service establishments licensed under chapter 509~~; or~~

~~(b) Persons performing site evaluations in order to determine proper placement and installation of onsite wastewater treatment and disposal systems who have successfully completed a department-approved soils morphology course and who are working under the direct responsible charge of an engineer licensed under chapter 471~~.

(4) STANDARDS FOR CERTIFICATION.—The department shall adopt rules that establish definitions of terms and minimum standards of education, training, or experience for those persons subject to this section. The rules must also address the process for application, examination, issuance, expiration, and renewal of

certification and ethical standards of practice for the profession.

(a) Persons employed as environmental health professionals shall exhibit a knowledge of rules and principles of environmental and public health law in Florida through examination. A person may not conduct environmental health evaluations in a primary program area unless he or she is currently certified in that program area or works under the direct supervision of a certified environmental health professional.

1. All persons who begin employment in a primary environmental health program on or after September 21, 1994, must be certified in that program within 6 months after employment.

2. Persons employed in the primary environmental health program of a food protection program before ~~or an onsite sewage treatment and disposal system prior to~~ September 21, 1994, are ~~shall be~~ considered certified while employed in that position and are ~~shall be~~ required to adhere to any professional standards established by the department pursuant to paragraph (b), complete any continuing education requirements imposed under paragraph (d), and pay the certificate renewal fee imposed under subsection (6).

3. Persons employed in the primary environmental health program of a food protection program before ~~or an onsite sewage treatment and disposal system prior to~~ September 21, 1994, who change positions or program areas and transfer into another primary environmental health program area on or after September 21, 1994, must be certified in that program within 6 months

after such transfer, except that they are ~~will~~ not ~~be~~ required to possess the college degree required under paragraph (e).

4. Registered sanitarians are ~~shall be~~ considered certified and are ~~shall be~~ required to adhere to any professional standards established by the department pursuant to paragraph (b).

(b) At a minimum, the department shall establish standards for professionals in the areas of food hygiene ~~and onsite sewage treatment and disposal~~.

(c) Those persons conducting primary environmental health evaluations must ~~shall~~ be certified by examination to be knowledgeable in any primary area of environmental health in which they are routinely assigned duties.

(d) Persons who are certified shall renew their certification biennially by completing a minimum of ~~not less than~~ 24 contact hours of continuing education for each program area in which they maintain certification, subject to a maximum of 48 hours for multiprogram certification.

(e) Applicants for certification must ~~shall~~ have graduated from an accredited 4-year college or university with a degree or major coursework in public health, environmental health, environmental science, or a physical or biological science.

(f) A certificateholder must ~~shall~~ notify the department within 60 days after any change of name or address from that which appears on the current certificate.

Section 7. Present paragraphs (e) through (h) of subsection (14) of section 381.986, Florida Statutes, are redesignated as paragraphs (f) through (i), respectively, a new paragraph (e) is added to that subsection, and paragraph (e) of subsection (8) of

that section is amended, to read:

381.986 Medical use of marijuana.—

(8) MEDICAL MARIJUANA TREATMENT CENTERS.—

(e) A licensed medical marijuana treatment center shall cultivate, process, transport, and dispense marijuana for medical use. A licensed medical marijuana treatment center may not contract for services directly related to the cultivation, processing, and dispensing of marijuana or marijuana delivery devices, except that a medical marijuana treatment center licensed pursuant to subparagraph (a)1. may contract with a single entity for the cultivation, processing, transporting, and dispensing of marijuana and marijuana delivery devices. A licensed medical marijuana treatment center must, at all times, maintain compliance with the criteria demonstrated and representations made in the initial application and the criteria established in this subsection. Upon request, the department may grant a medical marijuana treatment center a variance from the representations made in the initial application. Consideration of such a request shall be based upon the individual facts and circumstances surrounding the request. A variance may not be granted unless the requesting medical marijuana treatment center can demonstrate to the department that it has a proposed alternative to the specific representation made in its application which fulfills the same or a similar purpose as the specific representation in a way that the department can reasonably determine will not be a lower standard than the specific representation in the application. A variance may not be granted from the requirements in subparagraph 2. and subparagraphs (b)1. and 2.

1. A licensed medical marijuana treatment center may transfer ownership to an individual or entity who meets the requirements of this section. A publicly traded corporation or publicly traded company that meets the requirements of this section is not precluded from ownership of a medical marijuana treatment center. To accommodate a change in ownership:

a. The licensed medical marijuana treatment center shall notify the department in writing at least 60 days before the anticipated date of the change of ownership.

b. The individual or entity applying for initial licensure due to a change of ownership must submit an application that must be received by the department at least 60 days before the date of change of ownership.

c. Upon receipt of an application for a license, the department shall examine the application and, within 30 days after receipt, notify the applicant in writing of any apparent errors or omissions and request any additional information required.

d. Requested information omitted from an application for licensure must be filed with the department within 21 days after the department's request for omitted information or the application shall be deemed incomplete and shall be withdrawn from further consideration and the fees shall be forfeited.

e. Within 30 days after the receipt of a complete application, the department shall approve or deny the application.

2. A medical marijuana treatment center, and any individual or entity who directly or indirectly owns, controls, or holds with power to vote 5 percent or more of the voting shares of a

medical marijuana treatment center, may not acquire direct or indirect ownership or control of any voting shares or other form of ownership of any other medical marijuana treatment center.

3. A medical marijuana treatment center may not enter into any form of profit-sharing arrangement with the property owner or lessor of any of its facilities where cultivation, processing, storing, or dispensing of marijuana and marijuana delivery devices occurs.

4. All employees of a medical marijuana treatment center must be 21 years of age or older and have passed a background screening pursuant to subsection (9).

5. Each medical marijuana treatment center must adopt and enforce policies and procedures to ensure employees and volunteers receive training on the legal requirements to dispense marijuana to qualified patients.

6. When growing marijuana, a medical marijuana treatment center:

a. May use pesticides determined by the department, after consultation with the Department of Agriculture and Consumer Services, to be safely applied to plants intended for human consumption, but may not use pesticides designated as restricted-use pesticides pursuant to s. 487.042.

b. Must grow marijuana within an enclosed structure and in a room separate from any other plant.

c. Must inspect seeds and growing plants for plant pests that endanger or threaten the horticultural and agricultural interests of the state in accordance with chapter 581 and any rules adopted thereunder.

d. Must perform fumigation or treatment of plants, or

remove and destroy infested or infected plants, in accordance with chapter 581 and any rules adopted thereunder.

7. Each medical marijuana treatment center must produce and make available for purchase at least one low-THC cannabis product.

8. A medical marijuana treatment center that produces edibles must hold a permit to operate as a food establishment pursuant to chapter 500, the Florida Food Safety Act, and must comply with all the requirements for food establishments pursuant to chapter 500 and any rules adopted thereunder. Edibles may not contain more than 200 milligrams of tetrahydrocannabinol, and a single serving portion of an edible may not exceed 10 milligrams of tetrahydrocannabinol. Edibles may have a potency variance of no greater than 15 percent. Edibles may not be attractive to children; be manufactured in the shape of humans, cartoons, or animals; be manufactured in a form that bears any reasonable resemblance to products available for consumption as commercially available candy; or contain any color additives. To discourage consumption of edibles by children, the department shall determine by rule any shapes, forms, and ingredients allowed and prohibited for edibles. Medical marijuana treatment centers may not begin processing or dispensing edibles until after the effective date of the rule. The department shall also adopt sanitation rules providing the standards and requirements for the storage, display, or dispensing of edibles.

9. Within 12 months after licensure, a medical marijuana treatment center must demonstrate to the department that all of its processing facilities have passed a Food Safety Good

Manufacturing Practices, such as Global Food Safety Initiative or equivalent, inspection by a nationally accredited certifying body. A medical marijuana treatment center must immediately stop processing at any facility which fails to pass this inspection until it demonstrates to the department that such facility has met this requirement.

10. A medical marijuana treatment center that produces prerolled marijuana cigarettes may not use wrapping paper made with tobacco or hemp.

11. When processing marijuana, a medical marijuana treatment center must:

a. Process the marijuana within an enclosed structure and in a room separate from other plants or products.

b. Comply with department rules when processing marijuana with hydrocarbon solvents or other solvents or gases exhibiting potential toxicity to humans. The department shall determine by rule the requirements for medical marijuana treatment centers to use such solvents or gases exhibiting potential toxicity to humans.

c. Comply with federal and state laws and regulations and department rules for solid and liquid wastes. The department shall determine by rule procedures for the storage, handling, transportation, management, and disposal of solid and liquid waste generated during marijuana production and processing. The Department of Environmental Protection shall assist the department in developing such rules.

d. Test the processed marijuana using a medical marijuana testing laboratory before it is dispensed. Results must be verified and signed by two medical marijuana treatment center

employees. Before dispensing, the medical marijuana treatment center must determine that the test results indicate that low-THC cannabis meets the definition of low-THC cannabis, the concentration of tetrahydrocannabinol meets the potency requirements of this section, the labeling of the concentration of tetrahydrocannabinol and cannabidiol is accurate, and all marijuana is safe for human consumption and free from contaminants that are unsafe for human consumption. The department shall determine by rule which contaminants must be tested for and the maximum levels of each contaminant which are safe for human consumption. The Department of Agriculture and Consumer Services shall assist the department in developing the testing requirements for contaminants that are unsafe for human consumption in edibles. The department shall also determine by rule the procedures for the treatment of marijuana that fails to meet the testing requirements of this section, s. 381.988, or department rule. The department may select samples of marijuana ~~a random sample~~ from ~~edibles available for purchase in~~ a medical marijuana treatment center ~~dispensing~~ facility which shall be tested by the department to determine whether ~~that~~ the marijuana ~~edible~~ meets the potency requirements of this section, is safe for human consumption, and is accurately labeled with ~~the labeling of~~ the tetrahydrocannabinol and cannabidiol concentration or to verify the result of marijuana testing conducted by a marijuana testing laboratory. The department may also select samples of marijuana delivery devices from a dispensing facility to determine whether the marijuana delivery device is safe for use by qualified patients ~~is accurate~~. A medical marijuana treatment center may not require payment from

the department for the sample. A medical marijuana treatment center must recall marijuana ~~edibles~~, including all marijuana and marijuana products ~~edibles~~ made from the same batch of marijuana, that fails ~~which fail~~ to meet the potency requirements of this section, that is ~~which are~~ unsafe for human consumption, or for which the labeling of the tetrahydrocannabinol and cannabidiol concentration is inaccurate. The medical marijuana treatment center must retain records of all testing and samples of each homogenous batch of marijuana for at least 9 months. The medical marijuana treatment center must contract with a marijuana testing laboratory to perform audits on the medical marijuana treatment center's standard operating procedures, testing records, and samples and provide the results to the department to confirm that the marijuana or low-THC cannabis meets the requirements of this section and that the marijuana or low-THC cannabis is safe for human consumption. A medical marijuana treatment center shall reserve two processed samples from each batch and retain such samples for at least 9 months for the purpose of such audits. A medical marijuana treatment center may use a laboratory that has not been certified by the department under s. 381.988 until such time as at least one laboratory holds the required certification, but in no event later than July 1, 2018.

e. Package the marijuana in compliance with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq.

f. Package the marijuana in a receptacle that has a firmly affixed and legible label stating the following information:

(I) The marijuana or low-THC cannabis meets the

requirements of sub-subparagraph d.

(II) The name of the medical marijuana treatment center from which the marijuana originates.

(III) The batch number and harvest number from which the marijuana originates and the date dispensed.

(IV) The name of the physician who issued the physician certification.

(V) The name of the patient.

(VI) The product name, if applicable, and dosage form, including concentration of tetrahydrocannabinol and cannabidiol. The product name may not contain wording commonly associated with products marketed by or to children.

(VII) The recommended dose.

(VIII) A warning that it is illegal to transfer medical marijuana to another person.

(IX) A marijuana universal symbol developed by the department.

12. The medical marijuana treatment center shall include in each package a patient package insert with information on the specific product dispensed related to:

a. Clinical pharmacology.

b. Indications and use.

c. Dosage and administration.

d. Dosage forms and strengths.

e. Contraindications.

f. Warnings and precautions.

g. Adverse reactions.

13. In addition to the packaging and labeling requirements specified in subparagraphs 11. and 12., marijuana in a form for

smoking must be packaged in a sealed receptacle with a legible and prominent warning to keep away from children and a warning that states marijuana smoke contains carcinogens and may negatively affect health. Such receptacles for marijuana in a form for smoking must be plain, opaque, and white without depictions of the product or images other than the medical marijuana treatment center's department-approved logo and the marijuana universal symbol.

14. The department shall adopt rules to regulate the types, appearance, and labeling of marijuana delivery devices dispensed from a medical marijuana treatment center. The rules must require marijuana delivery devices to have an appearance consistent with medical use.

15. Each edible shall be individually sealed in plain, opaque wrapping marked only with the marijuana universal symbol. Where practical, each edible shall be marked with the marijuana universal symbol. In addition to the packaging and labeling requirements in subparagraphs 11. and 12., edible receptacles must be plain, opaque, and white without depictions of the product or images other than the medical marijuana treatment center's department-approved logo and the marijuana universal symbol. The receptacle must also include a list of all the edible's ingredients, storage instructions, an expiration date, a legible and prominent warning to keep away from children and pets, and a warning that the edible has not been produced or inspected pursuant to federal food safety laws.

16. When dispensing marijuana or a marijuana delivery device, a medical marijuana treatment center:

a. May dispense any active, valid order for low-THC

cannabis, medical cannabis and cannabis delivery devices issued pursuant to former s. 381.986, Florida Statutes 2016, which was entered into the medical marijuana use registry before July 1, 2017.

b. May not dispense more than a 70-day supply of marijuana within any 70-day period to a qualified patient or caregiver. May not dispense more than one 35-day supply of marijuana in a form for smoking within any 35-day period to a qualified patient or caregiver. A 35-day supply of marijuana in a form for smoking may not exceed 2.5 ounces unless an exception to this amount is approved by the department pursuant to paragraph (4)(f).

c. Must have the medical marijuana treatment center's employee who dispenses the marijuana or a marijuana delivery device enter into the medical marijuana use registry his or her name or unique employee identifier.

d. Must verify that the qualified patient and the caregiver, if applicable, each have an active registration in the medical marijuana use registry and an active and valid medical marijuana use registry identification card, the amount and type of marijuana dispensed matches the physician certification in the medical marijuana use registry for that qualified patient, and the physician certification has not already been filled.

e. May not dispense marijuana to a qualified patient who is younger than 18 years of age. If the qualified patient is younger than 18 years of age, marijuana may only be dispensed to the qualified patient's caregiver.

f. May not dispense or sell any other type of cannabis, alcohol, or illicit drug-related product, including pipes or

wrapping papers made with tobacco or hemp, other than a marijuana delivery device required for the medical use of marijuana and which is specified in a physician certification.

g. Must, upon dispensing the marijuana or marijuana delivery device, record in the registry the date, time, quantity, and form of marijuana dispensed; the type of marijuana delivery device dispensed; and the name and medical marijuana use registry identification number of the qualified patient or caregiver to whom the marijuana delivery device was dispensed.

h. Must ensure that patient records are not visible to anyone other than the qualified patient, his or her caregiver, and authorized medical marijuana treatment center employees.

(14) EXCEPTIONS TO OTHER LAWS.—

(e) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other law, but subject to the requirements of this section, the department, including an employee of the department acting within the scope of his or her employment, may acquire, possess, test, transport, and lawfully dispose of marijuana and marijuana delivery devices as provided in this section, in s. 381.988, and by department rule.

Section 8. Subsection (1) of section 460.406, Florida Statutes, is amended to read:

460.406 Licensure by examination.—

(1) Any person desiring to be licensed as a chiropractic physician must apply to the department to take the licensure examination. There shall be an application fee set by the board not to exceed $100 which shall be nonrefundable. There shall also be an examination fee not to exceed $500 plus the actual per applicant cost to the department for purchase of portions of

the examination from the National Board of Chiropractic Examiners or a similar national organization, which may be refundable if the applicant is found ineligible to take the examination. The department shall examine each applicant who the board certifies has met all of the following criteria:

(a) Completed the application form and remitted the appropriate fee.

(b) Submitted proof satisfactory to the department that he or she is not less than 18 years of age.

(c) Submitted proof satisfactory to the department that he or she is a graduate of a chiropractic college which is accredited by or has status with the Council on Chiropractic Education or its predecessor agency. However, any applicant who is a graduate of a chiropractic college that was initially accredited by the Council on Chiropractic Education in 1995, who graduated from such college within the 4 years immediately preceding such accreditation, and who is otherwise qualified is ~~shall be~~ eligible to take the examination. An ~~No~~ application for a license to practice chiropractic medicine may not ~~shall~~ be denied solely because the applicant is a graduate of a chiropractic college that subscribes to one philosophy of chiropractic medicine as distinguished from another.

(d)1. For an applicant who has matriculated in a chiropractic college before ~~prior to~~ July 2, 1990, completed at least 2 years of residence college work, consisting of a minimum of one-half the work acceptable for a bachelor's degree granted on the basis of a 4-year period of study, in a college or university accredited by an institutional accrediting agency recognized and approved by the United States Department of

Education. However, before ~~prior to~~ being certified by the board to sit for the examination, each applicant who has matriculated in a chiropractic college after July 1, 1990, must ~~shall~~ have been granted a bachelor's degree, based upon 4 academic years of study, by a college or university accredited by an institutional ~~a regional~~ accrediting agency which is a member of the Commission on Recognition of Postsecondary Accreditation.

2. Effective July 1, 2000, completed, before ~~prior to~~ matriculation in a chiropractic college, at least 3 years of residence college work, consisting of a minimum of 90 semester hours leading to a bachelor's degree in a liberal arts college or university accredited by an institutional accrediting agency recognized and approved by the United States Department of Education. However, before ~~prior to~~ being certified by the board to sit for the examination, each applicant who has matriculated in a chiropractic college after July 1, 2000, must ~~shall~~ have been granted a bachelor's degree from an institution holding accreditation for that degree from an institutional ~~a regional~~ accrediting agency which is recognized by the United States Department of Education. The applicant's chiropractic degree must consist of credits earned in the chiropractic program and may not include academic credit for courses from the bachelor's degree.

(e) Successfully completed the National Board of Chiropractic Examiners certification examination in parts I, II, III, and IV, and the physiotherapy examination of the National Board of Chiropractic Examiners, with a score approved by the board.

(f) Submitted to the department a set of fingerprints on a

form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the criminal background check of the applicant.

The board may require an applicant who graduated from an institution accredited by the Council on Chiropractic Education more than 10 years before the date of application to the board to take the National Board of Chiropractic Examiners Special Purposes Examination for Chiropractic, or its equivalent, as determined by the board. The board shall establish by rule a passing score.

Section 9. Paragraph (e) of subsection (1) of section 464.018, Florida Statutes, is amended to read:

464.018 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in ss. 456.072(2) and 464.0095:

(e) Having been found guilty of~~, regardless of adjudication,~~ or entered a plea of nolo contendere or guilty to, regardless of adjudication, any offense prohibited under s. 435.04 or similar statute of another jurisdiction; or having committed an act which constitutes domestic violence as defined in s. 741.28.

Section 10. Present subsections (13) and (14) of section 467.003, Florida Statutes, are redesignated as subsections (14) and (15), respectively, a new subsection (13) is added to that section, and subsections (1) and (12) of that section are amended, to read:

467.003 Definitions.—As used in this chapter, unless the context otherwise requires:

(1) "Approved midwifery program" means ~~a midwifery school or~~ a midwifery training program that ~~which~~ is approved by the department pursuant to s. 467.205.

(12) "Preceptor" means a physician licensed under chapter 458 or chapter 459, a ~~licensed~~ midwife licensed under this chapter, or a certified nurse midwife licensed under chapter 464~~,~~ who has a minimum of 3 years' professional experience~~,~~ and who directs, teaches, supervises, and evaluates the learning experiences of a ~~the~~ student midwife as part of an approved midwifery program.

(13) "Prelicensure course" means a course of study, offered by an approved midwifery program and approved by the department, which an applicant for licensure must complete before a license may be issued and which provides instruction in the laws and rules of this state and demonstrates the student's competency to practice midwifery under this chapter.

Section 11. Section 467.009, Florida Statutes, is amended to read:

467.009 Approved midwifery programs; education and training requirements.—

(1) The department shall adopt standards for approved midwifery programs which must include, but need not be limited to, standards for all of the following:

(a) ~~. The standards shall encompass~~ Clinical and classroom instruction in all aspects of prenatal, intrapartal, and postpartal care, including all of the following:

1. Obstetrics.~~;~~

2. Neonatal pediatrics.~~;~~

3. Basic sciences.~~;~~

4. Female reproductive anatomy and physiology.~~;~~

5. Behavioral sciences.~~;~~

6. Childbirth education.~~;~~

7. Community care.~~;~~

8. Epidemiology.~~;~~

9. Genetics.~~;~~

10. Embryology.~~;~~

11. Neonatology.~~;~~

12. Applied pharmacology.~~;~~

13. The medical and legal aspects of midwifery.~~;~~

14. Gynecology and women's health.~~;~~

15. Family planning.~~;~~

16. Nutrition during pregnancy and lactation.~~;~~

17. Breastfeeding.~~; and~~

18. Basic nursing skills~~; and any other instruction determined by the department and council to be necessary~~.

(b) ~~The standards shall incorporate the~~ Core competencies, incorporating those established by the American College of Nurse Midwives and the Midwives Alliance of North America, including knowledge, skills, and professional behavior in all of the following areas:

1. Primary management, collaborative management, referral, and medical consultation.~~;~~

2. Antepartal, intrapartal, postpartal, and neonatal care.~~;~~

3. Family planning and gynecological care.~~;~~

4. Common complications.~~; and~~

5. Professional responsibilities.

(c) Noncurricular ~~The standards shall include noncurriculum~~ matters under this section, including, but not limited to, staffing and teacher qualifications.

(2) An approved midwifery program must offer ~~shall include~~ a course of study ~~and clinical training~~ for a minimum of 3 years which incorporates all of the standards, curriculum guidelines, and educational objectives provided in this section and the rules adopted hereunder.

(3) An approved midwifery program may reduce ~~If the applicant is a registered nurse or a licensed practical nurse or has previous nursing or midwifery education,~~ the required period of training ~~may be reduced~~ to the extent of the student's ~~applicant's~~ qualifications as a registered nurse or licensed practical nurse or based on prior completion of equivalent nursing or midwifery education, as determined ~~under rules adopted~~ by ~~the~~ department rule~~. In no case shall the training be reduced to a period of less than 2 years~~.

(4)~~(3)~~ An approved midwifery program may accept students who ~~To be accepted into an approved midwifery program, an applicant shall~~ have both:

(a) A high school diploma or its equivalent.

(b) Taken three college-level credits each of math and English or demonstrated competencies in communication and computation.

(5)~~(4)~~ As part of its course of study, an approved midwifery program must require clinical training that includes all of the following:

(a) ~~A student midwife, during training, shall undertake, under the supervision of a preceptor,~~ The care of 50 women in

each of the prenatal, intrapartal, and postpartal periods under the supervision of a preceptor.~~, but~~ The same women need not be seen through all three periods.

(b)~~(5)~~ Observation of ~~The student midwife shall observe~~ an additional 25 women in the intrapartal period ~~before qualifying for a license~~.

(6) Clinical ~~The~~ training required under this section must include all of the following:

(a) ~~shall include~~ Training in ~~either~~ hospitals~~,~~ ~~or~~ alternative birth settings, or both.

(b) A requirement that students demonstrate competency in the assessment of and differentiation~~, with particular emphasis on learning the ability to differentiate~~ between low-risk pregnancies and high-risk pregnancies.

(7) A hospital or birthing center receiving public funds shall be required to provide student midwives access to observe labor, delivery, and postpartal procedures, provided the woman in labor has given informed consent. The Department of Health shall assist in facilitating access to hospital training for approved midwifery programs.

(8)~~(7)~~ The Department of Education shall adopt curricular frameworks for midwifery programs conducted within public educational institutions under ~~pursuant to~~ this section.

~~(8) Nonpublic educational institutions that conduct approved midwifery programs shall be accredited by a member of the Commission on Recognition of Postsecondary Accreditation and shall be licensed by the Commission for Independent Education.~~

Section 12. Section 467.011, Florida Statutes, is amended to read:

467.011 Licensed midwives; qualifications; examination ~~Licensure by examination~~.~~—~~

~~(1) The department shall administer an examination to test the proficiency of applicants in the core competencies required to practice midwifery as specified in s. 467.009.~~

~~(2) The department shall develop, publish, and make available to interested parties at a reasonable cost a bibliography and guide for the examination.~~

~~(3)~~ The department shall issue a license to practice midwifery to an applicant who meets all of the following criteria:

(1) Demonstrates that he or she has graduated from one of the following:

(a) An approved midwifery program.

(b) A medical or midwifery program offered in another state, jurisdiction, territory, or country whose graduation requirements were equivalent to or exceeded those required by s. 467.009 and the rules adopted thereunder at the time of graduation.

(2) Demonstrates that he or she has ~~and~~ successfully completed a prelicensure course offered by an approved midwifery program. Students graduating from an approved midwifery program may meet this requirement by showing that the content requirements for the prelicensure course were covered as part of their course of study.

(3) Submits an application for licensure on a form approved by the department and pays the appropriate fee.

(4) Demonstrates that he or she has received a passing score on an ~~the~~ examination specified by the department~~, upon~~

~~payment of the required licensure fee~~.

Section 13. Section 467.0125, Florida Statutes, is amended to read:

467.0125 Licensed midwives; qualifications; ~~Licensure by~~ endorsement; temporary certificates.—

(1) The department shall issue a license by endorsement to practice midwifery to an applicant who, upon applying to the department, demonstrates to the department that she or he meets all of the following criteria:

(a) ~~1. Holds a valid certificate or diploma from a foreign institution of medicine or midwifery or from a midwifery program offered in another state, bearing the seal of the institution or otherwise authenticated, which renders the individual eligible to practice midwifery in the country or state in which it was issued, provided the requirements therefor are deemed by the department to be substantially equivalent to, or to exceed, those established under this chapter and rules adopted under this chapter, and submits therewith a certified translation of the foreign certificate or diploma; or~~

~~2.~~ Holds an active, unencumbered ~~a valid certificate or~~ license to practice midwifery in another state, jurisdiction, or territory ~~issued by that state~~, provided the licensing requirements of that state, jurisdiction, or territory at the time the license was issued were ~~therefor are deemed by the department to be~~ substantially equivalent to~~,~~ or exceeded ~~to exceed,~~ those established under this chapter and the rules adopted thereunder ~~under this chapter~~.

(b) Has successfully completed a ~~4 month~~ prelicensure course conducted by an approved midwifery program ~~and has~~

~~submitted documentation to the department of successful completion~~.

(c) Submits an application for licensure on a form approved by the department and pays the appropriate fee ~~Has successfully passed the licensed midwifery examination~~.

(2) The department may issue a temporary certificate to practice in areas of critical need to an applicant ~~any midwife~~ who is qualifying for a midwifery license ~~licensure by endorsement~~ under subsection (1) who meets all of the following criteria~~, with the following restrictions~~:

(a) Submits an application for a temporary certificate on a form approved by the department and pays the appropriate fee, which may not exceed $50 and is in addition to the fee required for licensure by endorsement under subsection (1);

(b) Specifies on the application that he or she will ~~The Department of Health shall determine the areas of critical need, and the midwife so certified shall~~ practice only in one or more of the following locations:

1. A county health department;

2. A correctional facility;

3. A Department of Veterans' Affairs clinic;

4. A community health center funded by s. 329, s. 330, or s. 340 of the United States Public Health Service Act; or

5. Any other agency or institution that is approved by the State Surgeon General and provides health care to meet the needs of an underserved population in this state; and ~~those specific areas,~~

(c) Will practice only under the supervision ~~auspices~~ of a physician licensed under ~~pursuant to~~ chapter 458 or chapter 459,

a certified nurse midwife licensed under ~~pursuant to~~ part I of chapter 464, or a midwife licensed under this chapter~~,~~ who has a minimum of 3 years' professional experience.

(3) The department may issue a temporary certificate under this section with the following restrictions:

(a) A requirement that a temporary certificateholder practice only in areas of critical need. The State Surgeon General shall determine the areas of critical need, which ~~Such areas shall~~ include, but are not ~~be~~ limited to, health professional shortage areas designated by the United States Department of Health and Human Services.

(b) A requirement that if a temporary certificateholder's practice area ceases to be an area of critical need, within 30 days after such change the certificateholder must either:

1. Report a new practice area of critical need to the department; or

2. Voluntarily relinquish the temporary certificate.

(c) The department shall review a temporary certificateholder's practice at least annually to determine whether the certificateholder is meeting the requirements of subsections (2) and (3) and the rules adopted thereunder. If the department determines that a certificateholder is not meeting these requirements, the department must revoke the temporary certificate.

(d) A temporary certificate issued under this section is ~~shall be~~ valid ~~only as long as an area~~ for ~~which it is issued remains an area of critical need, but no longer than~~ 2 years~~,~~ and is ~~shall~~ not ~~be~~ renewable.

~~(c) The department may administer an abbreviated oral examination to determine the midwife's competency, but no written regular examination shall be necessary.~~

~~(d) The department shall not issue a temporary certificate to any midwife who is under investigation in another state for an act which would constitute a violation of this chapter until such time as the investigation is complete, at which time the provisions of this section shall apply.~~

~~(e) The department shall review the practice under a temporary certificate at least annually to ascertain that the minimum requirements of the midwifery rules promulgated under this chapter are being met. If it is determined that the minimum requirements are not being met, the department shall immediately revoke the temporary certificate.~~

~~(f) The fee for a temporary certificate shall not exceed $50 and shall be in addition to the fee required for licensure.~~

Section 14. Section 467.205, Florida Statutes, is amended to read:

467.205 Approval of midwifery programs.—

(1) The department shall approve an accredited or state-licensed public or private institution seeking to provide midwifery education and training as an approved midwifery program in this state if the institution meets all of the following criteria:

(a) Submits an application for approval on a form approved by the department.

(b) Demonstrates to the department's satisfaction that the proposed midwifery program complies with s. 467.009 and the rules adopted thereunder.

(c) For a private institution, demonstrates its

accreditation by a member of the Council for Higher Education Accreditation and its licensing or provisional licensing by the Commission for Independent Education ~~An organization desiring to conduct an approved program for the education of midwives shall apply to the department and submit such evidence as may be required to show that it complies with s. 467.009 and with the rules of the department. Any accredited or state-licensed institution of higher learning, public or private, may provide midwifery education and training.~~

~~(2) The department shall adopt rules regarding educational objectives, faculty qualifications, curriculum guidelines, administrative procedures, and other training requirements as are necessary to ensure that approved programs graduate midwives competent to practice under this chapter.~~

~~(3) The department shall survey each organization applying for approval. If the department is satisfied that the program meets the requirements of s. 467.009 and rules adopted pursuant to that section, it shall approve the program~~.

(2)~~(4)~~ The department shall, at least once every 3 years, certify whether each approved midwifery program is currently compliant, and has maintained compliance, ~~complies~~ with the requirements of ~~standards developed under~~ s. 467.009 and the rules adopted thereunder.

(3)~~(5)~~ If the department finds that an approved midwifery program is not in compliance with the requirements of s. 467.009 or the rules adopted thereunder, or has lost its accreditation status, the department must provide its finding to the program in writing and ~~no longer meets the required standards, it~~ may place the program on probationary status for a specified period

of time, which may not exceed 3 years ~~until such time as the standards are restored~~.

(4) If a program on probationary status does not come into compliance with the requirements of s. 467.009 or the rules adopted thereunder, or regain its accreditation status, as applicable, within the period specified by the department ~~fails to correct these conditions within a specified period of time~~, the department may rescind the program's approval.

(5) A ~~Any~~ program that has ~~having~~ its approval rescinded has ~~shall have~~ the right to reapply for approval.

(6) The department may grant provisional approval of a new program seeking accreditation status, for a period not to exceed 5 years, provided that all other requirements of this section are met.

(7) The department may rescind provisional approval of a program that fails to the meet the requirements of s. 467.009, this section, or the rules adopted thereunder, in accordance with procedures provided in subsections (3) and (4) ~~may be granted pending the licensure results of the first graduating class~~.

Section 15. Subsections (2), (3), and (4) and paragraphs (a) and (b) of subsection (5) of section 468.803, Florida Statutes, are amended to read:

468.803 License, registration, and examination requirements.—

(2) An applicant for registration, examination, or licensure must apply to the department on a form prescribed by the board for consideration of board approval. Each initial applicant shall submit ~~a set of~~ fingerprints to the department

~~on a form and~~ under procedures specified by the department~~,~~ ~~along with payment in an amount equal to the costs incurred by the department~~ for state and national criminal history checks of the applicant. ~~The department shall submit the fingerprints provided by an applicant to the Department of Law Enforcement for a statewide criminal history check, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check of the applicant.~~ The board shall screen the results to determine if an applicant meets licensure requirements. The board shall consider for examination, registration, or licensure each applicant who the board verifies:

(a) Has submitted the completed application and completed the fingerprinting requirements ~~fingerprint forms~~ and has paid the applicable application fee, not to exceed $500~~, and the cost of the state and national criminal history checks~~. The application fee is ~~and cost of the criminal history checks shall be~~ nonrefundable;

(b) Is of good moral character;

(c) Is 18 years of age or older; and

(d) Has completed the appropriate educational preparation.

(3) A person seeking to attain the orthotics or prosthetics experience required for licensure in this state must be approved by the board and registered as a resident by the department. Although a registration may be held in both disciplines, for independent registrations the board may not approve a second registration until at least 1 year after the issuance of the first registration. Notwithstanding subsection (2), a person who has been approved by the board and registered by the department

in one discipline may apply for registration in the second discipline without an additional state or national criminal history check during the period in which the first registration is valid. Each independent registration or dual registration is valid for 2 years after the date of issuance unless otherwise revoked by the department upon recommendation of the board. The board shall set a registration fee not to exceed $500 to be paid by the applicant. A registration may be renewed once by the department upon recommendation of the board for a period no longer than 1 year, as such renewal is defined by the board by rule. The renewal fee may not exceed one-half the current registration fee. To be considered by the board for approval of registration as a resident, the applicant must have one of the following:

(a) A Bachelor of Science or higher-level postgraduate degree in orthotics and prosthetics from an ~~a regionally~~ accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs.

(b) A minimum of a bachelor's degree from an institutionally ~~a regionally~~ accredited college or university and a certificate in orthotics or prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board.

(c) A minimum of a bachelor's degree from an institutionally ~~a regionally~~ accredited college or university and a dual certificate in both orthotics and prosthetics from programs recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by

the board.

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

(a) For an examination in orthotics:

1. A Bachelor of Science or higher-level postgraduate degree in orthotics and prosthetics from an institutionally ~~a regionally~~ accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs or, at a minimum, a bachelor's degree from an institutionally ~~a regionally~~ accredited college or university and a certificate in orthotics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board; and

2. An approved orthotics internship of 1 year of qualified experience, as determined by the board, or an orthotic residency or dual residency program recognized by the board.

(b) For an examination in prosthetics:

1. A Bachelor of Science or higher-level postgraduate

degree in orthotics and prosthetics from an institutionally ~~a regionally~~ accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs or, at a minimum, a bachelor's degree from an institutionally ~~a regionally~~ accredited college or university and a certificate in prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board; and

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

(5) In addition to the requirements in subsection (2), to be licensed as:

(a) An orthotist, the applicant must pay a license fee not to exceed $500 and must have:

1. A Bachelor of Science or higher-level postgraduate degree in Orthotics and Prosthetics from an institutionally ~~a regionally~~ accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs, or a bachelor's degree from an institutionally accredited college or university and ~~with~~ a certificate in orthotics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board;

2. An approved ~~appropriate~~ internship of 1 year of qualified experience, as determined by the board, or a residency program recognized by the board;

3. Completed the mandatory courses; and

4. Passed the state orthotics examination or the board-approved orthotics examination.

(b) A prosthetist, the applicant must pay a license fee not to exceed $500 and must have:

1. A Bachelor of Science or higher-level postgraduate degree in Orthotics and Prosthetics from an institutionally ~~a regionally~~ accredited college or university recognized by the Commission on Accreditation of Allied Health Education Programs, or a bachelor's degree from an institutionally accredited college or university and ~~with~~ a certificate in prosthetics from a program recognized by the Commission on Accreditation of Allied Health Education Programs, or its equivalent, as determined by the board;

2. An internship of 1 year of qualified experience, as determined by the board, or a residency program recognized by the board;

3. Completed the mandatory courses; and

4. Passed the state prosthetics examination or the board-approved prosthetics examination.

Section 16. Section 483.824, Florida Statutes, is amended to read:

483.824 Qualifications of clinical laboratory director.—A clinical laboratory director must have 4 years of clinical laboratory experience with 2 years of experience in the specialty to be directed or be nationally board certified in the specialty to be directed, and must meet one of the following requirements:

(1) Be a physician licensed under chapter 458 or chapter 459;

(2) Hold an earned doctoral degree in a chemical, physical, or biological science from an ~~a regionally~~ accredited institution and maintain national certification requirements equal to those required by the federal Health Care Financing Administration; or

(3) For the subspecialty of oral pathology, be a physician licensed under chapter 458 or chapter 459 or a dentist licensed under chapter 466.

Section 17. Subsection (3) of section 490.003, Florida Statutes, is amended to read:

490.003 Definitions.—As used in this chapter:

(3)(a) "Doctoral degree from an American Psychological Association accredited program" means ~~Effective July 1, 1999, "doctoral-level psychological education" and "doctoral degree in psychology" mean~~ a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from a psychology program at an educational institution that, at the time the applicant was enrolled and graduated:

1.~~(a)~~ Had institutional accreditation from an agency recognized and approved by the United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada; and

2.~~(b)~~ Had programmatic accreditation from the American Psychological Association.

(b) "Doctoral degree in psychology" means a Psy.D., an Ed.D. in psychology, or a Ph.D. in psychology from a psychology program at an educational institution that, at the time the applicant was enrolled and graduated, had institutional accreditation from an agency recognized and approved by the

United States Department of Education or was recognized as a member in good standing with the Association of Universities and Colleges of Canada.

Section 18. Subsection (1) of section 490.005, Florida Statutes, is amended to read:

490.005 Licensure by examination.—

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

(a) Completed the application form and remitted a nonrefundable application fee not to exceed $500 and an examination fee set by the board sufficient to cover the actual per applicant cost to the department for development, purchase, and administration of the examination, but not to exceed $500.

(b) Submitted proof satisfactory to the board that the applicant has received:

1. A doctoral degree from an American Psychological Association accredited program ~~Doctoral-level psychological education~~; or

2. The equivalent of a doctoral degree from an American Psychological Association accredited program ~~doctoral-level psychological education, as defined in s. 490.003(3),~~ from a program at a school or university located outside the United States of America which was officially recognized by the government of the country in which it is located as an institution or program to train students to practice professional psychology. The applicant has the burden of establishing that this requirement has been met.

(c) Had at least 2 years or 4,000 hours of experience in the field of psychology in association with or under the supervision of a licensed psychologist meeting the academic and experience requirements of this chapter or the equivalent as determined by the board. The experience requirement may be met by work performed on or off the premises of the supervising psychologist if the off-premises work is not the independent, private practice rendering of psychological services that does not have a psychologist as a member of the group actually rendering psychological services on the premises.

(d) Passed the examination. However, an applicant who has obtained a passing score, as established by the board by rule, on the psychology licensure examination designated by the board as the national licensure examination need only pass the Florida law and rules portion of the examination.

Section 19. Subsection (1) of section 490.0051, Florida Statutes, is amended to read:

490.0051 Provisional licensure; requirements.—

(1) The department shall issue a provisional psychology license to each applicant who the board certifies has:

(a) Completed the application form and remitted a nonrefundable application fee not to exceed $250, as set by board rule.

(b) Earned a doctoral degree from an American Psychological Association accredited program ~~in psychology as defined in s. 490.003(3)~~.

(c) Met any additional requirements established by board rule.

Section 20. Subsections (1), (3), and (4) of section

491.005, Florida Statutes, are amended to read:

491.005 Licensure by examination.—

(1) CLINICAL SOCIAL WORK.—Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, ~~plus the actual per applicant cost to the department for purchase of the examination from the American Association of State Social Worker's Boards or a similar national organization,~~ the department shall issue a license as a clinical social worker to an applicant who the board certifies has met all of the following criteria:

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

(b)1. ~~Has~~ Received a doctoral degree in social work from a graduate school of social work which at the time the applicant graduated was accredited by an accrediting agency recognized by the United States Department of Education or has received a master's degree in social work from a graduate school of social work which at the time the applicant graduated:

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

b. Was accredited by the Canadian Association of Schools of Social Work; or

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

2. The applicant's graduate program must have emphasized

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

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

b. Completion of 24 semester hours or 32 quarter hours in theory of human behavior and practice methods as courses in clinically oriented services, including a minimum of one course in psychopathology, and no more than one course in research, taken in a school of social work accredited or approved pursuant to subparagraph 1.

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

(c) ~~Has~~ Had at least 2 years of clinical social work experience, which took place subsequent to completion of a graduate degree in social work at an institution meeting the accreditation requirements of this section, under the supervision of a licensed clinical social worker or the equivalent who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy clinical experience requirements must register pursuant

to s. 491.0045 before commencing practice. If the applicant's graduate program was not a program which emphasized direct clinical patient or client health care services as described in subparagraph (b)2., the supervised experience requirement must take place after the applicant has completed a minimum of 15 semester hours or 22 quarter hours of the coursework required. A doctoral internship may be applied toward the clinical social work experience requirement. A licensed mental health professional must be on the premises when clinical services are provided by a registered intern in a private practice setting. When a registered intern is providing clinical services through telehealth, a licensed mental health professional must be accessible by telephone or electronic means.

(d) ~~Has~~ Passed a theory and practice examination designated by board rule ~~provided by the department for this purpose~~.

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

(3) MARRIAGE AND FAMILY THERAPY.—Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, plus the actual cost of the purchase of the examination from the Association of Marital and Family Therapy Regulatory Board, or similar national organization, the department shall issue a license as a marriage and family therapist to an applicant who the board certifies has met all of the following criteria:

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

(b)1. Obtained one of the following:

a. ~~Has~~ A minimum of a master's degree with major emphasis in marriage and family therapy or a closely related field from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education or from a Florida university program accredited by the Council for Accreditation of Counseling and Related Educational Programs.

b. A minimum of a master's degree with an emphasis in marriage and family therapy with a degree conferred date before July 1, 2026, from an institutionally accredited Florida college or university that is not yet accredited by the Commission on Accreditation for Marriage and Family Therapy Education or the Council for Accreditation of Counseling and Related Educational Programs.

2. Completed ~~and~~ graduate courses approved by the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling.

If the course title that appears on the applicant's transcript does not clearly identify the content of the coursework, the applicant shall provide additional documentation, including, but not limited to, a syllabus or catalog description published for the course. The required master's degree must have been received in an institution of higher education that, at the time the applicant graduated, was fully accredited by an institutional ~~a regional~~ accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation or publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada, or an institution of higher

education located outside the United States and Canada which, at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by an institutional ~~a regional~~ accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as professional marriage and family therapists or psychotherapists. The applicant has the burden of establishing that the requirements of this provision have been met, and the board shall require documentation, such as an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country. An applicant with a master's degree from a program that did not emphasize marriage and family therapy may complete the coursework requirement in a training institution fully accredited by the Commission on Accreditation for Marriage and Family Therapy Education recognized by the United States Department of Education.

(c) ~~Has~~ Had at least 2 years of clinical experience during which 50 percent of the applicant's clients were receiving marriage and family therapy services, which must have been ~~be~~ at the post-master's level under the supervision of a licensed marriage and family therapist with at least 5 years of

experience, or the equivalent, who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045 before commencing practice. If a graduate has a master's degree with a major emphasis in marriage and family therapy or a closely related field which did not include all of the coursework required by paragraph (b), credit for the post-master's level clinical experience may not commence until the applicant has completed a minimum of 10 of the courses required by paragraph (b), as determined by the board, and at least 6 semester hours or 9 quarter hours of the course credits must have been completed in the area of marriage and family systems, theories, or techniques. Within the 2 years of required experience, the applicant must ~~shall~~ provide direct individual, group, or family therapy and counseling to cases including those involving unmarried dyads, married couples, separating and divorcing couples, and family groups that include children. A doctoral internship may be applied toward the clinical experience requirement. A licensed mental health professional must be on the premises when clinical services are provided by a registered intern in a private practice setting. When a registered intern is providing clinical services through telehealth, a licensed mental health professional must be accessible by telephone or other electronic means.

(d) ~~Has~~ Passed a theory and practice examination designated by board rule ~~provided by the department~~.

(e) ~~Has~~ Demonstrated, in a manner designated by board rule, knowledge of the laws and rules governing the practice of clinical social work, marriage and family therapy, and mental

health counseling.

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

(4) MENTAL HEALTH COUNSELING.—Upon verification of documentation and payment of a fee not to exceed $200, as set by board rule, ~~plus the actual per applicant cost of purchase of the examination from the National Board for Certified Counselors or its successor organization,~~ the department shall issue a license as a mental health counselor to an applicant who the board certifies has met all of the following criteria:

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

(b)1. Obtained ~~Has~~ a minimum of an earned master's degree from a mental health counseling program accredited by the Council for the Accreditation of Counseling and Related Educational Programs which consists of at least 60 semester hours or 80 quarter hours of clinical and didactic instruction, including a course in human sexuality and a course in substance abuse. If the master's degree is earned from a program related to the practice of mental health counseling which is not accredited by the Council for the Accreditation of Counseling and Related Educational Programs, then the coursework and practicum, internship, or fieldwork must consist of at least 60 semester hours or 80 quarter hours and meet all of the following requirements:

a. Thirty-three semester hours or 44 quarter hours of

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

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

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

2. ~~Has~~ Provided additional documentation if a course title that appears on the applicant's transcript does not clearly

identify the content of the coursework. The documentation must include, but is not limited to, a syllabus or catalog description published for the course.

Education and training in mental health counseling must have been received in an institution of higher education that, at the time the applicant graduated, was fully accredited by an institutional ~~a regional~~ accrediting body recognized by the Council for Higher Education Accreditation or its successor organization or publicly recognized as a member in good standing with the Association of Universities and Colleges of Canada, or an institution of higher education located outside the United States and Canada which, at the time the applicant was enrolled and at the time the applicant graduated, maintained a standard of training substantially equivalent to the standards of training of those institutions in the United States which are accredited by an institutional ~~a regional~~ accrediting body recognized by the Council for Higher Education Accreditation or its successor organization. Such foreign education and training must have been received in an institution or program of higher education officially recognized by the government of the country in which it is located as an institution or program to train students to practice as mental health counselors. The applicant has the burden of establishing that the requirements of this provision have been met, and the board shall require documentation, such as an evaluation by a foreign equivalency determination service, as evidence that the applicant's graduate degree program and education were equivalent to an accredited program in this country. Beginning July 1, 2025, an applicant

must have a master's degree from a program that is accredited by the Council for Accreditation of Counseling and Related Educational Programs which consists of at least 60 semester hours or 80 quarter hours to apply for licensure under this paragraph.

(c) ~~Has~~ Had at least 2 years of clinical experience in mental health counseling, which must be at the post-master's level under the supervision of a licensed mental health counselor or the equivalent who is a qualified supervisor as determined by the board. An individual who intends to practice in Florida to satisfy the clinical experience requirements must register pursuant to s. 491.0045 before commencing practice. If a graduate has a master's degree with a major related to the practice of mental health counseling which did not include all the coursework required under sub-subparagraphs (b)1.a. and b., credit for the post-master's level clinical experience may not commence until the applicant has completed a minimum of seven of the courses required under sub-subparagraphs (b)1.a. and b., as determined by the board, one of which must be a course in psychopathology or abnormal psychology. A doctoral internship may be applied toward the clinical experience requirement. A licensed mental health professional must be on the premises when clinical services are provided by a registered intern in a private practice setting. When a registered intern is providing clinical services through telehealth, a licensed mental health professional must be accessible by telephone or other electronic means.

(d) ~~Has~~ Passed a theory and practice examination designated by department rule ~~provided by the department for this purpose~~.

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

Section 21. This act shall take effect July 1, 2021.

The Florida Senate

Committee Agenda Request

To: Senator Manny Diaz, Jr., Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: March 5, 2021

I respectfully request that **Senate Bill #1568**, relating to Department of Health, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Ana Maria Rodriguez
Florida Senate, District 39

File signed original with committee office

S-020 (03/2004)

2021 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION	
BILL NUMBER:	Click or tap here to enter text.
BILL TITLE:	Midwifery
BILL SPONSOR:	Click or tap here to enter text.
EFFECTIVE DATE:	Click or tap here to enter text.

COMMITTEES OF REFERENCE
1) Click or tap here to enter text.
2) Click or tap here to enter text.
3) Click or tap here to enter text.
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE
Click or tap here to enter text.

SIMILAR BILLS	
BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION	
BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS	
BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	July 16, 2020
LEAD AGENCY ANALYST:	Kama Monroe, Executive Director
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Linda McMullen, Assistant General Counsel

FISCAL ANALYST:	

POLICY ANALYSIS

7. EXECUTIVE SUMMARY

This bill clarifies licensing requirements for midwifery applicants applying by examination and endorsement, removes provisions for examinations no longer offered by the Department of Health (Department), removes duplicative or obsolete language and duplicative rulemaking authority. It also clarifies language regarding preceptorships, approval of midwifery programs, and minimum standards.

2. SUBSTANTIVE BILL ANALYSIS

37. PRESENT SITUATION:

Chapter 467, Florida Statutes (F.S.), is the Midwifery Practice Act. Although changes have been made by reviser's bills and conforming changes have been made to statutory references, this chapter has not been substantially revised since 2001.

Section 467.009, F.S., governing midwifery programs and education and training requirements and Section 467.205, F.S., governing the approval of midwifery programs, use the terms applicant and student midwife interchangeably. These sections also frame standards for admission, education, and clinical training in the context of student requirements, which causes confusion. As an example, a student must have a high school diploma or the equivalent to enroll in a program, but the statutes do not clearly state that a high school diploma is a requirement for licensure.

The use of the undefined term "midwifery student" has led to unlicensed persons attempting to work with clients and complete clinical requirements without enrolling in or being educated by an approved midwifery program, and midwives attempting to serve as preceptors who are not affiliated with an approved midwifery program in any way. In general, health care practitioners do not start seeing clients in a clinical setting until they have completed prerequisite portions of a course of study and are near the end of their educational program.

In addition, chapter 467 does not include any provisions explicitly allowing a new midwifery program to be provisionally approved nor do they provide clear guidance to schools regarding the circumstances under which the Department may rescind the approval of their program.

Generally, applicants for licensure as a medical practitioner have two methods by which they can apply for a license: examination or endorsement. An applicant by examination typically provides their educational credentials and proof of a passing score on a designated licensing examination. In lieu of these items, an applicant by endorsement is licensed based on verification that they hold a current valid license to practice in another jurisdiction that has equivalent or more stringent licensure requirements to those in Florida.

In many states a midwife may practice based on educational credentials rather than a license. When these practitioners apply for licensure in Florida they are confused by our laws and rules which state that they should apply by endorsement since they were legally permitted to practice in the state or jurisdiction they came from, but must still provide their transcripts and passing exam scores for licensure as if they were applying by examination. The use to the term "endorsement" is a misnomer in this situation since they have no license or licensing agency to endorse from.

In addition, sections 467.011 and 467.0125, F.S., which contain the requirements for licensure by examination and endorsement, contain language which is obsolete. Pursuant to section 456.017(c), F.S., the Department has approved by rule the use of a national examination for midwives seeking to become licensed; the Department no longer administers midwifery examinations.

Section 467.0125, F.S., also includes provisions for the temporary certification of a midwife who is qualifying for endorsement to practice in an area of critical need. This statute defines the term "area of critical need" differently from every other profession which has temporary certification that allows practice in an area of critical need. In addition, the current provisions for temporary certification of a midwife require discipline in the form of revocation, when the area in which they were practicing loses its designation as an area of critical need.

38. EFFECT OF THE BILL:

Section 1 of the bill amends definitions contained in section 467.003, F.S. It revises the definition of "preceptor" to clearly define their role in the midwifery education process. Specifically, it explicitly states that a preceptor may not supervise an individual as a midwifery student unless the student has been enrolled in an approved midwifery program. This should clarify that an individual cannot begin their clinical practice before enrolling in an approved midwifery program and will explicitly conform midwifery training with the requirements of other medical professions, with students having to complete the majority of their classroom training before working with patients in a clinical setting.

The bill adds a definition of "prelicensure course" to explain the requirements for such a course. This section also changes the term "approved program" to "approved midwifery program" in order to create consistency in the use of terms throughout the chapter.

Section 2 revises the provisions in section 467.009, F.S., governing midwifery schools. The changes made to this section have been proposed to improve the clarity of these provisions and promote consistency in terminology. In addition, language was added to provide that if another national organization comes into existence, their core competency standards can be used to by the Council in setting Florida's standards, as well as those of the American College of Nurse Midwives and the Midwives Alliance of North America.

Sections 3 and 4 of the bill amend sections 467.011 and 457.0125, F.S., making endorsement and examination licensing requirements equivalent to the requirements in other medical practice acts by disallowing endorsement without a license or certification in another state, territory or jurisdiction and opening a pathway to licensing by examination for applicants who completed education which is equivalent to or exceeds that which is required for licensing in Florida in a state, territory, or jurisdiction that does not license midwives. While these revisions do not change what is actually required to qualify for a midwifery license, they clarify licensure requirements to allowing applicants to better understand those requirements.

The revisions to section 467.0125, F.S., also change the definition of "area of critical need" to match the definition used by other medical professions. In addition, the language would allow a midwife certified to practice in an area of critical need to report a new area of critical need or relinquish the certificate within a specified timeframe following a change in an areas designated status, rather than being immediately subject to disciplinary action, while retaining the Department's ability to revoke a certificate for non-compliance by the midwife so certified.

Section 5 of the bill revises section 467.205, F.S., which governs the approval of midwifery programs. This language would allow midwifery programs to be provisionally approved for five years. This conforms with the five-year period that they can be provisionally licensed by the Department of Education's Commission for Independent Education which seeking accreditation status. The Department will be able to give provisional approval to a new program who has meet all requirements except for showing their students have an 80% passage rate on the national exam. Programs provisionally approved will have five years to demonstrate the required exam approval rate after they are preliminary approved. This time period should allow completion the 3-year education program for at least one cohort of students, and for those students to take the exam before the Department tries to determine the passing rate.

These changes may also lead to a reduction in attempts by unlicensed persons to complete clinical requirements outside the context of an approved midwifery program, and midwives attempting to serve as preceptors outside the context of clinical practice under the auspices of an approved program. The language also clarifies the circumstances when the Department may rescind the approval of a midwifery program.

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

If yes, explain:	The bill removes duplicative rulemaking authority related to midwifery programs and approval but retains rulemaking authority for rules related to licensing requirements and midwifery program standards and approval.
Is the change consistent with the agency's core mission?	Y☒ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	Rules 64B24-2.001, 64B20-2.002, 64B20-2.003, and 64B20-2.004, F.A.C. Rules 64B24-4.001, 64B24-4.002, 64B4-4.003, 64B4-4.005, 64B4-4.006, 64B4-4.007, 64B4-4.008, 64B4-4.010, F.A.C.

40. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

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

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

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

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

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

FISCAL ANALYSIS

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

Revenues:	No impact.
Expenditures:	No impact.
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	(n/a)

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

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.

Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

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

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Other:	N/A

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

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	N/A

FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	

2021 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION	
BILL NUMBER:	N/A
BILL TITLE:	Practice of Orthotics, Prosthetics, and Pedorthics
BILL SPONSOR:	N/A
EFFECTIVE DATE:	N/A

COMMITTEES OF REFERENCE
1) N/A
2) N/A
3) N/A
4) N/A
5) N/A

CURRENT COMMITTEE
N/A

SIMILAR BILLS	
BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION	
BILL NUMBER:	N/A
SPONSOR:	N/A
YEAR:	N/A
LAST ACTION:	N/A

IDENTICAL BILLS	
BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	July 15, 2020
LEAD AGENCY ANALYST:	Janet E. Hartman, Executive Director
ADDITIONAL ANALYST(S):	N/A
LEGAL ANALYST:	Linda McMullen, Assistant General Counsel
FISCAL ANALYST:	

POLICY ANALYSIS

9. EXECUTIVE SUMMARY

The United States Department of Education recently revised accreditation references to omit the use of the terms "regional" and "national" as it relates to accreditation. The bill removes all references to "regional" accreditation within section 468.803, Florida Statutes (F.S.), and replaces the term with the appropriate accreditation references. The bill also updates language related to criminal history checks for applicants for licensure.

2. SUBSTANTIVE BILL ANALYSIS

49. PRESENT SITUATION:

Section 468.803 (2), F.S., specifies requirements for applicants to be screened for state and national criminal history. Applicants complete fingerprinting requirements electronically through independent vendors and provide an ORI number specific to the profession for the results to be submitted to the department. The department no longer collects forms or fees from applicants to process the initial criminal history check for licensure. If a criminal history is indicated, the Board of Orthotists and Prosthetists (Board) reviews the application for consideration of licensure.

Section 468.803, F.S., provides minimum qualifications for licensure to practice orthotics, prosthetics, and pedorthics. Each profession includes the requirement of completion of a program from a "regionally accredited" institution. The United States Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published this year omit references to "regional" and "national" accreditation. The letter specifies, "Because the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. § 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.

50. EFFECT OF THE BILL:

The bill updates the procedures to current practice for applicants to obtain a criminal history check and the method of transmission to the department for review by the Board.

The bill deletes references to the term "regionally accredited" and replaces it with the term "institutionally accredited" or simply references the programmatic accrediting body to conform with the United States Department of Education accreditation nomenclature for approving educational institutions. Institutional accrediting agencies accredit institutions of higher education, and programmatic accrediting agencies accredit specific educational programs that prepare students for entry into a profession, occupation, or vocation.

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

If yes, explain:	
Is the change consistent with the agency's core mission?	Y☒ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	

52. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

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

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

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

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

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

FISCAL ANALYSIS

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

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

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

Revenues:	None
Expenditures:	Unknown at this time.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

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

Revenues:	Unknown
Expenditures:	Unknown
Other:	N/A

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

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	DOH/MQA will experience a non-recurring workload associated with updating the online application and websites.

FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	

2021 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION	
BILL NUMBER:	Click or tap here to enter text.
BILL TITLE:	Clinical Lab Personnel
BILL SPONSOR:	Click or tap here to enter text.
EFFECTIVE DATE:	Click or tap here to enter text.

COMMITTEES OF REFERENCE
1) Click or tap here to enter text.
2) Click or tap here to enter text.
3) Click or tap here to enter text.
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE
Click or tap here to enter text.

SIMILAR BILLS	
BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION	
BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS	
BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	July 16, 2020
LEAD AGENCY ANALYST:	Anthony B. Spivey, DrBA, Executive Director
ADDITIONAL ANALYST(S):	N/A
LEGAL ANALYST:	Linda McMullen, Assistant General Counsel

FISCAL ANALYST:	

POLICY ANALYSIS

6. EXECUTIVE SUMMARY

The United States Department of Education recently revised accreditation references to omit the use of the terms "regional" and "national" as it relates to accreditation. The bill removes all references to "regional" accreditation within section 483.824, Florida Statutes (F.S.), replacing the reference with "institutional" accreditation.

2. SUBSTANTIVE BILL ANALYSIS

31. PRESENT SITUATION:

Institutional accrediting agencies accredit institutions of higher education. The United States Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published this year omit references to "regional" and "national" accreditation. The letter specifies, "[b]ecause the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. § 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.

Section 483.824(2), F.S., requires the doctoral degree held by a clinical laboratory director be from a regionally accredited institution in a chemical, physical, or biological science.

32. EFFECT OF THE BILL:

The effect of this bill will remove the requirement of having an earned doctoral degree issued from a regionally accredited institution. The United States Department of Education introduced a policy change that removes the distinction between a regional or national accrediting agency and now holds the accrediting standards the same to each, thus only recognizing the entity as an institutional or programmatic accrediting agency.

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

If yes, explain:	
Is the change consistent with the agency's core mission?	Y☒ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	

34. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	The Board of Clinical Laboratory Personnel
Opponents and summary of position:	Unknown

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

If yes, provide a description:	N/A

Date Due:	N/A
Bill Section Number(s):	N/A

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

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

FISCAL ANALYSIS

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

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

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

Revenues:	None
Expenditures:	Unknown at this time.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

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

Revenues:	Unknown

Expenditures:	Unknown
Other:	N/A

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

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

2021 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION	
BILL NUMBER:	1568
BILL TITLE:	Department of Health
BILL SPONSOR:	Rodriguez (A)
EFFECTIVE DATE:	July 1, 2021

COMMITTEES OF REFERENCE
1) Health Policy
2) Appropriations Subcommittee on Health and Human Services
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE
Click or tap here to enter text.

SIMILAR BILLS	
BILL NUMBER:	1565
SPONSOR:	Drake

PREVIOUS LEGISLATION	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	Click or tap here to enter text.

IDENTICAL BILLS	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?
Yes

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	March 12, 2021
LEAD AGENCY ANALYST:	Allen Hall
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Louise St. Laurent
FISCAL ANALYST:	Jonathan Sackett

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Senate Bill 1568 relates to the Department of Health (Department) and amends multiple sections of Florida Statutes and impacts multiple divisions or offices within the Department.

The Office of Medical Marijuana Use is impacted as the bill amends section 381.986, F.S. Specifically, Section 6 of the bill amends s. 381.986, F.S., by permitting the Department to select samples of marijuana from a medical marijuana treatment center's (MMTC) Department-approved facility to confirm tetrahydrocannabinol (THC) and cannabidiol (CBD) potency or to verify the result of marijuana testing conducted by a marijuana testing laboratory. The bill also permits the Department to select samples of marijuana delivery devices (devices) from a dispensing facility to determine whether the devices are safe for use by qualified patients.

Additionally, this section of the bill requires an MMTC to recall all marijuana and marijuana products that fail to meet the potency requirements of this section, that are unsafe for human consumption, or for which the labeling of the THC and CBD concentration is inaccurate.

The bill also exempts the Department, including its employees, from certain criminal provisions when acquiring, possessing, testing, transporting, and disposing of marijuana and devices under certain circumstances.

The bill impacts the division of Medical Quality Assurance as it amends numerous practice acts to streamline regulation and increase efficiency. It eliminates obsolete language and updates licensure and accreditation requirements.

This bill impacts the Division of Disease Control and Health Protection as it updates Section 381.0045, F.S., also known as the "Targeted Outreach for Pregnant Women Act of 1998" (TOPWA), to reflect the larger variety of antiretroviral medication options now available. The bill also addresses the need for mental health care services among the high-risk population targeted by TOPWA and requires additional follow-up for HIV-exposed newborns.

The bill further impacts the Bureau of Environmental Health in Sections 2-6 as it corrects "unintended consequences" caused by rewording of statutes associated with the transfer of the Onsite Sewage Program to DEP. These amendments will clarify authority that remains with DOH and that which goes with DEP once the transfer occurs.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Pursuant to section 381.986(8)(11)d., F.S., the Department may select a random sample from edibles available for purchase in an MMTC's Department-approved dispensing facility for testing. The Department shall test the random sample for potency, safety for human consumption, accuracy of THC and CBD labeling.

MMTCs are required to recall all edibles, including all edibles made from the same batch of marijuana, which fail to meet potency requirements, which are unsafe for human consumption, or for which the labeling of the THC and CBD concentration is inaccurate.

Presently, the Department, including its employees, are not expressly exempt from criminal prosecution under ss. 893.13, .135, .147, F.S., when acquiring, possessing, testing, transporting, and disposing of marijuana and delivery devices under certain circumstances when acting within the scope of its duties.

Subsection 460.406(1), Florida Statutes, provides a list of requirements an applicant for licensure as a chiropractor must meet before being eligible to take the licensure examination. The list is comprised of the following requirements:

(a) Completed the application form and remitted the appropriate fee.
(b) Submitted proof satisfactory to the department that he or she is not less than 18 years of age.
(c) Submitted proof satisfactory to the department that he or she is a graduate of a chiropractic college which is accredited by or has status with the Council on Chiropractic Education or its predecessor agency. However, any applicant who is a graduate of a chiropractic college that was initially accredited by the Council on Chiropractic

Education in 1995, who graduated from such college within the 4 years immediately preceding such accreditation, and who is otherwise qualified shall be eligible to take the examination. No application for a license to practice chiropractic medicine shall be denied solely because the applicant is a graduate of a chiropractic college that subscribes to one philosophy of chiropractic medicine as distinguished from another.

(d) 1. For an applicant who has matriculated in a chiropractic college prior to July 2, 1990, completed at least 2 years of residence college work, consisting of a minimum of one-half the work acceptable for a bachelor's degree granted on the basis of a 4-year period of study, in a college or university accredited by an accrediting agency recognized and approved by the United States Department of Education. However, prior to being certified by the board to sit for the examination, each applicant who has matriculated in a chiropractic college after July 1, 1990, shall have been granted a bachelor's degree, based upon 4 academic years of study, by a college or university accredited by a regional accrediting agency which is a member of the Commission on Recognition of Postsecondary Accreditation.

The minimum qualifications for licensure specified in subsection 460.406(1), Florida Statutes, includes the requirement of completion of a program from a "regionally accredited agency which is a member of the Commission on Recognition of Postsecondary Accreditation."

The United States Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published this year omit references to "Regional" and "National" accreditation. The letter specifies, "Because the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. § 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.

Section 8
As the statute is currently written, it could be argued that the regardless of adjudication language only applies to licensees who were found guilty to an offense prohibited by section 435.04, Florida Statutes, or an offense which constitutes domestic violence under section 741.20, Florida Statutes. If this argument were successful, it would prohibit the Department from successfully prosecuting any licensee who received a withhold of adjudication upon entering a plea of guilty nolo contendre to an offense prohibited by section 435.04, Florida Statutes, or an act of domestic violence.

Sections 9, 10, 11, 12 and 13 Midwifery
Chapter 467 of the Florida Statutes, is known as the "Midwifery Practice Act." The last substantial revision of the act took place in 1991 and 1992. Since that time, numerous changes have taken place in the profession, including changes in terminology, the establishment of national examinations, standards, and certifications, and an increase in the number of states licensing midwives. The State of Florida has 249 licensed midwives and four licensed midwifery programs.

Midwifery Programs
A school's program must include a minimum of three years of study and clinical training. However, registered nurses and licensed practical nurses may receive credit for previous nursing or midwifery education to reduce the required midwifery program length to no less than two years.

The training must cover numerous specific topics enumerated in subsection 467.009(1), Florida Statutes. The program must also include the nationally recognized core competencies established by the American College of Nurse Midwives and the Midwives Alliance of North America. Subsection 467.009(6), Florida Statutes, states that the education must have a "particular emphasis on learning the ability to differentiate between low-risk pregnancies and high-risk pregnancies."

The student midwife must also complete clinical training in hospitals, alternative birthing settings, or both by caring for 50 women in the prenatal, intrapartal, and postpartal periods, under the supervision of a preceptor. The student must also observe an additional 25 women in the intrapartal period. "Student midwife" is not defined in the statute.

"Preceptor" is defined in subsection 467.003(12), Florida Statutes, as a physician, licensed midwife, or certified nurse midwife with three years of experience, "who directs, teaches, supervises, and evaluates the learning experiences of the student midwife".

Prelicensure Course
Subsection 467.0125(1)(b), Florida Statutes, requires that an applicant for licensure by endorsement must complete successfully "a 4-month prelicensure course conducted by an approved program." This requirement applies to any applicant who received their education out of the state or in another country. There are no statutory provisions that define the term "prelicensure course" or indicate the materials to be covered by such a course.

Rule 64B24-4.010, F.A.C., requires that four-month prelicensure courses include, at a minimum:

- Content review and demonstration of proficiency in the core competencies established by the American College of Nurse Midwives and the Midwives Alliance of North America,
- Florida Laws and Rules, and
- Provisions for five supervised labor and deliveries and ten supervised prenatal visits by each course participant.

Licensure by Examination
To qualify for a license by examination, an applicant must show that they graduated from an approved midwifery program and have passed the required examination.

Licensure by Endorsement
For most professions, a person seeking a license by endorsement must hold a license in another state which has licensure requirements that are equivalent to or more stringent than the licensing requirements in the State of Florida. The Midwifery Practice Act uses the term "endorsement" but does not require the applicant by endorsement to be licensed in the other state. Instead an individual may endorse based on a diploma or certification that allows them to practice in another jurisdiction.

As a result, in cases where the applicant by endorsement does not hold a license in another state, they must submit to the department all of the items required by licensure by examination plus copies of the or diploma or certificate that allows them to practice in the other jurisdiction. This confuses applicants because endorsement applications for other professions to do not require the applicant to provide a transcript.

Examination Requirement
The Midwifery Practice Act contains language referring to a Department administered examination. That language is obsolete. Pursuant to 456.017(c), Florida Statutes, the Department uses a national examination for midwives seeking to become licensed, and the Department no longer administers midwifery examinations.
Temporary Certification

Subsection 467.0125(2), Florida Statutes, contains provisions for temporary certification of a midwife who has applied for a license by endorsement to practice in an area of critical need. However, the language defining an area of critical need differs from the language used to define such areas for other professions where temporary certification is issued. Currently, if the area in which a midwife is practicing ceases to be an area of critical need, the Department must immediately initiate disciplinary action to revoke the temporary certificate. This disciplinary action is then be reported to the National Practitioner Data Bank and will impact the midwife for the rest of their career as a licensed health care professional.

Midwifery Program Approval
To be approved as a midwifery program, a non-public school must be accredited by the Commission on Recognition of Postsecondary Accreditation (which has been succeeded by the Council for Higher Education Accreditation.) The statute has no provisions addressing midwifery programs who are seeking accreditation and are provisionally approved while awaiting their first graduating class.

Section 467.205, Florida Statutes, allows the Department to place a program on probationary status if it no longer meets the required standards, and if the program fails to correct these conditions, the Department may resend its license. However, the statutes provide no guidance regarding notification to the program or length of time a school may remain in probationary status.

Section 14
Subsection 468.803(2), Florida Statutes, specifies requirements for applicants to be screened for state and national criminal history. Applicants complete fingerprinting requirements electronically through independent vendors and provide an Originating Agency Identifier Number (ORI) number specific to the profession for the results to be submitted to the department. The department no longer collects forms or fees from applicants to process the initial criminal history check for licensure. If a criminal history is indicated, the Board of Orthotists and Prosthetists (Board) reviews the application for consideration of licensure.

Section 468.803, Florida Statutes, provides minimum qualifications for licensure to practice orthotics, prosthetics, and pedorthics. Each profession includes the requirement of completion of a program from a "regionally accredited" institution. The United States Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published this year omit references to "Regional" and "National" accreditation. The letter specifies, "Because the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. § 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.

Section 15
Section 483.824, Florida Statutes, requires a clinical laboratory director have 4 years of clinical laboratory experience with 2 years of experience in the specialty to be directed or be nationally board certified in the specialty to be directed, and must meet one of the following requirements:

> (1) Be a physician licensed under chapter 458 or chapter 459;
> (2) Hold an earned doctoral degree in a chemical, physical, or biological science from a regionally accredited institution and maintain national certification requirements equal to those required by the federal Health Care Financing Administration; or
> (3) For the subspecialty of oral pathology, be a physician licensed under chapter 458 or chapter 459 or a dentist licensed under chapter 466.

The minimum qualifications for licensure specified in subsection 483.824, Florida Statutes, includes the requirement of completion of a doctoral degree in a chemical, physical, or biological science from a regionally accredited institution and maintain national certification requirements equal to those required by the federal Health Care Financing Administration." The United States Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published this year omit references to "Regional" and "National" accreditation. The letter specifies, "Because the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. § 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.

Sections 16, 17 and 18
The psychologist licensure application method, endorsement of 10 years licensed psychology experience, requires an applicant to have graduated with a doctoral degree in psychology from an educational institution that held institutional accreditation from an agency approved by the United States Department of Education and programmatic accreditation from the American Psychological Association (APA). The lack of APA accreditation, under this application method, is grounds for licensure denial.

Section 19
Examination References
The Department of Health, on behalf of the Board of Clinical Social Work, Marriage and Family Therapy and Mental

Health Counseling, establishes no cost contracts with the exam provider approved by the Board in rule 64B4-3.003, Florida Administrative Code. Applicants register and pay fees directly to the provider identified by rule.
Registered Interns – Licensed Professional on Premises

As documented in the Florida Department of Health, Division of Medical Quality Assurance, Annual Report and Long-Range Plan, Fiscal Year 2018/2019, there are 13,474 registered mental health interns in Florida. To qualify as a registered intern, the applicant must have completed a master's or doctoral degree in a clinical counseling field and a practicum including face-to-face psychotherapy (clinical-level therapy sessions) under direct supervision of a licensed practitioner. Some registered interns may also complete internships prior to graduation. Registered interns routinely provide counseling and psychotherapy including the use of methods to evaluate, assess, diagnose, and treat emotional and mental dysfunctions or disorders, behavioral disorders, interpersonal relationships, and addictions.

Psychotherapy and counseling may be provided in a variety of settings. Registered interns provide services at facilities including, but not limited to:

- Crisis Centers – e.g. suicide prevention programs, shelters for abuse victims, child endangerment response; In-patient and out-patient behavioral health centers;
- Private practice settings;
- Hospitals;
- Hospice; and Rehabilitation centers.

Registered interns are required to complete 1,500 face-to-face psychotherapy hours prior to applying for full licensure. The face- to-face psychotherapy hours must be completed within five years in accordance with statute. Registered interns are a force multiplier to increase the number of educated and prepared mental health practitioners to manage growing mental health concerns and already provide these services in a face-to-face setting in mental health facilities statewide.

In accordance with section 491.005, Florida Statutes, registered interns are required to have a licensed professional on the premises during counseling sessions. The licensed professional is not required to be in the counseling room observing the session, but on the premises in the event of necessary intervention. This provision was originally established to ensure that registered interns have a licensed professional readily available, if necessary, during a therapeutic session and to restrict registered interns from operating an independent practice without direct oversight available.

Registered interns currently practice telehealth as part of the scope of their practice as a mechanism for the delivery of health care services. The practice of telehealth is authorized in section 456.47(1)(b), Florida Statutes, for any individual who provides health care and related services using telehealth and who is licensed or certified under chapter 491, Florida Statutes. A registration is included in the definition of a "license" in section 456.001(5), Florida Statutes, which states a license "means any permit, registration, certificate, or license, including a provisional license, issued by the department."

Regional Accreditation
The minimum qualifications for licensure specified in subsection 491.005(3), Florida Statutes, includes the requirement of completion of a graduate program from a "regionally accredited body recognized by the Commission on Recognition of Postsecondary Accreditation." The United States Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published this year omit references to "Regional" and "National" accreditation. The letter specifies, "Because the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. § 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.

2. EFFECT OF THE BILL:

Senate Bill 1568 relates to the Department and amends nineteen sections of Florida Statutes:

HIV – Targeted Outreach for Pregnant Women

Section 1
Amends ss. 381.0045(2), F.S., to add pregnant women who are suffering from mental health problems to the list of outreach targets.

Amends paragraph (c) of ss. 381.0045(3), F.S., to refer to the Florida Administrative Code regarding testing recommendations for HIV and other sexually transmissible diseases.

In paragraph (e) of ss. 381.0045(3), F.S., replaces the reference to a single type of antiretroviral with more general information on antiretroviral medications, thus allowing for additional options.

Amends paragraph (f) of ss. 381.0045(3), F.S., to include mental health services as a linkage option.

Amends paragraph (g) of ss. 381.0045(3), F.S. (renumbered to paragraph (h) in the bill), to require additional follow up for HIV-exposed newborns to ensure final HIV status is known and necessary linkages to care are made.

Adds a new paragraph (g) to ss. 381.0045(3), F.S., which requires the Department to educate pregnant women with HIV on the importance of engaging in and continuing HIV care.

Environmental Health

Section 2 amends s. 381.0061 FS to remove authority for DOH to take corrective actions related to the onsite program and septic tank contractor registration that are being transferred to DEP July 1, 2021.

Section 3 creates s. 381.00635, FS to keep DOH authority for corrective actions for private and certain public water systems that remain under the jurisdiction of DOH after the transfer of the Onsite Sewage Program to DEP.

Section 4 amends s. 381.0064, F.S., to remove DEP's responsibility for establishing a continuing education program for the purpose of certification under s. 381.0101, F.S.

Section 5 amends s. 381.0067, FS to remove those references to remaining DOH programs when statute will transfer to DEP jurisdiction.

Section 6 amends s. 381.0101, FS, to add phrase to continue to require onsite evaluations under DEP continue to be done by certified environmental health professionals, a designation that would otherwise only be applicable for certain DOH programs. Under the prior revisions, DEP is required to develop continuing education/training for Onsite Sewage professionals for the purposes of this section.

Medical Marijuana Treatment Centers

Section 7 of the bill amends section 381.986, F.S., by permitting the Department to select samples of marijuana from an MMTC's Department-approved facility to confirm THC and CBD potency or to verify the result of marijuana testing conducted by a marijuana testing laboratory. The bill expressly authorizes the Department to test all marijuana at any MMTC's Department-approved facility.

The proposed language also permits the Department to select samples of marijuana delivery devices from a dispensing facility to determine whether the devices are safe for use by qualified patients.

Additionally, this section of the bill requires an MMTC to recall all marijuana and marijuana products that fail to meet the potency requirements of this section, that are unsafe for human consumption, or for which the labeling of the THC and CBD concentration is inaccurate.

The proposed language also exempts the Department, including its employees, from certain criminal provisions when acquiring, possessing, testing, transporting, and disposing of marijuana and devices under certain circumstances

Section 8
The bill amends subsection 460.406(1), Florida Statutes, by adding clarifying language that all the listed requirements must be met before an applicant for licensure is eligible to sit for the licensing examination. Additionally, the bill deletes reference to a regional accrediting agency and refers to an institutional accrediting agency recognized by the U.S. Department of Education to conform with the United States Department of Education accreditation nomenclature for approving educational institutions. Adhering to this policy change will bring the statute in alignment with the U.S. Department of Education.

Section 9
The bill amends section 464.018, Florida Statutes, to move the regardless of adjudication language after the "entered a plea of nolo contendre or guilty" language so it would encompass all convictions and pleas to offenses included under this statute. This will make the language of the statute clear and applicable to all types of convictions and pleas to offenses listed under section 435.04, Florida Statutes. Section 435.04, Florida Statutes, enumerates some of the most serious criminal offenses chargeable under Florida Law, such as murder, crimes of a sexual nature, crimes against children, and some property crimes.

Sections 10, 11, 12, 13 and 14 Midwifery Programs
Definitions within section 467.003, Florida Statutes, are amended to clarify terminology related to midwifery programs. The term "approved program" is amended to the more specific term "approved midwifery program."
The bill specifically amends the definition of "preceptor" to require that a physician, midwife, or certified nurse midwife serving as a preceptor be licensed in this state and be working as a part of an approved midwifery program.
The bill substantially revises section 467.009, Florida Statutes, regarding approved midwifery program requirements to clarify language and terminology. The bill reformats sections of existing language and removes undefined terms such as "student midwife."

The proposed revisions remove the limitation on how much of the three years of required training a midwifery school can waive for a registered nurse or a licensed practical nurse based on prior equivalent nursing or midwifery training.

Prelicensure Course
First, the bill provides a definition for the term "Prelicensure Course" in section 467.003, Florida Statutes, to specify that it is a course approved by the Department that provides instruction on Florida's laws and rules and demonstrates the competence of the student to practice midwifery under the Florida law. This new definition does not specify how long the course must run, giving programs flexibility in scheduling.

New language in section 467.011, Florida Statutes, explicitly states that an applicant by examination must complete the prelicensure course unless they attended an approved midwifery program which covered the content of the prelicensure course, including Florida laws and rules, during their course of study. Current language already requires that applicants by endorsement complete the prelicensure course.

Licensure by Examination
The bill revises section 467.011, Florida Statutes, regarding licensure by examination. It removes language referring to an examination administered by the Department and changes that language to conform with current practice which requires passing a national examination specified by the Department.

It revises language to allow persons educated outside of this state to apply for a license by examination if they have completed a medical or midwifery program in another jurisdiction. Such an applicant must show that the program requirements were equivalent to or exceed the requirements for an approved midwifery program.
The new language explicitly states that an applicant by examination must complete the prelicensure course unless they attended an approved midwifery program which covered the content of the prelicensure course, including Florida laws and rules, during the course of study. The section is also substantially reworded to improve clarity.

Licensure by Endorsement
The bill addresses applications for licensure by endorsement and the issuance of temporary certificates.
The licensure by endorsement language is substantially revised to improve clarity. The new language clearly states that a person must be licensed in another jurisdiction to apply by endorsement, conforming the terminology used with the terms used by other professions regulated by the Department. Applicants educated out of state who do not hold a license can still qualify for licensure under the same conditions as under present law through the licensure by examination process.

Examination Requirements
The bill removes all language relating to a Department administered examination and replaces that language with reference to the national certification examination.

Temporary Certification
Under this bill, the definition of "area of critical need" contained in the provisions regarding temporary midwifery certificates is revised to match the definitions used by the majority of other professions which have similar temporary certificates. The revised definition specifically includes the following as areas of critical need:

- County health departments;
- Correctional facilities;
- Clinics runs by the Department of Veterans' Affairs;
- Community health centers funded by s. 329, s. 330, or 863 s. 340 of the United States Public Health Service Act;
- Any other agency or institution that is approved by the State Surgeon General and provides health care to meet the needs of an underserved population in this state.

Finally, should an area cease to be designated as an area of critical need while a midwife with a temporary certificate is working in that area , the bill will give that midwife thirty days to either move their practice to another area of critical need and report that information to the department, or to relinquish the temporary certificate. Only if the midwife holding the temporary certificate fails to act within those thirty days will the Department initiate disciplinary action to revoke the certificate.

Midwifery Program Approval
Section 13 of the bill revises section 467.205, Florida Statutes, consolidating provisions regarding the approval of programs in one location. It updates the requirements regarding accreditation and includes specific authority to allow programs who are provisionally accredited to operate.

New provisions specifically require written notice to a program that is not in compliance with the laws and rules, or which has lost its accreditation status, before the program is placed into probationary status. The bill requires the Department to notify the school of the length of the probationary period, giving the school notice of how long they have to comply with statutory requirements, or meet accreditation requirements, before the Department may rescind the program's approval.

Section 15
The bill updates the procedures to current practice for applicants to obtain a criminal history check and the method of transmission to the department for review by the Board.

The bill deletes references to the term "regionally accredited" and replaces it with the term "institutionally accredited" or simply references the programmatic accrediting body to conform with the United States Department of Education accreditation nomenclature for approving educational institutions. Adhering to this policy change will bring the statute in alignment with the U.S. Department of Education.

Section 16
The bill deletes language in subsection 483.824(2), Florida Statutes, which references a regionally accredited institution and refers now to an accredited institution recognized by the U.S. Department of Education to conform with the United States Department of Education accreditation nomenclature for approving educational institutions. Adhering to this policy change will bring the statute in alignment with the U.S. Department of Education.

Sections 17, 18 and 19
The bill amends subsections 490.003(3)(a) and (b), 490.005(1)(b)(1) and (2), and 490.0051(1)(b), Florida Statutes. Outdated language related to an effective date of "July 1, 1999," is removed and the term "doctoral-level psychological education" is eliminated.

The term "doctoral-level psychological education" as it relates to the examination application method, is renamed "doctoral degree from an American Psychological Association accredited program." The term "doctoral degree in psychology" as it relates to the application method endorsement of 10 years licensed psychology experience is redefined to no longer require American Psychological Association (APA) accreditation. The effect of these changes is to allow different educational credentials for different application methods.

By redefining the term, "doctoral degree in psychology," as referenced in section 490.006, Florida Statutes, applicants applying by the application method endorsement of 10 years licensed psychology experience, who did not graduate from an APA accredited program, can be licensed. Graduation from an APA accredited program is critical for first time licensees; however, applicants who have practiced for 10 or more years in another state or jurisdiction have demonstrated the minimum level of competency.

Elimination of the APA accreditation requirement, under endorsement of 10 years licensed psychology experience, will offer expanded opportunities for licensure for those who do not qualify under the examination application method. These changes to chapter 490, Florida Statutes, will streamline and expedite licensure by endorsement while maintaining the needed accreditation and educational standards for licensure by examination.

Section 20
Examination References
The bill amends existing language in subsection 491.005(1), Florida Statutes, to remove obsolete language related to the Department of Health purchasing an examination from the American Association of State Social Worker's Boards or a similar national organization. This revision clarifies and corrects the statute to be consistent with the language provided in subsection 491.005(1)(d), Florida Statutes, which specifies the examination will be designated by board rule.

Likewise, the bill amends existing language in subsection 491.005(4), Florida Statutes, to remove obsolete language related to the Department of Health purchasing an examination from the National Board for Certified Counselors or a similar national organization. This revision clarifies and corrects the statute to be consistent with the language provided in subsection 491.005(4)(d), Florida Statutes, which specifies the examination will be designated by board rule.

Registered Interns – Licensed Professional on Premises
The bill amends existing language in section 491.005, Florida Statutes, to include a provision for a licensed mental health professional to be on the premises or immediately accessible to intervene when clinical services are being provided by the registered intern by telehealth methods. This provision for immediate intervention would permit the registered intern to provide services by telehealth methods as an alternative to in-person sessions. Since the licensed mental health professional is only presently required to be on the premises, not in the room monitoring the session, immediate intervention could occur by including the professional by telephone or by introducing the professional into the telehealth platform to intervene.

Regional Accreditation
The bill deletes references to the term "regional" in subsection 491.005(3), Florida Statutes, and replaces it with the term "institutional" to conform with the United States Department of Education accreditation nomenclature for approving educational institutions. Additionally, the accrediting body, "Commission on Recognition of Postsecondary Accreditation was dissolved in 1997, according to information provided by the United States Department of Education website. The bill deletes this reference and replaces with "an institutional accrediting body recognized by the United States Department of Education."

Section 21
The bill provides an effective date of July 1, 2021.

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

If yes, explain:	Please refer to "Rules Impacted" section below.
Is the change consistent with the agency's core mission?	Y☒ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	Sections 9-13. Numerous rules in Chapter 64B14, F.A.C., will need to be revised including Rules 64B24-2.001, 64B24-2.002, 64B24-2.003, 64B24-2.004, 64B24-4.001, 64B24-4.002, 64B24-4.003, 64B24-4.005, 64B24-4.006, 64B24-4.007, 64B24-4.008, and 64B24-4.010, F.A.C. Sections 16-18. Rule 64B19-11.012, F.A.C.

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

Proponents and summary of position:	Sections 17-19. This proposal is from the Florida Board of Psychology. Section 20. Public comment has been received from licensees and crisis therapy organizations indicating support so that telehealth considerations continue to be an option when a licensed person cannot be physically on the premises but can successfully intervene by phone or electronic methods.
Opponents and summary of position:	Unknown.

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

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

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

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

FISCAL ANALYSIS

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

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

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

Revenues:	None.
Expenditures:	DOH/MQA will incur non-recurring cost for rulemaking, which current budget authority is adequate to absorb. DOH/MQA may experience an increase in workload associated with additional complaints if a midwife holding a temporary certificate fails to comply with the provisions of this bill. It is anticipated that the impact will be minimal and can be absorbed with current resources. DOH/MQA will experience a non-recurring workload associated with updating the online application and websites. The License and Enforcement Database System (LEIDS) must be updated and the Versa Online (on-line application) system will need to be modified. Current resources are adequate to absorb.

	The fiscal impact of conducting medical marijuana testing by the Department of Health's Jacksonville Public Health Laboratory (PHL) is indeterminate but expected to be significant. When this portion is removed, there is no fiscal impact. The Department has submitted a Fiscal Year 2021-2022 Legislative Budget Request, which is included in the Governor's Proposed Budget, to provide the staffing resources and equipment necessary to implement the expanded testing requirements included in the bill.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

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

Revenues:	N/A
Expenditures:	The fiscal impact to MMTCs created by the expansion of medical marijuana product types which must be provided to the Department for testing at no cost is indeterminate but expected to be insignificant.
Other:	N/A

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

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

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	Section 15. DOH/MQA will experience a non-recurring workload associated with updating the online application and websites. Sections 17-19. The License and Enforcement Database System (LEIDS) must be updated. The Versa Online (on-line application) system will need to be modified. Section 20. The License and Enforcement Database System and Online Service Portal would need to be updated to support the changes. Additionally, the DOH/MQA will experience a non- recurring workload associated with website changes.

FEDERAL IMPACT

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

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

ADDITIONAL COMMENTS

DOH/MQA may experience an increase in workload and costs. It is anticipated that the impact will be minimal and can be absorbed with current resources.

When Section 7 is removed, current budget authority is adequate to absorb.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

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

2021 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Health

BILL INFORMATION	
BILL NUMBER:	N/A
BILL TITLE:	Mental Health Professionals
BILL SPONSOR:	N/A
EFFECTIVE DATE:	N/A

COMMITTEES OF REFERENCE
1) N/A
2) Click or tap here to enter text.
3) Click or tap here to enter text.
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE
N/A

SIMILAR BILLS	
BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

PREVIOUS LEGISLATION	
BILL NUMBER:	HB 713
SPONSOR:	Harrell
YEAR:	2020
LAST ACTION:	Signed by the Governor

IDENTICAL BILLS	
BILL NUMBER:	N/A
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	07/15/2020
LEAD AGENCY ANALYST:	Janet Hartman, Executive Director
ADDITIONAL ANALYST(S):	N/A
LEGAL ANALYST:	Linda McMullen, Assistant General Counsel
FISCAL ANALYST:	

POLICY ANALYSIS

4. EXECUTIVE SUMMARY

Mental health professionals provide vital therapeutic services to clients in Florida. To ensure continued safe practice in Florida, minimum qualifications for licensure are necessary with specifications for a period of transition. Registered mental health interns provide essential mental health services to clients in Florida as they prepare for full licensure. As mental health services by telehealth methods expand, alternative considerations for on-site licensed mental health provider accessibility during clinical sessions provided by registered interns is necessary.

2. SUBSTANTIVE BILL ANALYSIS

19. PRESENT SITUATION:

Marriage and Family Therapy – Minimum Educational Requirements

During the 2020 Legislative Session, section 491.0045, Florida Statutes (F.S.), was amended to revise the minimum requirements for licensure as a marriage and family therapist to include graduation from a program accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) or from a Florida university program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP). The minimum requirement for licensure revision was effective on July 1, 2020.

Currently, there are six universities in Florida with a marriage and family program that is not accredited by either COAMFTE or CACREP, they are: Carlos Albizu, Jacksonville University, Palm Beach Atlantic University, St. Thomas University, University of Miami, and University of Phenix. As a result, students who are presently enrolled in a marriage and family program at one of the specified universities will not meet minimum requirements for Florida licensure upon graduation, although the programs did meet the requirements at the time of enrollment.

Registered Interns – Licensed Professional on Premises

As documented in the Florida Department of Health, Division of Medical Quality Assurance, Annual Report and Long-Range Plan, Fiscal Year 2018/2019, there are 13,474 registered mental health interns in Florida. To qualify as a registered intern, the applicant must have completed a master's or doctoral degree in a clinical counseling field and a practicum including face-to-face psychotherapy (clinical-level therapy sessions) under direct supervision of a licensed practitioner. Some registered interns may also complete internships prior to graduation. Registered interns routinely provide counseling and psychotherapy including the use of methods to evaluate, assess, diagnose, and treat emotional and mental dysfunctions or disorders, behavioral disorders, interpersonal relationships, and addictions.

Psychotherapy and counseling may be provided in a variety of settings. Registered interns provide services at facilities including, but not limited to:

- Crisis Centers – e.g. suicide prevention programs, shelters for abuse victims, child endangerment response
- In-patient and out-patient behavioral health centers
- Private practice settings
- Hospitals
- Hospice
- Rehabilitation centers

Registered interns are required to complete 1,500 face-to-face psychotherapy hours prior to applying for full licensure. The face-to-face psychotherapy hours must be completed within five years. Registered interns are a force multiplier to increase the number of educated and prepared mental health practitioners to manage growing mental health concerns and currently provide these services in a variety of face-to-face settings.

In accordance with s. 491.005, F.S., registered interns are required to have a licensed professional on the premises during counseling sessions. The licensed professional is not required to be in the counseling room observing the session, but on the premises to provide oversight, guidance, and evaluation. This provision ensures that registered interns have a licensed professional readily available, if necessary, during a therapeutic session and to restrict registered interns from operating an independent practice without direct oversight available.

Regional Accreditation

The minimum qualifications for licensure specified in s. 491.005(3), F.S. includes the requirement of completion of a graduate program from a "regionally accredited body recognized by the Commission on Recognition of Postsecondary

Accreditation." The United States Department of Education issued a letter of guidance on February 26, 2020, specifying that final regulations published this year omit references to "regional" and "national" accreditation. The letter specifies, "Because the Department holds all accrediting agencies to the same standards, distinctions between regional and national accrediting agencies are unfounded." Provisions implemented in 34 C.F.R. § 602.32(d), relating to the recognition of accrediting agencies, will become effective January 1, 2021.

Department Examination
The Department of Health discontinued the practice of conducting examinations or purchasing examinations for licensure. Applicants are presently responsible for coordinating the completion of an examination with an approved vendor and submitting passing scores to the board to meet minimum qualifications. Current statutory references to the department collecting fees for examinations or conducting examinations is not consistent with current practice.

20. EFFECT OF THE BILL:

Marriage and Family Therapy – Minimum Educational Requirements
The bill authorizes programs not yet accredited by COAMFTE or CACREP a period of five years to become accredited. This period of transition will allow students who have partially completed a program that met the minimum licensing requirements at the time of enrollment to graduate from the program while the university completes the necessary steps to achieve accreditation. The process to achieve CACREP accreditation is estimated as a 12 – 18-month process but can take up to two-years to complete. This provision will provide the affected universities with a time frame for initiating and completing the accreditation process or to ensure adequate noticing to students that that the program will not meet state licensing requirements.

Registered Interns – Licensed Professional on Premises
The bill adds additional language to s. 491.005, F.S., to include a provision for a licensed mental health professional to be available by phone or other electronic methods when clinical services are being provided by a registered intern by telehealth methods. This provision would authorize the registered intern to provide services by telehealth methods as an alternative to in-person sessions.

Regional Accreditation
The bill deletes references to the term "regional" in s. 491.005(3), F.S., and replaces it with the term "institutional" to conform with the United States Department of Education accreditation nomenclature for approving educational institutions.

Department Examination
The bill eliminates current statutory references to the department collecting fees for examinations or conducting examinations. This modification would have no effect and would ensure the statute and current practice are consistent.

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

If yes, explain:	Click or tap here to enter text.
Is the change consistent with the agency's core mission?	Y☒ N☐
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

22. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	The Board office has been contacted by educational entities and affected applicants seeking a transition period for implementation of the educational requirements for licensure for marriage & family therapists. Public comment has been received from licensees and crisis therapy organizations indicating support so that telehealth considerations continue to be an option when a licensed person cannot be physically on the premises but can successfully intervene by phone or electronic methods.
Opponents and summary of position:	Unknown.

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

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

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

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

FISCAL ANALYSIS

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

Revenues:	Click or tap here to enter text.
Expenditures:	Click or tap here to enter text.
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

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

Revenues:	None
Expenditures:	Unknown at this time.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

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

Revenues:	Unknown
Expenditures:	Unknown
Other:	N/A

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

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	The License and Enforcement Database System and Online Service Portal would need to be updated to support the changes. Additionally, the DOH/MQA will experience a non-recurring workload associated with website changes.

FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.

ADDITIONAL COMMENTS

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

SB 1568
Bill Number (if applicable)

117184
Amendment Barcode (if applicable)

Topic _____

Name Stephen Ecenia

Job Title attorney

Address 119 S. Monroe St. Suite 202
Street

Phone 850-681-6788

Email steve@rcuphlaw.com

City *State* *Zip*

Speaking: ☐ For ☐ Against ☑ Information

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

Representing HCA Healthcare Inc.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

1568
Bill Number (if applicable)

237798
Amendment Barcode (if applicable)

Topic Midwife Accreditation

Name Ron Watson

Job Title Lobbyist

Address 9114 Seafair Lane
Street
Tallahassee FL 32317
City *State* *Zip*

Phone 850 567 1202

Email watsonstrategies@comcast.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Midwife Association of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/21/2021 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 1568

Meeting Date *Bill Number (if applicable)*

521406

Amendment Barcode (if applicable)

Topic Dept of Health

Name Melissa Villar

Job Title Executive Director

Address PO Box 11254 Phone (850) 354-8424

Street

Tall FL 32302 Email normltallahassee@gmail.com

City *State* *Zip*

Speaking: ☐ For ☐ Against ☑ Information Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Norml Tallahassee

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

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

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

March 31, 2021
Meeting Date

SB 1568
Bill Number (if applicable)

721272
Amendment Barcode (if applicable)

Topic Department of Health

Name Joe Anne Hart

Job Title Chief Legislative Officer

Address 118 E. Jefferson Street
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone 850.224.1089

Email jahart@floridadental.org

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.

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/31/2021 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB 1568

Meeting Date *Bill Number (if applicable)*

Topic Dept of Health *Amendment Barcode (if applicable)*

Name Melissa Villar

Job Title Executive Dir

Address PO Box 11254 Phone (850) 354-8424

Street

Tall FL 32302 Email normal ideahouse of mail.com

City *State* *Zip*

Speaking: ☐ For ☐ Against ☑ Information Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing NORML Tallahassee

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

1568
Bill Number (if applicable)

Topic Midwife / DOH Bill

Amendment Barcode (if applicable)

Name Ron Watson

Job Title Lobbyist

Address 9114 Seafair Lane
Street
Tallahassee FL 32317
City *State* *Zip*

Phone 850 567-1202

Email watson.strategies@comcast.net

Speaking: [X] For [ ] Against [ ] Information

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

Representing Midwife Association of Florida

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1680
INTRODUCER:	Senator Rodriguez
SUBJECT:	Access to Health Care Practitioner Services
DATE:	March 29, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto Van Winkle	Brown	HP	**Favorable**
2.			AHS	
3.			AP	

I. Summary:

SB 1680:

- Exempts physicians from all 40 hours of continuing medical education (CME) at license renewal if the physician completes 120 hours of pro bono service within a biennial licensure period;
- Authorizes the Board of Medicine (BOM) to increase the number of restricted licenses issued, without examination, from 100 to 300, to applicants who meet specified requirements;
- Creates s. 459.0571, F.S., to authorize the Board of Osteopathic Medicine (BOOM) to issue 300 restricted licenses, without examination, to applicants who meet specified requirements;
- Authorizes the BOM and the BOOM to issue an unlimited number of restricted licenses, without examination, to physicians who hold active, unencumbered licenses to practice in Canada and who meet certain criteria;
- Repeals the BOM requirement that applicants for restricted licenses, issued without examination, complete two academic years of pre-professional, postsecondary education, prior to entering medical school, which must include courses in anatomy, biology, and chemistry;
- Repeals the BOM requirement that applicants for restricted licenses, issued without examination, must meet one of three education and postgraduate training scenarios;
- Extends the required contract term for the required employment for allopathic physician applicants for restricted licenses from 24 to 36 months with specified employers;
- Directs osteopathic applicants for restricted licenses to enter into a 36-month required employment contracts to obtain a restricted license with specified employers;
- Creates ss. 458.3105 and 459.00752, F.S., to permit the registration of volunteer retired physicians from Florida, another United State jurisdiction, or Canada to practice medicine, with exceptions, in Florida and provide free services on a volunteer basis, if they meet certain requirements;

- Revises the acceptable examinations for licensure for Canadian physicians with current and active licenses for 10 years to include the Special Purpose Examination (SPEX) of the Federation of State Medical Boards of the United States;
- Directs the Department of Health to waive physician licensure renewal fees if the licensee demonstrates that he or she has provided at least 160 hours of pro bono medical services within the biennial renewal period to:
  - Indigent persons;
  - Medically underserved populations in health professional shortage areas; or
  - Medically underserved areas designated by the U.S. Department of Health and Human Services; and
- Amends the "Access to Healthcare Act" to re-define "low income" as families without insurance and whose family income level is up to 400 percent of the federal poverty level, instead of up to 200 percent as under current law.

The bill provides an effective date of July 1, 2021.

II. Present Situation:

The Department of Health

The Legislature created the Department of Health (DOH) to protect and promote the health of all residents and visitors in the state.[1] The DOH is charged with the regulation of health care practitioners for the preservation of the health, safety, and welfare of the public. The Division of Medical Quality Assurance (MQA) is responsible for the boards[2] and professions within the DOH.[3]

Allopathic Physicians

Chapter 458, F.S., governs licensure and regulation of the practice of allopathic medicine by the BOM in conjunction the DOH. The chapter provides, among other things, licensure requirements by examination for medical school graduates and licensure by endorsement requirements.

Allopathic Licensure by Examination

To be licensed by examination as an allopathic physician, an individual must:[4]

- Be at least 21 years of age;
- Be of good moral character;
- Have not committed an act or offense that would constitute the basis for disciplining a physician under s. 458.331, F.S.;
- Have completed two years of post-secondary education which includes, at a minimum, courses in fields such as anatomy, biology, and chemistry prior to entering medical school;

[1] Section 20.43, F.S.
[2] 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 the DOH or, in some cases, within the MQA.
[3] Section 20.43, F.S.
[4] Section 458.311(1), F.S.

- Meet one of the following medical education and postgraduate training requirements:
  - Graduated from an allopathic medical school approved by an accrediting agency recognized by the U.S. Office of Education or recognized by a governmental body of a U.S. territorial jurisdiction, and has completed at least one year of approved residency training;
  - Graduated from an allopathic foreign medical school registered with the World Health Organization and certified pursuant to statute[5] as meeting the standards required to accredit U.S. medical schools, and has completed at least one year of approved residency training; or
  - Graduated from an allopathic foreign medical school that has not been certified pursuant to statute;[6] has an active, valid certificate issued by the Educational Commission for Foreign Medical Graduates (ECFMG);[7] has passed the ECFMC's examination; and has completed an approved residency or fellowship of at least two years in one specialty area that counts towards board certification by the American Board of Medical Specialties;
- Submit to a background screening by the DOH; and
- Have obtained a passing score on:
  - The U.S. Medical Licensing Examination (USMLE);[8]
  - A combination of the USMLE, the examination of the Federation of State Medical Boards of the United States, Inc. (FLEX),[9] or the examination of the National Board of Medical Examiners (NBME) up to the year 2000; or
  - The SPEX exam,[10] if the applicant was licensed on the basis of a state board examination, is currently licensed in at least one other jurisdiction of the U.S. or Canada and has practiced at least 10 years.

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[5] *See* s. 458.314, F.S. *See* also e-mail, Paul A. Vazquez, J.D., Executive Director, Florida Board of Medicine, Florida Department of Health (Mar. 25, 2021). *See also* (on file with the Committee on Health Policy). There currently are no foreign medical schools certified under this section.

[6] *Id.*

[7] Section 458.311, F.S., A graduate of a foreign medical school does not need to present an ECFMG certification or pass its exam if the graduate received his or bachelor's degree from an accredited U.S. college or university, studied at a medical school recognized by the World Health Organization, and has completed all but the internship or social service requirements, has passed parts I and II of the National Board Medical Examiners licensing examination or the ECFMG equivalent examination.

[8] The USMLE is a three-step examination for medical licensure in the U.S. and is owned by the FSMB and the NBME. The USMLE assesses a physician's ability to apply knowledge, concepts, and principles, and to demonstrate fundamental patient-centered skills, that are important in health and disease and that constitute the basis of safe and effective patient care. USMLE was created in response to the need for one path to medical licensure for allopathic physicians in the United States. Before USMLE, multiple examinations, the NBME Parts examination and the FLEX, offered paths to medical licensure. It was desirable to create one examination system accepted in every state, to ensure that all licensed MDs had passed the same assessment standards – no matter in which school or which country they had trained. Today all state medical boards utilize a national examination – USMLE for allopathic physicians, COMLEX-USA for osteopathic physician. See United States Medical Licensing Examination (USMLE), *Who is USMLE? available at* https://www.usmle.org/about/ (last visited Mar. 24, 2021).

[9] The Federation of State Medical Boards of the United States, Inc., first gave the "Federation Licensing Examination" (FLEX) March 8, 1973, as a national licensing examination; and it was last given December 1993. *The Examination, available at* https://sos.ms.gov/ACProposed/00014082b.pdf (last visited Mar. 25, 2021).

[10] The Special Purpose Examination (SPEX) was first given in 1988 and conceived by the Federation of State Medical Boards (FSMB) for state medical boards to use as an assessment tool when endorsing or granting licensing reciprocity to a physician licensed in another US state or Canadian province. State boards may require SPEX for endorsement of licensure, reinstatement of a license, or reactivation of a license after a period of inactivity. To take the SPEX You must hold, or have held at some point, an active, unrestricted medical license in the U.S. or Canada. Its purpose was later expanded to include

Allopathic License Renewal

Physician licenses are renewed biennially. The current fee for the timely renewal of an active license is $389.[11] This fee also applies to restricted licenses and temporary certificates for practice in areas of critical need.[12] Renewal fees are waived for physicians holding a restricted license or temporary certificate for practice in areas of critical need who submits a notarized statement from his or her employer stating that the physician will not receive monetary compensation for the provision of medical services.[13]

Within each biennial renewal period, a physician must complete 40 hours of CME courses approved by the BOM. As a part of the 40 hours of CME, a licensee must also complete the following:

- A two-hour course regarding domestic violence every third biennial;[14]
- A one-hour course on human trafficking addressing both sexual and labor trafficking;[15]
- A one-hour course addressing the human immunodeficiency virus and acquired immune deficiency syndrome no later than upon the first biennial licensure renewal;[16]
- Two hours of CME relating to the prevention of medical errors;[17] and
- Two hours of CME on prescribing controlled substances.[18]

The BOM authorizes up to five hours of the required CME to be fulfilled by the performance of pro bono services to indigent or underserved persons or in areas of critical need.[19] The BOM has approved as pro bono service sites federally-funded community and migrant health centers, volunteer health care provider programs contracted to provide uncompensated care with the DOH, and the DOH. The licensee must obtain prior approval for pro bono services to apply them against CME requirements if pro bono services are to be provided to any other entity.

DOH may not renew a license until a licensee complies with all CME requirements.[20] The BOM may also take action against a license for failure to comply with CME requirements.

Osteopathic Physicians

Chapter, 459, F.S., governs licensure and regulation of the practice of osteopathic medicine by the BOOM, in conjunction the DOH. The chapter provides, among other things, general

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cases in which state boards needed to assess a physician's competence before reinstating or reactivating a lapsed or suspended license.

[11] Florida Department of Health, Florida Board of Medicine, Renewal, *Fees, available at* https://flboardofmedicine.gov/renewals/medical-doctor-unrestricted/#tab-fees (last visited Mar. 25, 2021)

[12] Fla. Admin. Code R. 64B8-3.006, (2021). If a practitioner dispenses medicinal drugs, an additional fee of $100 must be paid at the time of renewal.

[13] *Id.*

[14] Section 456.031, F.S.

[15] Section 456.0341, F.S.

[16] Section 456.033, F.S.

[17] Section 456.013(7), F.S.

[18] Section 456.0301, F.S.

[19] Fla. Admin. Code R 64B8-13.005(9), (2021). Indecency is defined as persons of low-income (no greater than 150 percent of the federal poverty level) or uninsured persons.

[20] Section 456.031, F.S.

licensure requirements, including by examination for medical school graduates and licensure by endorsement requirements.

Osteopathic Licensure

To be licensed as an osteopathic physician, an individual must have:[21]

- Completed at least three years of pre-professional post-secondary education;
- Not committed, or be under investigation in any jurisdiction for, an act or offense that would constitute the basis for disciplining an osteopathic physician, unless the BOOM determines such act does not adversely affect the applicant's present ability and fitness to practice osteopathic medicine;
- Not had an application for a license to practice osteopathic medicine denied or a license to practice osteopathic medicine revoked, suspended, or otherwise acted against by the licensing authority in any jurisdiction;
- Not received less than a satisfactory evaluation from an internship, residency, or fellowship training program;
- Submitted to a background screening by the DOH;
- Graduated from a medical college recognized and approved by the American Osteopathic Association;
- Successfully completes an internship or a residency of at least 12 months in a program accredited by the American Osteopathic Association or the Accreditation Council for Graduate Medical Education; and
- Obtained a passing score, as established by BOOM rule, on the examination conducted by the National Board of Osteopathic Medical Examiners or other examination approved by the BOOM, no more than five years prior to applying for licensure.[22]

Osteopathic License Renewal

Osteopathic physician licenses are renewed biennially. The current fee for the timely renewal of a license is $429.[23] This fee applies to limited licenses and temporary certificates for practice in areas of critical need.[24] However, the renewal fees are waived if an osteopathic physician holding a limited license or temporary certificate for practice in areas of critical need and submits a notarized statement from his or her employer stating that the physician will not receive monetary compensation for the provision of medical services.[25]

Within each biennial licensure renewal period, an osteopathic physician must complete 40 hours of CME courses approved by the BOOM. As a part of the 40 hours of CME, a licensee must also complete the following:

- A two-hour course regarding domestic violence every third biennial;[26]

[21] Section 459.0055(1), F.S.
[22] However, if an applicant has been actively licensed in another state, the initial licensure in the other state must have occurred no more than five years after the applicant obtained the passing score on the licensure examination.
[23] Florida Department of Health, Board of Osteopathic Medicine, Renewal, *Fees, available at* https://floridasosteopathicmedicine.gov/renewals/#tab-fees (last visited Mar. 25, 2021).
[24] Fla. Admin. Code R. 64B15-10.003 (2021). If a practitioner dispenses medicinal drugs, an additional fee of $100 must be paid at the time of renewal.
[25] *Id.*
[26] Section 456.031, F.S.

- A one-hour course on human trafficking addressing both sexual and labor trafficking;[27]
- A one-hour course addressing the human immunodeficiency virus and acquired immune deficiency syndrome no later than upon the first biennial licensure renewal;[28]
- Two hours of CME relating to the prevention of medical errors;[29]
- A one-hour course on profession and medical ethics education;
- A one-hour course on the federal and state laws related to the prescribing of controlled substances;[30] and
- Two hours of CME on prescribing controlled substance.[31]

The BOOM authorizes up to 10 hours of the required CME to be fulfilled by the performance of pro bono medical services to indigent or underserved persons or in areas of critical need.[32] The BOOM has approved federally-funded community and migrant health centers, volunteer health care provider programs contracted to provide uncompensated care with the DOH, and DOH as pro bono sites. If pro bono services are to be provided to any other entity, the licensee must obtain prior approval for such services to apply to the CME requirement.

The DOH may not renew a license until a licensee complies with all CME requirements.[33] The BOOM may also take action against a license for failure to comply with CME requirements.[34]

Financial Responsibility

Both allopathic and osteopathic physicians must carry malpractice insurance or demonstrate proof of financial responsibility as a condition of licensure or renewal of licensure. A physician may meet this requirement by:

- Maintaining financial liability coverage in an amount of at least $100,000 per claim, with a minimum annual aggregate of at least $300,000 if the licensee does not have hospital privileges;
- Maintaining financial liability coverage in an amount of at least $250,000 per claim, with a minimum annual aggregate of at least $750,000 if the licensee has hospital privileges;
- Maintaining an unexpired, irrevocable letter of credit or an escrow account in an amount of at least $100,000 per claim, with a minimum aggregate availability of at least $300,000 if the licensee does not have hospital privileges;
- Maintaining an unexpired, irrevocable letter of credit or an escrow account in an amount of at least $250,000 per claim, with a minimum aggregate availability of at least $750,000 if the licensee has hospital privileges; or

[27] Section 456.0341, F.S.
[28] Section 456.033, F.S.
[29] Section 456.013(7), F.S.
[30] Fla. Admin. Code R. 64B15-13.001, (2021).
[31] Section 456.0301, F.S.
[32] Fla. Admin. Code R. 64B15-13.005 (2021). Indigence refers to persons of low-income (no greater than 150 percent of the federal poverty level) or uninsured persons.
[33] Section 456.0361, F.S.
[34] Section 456.0361(2). F.S.

- Not obtaining malpractice insurance or demonstrating financial ability but agreeing to satisfy any adverse judgments and prominently posting a notice in the reception area to notify all patients of such decision.[35]

Reporting of Adverse Incidents

Both allopathic and osteopathic physicians are required to report to the DOH, in writing, any adverse incident that occurs in any office.[36] An "adverse incident" is an event over which the physician could exercise control, and which is associated with some medical intervention, rather than the condition for which the patient presented and which results in any of the following:

- The death of a patient;
- Brain or spinal damage to a patient;
- The performance of a surgical procedure on the wrong patient;
- The performance of a wrong-site surgical procedure;
- The performance of a wrong surgical procedure; or
- The surgical repair of damage to a patient where the damage is not a recognized specific risk of the procedure and not disclosed to the patient and documented in the informed-consent. process.

Physician Licensure for Volunteer and Low-Income Practice

Allopathic Restricted Licenses

Current law authorizes the BOM to issue restricted licenses to practice medicine in this state, without examination, for physicians who contract to practice for 24 months solely in the employ of the state or a federally-funded community health center or migrant health center. An applicant for a restricted license must also: [37]

- Meet the requirements for licensure by examination; and
- Have actively practiced medicine in another jurisdiction for at least two years of the immediately preceding four years or has completed board-approved postgraduate training within the year preceding submission of the application.

A restricted licensee must take and pass the licensure examination prior to completion of the 24-month practice period.[38] A restricted licensee who breaches the terms of his or her contract is prohibited from being licensed as a physician in this state.[39]The BOM may issue up to 100 restricted licenses annually.[40]

Osteopathic Limited Licenses

Current law does not authorize the BOOM to issue restricted licenses but authorizes the BOOM to issue limited licenses to certain osteopathic physicians who will only practice in areas of

[35] Sections 458.320, F.S., and 459.0085, F.S.
[36] Sections 458.351 and 459.026, F.S.
[37] Section 458.310, F.S.
[38] Section 458.310(3), F.S.
[39] Section 458.310(4), F.S.
[40] Section 458.310(2), F.S.

critical need or in medically underserved areas. A limited license may be issued to an individual who:[41]

- Submits the licensure application and required application fee of $100;
- Provides proof that he or she has been licensed to practice osteopathic medicine in any jurisdiction of the U.S. in good standing for 10 years;
- Has completed 40 hours of CME within the preceding two year period; and
- Will practice only in the employ of public agencies, nonprofit entities, or agencies or institutions in areas of critical need or in medically underserved areas.

If it has been more than three years since the applicant has actively practiced osteopathic medicine, the full-time director of the local county health department must supervise the applicant for at least six months after issuance of the limited license unless the BOOM determines a shorter period will be sufficient.[42]

The BOOM must review the practice of each physician who holds a limited license at least biennially to ensure that he or she is in compliance with the practice act and rules adopted thereunder.[43]

Temporary Certificate for Practice in Areas of Critical Need

The BOM and the BOOM may issue a temporary certificates to practice in areas of critical need to an allopathic or osteopathic physician who will practice in an area of critical need. An applicant for a temporary certificate must: [44]

- Be actively licensed to practice medicine in any jurisdiction of the United States;
- Be employed by, or practice in, a county health department, correctional facility, Department of Veterans' Affairs clinic, federally-funded community health care center, or any other agency or institution designated by the State Surgeon General and provides health care to underserved populations; or
- Practice for a limited time to address critical physician-specialty, demographic, or geographic needs for this state's workforce as determined by the Surgeon General.

The BOM and the BOOM are authorized to administer an abbreviated oral examination to determine a physician's competency. A written examination is not required.[45] The boards may deny the application, issue the temporary certificate with reasonable restrictions, or require the applicant to meet any reasonable conditions of the BOM or BOOM prior to issuing the temporary certificate if it has been more than three years since the applicant has actively practiced and the respective board determines the applicant lacks clinical competency, adequate skills, necessary medical knowledge, or sufficient clinical decision-making.[46]

Fees for the temporary certificate for practice in areas of critical need include a $300 application fee and $429 initial licensure fee; however, these fees may be waived if the individual is not

[41] Section 459.0075, F.S., and Fla. Admin. Code R. 64B15-12.005 (2021).
[42] Section 459.0075(2), F.S.
[43] Section 459.0075(5), F.S.
[44] Sections 458.315, and 459.0076, F.S.
[45] *Id*.
[46] Sections 458.315(3)(b) and 459.0076(3)(b), F.S.

compensated for his or her practice.[47] The temporary certificate is only valid for as long as the Surgeon General determines that critical need remains an issue in this state.[48] However, the boards must review the temporary certificate holder at least annually to ensure that he or she is in compliance with the practice act and rules adopted thereunder.[49] A board may revoke or restrict the temporary certificate for practice in areas of critical need if noncompliance is found.[50]

Canadian Medical Licensure – The Canadian Standard

A two-step process is required for an individual to obtain a full Canadian medical license. First, the candidate must obtain from the Medical Council of Canada (MCC) a qualification known as the *Licentiate of the Medical Council of Canada* (LMCC) for medical school graduates who meet the following criteria:

- They have passed the MCC Qualifying Examination (MCCQE) Part I and Part II (or an acceptable clinical assessment deemed comparable to the MCCQE Part II), similar to the USMLE but Canada does not accept the USMLE;[51] and
- They have satisfactorily completed at least 12 months of acceptable postgraduate training or an acceptable equivalent;

The LMCC is not a license to practice medicine. The authority to issue a license is reserved to the Canadian Medical Regulatory Authorities (MRAs) and the requirements to practice as a doctor in Canada are regulated by each provincial and territorial medical regulatory authority, like each state and territory in the U.S.

The LMCC is a part of the *Canadian Standard* for independent practice of medicine, which is step two, and sets the requirements for the award of a full, unrestricted license to practice medicine. Upon receiving the LMCC, candidates are then enrolled in the *Canadian Medical Register*.[52]

The *Canadian Standard* sets out the academic qualifications that make an applicant eligible for full licensure in every Canadian province and territory. The Federation of Medical Regulatory Authorities of Canada (FMRAC) is a voluntary, member-based organization composed of all 13 provincial and territorial medical regulatory authorities and provides *Model Standards for Medical Registration in Canada* to foster uniformity of purpose and procedure to facilitate labor mobility across Canada.[53]

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[47] Fla. Admin. Code Rs. 64B8-3.003, and 64B15-10.002 (2021).
[48] Sections 458.315(3), and 459.0076(3), F.S.
[49] Sections 458.315(3)(c), and 459.0076(3)(c), F.S.
[50] *Id.*
[51] Federation of Medical Regulatory Authorities of Canada, *Model Standards for Medical Registration in Canada, July 2020, available at* https://fmrac.ca/wp-content/uploads/2020/08/FMRAC-Model-Standards-July-2020.pdf (last visited Mar. 24, 2021).
[52] The Medical Council of Canada, *The LMCC and the Canadian Medical Register, available at* https://www.mcc.ca/about/route-to-licensure/?cn-reloaded=1 (last visited Mar. 24 2021).
[53] Federation of Medical Regulatory Authorities of Canada, *Model Standards for Medical Registration in Canada, July 2020, available at* https://fmrac.ca/wp-content/uploads/2020/08/FMRAC-Model-Standards-July-2020.pdf (last visited Mar. 24, 2021).

Physicians applying for the first time to become licensed to practice medicine in a Canadian jurisdiction may achieve full licensure only if they:[54]

- Have a medical degree from a medical school that, at the time the candidate completed the program, was listed in the World Directory of Medical Schools;[55]
- Are a *Licentiate of the Medical Council of Canada* and enrolled in the *Canadian Medical Registry*;
- Have satisfactorily completed a discipline-appropriate postgraduate training program in medicine and an evaluation by a recognized authority; and
- Have achieved certification from:
  - The College of Family Physicians of Canada; or
  - The Royal College of Physicians and Surgeons of Canada; or
  - The *Collège des médecins du Québec*.

For physicians trained outside of Canada who desire a Canadian medical license, the following additional requirements must be met:

- English language testing with exceptions for undergraduate or post graduate education taken in specific countries;
- Evidence of having been in discipline-specific formal training or discipline-specific independent practice within the last three years and an explanation of any time away from practice;
- Evidence of good character, including professional and ethical behavior, including certificates of good standing from each jurisdiction in which they have ever held a license, medical regulatory authority;
- Evidence that the candidate is both physically and mentally fit to practice; and Passage of Medical Council of Canada Qualifying Examinations (MCCQE) part I international.

The *Canadian Standard*s are applicable to physicians applying for the first time to become licensed to practice medicine in a Canadian jurisdiction. A physician may achieve full licensure only if he or she:

- Has a medical degree from:
  - A medical school that, at the time the candidate completed the program, was listed in the World Directory of Medical Schools and includes the Canada *sponsor note*;[56] or

[54] For this analysis the *Canadian Standards* will be utilized, rather than referring to each of the 13 provincial and territorial medical regulatory authorities individual requirements and specific nuances.

[55] World Directory of Medical Schools, *available at* https://www.wdoms.org/ (last visited Mar. 24, 2021). The World Directory of Medical Schools' is a list all of the medical schools in the world, with its goal to provide accurate, up-to-date, and comprehensive information on each school. The listing of a medical school in the World Directory does not denote recognition, accreditation, or endorsement by the World Directory or its partner organizations, the World Federation for Medical Education (WFME), the Foundation for Advancement of International Medical Education and Research (FAIMER), or any of the sponsors of the World Directory, except where this is expressly stated either on the website of the World Directory or on the website or other literature of a sponsor.

[56] The presence of a World Directory of Medical Schools *sponsor note* for Canada indicates that the Medical degrees obtained from that medical school are acceptable to the provincial/territorial medical regulatory authorities in Canada, and therefore acceptable to all medical organizations in Canada. See example Abadan University of Medical Sciences Medical School, Iran, *available at* https://search.wdoms.org/home/SchoolDetail/F0006738 (last visited Mar. 25, 2021).

    - An osteopathic medicine school in the United States accredited by the American Osteopathic Association Commission on Osteopathic College Accreditation, and the medical school listing must include the Canada *sponsor note*;
- Is a Licentiate of the Medical Council of Canada;
- Has satisfactorily completed a discipline-appropriate postgraduate training program in allopathic medicine and an evaluation by a recognized authority; and
- Has achieved certification from:
    - The College of Family Physicians of Canada;
    - The Royal College of Physicians and Surgeons of Canada; or
    - The Collège des médecins du Québec.

Acceptable medical schools as defined in the Model Standards for Medical Registration in Canada[57] are:

- A medical school listed in the World Directory of Medical Schools and included in the Canada *sponsor note,* encompassing the time the candidate completed the program;
- A school of osteopathic medicine in the U.S. accredited by the American Osteopathic Association's Commission on Osteopathic College Accreditation; or
- Canadian or U.S. medical school accredited by the Liaison Committee on Medical Education (LCME) or the Committee on Accreditation of Canadian Medical School (CACMS).[58]

Foreign Trained Medical Students and Medical Graduates Practicing in Florida

Certification and Residency Programs

Foreign doctors wishing to practice medicine in Florida must be licensed by the BOM or the BOOM. All doctors, including those trained outside the United States, are required to pass all tests of the USMLE[59] in order to obtain a Florida medical license. An international medical graduate (IMG) must be certified by the Educational Commission for Foreign Medical Graduates (ECFMG).[60] The ECFMG certifies internationally trained students for entry into U.S. medical schools and to practice medicine in the U.S. The ECFMG:

- Evaluates the qualifications of international medical graduates (IMGs)and foreign students for entry into U.S. medical schools;
- Evaluates and verifies international medical schools;
- Evaluates and verifies physician credentials related to medical education, training, and licensure;
- Evaluates, and verifies clinical skills of international medical graduates and foreign trained physicians;

[57]Acceptable medical schools as defined in the Model Standards for Medical Registration in Canada, *available at* https://mcc.ca/services/repository/acceptable-medical-schools-as-defined-in-the-model-standards-for-medical-registration-in-canada/ (last visited Mar. 28, 2021).
[58] All 17 Canadian medical schools are accredited by the Liaison Committee on Medical Education (LCME) or the Committee on Accreditation of Canadian Medical School (CACMS).
[59] *See* note 8.
[60] The Education Commission for Foreign Medical Graduates (ECFMG) was established in 1956 to promote quality health care for the public by certifying internationally trained students for entry into United States medical schools and to practice medicine in the United States.

- Certifies the readiness of international medical graduates and students for entry into United States medical school through an evaluation of their qualifications; and
- Evaluates the needs of international medical graduates to become acculturated.[61]

To become certified by ECFMG, an IMG must pass the USMLE and two separate exams testing clinical knowledge and clinical skills. Once a doctor receives an ECFMG certification, he or she may apply for a residency or fellowship.

Visas for Canadian Physicians to Practice in Florida

Canadians need immigration permission to come to the United States. But, unlike foreign nationals of other countries, Canadians do not need visa stamps in their passports. Rather, Canadians need to receive permission to come to the United States and then present themselves for entry right at the border.

Canadian Physicians Do Not Need to Obtain ECFMG

A physician who graduates from one of the 17 Canadian medical schools accredited by the LCME with an M.D. or a D.O. degree are not considered to be a foreign medical graduate. A physician who graduates from one of these schools does not need to obtain the ECFMG certification, which establishes equivalent medical education and fluency in English, and does not have to complete relevant board examinations.[62]

The H-1B Visa

The federal Immigration and Nationality Act[63] allows U.S. employers to temporarily employ foreign workers in specialty occupations. The H-1B Visa is a temporary, non-immigrant visa status. It is good for three years, extendable up to six years. The Immigration Act of 1990 established a limit of 65,000 foreign nationals who may be issued a visa or otherwise provided H-1B status each federal fiscal year, and the annual limit is often called a quota or a cap. An additional 20,000 H-1B Visas are available to foreign nationals holding a master's or higher degree from U.S. universities. In addition, excluded from the ceiling are all H-1B non-immigrants who work at (but not necessarily for) universities, non-profit research facilities associated with universities, and government research facilities.[64] The sole exception to this requirement is for physicians recognized as being of national or international renown.[65]

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[61] The Educational Commission for Foreign Medical Graduates, *About ECFMG, available at* https://www.ecfmg.org/about/statement-of-values.html (last visited Mar. 26, 2021).
[62] Murthy Law Firm, U.S. Immigration Law, *Canadian Physicians and U.S. Immigration Policies available at* https://www.murthy.com/2019/08/08/canadian-physicians-and-u-s-immigration-policies/ (last visited Mar. 26, 2021).
[63] The Immigration and Nationality Act, ss. 212(j)(2) and 101(a)(15)(H)(i)(b) (2021).
[64] US Citizenship and Immigration Services, *H-1B Specialty Occupations, DOD Cooperative Research and Development Project Workers, and Fashion Models, available at* https://www.uscis.gov/working-in-the-united-states/temporary-workers/h-1b-specialty-occupations-dod-cooperative-research-and-development-project-workers-and-fashion (last visited Mar. 26, 2021).
[65] *Id.*

In Canada, a physician is required to successfully complete the MCCQE in order to obtain professional status as a LMCC. This is a prerequisite to independent licensure to practice medicine in the provinces in Canada.[66]

The LMCC used in Canada is not an appropriate or a recognized test credential for H-1B Visa purposes. The LMCC is recognized by all state jurisdictions in terms of granting a license, but U.S. immigration laws require that a Canadian physician have passed all three steps of the USMLE in order to obtain an H-1B visa. One big advantage of an H-1B Visa is that it can normally be obtained in a relatively short period of time.[67]

Permanent Residence

Canadian medical education and Canadian medical training are fully recognized by U.S. immigration laws for green card or permanent resident purposes. This means that, for permanent residents, a Canadian does not need to take any further test credentials. However, permanent residency can often take a significant period of time, sometimes years. Therefore, in terms of creating a quick, smooth transition for a Canadian to come to the U.S., a Canadian physician will need to sit and pass all three steps of the USMLE, thereby gaining eligibility for H-1B Visa, and that in turn creates a platform for proceeding toward permanent residency.[68]

Florida Volunteer Protection Act

The Florida Volunteer Protection Act (FVPA), s. 768.1355, F.S., limits the civil liability for volunteers. Under the FVPA, any person who volunteers to perform any service for any nonprofit organization, without compensation from the nonprofit organization, regardless of whether the person is receiving compensation from another source, is an agent of the nonprofit organization when acting within the scope of any official duties.[69] The FVPA exempts volunteers from civil liability for any act or omission which results in personal injury or property damage if:[70]

- The volunteer was acting in good faith within the scope of any official duties;
- The volunteer was acting as an ordinary reasonably prudent person would have acted under the same or similar circumstances; and
- The injury or damage was not caused by any wanton or willful misconduct of the volunteer in the performance of such duties.

If a volunteer is determined not to be liable pursuant to these provisions, the nonprofit organization for which the volunteer was performing services when the damages were caused is also not liable for the damages to the same extent as the nonprofit organization would not have been liable if the liability limitation under the FVPA had not been provided.[71]

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[66] *Id.*
[67] *Id*.
[68] *Id.*
[69] Section 768.1355, F.S. Compensation does not include reimbursement for actual expenses, a stipend under the Domestic Service Volunteer Act of 1973 (i.e. Americorps and SeniorCorps), or other financial assistance that is valued at less than two-thirds of the federal minimum wage.
[70] Section 768.1355(1), F.S.
[71] Section 768.1355(3), F.S.

Access to Health Care Act

The "Access to Health Care Act" (Act), s. 766.1115, F.S., was enacted in 1992 to encourage health care providers to provide care to low-income persons.[72] Low-income persons include:

- A person who is Medicaid-eligible;
- A person who is without health insurance and whose family income does not exceed 200 percent of the federal poverty level;[73] or
- Any eligible client of the DOH who voluntarily chooses to participate in a program offered or approved by the department.

Health care providers under the Act include, among others, allopathic and osteopathic physicians.[74] The DOH administers the Act through the Volunteer Health Services Program, which works with DOH entities and community and faith-based health care providers to promote access to quality health care for the medically underserved and uninsured.[75] The Act grants sovereign immunity[76] to health care providers who execute a contract with a governmental contractor[77] and who, as agents of the state, provide volunteer, uncompensated health care services to low-income individuals. These health care providers are considered agents of the state under s. 768.28(9), F.S., and have sovereign immunity while acting within the scope of duties required under the Act.[78] Therefore, the state will defend a health care provider covered under the Act in any action alleging harm or injury, and any recovery would be limited to $200,000 for one incident and a total of $300,000 for all recoveries related to one incident.

A contract under the Act must pertain to volunteer, uncompensated services for which the provider may not receive compensation from the governmental contractor for any services provided under the contract and must not bill or accept compensation from the recipient or any public or private third-party payor for the specific services provided to the low-income recipients covered by the contract.[79]

The Act establishes several contractual requirements for government contractors and health care providers, including:

- The contractor retains the right to dismissal or termination of any health care provider delivering services under the contract;[80]

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[72] Section 766.1115, F.S.
[73] The federal poverty level is $12,880 for a single person and $26,500 for a family of four. U.S. Department of Health and Human Services, *HHS Poverty Guidelines for 2021*, (Jan. 15, 2021), *available at* https://aspe.hhs.gov/poverty-guidelines (last visited Mar. 25, 2021).
[74] Section 766.1115(3)(d), F.S.
[75] Department of Health, *Volunteer Health Services, available at* http://www.floridahealth.gov/provider-and-partner-resources/getting-involved-in-public-health/volunteer-health-services-opportunities/index.html (last visited Mar. 25, 2021).
[76] The legal doctrine of sovereign immunity prevents a government from being sued in its own courts without its consent. Article X, s. 13 of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the power to waive immunity in part or in full by general law. Section 768.28, F.S., contains the limited waiver of sovereign immunity applicable to the state. Under this statute, officers, employees, and agents of the state will not be held personally liable in tort for any injury or damage suffered as a result of any act, event, or omission of action in the scope of her or his employment.
[77] A governmental contractor is the DOH, a county health department, a special taxing district having health care responsibilities, or a hospital owned and operated by a governmental entity. Section 766.1115(3)(c), F.S.
[78] Section 766.1115(4), F.S.
[79] Section 766.1115(3)(a), F.S.
[80] Section 766.1115(4)(a), F.S

- The contractor retains access to the patient records of any health care provider delivering services;[81]
- The health care worker must report adverse incidents to the contractor;
- The health care worker must report information on treatment outcomes to the contractor;[82]
- The contractor or the health care provider must make patient selection and initial referrals;[83] and
- The health care provider is subject to supervision and regular inspection by the contractor.[84]

The governmental contractor must provide written notice to each patient, or the patient's legal representative, receipt of which must be acknowledged in writing, that the provider is covered under s. 768.28, F.S., for purposes of legal actions alleging medical negligence.[85]

In state fiscal year 2019-2020, 13,340 licensed health care professionals (plus an additional 8,591 clinic staff volunteers) provided 421,412 health care services under the Act.[86] The clinics and organizations who participate in the program report that a total of 879,467 hours were donated at a value of approximately $183 million.[87] Since February 15, 2000, 12 claims have been filed against the Volunteer Health Services Program.[88]

III. Effect of Proposed Changes:

The bill:

- Exempts physicians from BOM and the BOOM rules requiring 40 hours of continuing medical education (CME) for licensure renewal if:
  - The physician has received prior board approval for his or her pro bono service project; and
  - Upon completion, submits to the DOH proof that he or she has completed at least 120 hours of pro bono services on the project;
- Authorizes the BOM to increase the number of restricted licenses that it may issue, without examination, from 100 to 300;
- Creates s. 459.0571, F.S., to authorize the BOOM to issue 300 restricted licenses, without examination;
- Authorizes the BOM and the BOOM to issue an unlimited number of restricted licenses, without examination, to physicians who hold an active, unencumbered license to practice in Canada;
- Requires applicants for restricted licenses without application to meet all of the following:
  - Submit an application to the DOH;
  - Is at least 21 years of age;

[81] Section 766.1115(4)(b), F.S
[82] Section 766.1115(4)(c), F.S
[83] Section 766.1115(4)(d), F.S
[84] Section 766.1115(4)(f), F.S.
[85] Section 766.1115(5), F.S.
[86] Department of Health, *Volunteer Health Care Provider Program Annual Report, Fiscal Year 2019-2020*, (Dec. 2020), *available at* http://www.floridahealth.gov/provider-and-partner-resources/getting-involved-in-public-health/volunteer-health-services-opportunities/VHCPPAnnualReport19-20.pdf (last visited Mar. 25 2021).
[87] *Id.* at p. 5.
[88] *Id.* at p. 23.

- Is of good moral character;
- Has not committed any act or offense in this or any other jurisdiction which would constitute the basis for disciplining a physician;
- Has submitted to the DOH fingerprints fees for the criminal background check of the applicant. A Canadian applicant must provide the board a printed or electronic copy of his or her fingerprint-based, national Canadian criminal history records check, conducted within six months after the date of application.

- Repeals the BOM requirement that applicants for restricted licenses without examination have completed two academic years of pre-professional, postsecondary education, prior to entering medical school, which must include courses in anatomy, biology, and chemistry;
- Repeals the BOM requirement that applicants for restricted licenses without examination must meet one of the following education and postgraduate training requirements:
  - Is a graduate of medical school recognized by an agency recognized by the U.S. Office of Education or within a territorial jurisdiction of the U.S. recognized by the government of that jurisdiction; and
    - If the language of instruction was not English, then demonstrate competency in English with a passing score on the Test of Spoken English of the Educational Testing Service or a similar test approved by BOM rule; and
    - Have completed an approved one year residency; or
  - Is a graduate of an foreign medical school registered with the World Health Organization and certified pursuant to s. 458.314, F.S.;[89]
    - If the language of instruction was not English, then demonstrates competency in English, by providing an ECFMG English proficiency certificate or a passing score on the Test of Spoken English of the Educational Testing Service or a similar test approved by BOM rule; and
    - Have completed an approved one year residency; or
  - Is a graduate of an foreign medical school which has not been certified pursuant to s. 458.314, F.S.;[90]
    - Has had his or her medical credentials evaluated by the ECFMG;
    - Holds an active, valid certificate issued by the ECFMG;
    - Has passed the examination utilized by the ECFMG; and
    - Has completed an approved residency or fellowship of at least two years in one specialty area which must counted toward regular or subspecialty certification by a board recognized and certified by the American Board of Medical Specialties.
  - Extends the required contract term for the required employment for allopathic applicants for restricted licenses from 24 to 36 months; requires osteopathic applicants for restricted licenses to enter into a 36-month employment contract to obtain a restricted license; and required both allopathic and osteopathic employment contracts to be with:
    - The state, a federally-funded community health center, or a migrant health center;
    - A free clinic that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income residents; or
    - A health care provider in a health professional shortage area or medically underserved area designated by the U.S. Department of Health and Human Services.

[89] *Id.*
[90] *Id.*

- Repeals the legislative mandate for the BOM to designate other areas of critical need where these restricted licensees may practice but authorizes the BOM and the BOOM to do so if needed.
- Requires allopathic restricted licensees and osteopathic restricted licensees to take and pass the USMLE before the end of the required contracted period and become a fully licensed Florida physician.
- Creates ss. 458.3105 and 459.00752, F.S., for the registration of volunteer retired physicians, which:
  - Permits a retired physician to practice in Florida under the supervision of a non-retired physician who holds an active, unencumbered license, if the retired physician meets all of the following:
    - Submits an application to the BOM and BOOM on a the DOH form within two years after the date his or her license changing from active to retired status;
    - Provides proof to the DOH that he or she has actively practiced for at least three of the last five years preceding the date his or her license changing from active to retired status;
    - Has held an active license to practice, and maintained that license in good standing in Florida or in at least one other jurisdiction of the U.S. or Canada for at least 20 years;
    - Contracts with a health care provider to provide free, volunteer health care services to indigent persons or medically underserved populations in health professional shortage areas or medically underserved areas designated by the U.S. Department of Health and Human Services;
    - Provides medical services only within the specialty that he or she practiced before retirement and:
      - Does not perform surgery; or
      - Prescribe controlled substances.
  - Requires the physician to biennially apply to the BOM or the BOOM, as appropriate, for renewal of his or her registration by demonstrating to the appropriate board compliance with the above requirements;
  - Requires the DOH to waive all application, licensure, unlicensed activity and renewal fees for qualified physicians;
  - Authorizes the BOM and the BOOM to deny, revoke, or impose restrictions or conditions on a registration for any violation of chs. 456, 458, or 459, F.S., or associated rules; and
  - Authorizes the BOM and the BOOM to deny or revoke the registration of any registrant for noncompliance.

  Revises the acceptable examinations for licensure for Canadian physicians with current and active licenses for 10 years to include the SPEX of the Federation of State Medical Boards of the United States.
- Directs the DOH to waive a physician's licensure renewal fees if the licensee demonstrates in a manner prescribed by DOH rule that he or she has provided at least 160 hours of pro bono medical services within the biennial renewal period, to:
  - Indigent persons;
  - Medically underserved populations in health professional shortage areas; or
  - Medically underserved areas designated by the United States Department of Health and Human Services; and

- Amends the "Access to Healthcare Act" to re-defines "low income" in s. 766.1115(3)(e)2., F.S., as a family without health insurance and whose family income is 400 percent or less of the federal poverty level, instead of 200 percent or less as under current law.

The bill provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article VI, paragraph 2, of the United States Constitution, commonly referred to as the Supremacy Clause, provides that the "Constitution, and the Laws of the United States which shall be made in Pursuance thereof . . . shall be the supreme Law of the Land . . . anything in the Constitution or Laws of any State to the Contrary notwithstanding." Art. I, s. 8, par. 4, of the U.S. Constitution also gives Congress the power "[t]o establish an uniform Rule of Naturalization."

The bill allows Canadian physicians to obtain restricted Florida licenses, without examination. However, in order to come to Florida and work, they must obtain an H-1B Visa, which requires such physicians to take and pass all three parts of the USMLE. This may create a conflict with preemption.[91]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

[91] Arizona v. United States, 567 U.S. 387 (2012).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides an unlimited number of Canadian physicians with restricted licenses may practice in Florida but does not require financial responsibility for medical malpractice claims, CME, or the reporting of adverse incidents to the DOH.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 456.013, 458.310, 458.311, 458.319, 459.008, and 766.1115.

This bill creates the following sections of the Florida Statutes: 458.3105, 459.00751, and 459.00752.

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

39-01445A-21 20211680__

A bill to be entitled

An act relating to access to health care practitioner services; amending s. 456.013, F.S.; exempting certain physicians who provide a certain number of hours of pro bono services from continuing education requirements; amending s. 458.310, F.S.; revising the eligibility criteria for a restricted license; creating s. 458.3105, F.S.; establishing a registration program for volunteer retired physicians; providing eligibility criteria for such registration; requiring biennial registration renewal; requiring the Department of Health to waive certain fees; authorizing the Board of Medicine to deny, revoke, or impose restrictions or conditions on a registration for certain violations; amending s. 458.311, F.S.; revising the physician licensure criteria applicable to Canadian applicants; amending s. 458.319, F.S.; requiring the department to waive a physician's license renewal fee under certain circumstances; deleting an obsolete date; creating s. 459.00751, F.S.; providing legislative intent; authorizing the Board of Osteopathic Medicine to issue restricted licenses to applicants who satisfy certain criteria; requiring restricted licensees to pass the licensure examination within a specified timeframe; prohibiting licensure if a restricted licensee breaches the terms of an employment contract; creating s. 459.00752, F.S.; establishing a registration program for volunteer retired osteopathic physicians; providing

39-01445A-21 20211680__

eligibility criteria for such registration; requiring biennial registration renewal; requiring the department to waive certain fees; authorizing the Board of Osteopathic Medicine to deny, revoke, or impose restrictions or conditions on a registration for certain violations; amending s. 459.008, F.S.; requiring the department to waive an osteopathic physician's license renewal fee under certain circumstances; deleting an obsolete date; amending s. 766.1115, F.S.; revising the definition of the term "low-income"; providing an effective date.

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

Section 1. Subsections (6) and (9) of section 456.013, Florida Statutes, are amended to read:

456.013 Department; general licensing provisions.—

(6) As a condition of renewal of a license, the Board of Medicine, the Board of Osteopathic Medicine, the Board of Chiropractic Medicine, and the Board of Podiatric Medicine shall each require licensees which they respectively regulate to periodically demonstrate their professional competency by completing at least 40 hours of continuing education every 2 years. The boards may require by rule that up to 1 hour of the required 40 or more hours be in the area of risk management or cost containment. This subsection may ~~provision shall~~ not be construed to limit the number of hours that a licensee may obtain in risk management or cost containment to be credited toward satisfying the 40 or more required hours. This subsection

may ~~provision shall~~ not be construed to require the boards to impose any requirement on licensees except for the completion of at least 40 hours of continuing education every 2 years. Each of such boards shall determine whether any specific continuing education requirements not otherwise mandated by law shall be mandated and shall approve criteria for, and the content of, any continuing education mandated by such board. Notwithstanding any other ~~provision of~~ law, the board, or the department when there is no board, may approve by rule alternative methods of obtaining continuing education credits in risk management. The alternative methods may include attending a board meeting at which another licensee is disciplined, serving as a volunteer expert witness for the department in a disciplinary case, or serving as a member of a probable cause panel following the expiration of a board member's term. Other boards within the Division of Medical Quality Assurance, or the department if there is no board, may adopt rules granting continuing education hours in risk management for attending a board meeting at which another licensee is disciplined, for serving as a volunteer expert witness for the department in a disciplinary case, or for serving as a member of a probable cause panel following the expiration of a board member's term.

(9) Any board that currently requires continuing education for renewal of a license, or the department if there is no board, shall adopt rules to establish the criteria for continuing education courses. The rules may provide that up to a maximum of 25 percent of the required continuing education hours can be fulfilled by the performance of pro bono services to the indigent or to underserved populations or in areas of critical

need within the state where the licensee practices. However, a physician licensed under chapter 458 or chapter 459 who submits to the department documentation proving that he or she has completed at least 120 hours of pro bono services within a biennial licensure period is exempt from the continuing education requirements established by board rule under subsection (6). The board, or the department if there is no board, must require that any pro bono services be approved in advance in order to receive credit for continuing education under this subsection. The standard for determining indigency shall be that recognized by the Federal Poverty Income Guidelines produced by the United States Department of Health and Human Services. The rules may provide for approval by the board, or the department if there is no board, that a part of the continuing education hours can be fulfilled by performing research in critical need areas or for training leading to advanced professional certification. The board, or the department if there is no board, may make rules to define underserved and critical need areas. The department shall adopt rules for administering continuing education requirements adopted by the boards or the department if there is no board.

Section 2. Subsections (2) and (3) of section 458.310, Florida Statutes, are amended to read:

458.310 Restricted licenses.—

(2) The board ~~of Medicine~~ may annually~~, by rule, develop criteria and, without examination,~~ issue restricted licenses authorizing the practice of medicine in this state to not more than 300 persons, except that the board may issue restricted licenses to an unlimited number of physicians who hold active,

unencumbered licenses to practice medicine in Canada, if such applicants meet all of the following requirements ~~annually to up to 100 persons to practice medicine in this state who~~:

(a) Submit to the department a completed application form.

(b) Meet the requirements of s. 458.311(1)(b), (c), (d), and (g). A Canadian applicant must also provide the board with a printed or electronic copy of his or her fingerprint-based, national Canadian criminal history records check, conducted within 6 months after the date of application. ~~s. 458.311;~~

(c) ~~(b)~~ Show evidence of the active licensed practice of medicine in another jurisdiction for at least 2 years of the immediately preceding 4 years, or completion of board-approved postgraduate training within the year immediately preceding the filing of an application. ~~; and~~

(d) ~~(c)~~ Enter into a contract to practice for a period of up to 36 ~~24~~ months ~~solely~~ in the employ of the state, ~~or~~ a federally funded community health center, or a migrant health center; a free clinic that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income residents; or a health care provider in a health professional shortage area or medically underserved area designated by the United States Department of Health and Human Services~~, at the current salary level for that position~~. The board may ~~of Medicine shall~~ designate other areas of critical need in this ~~the~~ state where these restricted licensees may practice.

(3) Before the end of the contracted ~~24 month~~ practice period, the physician must take and successfully complete the licensure examination under s. 458.311 to become fully licensed

in this state.

Section 3. Section 458.3105, Florida Statutes, is created to read:

458.3105 Registration of volunteer retired physicians.—

(1) A physician may register under this section to practice medicine as a volunteer retired physician if he or she meets all of the following requirements:

(a) Submits an application to the board on a form developed by the department within 2 years after the date on which his or her license changed from active to retired status.

(b) Provides proof to the department that he or she actively practiced medicine for at least 3 of the 5 years immediately preceding the date on which his or her license changed from active to retired status.

(c) Has held an active license to practice medicine and maintained such license in good standing in this state or in at least one other jurisdiction of the United States or Canada for at least 20 years.

(d) Contracts with a health care provider to provide free, volunteer health care services to indigent persons or medically underserved populations in health professional shortage areas or medically underserved areas designated by the United States Department of Health and Human Services.

(e) Works under the supervision of a nonretired physician who holds an active, unencumbered license.

(f) Provides medical services only of the type and within the specialty that he or she performed before retirement and does not perform surgery or prescribe a controlled substance as defined in s. 893.02.

(2) The physician must apply biennially to the board for renewal of his or her registration by demonstrating to the board compliance with this section.

(3) The department shall waive all application, licensure, unlicensed activity, and renewal fees for qualifying physicians under this section.

(4) The board may deny, revoke, or impose restrictions or conditions on a registration for any violation of this chapter or chapter 456 or rules adopted thereunder.

(5) The board may deny or revoke registration for noncompliance with this section.

Section 4. Paragraph (h) of subsection (1) of section 458.311, Florida Statutes, is amended to read:

458.311 Licensure by examination; requirements; fees.—

(1) Any person desiring to be licensed as a physician, who does not hold a valid license in any state, shall apply to the department on forms furnished by the department. The department shall license each applicant who the board certifies:

(h) Has obtained a passing score, as established by rule of the board, on the licensure examination of the United States Medical Licensing Examination (USMLE)~~;~~ or a combination of the USMLE ~~United States Medical Licensing Examination (USMLE)~~, the examination of the Federation of State Medical Boards of the United States, Inc. (FLEX), or the examination of the National Board of Medical Examiners up to the year 2000; or, for the purpose of examination of any applicant who was licensed on the basis of a state board examination, ~~and who~~ is currently licensed in at least one other jurisdiction of the United States ~~or Canada~~, and ~~who~~ has practiced pursuant to such licensure for

a period of at least 10 years, or any applicant who holds an active, unencumbered license to practice medicine in Canada and has practiced pursuant to such licensure for a period of at least 10 years, has obtained a passing score, as established by the board, on ~~use of~~ the Special Purpose Examination of the Federation of State Medical Boards of the United States (SPEX) ~~upon receipt of a passing score as established by rule of the board~~. However, for the purpose of examination of any applicant who was licensed on the basis of a state board examination before ~~prior to~~ 1974, ~~who~~ is currently licensed in at least three other jurisdictions of the United States or Canada, and ~~who~~ has practiced pursuant to such licensure for a period of at least 20 years, this paragraph does not apply.

Section 5. Subsection (1) of section 458.319, Florida Statutes, is amended to read:

458.319 Renewal of license.—

(1) The department shall renew a license upon receipt of the renewal application, evidence that the applicant has actively practiced medicine or has been on the active teaching faculty of an accredited medical school for at least 2 years of the immediately preceding 4 years, and a fee not to exceed $500; provided, however, that if the licensee is either a resident physician, assistant resident physician, fellow, house physician, or intern in an approved postgraduate training program, as defined by the board by rule, the fee shall not exceed $100 per annum. If the licensee demonstrates to the department, in a manner set by department rule, that he or she has provided at least 160 hours of pro bono medical services to indigent persons or medically underserved populations within the

biennial renewal period, the department shall waive the renewal fee. If the licensee has not actively practiced medicine for at least 2 years of the immediately preceding 4 years, the board shall require that the licensee successfully complete a board-approved clinical competency examination before ~~prior to~~ renewal of the license. For purposes of this subsection, the term "actively practiced medicine" means that practice of medicine by physicians, including those employed by any governmental entity in community or public health, as defined by this chapter, including physicians practicing administrative medicine. An applicant for a renewed license must also submit the information required under s. 456.039 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the Department of Health for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the Department of Health on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license ~~after January 1, 2000~~. If the applicant fails to submit either the information required under s. 456.039 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not

in compliance with the requirements of s. 456.039. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 456.073. If the applicant disputes the matter in the citation, the procedures set forth in s. 456.073 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.

Section 6. Section 459.00751, Florida Statutes, is created to read:

459.00751 Restricted licenses.—

(1) It is the intent of the Legislature to provide medical services to all residents of this state at an affordable cost.

(2) The board may annually issue restricted licenses authorizing the practice of osteopathic medicine in this state to not more than 300 persons, except that the board may issue restricted licenses to an unlimited number of osteopathic physicians who hold active, unencumbered licenses to practice medicine in Canada, if such applicants meet all of the following requirements:

(a) Submit to the department a completed application form.

(b) Meet the requirements of s. 459.0055(1)(b)-(g) and (j). A Canadian applicant must also provide the board with a printed or electronic copy of his or her fingerprint-based, national Canadian criminal history records check, conducted within 6 months after the date of application.

(c) Show evidence of the active licensed practice of medicine in another jurisdiction for at least 2 years of the immediately preceding 4 years, or completion of board-approved postgraduate training within the year immediately preceding the filing of an application.

(d) Enter into a contract to practice osteopathic medicine for a period of up to 36 months in the employ of the state, a federally funded community health center, or a migrant health center; a free clinic that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income residents; or a health care provider in a health professional shortage area or medically underserved area designated by the United States Department of Health and Human Services. The board may designate other areas of critical need in this state where these restricted licensees may practice.

(3) Before the end of the contracted practice period, the osteopathic physician shall take and successfully complete the licensure examination under s. 459.0055 to become fully licensed in this state.

(4) If the restricted licensee breaches the terms of the employment contract, he or she may not be licensed as an osteopathic physician in this state under any licensing provisions.

Section 7. Section 459.00752, Florida Statutes, is created

to read:

459.00752 Registration of volunteer retired osteopathic physicians.—

(1) An osteopathic physician may register under this section to practice medicine as a volunteer retired osteopathic physician if he or she meets all of the following requirements:

(a) Submits an application to the board on a form developed by the department no earlier than 6 months before the date on which his or her license permanently expires and no later than 2 years after such expiration.

(b) Provides proof to the department that he or she actively practiced medicine for at least 3 of the 5 years immediately preceding the date on which his or her license changed from active to retired status.

(c) Has held an active license to practice osteopathic medicine and maintained such license in good standing in this state or in at least one other jurisdiction of the United States or Canada for at least 20 years.

(d) Contracts with a health care provider to provide free, volunteer health care services to indigent persons or medically underserved populations in health professional shortage areas or medically underserved areas designated by the United States Department of Health and Human Services.

(e) Works under the supervision of a nonretired osteopathic physician who holds an active, unencumbered license.

(f) Provides medical services only of the type and within the specialty that he or she performed before retirement and does not perform surgery or prescribe a controlled substance as defined in s. 893.02.

(2) The registrant must apply biennially to the board for renewal of his or her registration by demonstrating to the board compliance with this section.

(3) The department shall waive all application, licensure, unlicensed activity, and renewal fees for qualifying applicants under this section.

(4) The board may deny, revoke, or impose restrictions or conditions on a registration for any violation of this chapter or chapter 456 or rules adopted thereunder.

(5) The board may deny or revoke registration for noncompliance with this section.

Section 8. Subsection (1) of section 459.008, Florida Statutes, is amended to read:

459.008 Renewal of licenses and certificates.—

(1) The department shall renew a license or certificate upon receipt of the renewal application and fee. If the licensee demonstrates to the department, in a manner set by department rule, that he or she has provided at least 160 hours of pro bono osteopathic medical services to indigent persons or medically underserved populations in health professional shortage areas or medically underserved areas designated by the United States Department of Health and Human Services within the biennial renewal period, the department shall waive the renewal fee. An applicant for a renewed license must also submit the information required under s. 456.039 to the department on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department ~~of Health~~ for the statewide criminal background check of the applicant. The applicant must submit a set of fingerprints to the

department ~~Department of Health~~ on a form and under procedures specified by the department, along with payment in an amount equal to the costs incurred by the department for a national criminal background check of the applicant for the initial renewal of his or her license ~~after January 1, 2000~~. If the applicant fails to submit either the information required under s. 456.039 or a set of fingerprints to the department as required by this section, the department shall issue a notice of noncompliance, and the applicant will be given 30 additional days to comply. If the applicant fails to comply within 30 days after the notice of noncompliance is issued, the department or board, as appropriate, may issue a citation to the applicant and may fine the applicant up to $50 for each day that the applicant is not in compliance with the requirements of s. 456.039. The citation must clearly state that the applicant may choose, in lieu of accepting the citation, to follow the procedure under s. 456.073. If the applicant disputes the matter in the citation, the procedures set forth in s. 456.073 must be followed. However, if the applicant does not dispute the matter in the citation with the department within 30 days after the citation is served, the citation becomes a final order and constitutes discipline. Service of a citation may be made by personal service or certified mail, restricted delivery, to the subject at the applicant's last known address. If an applicant has submitted fingerprints to the department for a national criminal history check upon initial licensure and is renewing his or her license for the first time, then the applicant need only submit the information and fee required for a statewide criminal history check.

Section 9. Paragraph (e) of subsection (3) of section 766.1115, Florida Statutes, is amended to read:

766.1115 Health care providers; creation of agency relationship with governmental contractors.—

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

(e) "Low-income" means:

1. A person who is Medicaid-eligible under Florida law;

2. A person who is without health insurance and whose family income does not exceed 400 ~~200~~ percent of the federal poverty level as defined annually by the federal Office of Management and Budget; or

3. Any client of the department who voluntarily chooses to participate in a program offered or approved by the department and meets the program eligibility guidelines of the department.

Section 10. This act shall take effect July 1, 2021.

The Florida Senate

Committee Agenda Request

To: Senator Manny Diaz, Jr., Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: March 5, 2021

I respectfully request that **Senate Bill #1680**, relating to Access to Health Care Practitioner Services, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Ana Maria Rodriguez
Florida Senate, District 39

File signed original with committee office

S-020 (03/2004)

Rossitto-Vanwinkle, Tari

From: Vazquez, Paul <Paul.Vazquez@flhealth.gov>
Sent: Thursday, March 25, 2021 12:36 PM
To: Rossitto-Vanwinkle, Tari
Cc: Brown, Allen; Wenhold, Jennifer; Monroe, Kama
Subject: RE: Foreign medical schools
Attachments: 64B8-4.004.doc

Ms. Rossitto-VanWinkle:

There currently are no foreign medical schools certified pursuant to s. 458.314, F.S., and its associated rules. Because there are no foreign medical schools certified under s. 458.314, F.S., s. 458.311(1)(f)2., F.S., is not currently applied for licensure purposes.

Pursuant to s. 458.311(1)(f)3.a., F.S., an international medical graduate is required to be a graduate of an allopathic foreign medical school, be certified by the Educational Commission for Foreign Medical Graduates (ECFMG) and pass the related exam, and demonstrate completion of two years of approved postgraduate training. Approved postgraduate training is defined in Rule 64B8-4.004, F.A.C., which is attached. Under s. 458.311(3), F.S., a graduate of a foreign medical school is not required to satisfy the ECFMG requirement or pass the related exam if the graduate has received a bachelor's degree from an accredited United States college or university, has studied at a medical school that is recognized by the World Health Organization, has completed all of the formal requirements of the foreign medical school, except the internship or social service requirements, and has passed part I of the National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent, and has completed an academic year of supervised clinical training in a hospital affiliated with a medical school approved by the Council on Medical Education of the American Medical Association and upon completion has passed part II of the National Board of Medical Examiners examination or the Educational Commission for Foreign Medical Graduates examination equivalent.

Pursuant to s. 458.311(8), F.S., if the Board of Medicine determines that any applicant for licensure fails to meet any necessary requirement, the Board may enter an order requiring one or more of the following terms: (a) refusal to certify to the Department an application for licensure, certification, or registration; (b) certification to the Department of an application for licensure, certification, or registration with restrictions on the scope of practice of the licensee; or (c) certification to the Department of an application for licensure, certification, or registration with placement of the physician on probation for a period of time and subject to such conditions as the board may specify, including, but not limited to, requiring the physician to submit to treatment, attend continuing education courses, submit to reexamination, or work under the supervision of another physician.

I hope this information is helpful. Please let me know if additional information is required.

Best regards,

Paul A. Vazquez, J.D.
Executive Director
Florida Board of Medicine
Florida Department of Health
Phone: 850-245-4130

From: Rossitto-Vanwinkle, Tari <ROSSITTO-VANWINKLE.TARI@flsenate.gov>
Sent: Wednesday; March 24, 2021 6:12 PM
To: Vazquez, Paul <Paul.Vazquez@flhealth.gov>; Monroe, Kama <Kama.Monroe@flhealth.gov>
Cc: Brown, Allen <Brown.Allen@flsenate.gov>
Subject: Foreign medical schools

Good Evening Mr. Vasquez and Ms. Monroe;

It is my understanding that pursuant to s. 458.314(4), F.S., and Board of Medicine Rule 64B8-14.003, F.A.C.:

"Any foreign medical school which wishes to be certified pursuant to this section shall make application to the department for such certification, which shall be based upon a finding that the educational program of the foreign medical school is reasonably comparable to that of similar accredited institutions in the United States and adequately prepares its students for the practice of medicine. Curriculum, faculty qualifications, student attendance, plant and facilities, and other relevant factors shall be reviewed and evaluated. The board with the cooperation of the department shall identify, by rule, the standards and review procedures and methodology to be used in the certification process consistent with this subsection. The department shall not grant certification if deficiencies found are of such magnitude as to prevent the students in the school from receiving an educational base suitable for the practice of medicine."

In addition, Rule 64B8-14.005, F.A.C., provides that a foreign medical school holding a current LCME accreditation (which certified programs leading to the MD degree in the United States and Canada) at the time of application to the department for accreditation by Florida meet the requirements of s. 458.314, F.S.

Please accept this as request for the list of foreign medical schools, other than those accredited by the Liaison Committee on Medical Education (LCME), which the department has approved under s. 458.314, F.S., and Rule 64B8-14.005, F.A.C.

Also, I am unable to locate the procedure in statute or rule for how the department or board reviews the credentials of foreign medical doctors applying for Florida medical licenses under s. 458.311(1)(f)2. and 3., F.S. Is this done through the Electronic Portfolio for International Credentials (EPCS), a service of the Educational Commission for Foreign Medical Graduates (ECFMG)? If not, can you direct me to the board or department procedure for confirming foreign medical school graduates credentials under s. 458.311(1)(f)2. and 3., F.S.?

Thank you in advance for any help you can be in helping me locate this information.

Thank you for your prompt attention and cooperation in this regard.

Tari Rossitto-Van Winkle, R.N., J.D.
Senior Attorney
The Florida Senate Committee on Health Policy
530 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5824
(850) 410-0081 Fax

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1318
INTRODUCER:	Senator Harrell
SUBJECT:	Organ Donation and Transplantation
DATE:	March 29, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Favorable**
2.			AHS	
3.			AP	

I. Summary:

SB 1318 amends various sections of the Florida statutes related to organ donation and transplantation. The bill:

- Requires locations where hunting, fishing, or trapping licenses are sold to make educational materials regarding organ donation available to the public and includes such recreational licenses and permits in the current program designed to encourage persons to sign up as an organ donor when being issued a driver license or identification card. Additionally, the bill requires that each person who applies for such license or permit over the Internet must be provided with a link to the statewide donor registry.
- Requires the Agency for Health Care Administration (AHCA) to include minimum volume standards for organ transplantation and neonatal intensive care services in the AHCA's licensure rules for tertiary services.[1]
- Allows the AHCA to pay, through Medicaid, for organ transplantation services, including pre-transplant, transplant, and post-discharge services, and treatment of complications after transplantation, for transplants deemed necessary and appropriate within the guidelines set by the Organ Transplant Advisory Council.
- Prohibits a preexisting condition provision in a health insurance policy from excluding coverage solely on the basis that the insured is a living organ donor.
- Expands the donor registry education program to include federal law, to require the contractor providing the education program to work with the AHCA and the State Board of Education to develop an instructional curriculum for students in grades 9 through 12 relating to organ donor registration, and to require public schools to teach organ donor registration to students in grades 9 through 12.
- Prohibits an organ transplantation facility from charging a donor or his or her family member any fee for services relating to the procurement or donation of his or her organs.

[1] Including organ transplantation, neonatal intensive care services, inpatient psychiatric services, inpatient substance abuse services, or comprehensive medical rehabilitation.

- Requires any individual who requests the consent for an anatomical gift from the health care surrogate or family of a person who is, or will be, recently deceased in a hospital to clearly explain to patients and living organ donors the protocols of the hospital and the federal and state laws regarding organ donation.
- Requires the Organ and Tissue Procurement and Transplantation Advisory Board (OTPTAB) to work with relevant public and private entities to develop the necessary professional qualifications, including continuing education, for licensed health care practitioners and other persons engaged in the various facets of organ and tissue procurement. The bill also requires the OTPTAB to submit specified recommendations to the AHCA by September 1, 2022.

The bill provides an effective date of July 1, 2021.

II. Present Situation:

Organ Donation

Organ and tissue donation is the process of surgically removing an organ or tissue from one person (the donor) and transplanting it into another person (the recipient). Transplantation in such cases is necessary because the recipient's organ has failed or has been damaged by disease or injury. Transplantable organs include the kidneys, liver, heart, lungs, pancreas and intestine.[2] Transplantable tissue include skin used as a temporary dressing for burns, serious abrasions and other exposed areas; heart valves used to replace defective valves; tendons used to repair torn ligaments on knees or other joints; veins used in cardiac bypass surgery; corneas used to restore sight; and bone used in orthopedic surgery to facilitate healing of fractures or prevent amputation.[3]

A single person can save up to eight lives through organ donation, and dozens more lives may be improved through tissue donation.[4] While most organ and tissue donations occur after the donor has died, some organs and tissues can be donated while the donor is alive, such as a kidney or part of a liver or lung.[5] There are approximately as many living donors every year as there are deceased donors.[6]

Organ Donation, Procurement, and Transplant Process

Established by the National Organ Transplant Act (NOTA) of 1984, the Organ Procurement and Transplantation Network (OPTN) is a public-private partnership that links all professionals involved in the nation's donation and transplant system.[7] The United Network for Organ Sharing (UNOS), a private, non-profit organization based in Richmond, Virginia, serves as the OPTN under contract with the U.S. Department of Health and Human Services.[8] UNOS coordinates

[2] Donate Life Florida, *Frequently Asked Questions, available at* https://www.donatelifeflorida.org/categories/donation/ (last visited Mar. 23, 2021).
[3] *Id.*
[4] *Id.*
[5] U.S. Government Information on Organ Donation and Transplantation, U.S. Department of Health & Human Services, *How Organ Donation Works, available at* https://organdonor.gov/about/process.html (last visited Mar. 3, 2021).
[6] *Id.*
[7] U.S. Department of Health and Human Services, *Organ Procurement and Transplantation Network – About the OPTN, available at* https://optn.transplant.hrsa.gov/governance/about-the-optn/ (last visited Mar. 23, 2021).
[8] *Id.*

how donor organs are matched and allocated to patients on the waiting list.[9] Non-profit, federally designated organ procurement organizations (OPOs) work closely with UNOS, hospitals, and transplant centers to facilitate the organ donation and transplantation process,[10] including conducting a thorough medical and social history of the potential donor to help determine the suitability of his or her organs for transplantation.[11]

Regulation of Organ Donation, Procurement, and Transplantation in Florida

The AHCA oversees the various organizations and facilities involved in the organ procurement and transplant process in this state. The AHCA licenses transplant facilities, contracts with an organization to educate the public on organ donation, sets requirements for training individuals who engage with families whose deceased relatives may be a good candidate for organ donation, and supports the Organ Transplant Advisory Council and the Organ and Tissue Procurement and Transplantation Advisory Board.

Organ Donor Registry

In 2008,[12] Florida's Legislature found that a shortage of organ and tissue donors existed in Florida. Findings included a need for:

- A statewide donor registry with online donor registration capability; and
- Enhanced donor education, to increase the number of organ and tissue donors.

The online registry would afford more persons who are awaiting organ or tissue transplants the opportunity for a full and productive life.[13] As directed by the Legislature, the AHCA and the Department of Highway Safety and Motor Vehicles (DHSMV) jointly contracted for the operation of Florida's interactive web-based donor registry that allows for online donor registration and the recording of organ and tissue donation records submitted through the driver license identification program or through other sources. The AHCA and the DHSMV selected Donate Life Florida, which is a coalition of Florida's organ, tissue, and eye donor programs, to run the donor registry and maintain donor records.

Floridians aged 18 or older can join the donor registry either online, at the DHSMV (or their local driver license office), or by contacting Donate Life Florida for a paper application.[14] Children aged 13 to 17 may join the registry, but the final decision on any organ donation of a minor rests with the parent or guardian. The registry collects personal information from each donor including, but not limited to, his or her name, address, date and place of birth, race, ethnicity, and driver's license number.

As of March 23, 2021, there were 11,496,288 people registered in the donor registry.[15]

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[9] U.S. Government Information on Organ Donation and Transplantation, U.S. Department of Health & Human Services, *The Organ Transplant Process*, *available at* https://organdonor.gov/about/process/transplant-process.html (last visited Mar. 23, 2021).
[10] Donate Life Florida, *Organ Procurement Organizations and Transplant Centers*, *available at* https://www.donatelifeflorida.org/local-resources/transplant-centers/ (last visited Mar. 23, 2021).
[11] Organ Procurement and Transplantation Network, U.S. Department of Health & Human Services, *The Basic Path of Donation*, *available at* https://optn.transplant.hrsa.gov/learn/about-donation/the-basic-path-of-donation/ (last visited Mar. 23, 2021).
[12] Ch. 2008-223, Laws of Fla.
[13] Section 765.5155(1), F.S.
[14] Donate Life Florida, *Welcome to the Joshua Abbott Organ and Tissue Donor Registry*, *available at* http://www.donatelifeflorida.org/ (last visited Mar. 23, 2021)
[15] *Id.*

A person may make an anatomical gift of all or part of his or her body by:[16]

- Signing an organ and tissue donor card;
- Registering online with the donor registry;
- Signifying an intent to donate on his or her driver license or identification card issued by the DHSMV;[17]
- Expressing a wish to donate in a living will or other advance directive;
- Executing a will that includes a provision indicating that the testator wishes to make an anatomical gift;[18] or
- Expressing a wish to donate in a document other than a will.[19]

Donor Education

When a patient dies in a hospital and is not a registered organ donor, but is determined to be a good candidate by the hospital's medical staff and the OPO, a representative of the OPO or a member of the hospital's staff may approach the patient's family about organ donation.[20] The AHCA has developed rules for training and guidelines for the person making the request for organ donation.[21] The requestor is trained in explaining the process of organ donation to the patient's family, including their right to allow or refuse donation and for what purpose the organs would be donated (transplantation, research, or education).[22] The requestor is also specifically trained in the different types of approaches to deal with a family's grief and offering them the opportunity for organ donation.[23] The current rules require the requestor to explain the requirements that need to be met under Florida law in order for a donation to be allowed but is silent regarding an explanation of federal regulations relating to organ donation.

Organ Donation Fees

Generally, an organ donor and their family are not charged by a transplant facility for the medical care required to donate an organ.[24] Families pay for medical care and funeral costs, but costs related to living or deceased donation are paid by the recipient, usually through insurance, including Medicare, or Medicaid.[25] Typically, any cost that falls outside of the transplant center's donor evaluation or actual surgery, such as travel, lodging, lost wages, and other non-medical expenses, is borne by the living donor or recipient.[26]

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[16] Section 765.514(1), F.S.
[17] Revocation, suspension, expiration, or cancellation of the driver license or identification card does not invalidate the gift.
[18] The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated or if it is declared invalid for testamentary purposes, the gift is nevertheless valid to the extent that it has been acted upon in good faith.
[19] The document must be signed by the donor in the presence of two witnesses who shall sign the document in the donor's presence. If the donor cannot sign, the document may be signed for him or her at the donor's direction and in his or her presence and the presence of two witnesses who must sign the document in the donor's presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.
[20] Health Resources and Services Administration, *The Deceased Donation Process, available at* https://www.organdonor.gov/about/process/deceased-donation.html#authorize (last visited March 3, 2021). *See also* s. 765.522, F.S.
[21] Fla. Admin. Code R. 59A-3.274 (2021).
[22] *Id.*
[23] *Id.*
[24] Health Resources Services Administration, *Organ Donation Frequently Asked Questions, available at* https://www.organdonor.gov/about/facts-terms/donation-faqs.html (last visited Mar. 23, 2021).
[25] *Id. See also* UNOS, *Living Donation Costs, available at* https://transplantliving.org/financing-a-transplant/living-donation-costs/ (last visited Mar. 23, 2021).
[26] UNOS, *Living Donation Costs, available at* https://transplantliving.org/financing-a-transplant/living-donation-costs/ (last visited Mar. 23, 2021).

Organ and Tissue Procurement and Transplantation Advisory Board

Created by the Legislature in 1991, the Organ and Tissue Procurement and Transplantation Advisory Board (board) is housed at the AHCA. Current law requires the board to assist the AHCA in the development of professional qualifications of people involved in the organ donation and transplant process. The board is also tasked with helping AHCA monitor expenses associated with organ and tissue procurement, processing, and distribution for transplantation. Current law requires the board to provide assistance to the Florida Medical Examiners Commission in the development of appropriate procedures and protocols to ensure the continued improvement in the approval and release of potential donors by the district medical examiners and associate medical examiners.[27]

Additionally, the board works with the AHCA on necessary recommendations for procedures and protocols to assure that all Floridians have reasonable access to available organ and tissue transplants according to the severity of his or her medical condition and need. In collaboration with the AHCA, the board also develops recommendations for any changes to state laws or administrative rules to ensure that the statewide organ and tissue procurement and transplantation system is able to function smoothly, effectively, and efficiently, in accordance with federal laws.[28]

The board consists of 14 members who are appointed by the Secretary of the AHCA, including:[29]

- Two with expertise in vascular organ transplant surgery;
- Two with expertise in vascular organ procurement, preservation, and distribution;
- Two with expertise in musculoskeletal tissue transplant surgery;
- Two with expertise in musculoskeletal tissue procurement, processing, and distribution;
- One with expertise in eye and cornea transplant surgery;
- One with expertise in eye and cornea procurement, processing, and distribution;
- One with expertise in bone marrow procurement, processing, and transplantation;
- A representative from the Florida Pediatric Society;
- A representative from the Florida Society of Pathologists; and
- A representative from the Florida Medical Examiners Commission.

The board has not met since 2013.[30]

Organ Transplantation Regulation

Federal law requires transplant hospitals to be a member of the OPTN and abide by OPTN bylaws in order to provide transplant services.[31] The federal certification requirements include

[27] Section 765.543, F.S.
[28] *Id.*
[29] Section 765.543, F.S. *See also* Agency for Health Care Administration, *Organ and Tissue Procurement and Transplantation Advisory Board, available at* https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Lab_HomeServ/OrganTissueBoard.shtml (last visited Mar. 23, 2021).
[30] Agency for Health Care Administration, *Organ and Tissue Procurement and Transplantation Advisory Board, available at* https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Lab_HomeServ/OrganTissueBoard.shtml (last visited Mar. 23, 2021).
[31] 42 C.F.R. §482.72.

minimum volume standards for initial certification.[32] To obtain initial certification, an organ-specific transplant program must generally perform 10 transplants over a 12-month period.[33]

Current AHCA rule contains provisions relating to licensure of organ transplantation programs in the state but does not include minimum volume standards for organ transplant services.[34] The AHCA recently proposed a rule to require organ transplant licensees and applicants to seek and maintain federal certification from the federal Centers for Medicare & Medicaid Services.[35]

The proposed AHCA rule requires a hospital providing adult heart, kidney, liver, or lung transplants to meet such requirement within one year from initial licensure of each transplant program and to maintain such requirement in order to keep their license.[36] OPTN bylaws require transplant programs to meet the following volume requirements to remain functionally active:[37]

Transplant Program Type	Functional Inactivity Definition
Kidney, Liver, or Heart	Failure to perform at least 1 transplant in 3 consecutive months
Lung	Failure to perform at least 1 transplant in 6 consecutive months
Stand-alone pediatric	Failure to perform at least 1 transplant in 12 consecutive months
Pancreas	*Both* of the following: 1. Failure to perform at least 2 transplants in 12 consecutive months; and 2. *Either* of the following in 12 consecutive months: A median waiting time of the program's kidney-pancreas and pancreas candidates that is above the 67th percentile of the national waiting time; or The program had no kidney-pancreas or pancreas candidates registered at the program.
Islet, intestinal, and vascularized composite allograft	No functional inactivity definitions have been established.

Required Instruction in Schools

Florida law specifies required coursework and instruction for public school students. Specifically, each district school board must provide all courses required for middle grades promotion, high school graduation, and appropriate instruction designed to ensure that students meet State Board of Education (SBE) adopted standards in the following subject areas: reading and other language arts, mathematics, science, social studies, foreign languages, health and physical education, and the arts.[38]

[32] 42 C.F.R. §482.80.
[33] *Id.*
[34] Fla. Admin. Code R. 59C-1.044 (2021).
[35] Proposed rule 59A-3.246, F.A.C. A public hearing was scheduled on February 27, 2020. A copy of the draft rule is *available at* https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Hospital_Outpatient/Hospitals/docs/Text_DRAFT_59A-3.246_Licensed_Programs_H.pdf (last visited Mar. 23, 2021).
[36] *Id.*
[37] Organ Procurement and Transplantation Network, *Bylaws*, (Dec. 7, 2020) *available at* https://optn.transplant.hrsa.gov/media/1201/optn_bylaws.pdf (last visited March 23, 2021).
[38] Section 1003.42(1), F.S.

Instructional staff of public schools, subject to the rules of the SBE and the district school board, must provide instruction in: [39]

- The history and content of the Declaration of Independence;
- The history, meaning, significance, and effect of the provisions of the Constitution of the United States;
- The arguments in support of adopting our republican form of government;
- Flag education, including proper flag display and flag salute;
- The elements of civil government;
- The history of the United States;
- The history of the Holocaust;
- The history of African Americans;
- The elementary principles of agriculture;
- The effects of alcoholic and intoxicating liquors and beverages and narcotics;
- Kindness to animals;
- The history of the state;
- Conservation of natural resources;
- Comprehensive health education;
- The study of Hispanic contributions to the United States;
- The study of women's contributions to the United States;
- The nature and importance of free enterprise to the United States economy;
- A character-development program in kindergarten through grade 12; and
- The sacrifices that veterans and Medal of Honor recipients have made serving the country.

III. Effect of Proposed Changes:

SB 1318 amends multiple sections of the Florida statutes to make changes related to organ donation and transplantation.

Sections 1 and 7 amends ss. 379.352 and 765.521, F.S., respectively, to require educational materials regarding organ donation and registration to be made available and displayed for the public at each location where hunting, fishing, or trapping licenses or permits are sold. Additionally, each person who applies for a hunting, fishing, or trapping license or permit over the Internet must be provided a link to the statewide donor registry. The bill also includes recreational licenses and permits in the current program designed to encourage persons to sign up as an organ donor when being issued a driver licenses or identification card and makes other technical changes.

Section 2 amends s. 395.1055, F.S., to require AHCA rules establishing licensure requirements for hospitals to provide tertiary care services[40] to include minimum volume standards for organ transplantation and neonatal intensive care services.

Section 3 amends s. 409.906, F.S., to allow the AHCA to pay, through Medicaid, for organ transplantation services including pre-transplant, transplant, and post-discharge services, and

[39] The law encourages the SBE to adopt standards and pursue assessment relating to the required instructional content. s. 1003.42(2), F.S.
[40] Including organ transplantation, neonatal intensive care services, inpatient psychiatric services, inpatient substance abuse services, or comprehensive medical rehabilitation.

treatment of complications after transplantation for transplants deemed necessary and appropriate within the guidelines set by the Organ Transplant Advisory Council under s. 765.53, F.S., or the Bone Marrow Transplant Advisory Panel under s. 627.4236, F.S.

Section 4 amends s. 627.6045, F.S., to prohibit a preexisting condition provision in a health insurance policy from excluding coverage solely on the basis that the insured is a living organ donor.

Sections 5 and 10 amend s. 765.5155 and 1003.42, F.S., respectively, to expand the donor registry education program to include federal law, to require the contractor providing the education program to work with the AHCA and the SBE to develop an instructional curriculum for students in grades 9 through 12 relating to organ donor registration, and to require public schools to teach organ donor registration to students in grades 9 through 12.

Section 6 amends s.765.517, F.S., to prohibit an organ transplantation facility from charging a donor or his or her family member any fee for services relating to the procurement or donation of his or her organs.

Section 8 amends s. 765.522, F.S., to require any individual who requests the consent for an anatomical gift from the health care surrogate or family of a person who is, or will be, recently deceased in a hospital, to clearly explain to patients and living organ donors the protocols of the hospital and the federal and state laws regarding organ donation.

Section 9 amends s. 765.543, F.S., to require the OTPTAB to work with relevant public and private entities to develop the necessary professional qualifications, including continuing education, for licensed health care practitioners and other persons engaged in the various facets of organ and tissue procurement. The bill also requires the OTPTAB to submit to the AHCA, by September 1, 2022, recommendations that address the:

- Frequency of communication between patients and organ transplant coordinators.
- Monitoring of each organ transplantation facility and the annual reporting and publication of relevant information regarding the statewide number of patients placed on waiting lists and the number of patients who receive transplants, aggregated by facility.
- Establishment of a coordinated communication system between organ transplantation facilities and living organ donors for the purpose of minimizing the cost and time required for duplicative lab tests, including the sharing of lab results between facilities.
- Potential incentives for organ transplantation facilities to increase organ donation in this state.
- Creation of a more efficient regional or statewide living organ donor process.
- Potential opportunities and incentives for organ transplantation research.
- Best practices for organ transplantation facilities and organ procurement organizations which promote the most efficient and effective outcomes for patients.
- Monitoring of organ procurement organizations.

Section 11 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Article III, Section 6, of the State Constitution requires that "every law shall embrace but one subject and matter properly connected therewith, and the subject shall be briefly expressed in the title." SB 1318 is entitled "An act relating to organ donation and transplantation." As such, a portion of section 2 of the bill, requiring the AHCA to adopt minimum volume standards for neonatal intensive care services, may be found to be outside of the scope of the bill as titled and may be unconstitutional.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

SB 1318 may have a negative fiscal impact on the AHCA of approximately $56,000 for the first year of implementation and $20,000 for year two to hire one OPS position to implement the AHCA's duties under the bill.[41]

VI. Technical Deficiencies:

None.

[41] Agency for Health Care Administration, *House Bill 1009 Fiscal Analysis* (Mar. 5, 2021) (on file with the Senate Committee on Health Policy.)

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 379.352, 395.1055, 409.906, 627.6045, 765.5155, 765.517, 765.521, 765.522, 765.543, and 1003.42.

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 Harrell

25-01319-21 20211318__

A bill to be entitled

An act relating to organ donation and transplantation; amending s. 379.352, F.S.; requiring locations where certain recreational licenses or permits are sold to display and make available to the public educational materials relating to organ donation and registration; requiring that a link to the statewide donor registry be provided to persons applying for certain recreational licenses or permits; amending s. 395.1055, F.S.; revising a provision relating to certain rules adopted by the Agency for Health Care Administration; amending s. 409.906, F.S.; authorizing reimbursement for certain organ transplantation services under the Medicaid program; amending s. 627.6045, F.S.; prohibiting a health insurance policy from limiting or excluding coverage solely on the basis that an insured is a living organ donor; amending s. 765.5155, F.S.; revising the responsibilities of a contractor procured by the agency for the purpose of educating and informing the public about anatomical gifts; amending s. 765.517, F.S.; prohibiting an organ transplantation facility from charging a donor or his or her family member any fee for services relating to the procurement or donation of organs; amending s. 765.521, F.S.; revising the requirements for certain programs encouraging anatomical gifts to include the process of issuing and renewing recreational licenses and permits; making technical changes; amending s.

25-01319-21 20211318__

765.522, F.S.; revising a requirement that the agency establish rules and guidelines relating to the education of certain individuals designated to perform certain organ donation procedures; amending s. 765.543, F.S.; revising the duties of the Organ and Tissue Procurement and Transplantation Advisory Board; requiring the board to submit certain recommendations to the agency by a specified date; amending s. 1003.42, F.S.; requiring instruction on organ donation and registration for students in specified grade levels; providing an effective date.

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

Section 1. Present subsections (13) and (14) of section 379.352, Florida Statutes, are redesignated as subsections (14) and (15), respectively, and a new subsection (13) is added to that section, to read:

379.352 Recreational licenses, permits, and authorization numbers to take wild animal life, freshwater aquatic life, and marine life; issuance; costs; reporting.—

(13) At each location where hunting, fishing, or trapping licenses or permits are sold, educational materials regarding organ donation and registration shall be displayed and made available to the public. Each person who applies for a hunting, fishing, or trapping license or permit on the Internet shall be provided a link to the statewide donor registry operated under s. 765.5155.

Section 2. Paragraph (i) of subsection (1) of section

395.1055, Florida Statutes, is amended to read:

395.1055 Rules and enforcement.—

(1) The agency shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this part, which shall include reasonable and fair minimum standards for ensuring that:

(i) All hospitals providing organ transplantation, neonatal intensive care services, inpatient psychiatric services, inpatient substance abuse services, or comprehensive medical rehabilitation meet the minimum licensure requirements adopted by the agency. Such licensure requirements must include quality of care, nurse staffing, physician staffing, physical plant, equipment, emergency transportation, and data reporting standards. Agency rules must include minimum volume standards for organ transplantation and neonatal intensive care services.

Section 3. Subsection (28) is added to section 409.906, Florida Statutes, to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Optional services rendered by providers in mobile units to Medicaid recipients may be restricted or prohibited by the agency. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to

comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. If necessary to safeguard the state's systems of providing services to elderly and disabled persons and subject to the notice and review provisions of s. 216.177, the Governor may direct the Agency for Health Care Administration to amend the Medicaid state plan to delete the optional Medicaid service known as "Intermediate Care Facilities for the Developmentally Disabled." Optional services may include:

(28) ORGAN TRANSPLANTATION SERVICES.—The agency may pay for organ transplantation services, including pretransplant, transplant, and postdischarge services, and treatment of complications after transplantation for transplants deemed necessary and appropriate within the guidelines set by the Organ Transplant Advisory Council under s. 765.53 or the Bone Marrow Transplant Advisory Panel under s. 627.4236.

Section 4. Present subsections (3) and (4) of section 627.6045, Florida Statutes, are redesignated as subsections (4) and (5), respectively, and a new subsection (3) is added to that section, to read:

627.6045 Preexisting condition.—A health insurance policy must comply with the following:

(3) A preexisting condition provision may not limit or exclude coverage solely on the basis that an insured is a living organ donor.

Section 5. Paragraph (b) of subsection (3) of section 765.5155, Florida Statutes, is amended to read:

765.5155 Donor registry; education program.—

(3) The contractor shall be responsible for:

(b) A continuing program to educate and inform medical professionals, law enforcement agencies and officers, other state and local government employees, high school students, minorities, and the public about federal and state ~~the~~ laws ~~of this state~~ relating to anatomical gifts and the need for anatomical gifts, including the organ donation and transplantation process.

1. Existing community resources, when available, must be used to support the program and volunteers may assist the program to the maximum extent possible.

2. The contractor shall coordinate with the head of a state agency or other political subdivision of the state, or his or her designee, to establish convenient times, dates, and locations for educating that entity's employees.

3. The contractor shall, in consultation with the agency and the State Board of Education, develop an instructional curriculum for students in grades 9 through 12 relating to organ donor registration.

Section 6. Subsection (4) of section 765.517, Florida Statutes, is amended to read:

765.517 Rights and duties at death.—

(4) All reasonable additional expenses incurred in the procedures to preserve the donor's organs or tissues shall be reimbursed by the procurement organization. An organ transplantation facility may not charge a donor or his or her family member any fee for services relating to the procurement or donation of his or her organs.

Section 7. Section 765.521, Florida Statutes, is amended to read:

765.521 Donations as part of driver license, ~~or~~ identification card, or recreational license and permit process.—

(1) The agency and the department shall develop and implement a program encouraging and allowing persons to make anatomical gifts as a part of the process of issuing identification cards, ~~and~~ issuing and renewing driver licenses, and issuing and renewing recreational licenses and permits. The donor registration card distributed by the department shall include the information required by the uniform donor card under s. 765.514 and such additional information as determined necessary by the department. The department shall also develop and implement a program to identify donors which includes notations on identification cards, driver licenses, ~~and~~ driver records, and recreational licenses or permits or such other methods as the department develops to clearly indicate the individual's intent to make an anatomical gift. A notation on an individual's driver license, ~~or~~ identification card, or recreational license or permit that the individual intends to make an anatomical gift satisfies all requirements for consent to organ or tissue donation. The agency shall provide the necessary supplies and forms from funds appropriated from general revenue or contributions from interested voluntary, nonprofit organizations. The department shall provide the necessary recordkeeping system from funds appropriated from general revenue. The department and the agency shall incur no liability in connection with the performance of any acts authorized herein.

(2) The department shall maintain an integrated link on its

website which refers ~~referring~~ a visitor renewing a driver license or recreational license or permit or conducting other business to the donor registry operated under s. 765.5155.

(3) The department, after consultation with and concurrence by the agency, shall adopt rules to implement ~~the provisions of~~ this section in accordance with ~~according to the provisions of~~ chapter 120.

(4) The agency may not use funds appropriated for patient care ~~Funds expended by the agency~~ to carry out the intent of this section ~~may not be taken from funds appropriated for patient care~~.

Section 8. Subsection (3) of section 765.522, Florida Statutes, is amended to read:

765.522 Duty of hospital administrators; liability of hospital administrators and procurement organizations.—

(3) The agency shall establish rules and guidelines concerning the education of individuals who may be designated to perform the request and the procedures to be used in making the request, including a requirement that such individuals clearly explain to patients and living organ donors the protocols of the hospital and the federal and state laws regarding organ donation. The agency is authorized to adopt rules concerning the documentation of the request, where such request is made.

Section 9. Subsection (3) of section 765.543, Florida Statutes, is amended to read:

765.543 Organ and Tissue Procurement and Transplantation Advisory Board; creation; duties.—

(3)(a) The board shall do all of the following:

1.~~(a)~~ Assist the agency, in collaboration with other

relevant public or private entities, in the development of necessary professional qualifications, including, but not limited to, the continuing education, training, and performance of licensed health care practitioners and other persons engaged in the various facets of organ and tissue procurement, processing, preservation, and distribution for transplantation.~~;~~

2.~~(b)~~ Assist the agency in monitoring the appropriate and legitimate expenses associated with organ and tissue procurement, processing, and distribution for transplantation and developing methodologies to assure the uniform statewide reporting of data to facilitate the accurate and timely evaluation of the organ and tissue procurement and transplantation system.~~;~~

3.~~(c)~~ Provide assistance to the Florida Medical Examiners Commission in the development of appropriate procedures and protocols to ensure the continued improvement in the approval and release of potential donors by the district medical examiners and associate medical examiners.~~;~~

4.~~(d)~~ Develop with and recommend to the agency the necessary procedures and protocols required to assure that all residents of this state have reasonable access to available organ and tissue transplantation therapy and that residents of this state can be reasonably assured that the statewide procurement transplantation system is able to fulfill their organ and tissue requirements within the limits of the available supply and according to the severity of their medical condition and need.~~; and~~

5.~~(e)~~ Develop with and recommend to the agency any changes to the laws of this state or administrative rules or procedures

to ensure that the statewide organ and tissue procurement and transplantation system is able to function smoothly, effectively, and efficiently, in accordance with the Federal Anatomical Gift Act and in a manner that assures the residents of this state that no person or entity profits from the altruistic voluntary donation of organs or tissues.

(b) In addition to the duties described in paragraph (a), the board must submit to the agency, by September 1, 2022, recommendations that address all of the following:

1. Frequency of communication between patients and organ transplant coordinators.

2. Monitoring of each organ transplantation facility and the annual reporting and publication of relevant information regarding the statewide number of patients placed on waiting lists and the number of patients who receive transplants, aggregated by facility.

3. Establishment of a coordinated communication system between organ transplantation facilities and living organ donors for the purpose of minimizing the cost and time required for duplicative lab tests, including the sharing of lab results between facilities.

4. Potential incentives for organ transplantation facilities to increase organ donation in this state.

5. Creation of a more efficient regional or statewide living organ donor process.

6. Potential opportunities and incentives for organ transplantation research.

7. Best practices for organ transplantation facilities and organ procurement organizations which promote the most efficient

and effective outcomes for patients.

8. Monitoring of organ procurement organizations.

Section 10. Paragraph (u) is added to subsection (2) of section 1003.42, Florida Statutes, to read:

1003.42 Required instruction.—

(2) Members of the instructional staff of the public schools, subject to the rules of the State Board of Education and the district school board, shall teach efficiently and faithfully, using the books and materials required that meet the highest standards for professionalism and historical accuracy, following the prescribed courses of study, and employing approved methods of instruction, the following:

(u) For students in grades 9 through 12, organ donor registration.

The State Board of Education is encouraged to adopt standards and pursue assessment of the requirements of this subsection. A character development program that incorporates the values of the recipients of the Congressional Medal of Honor and that is offered as part of a social studies, English Language Arts, or other schoolwide character building and veteran awareness initiative meets the requirements of paragraphs (s) and (t).

Section 11. This act shall take effect July 1, 2021.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GAYLE HARRELL
25th District

COMMITTEES:
Transportation, Chair
Military and Veterans Affairs, Space, and Domestic Security, Vice Chair
Appropriations Subcommittee on Health and Human Services
Children, Families, and Elder Affairs
Finance and Tax

SELECT COMMITTEE:
Select Committee on Pandemic Preparedness and Response

March 3, 2021

Senator Manny Diaz
530 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Diaz,

I respectfully request that **SB 1318 – Organ Donation and Transplantation** be placed on the next available agenda for the Health Policy Committee Meeting.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

Gayle

Senator Gayle Harrell
Senate District 25

Cc: Allen Brown, Staff Director
Lynn Wells, Committee Administrative Assistant

REPLY TO:
❒ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019
❒ 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: *www.flsenate.gov*

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

2021 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Agency for Health Care Administration

BILL INFORMATION	
BILL NUMBER:	HB 1009
BILL TITLE:	Organ Donation and Transplantation
BILL SPONSOR:	Latvala
EFFECTIVE DATE:	July 1, 2021

COMMITTEES OF REFERENCE
1) Finance & Facilities Subcommittee
2) Secondary Education & Career Development Subcommittee
3) Environment, Agriculture & Flooding Subcommittee
4) Health & Human Services Committee
5)

CURRENT COMMITTEE
Finance & Facilities Subcommittee

SIMILAR BILLS	
BILL NUMBER:	SB 1318
SPONSOR:	Harrell

PREVIOUS LEGISLATION	
BILL NUMBER:	
SPONSOR:	
YEAR:	

IDENTICAL BILLS	
BILL NUMBER:	
SPONSOR:	

LAST ACTION:	

Is this bill part of an agency package?
Y ___ N ___

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	
LEAD AGENCY ANALYST:	Ruby Grantham
ADDITIONAL ANALYST(S):	Jessica Munn, Jesse Bottcher
LEGAL ANALYST:	
FISCAL ANALYST:	

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill primarily amends Part V of Chapter 765, F.S., relating to the donation of anatomical gifts including the organ donation and transplantation process. The bill specifies that neither donors nor their family members are responsible for payment of fees associated with donation or procurement services of organs, tissues or eyes and that a transplantation facility may not charge the donor or the donor's family members for such services.

Changes are proposed with regard to the education of individuals; this education pertains to the organ donation process and protocols and includes the development of a curriculum for students regarding laws relating to organ donation. The bill enhances the requirements of the Organ and Tissue Procurement and Transportation Advisory Board regarding standards of care and outcomes associated with organ transplants. The Board is directed to make recommendations to the Agency for transplant program standards donation and procurement efforts and programs. Section 379.352, F.S., contains the provisions for an individual to register as an organ donor during the application or renewal process of a State-issued driver's license or identification card.

The bill also revises section 395.1055, F.S., relating to hospital organ transplant programs and neonatal intensive care units, specifying that minimum volume requirements for organ transplantation and neonatal intensive care units be established in hospital licensure rules.

HB 1009 amends 409.906, F.S., allowing Florida Medicaid to pay for organ transplantation services as an optional benefit. These include pretransplant, transplant, and post-discharge services, and treatment of complications after transplantation. As these services are already covered in Florida Medicaid, this does not have an impact.

Additionally, the bill amends section 627.6045, F.S., and prohibits a preexisting condition provision in a health insurance policy from limiting or excluding coverage solely on the basis that an insured person is a living organ donor.

The Agency will require staff support to manage the Board; one full-time OPS staff person is requested to support the requirements in the bill.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Organ Donation and Education

Chapter 765, Part V, Florida Statutes outlines the regulatory requirements relating to the donation and procurement process of anatomical gifts of a body or parts of a body to be made after the death of a donor.

- Section 765.5155, F.S., provides requirements for a statewide donor registry and a donor education program. The statute charges the Department of Highway Safety and Motor Vehicles and the Agency for Health Care Administration to jointly contract with a vendor for the operation of the registry and education program and provides for the contractor requirements of the online registry and the donor education program.
- Section 765.517, F.S., details donor and recipient rights pertaining to anatomical gifts. The statute also includes the duties of the attending physician, procurement organization, and transplantation facility for procuring an organ when one becomes available. This section also discusses the reimbursement of fees and expenses associated with the preservation process of the donor's organs or tissues that are incurred by the procurement organization.
- Section 765.521, F.S., contains provisions for an individual to register as an organ donor at the time of application or renewal of a State-issued driver's license or identification card.
- Section 765.522, F.S., specifies the duty of a hospital administrator or a designee to notify the appropriate affiliated procurement organization of a potential organ donor, and the procurement organization's responsibility to request consent for organ donation from the appropriate party if the donor is not listed in the donor registry and documentation of an anatomical gift cannot be located. This section requires AHCA to establish rules and guidelines concerning the education of individuals who may be designated to perform the request and the procedures to be used in making the request. The Agency is authorized to adopt rules concerning the documentation of the request, where such request is made.
- Section 765.543, F.S., establishes the Organ and Tissue Procurement and Transplantation Advisory Board. The board's primary function is to assist the agency and make recommendations as follows:
  - Develop necessary professional qualifications, including, but not limited to, the education, training, and performance of persons engaged in the various facets of organ and tissue procurement, processing, preservation, and distribution for transplantation;
  - Monitor expenses associated with organ and tissue procurement, processing, and distribution for transplantation; developing methodologies to assure the uniform statewide reporting of data to facilitate the accurate and timely evaluation of the organ and tissue procurement and transplantation system;

- Provide assistance to the Florida Medical Examiners Commission to develop procedures and protocols for continued improvement in the approval and release of potential donors by the district medical examiners and associate medical examiners;
- Develop procedures and protocols to ensure Florida residents have reasonable access to available organ and tissue transplant therapy and to ensure the statewide procurement transplantation system is able to fulfill patient organ and tissue requirements based on available supply and according to the severity of their medical condition and need; and
- Develop statutory and rule changes or procedures necessary to ensure the statewide organ and tissue procurement and transplantation system functions effectively and efficiently, and in a manner that assures state residents that no person or entity profits from the donation of organs or tissues.

The Agency contracts with Donate Life Florida to operate a web-based organ and tissue donor registry through Department of Highway Safety and Motor Vehicles, and provide public education and outreach. The most recent annual report is available at: https://www.donatelife.net/wp-content/uploads/2018/09/DLA_AnnualReport.pdf. The 5-year contract through October 2025 with Florida Coalition on Donation dba Donate Life Florida is for up to $320,000. Approximately $64,000 is allotted per calendar year and the quarterly amounts are based on historical accounts of voluntary donations collected for the Organ & Tissue Donor Registry.
AHCA receives a quarterly invoice from Donate Life Florida (DLF) with a DHSMV excel file attached that lists the donations to the donor education trust fund. DHSMV pays that amount to AHCA and AHCA then pays that amount quarterly to Donate Life Florida. The amount of the yearly payments generally does not exceed 64K. DLF representatives visit driver license offices to deliver educational and registration materials and conduct training, and to encourage the driver license offices to participate in the campaign. The campaign increases visibility of Donate Life Florida in the driver license offices and encourages the public to donate to help support organ and tissue donor education in Florida. Florida county Driver License/Tax Collector Offices also host fundraising events to raise additional funds for organ donor education.
The Organ and Tissue Procurement and Transplantation Advisory Board has been inactive for 8 years. Panel members would need to be re-instated to facilitate the Panel duties.

Hospitals

Changes in 2019 legislation repealed the Certificate of Need (CON) requirement for hospitals. Section 408.0455, F.S., allows for existing CON rules to remain in effect and enforceable until the Agency can develop rules regarding organ transplant programs and neonatal intensive care units (NICUs) under licensure rules. Rules are under development by the Agency for both organ transplant programs and NICUs.
The Office of Program Policy Analysis and Government Accountability (OPPAGA) was tasked with reviewing federal requirements and licensure rules of other states regarding tertiary services, including recommendations on minimum volume requirements. Refer to chapter 2019-136, Laws of Florida. The OPPAGA report states a correlation between increased volume and quality, however, did not identify research to support specific volume thresholds for most tertiary services. The report recommends following standards established by professional medical associations and includes specific recommendations regarding NICU and transplant programs: establishment of a Level 4 NICU and use of CMS and OPTN standards for transplant services.
Centers for Medicare and Medicaid Services (CMS) regulates transplant programs and requires each program participate in the Organ Procurement and Transplantation Network (OPTN). Both programs have requirements that must be followed. CMS has historically monitored compliance of transplant programs through a contractor, but shifted the inspection responsibilities to the states (AHCA) in January 2019. CMS requires the Agency to conduct re-approval inspections for transplant hospitals no less than every five years. The Agency also investigates complaints or concerns regarding regulatory compliance. There are 12 hospitals with certified transplant programs in Florida. During 2019, the Agency conducted one re-approval inspection.

Medicaid Reimbursement for Organ Transplantation Services

Florida Medicaid currently covers organ transplantation services as one of its minimum state plan benefits, meaning that they are available to all recipients with full Medicaid benefits enrolled in the fee-for-service delivery system or the Statewide Medicaid Managed Care program. These services include the following:

- Organ transplantation procedures
- Transplant procedures for living donors
- Anti-rejection medications
- Ventricular-assist devices

The above listed services also include medically necessary pretransplant services, post-discharge services, and treatment for transplant-related complications.

Health Insurance Policies

Section 627.6045, F.S., addresses preexisting conditions with regards to the issuance of health insurance coverage and provides that a preexisting condition provision may not exclude coverage under certain conditions.

2. EFFECT OF THE BILL:

Organ Donation and Education

The following changes are made with respect to organ donation and education:

- Section 379.352, F.S. expands the provisions of organ donor registration to individuals applying for or renewing a recreational license or permit. The bill requires education materials to be displayed where hunting, trapping and fishing licenses or permits are sold and a link to the statewide donor registry to be provided to applicants for such licenses.
- Section 765.5155, F.S. expands the requirements for the contractor responsible for the donor registry and education program. The contractor must develop curriculum for high school students on organ donation. Curriculum to be developed in conjunction with State Board of Education and organ donor registry and education contractor. The current contract may need to be amended to address the new requirements to ensure that they are met. Additionally, Section 1003.42, F.S., is amended to require public school instructional staff to provide instruction to high school students in grades 9-12 about organ donor registration.
- Section 765.517, F.S. is amended to prohibit an organ transplantation facility from charging a donor or his or her family member any fee for services related to the donation or procurement of his or her organs.
- Section 765.521 is amended to include individuals applying for or renewing a State-issued recreational license or permit as part of organ donor and education programs to encourage organ donation.
- Section 765.522, F.S. revises a requirement that the Agency establish rules and guidelines relating to the education of certain individuals designated to perform certain organ donation procedures. The bill amends the Agency's requirement to develop rules and guidelines associated with organ donor education to clarify that individuals designated by the hospital administrator or organ procurement organization to make a request for donor consent, to clearly explain hospital protocols and state/federal regulations pertaining to organ donation.
- Section 765.543, F.S. revises the duties of the Organ and Tissue Procurement and Transplantation Advisory Board; and requires the board to submit certain recommendations to the Agency by September 1, 2022 for the following:
  - Frequency of communication between patients and transplant coordinators
  - Monitoring of transplant facilities and annual reporting of organ recipient data
  - Establishment of communication system between living donors and transplant facilities
  - Incentives necessary to increase organ donation
  - Creation of a more efficient organ donation process
  - Opportunities and incentives for organ transplantation research
  - Best practices for transplant hospitals and organ procurement organizations to promote the most effective and efficient patient outcomes
  - Monitoring of organ procurement organizations

The Agency will need one OPS paygrade 24 position for eighteen (18) months at an hourly rate of $19.69 to manage the programmatic duties in the bill. Based on the experience of the Agency managing similar panels, we expect 12-18 meetings with the Organ and Tissue Procurement and Transplantation Advisory Board during the fiscal year 2021-22. The OPS position will:

- Facilitate the appointment or reinstatement of Panel members.
- Manage activities of the Board including member support, meeting sponsorship and arrangement, agendas, minutes, travel and reimbursement.
- Develop required reports and manage panel materials and publication.
- Manage data collection, notice publication and response to questions and technical assistance for submitter and the public.
- Assist with the development and amendment of administrative rules based on recommendations.

There is a fiscal impact of $75,625 for the OPS position; $56,042 for fiscal year 2021-22 and $19,797 for fiscal year 2022-23.

Hospitals

Changes to s. 395.1055, F.S., will require the Agency to adopt rules establishing minimum volume requirements in organ transplant & neonatal intensive care services in hospital licensure rules.

Medicaid Reimbursement for Organ Transplantation Services

HB 1009's additions to section 409.906, F.S., do not pose an operational or fiscal impact to Florida Medicaid. The services that are being added as an optional Medicaid benefit are already covered by Medicaid.

Health Insurance Policies

Section 627.6045, F.S. is amended to prohibit a preexisting condition provision from limiting or excluding health insurance coverage solely on the basis that an insured is a living organ donor.

If implemented this bill will take effect July 1, 2021.

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

If yes, explain:	Changes to 395.1055(1)(l), F.S., will require the Agency to write rules.
Is the change consistent with the agency's core mission?	Y _X_ N ___
Rule(s) impacted (provide references to F.A.C., etc.):	Rules under development: 59A-3.246 (transplant) & 59A-3.249 (NICU)

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

Proponents and summary of position:	N/A
Opponents and summary of position:	N/A

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y _X__ N ___

If yes, provide a description:	The Organ and Tissue Procurement and Transplantation Advisory Board must submit a report of recommendations to the Agency.
Date Due:	September 1, 2022.
Bill Section Number(s):	Section 9

6. ARE THERE ANY GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC.? REQUIRED BY THIS BILL? Y ___ N _X__

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ___ N _X__

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

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y _X__ N ___

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

FISCAL IMPACT:	**Year 1 (FY 2021-22)**	**Year 2 (FY 2022-23)**	**Year 3 (FY 2023-24)**

Non-Recurring Impact:

Expenditures:

Expense (Agency Standard Expense Package)					
Professional Staff	0.00	@	$ 3,895	$ -	
Support Staff	0.00	@	3,491	-	
Total Non-Recurring Expense	**-**			**$ -**	
Operating Capital Outlay (Agency Standard Operating Capital Outlay Package)					
-	-	@	$ -	$ -	
-	-	@	-	-	
Total Operating Capital Outlay				**$ -**	
Total Non-Recurring Expenditures			**-**	**$ -**	

Recurring Impact:

Revenues:

-	$ -	$ -	$ -
-	-	-	-
Total Recurring Revenues	**$ -**	**$ -**	**$ -**

Expenditures:

Salaries	**Class Code**	**FTEs**	**Pay Grade**	**Rate**			
-				-	$ -	$ -	$ -
-				-	-	-	-
-				-	-	-	-
-				-	-	-	-
Total Salary and Benefits		**0.00**		**0**	**$ -**	**$ -**	**$ -**

OPS	**FTEs**			
Medical Health Care Program Analyst	1.00	$ 55,935	$ 19,690	$ -
-	0.00	-	-	-
-	0.00	-	-	-
-	0.00	-	-	-
Total OPS	**1.00**	**$ 55,935**	**$ 19,690**	**$**

Expenses

Professional Staff	0.00	@	$ 6,080	$ -	$ -	$ -
Support Staff	0.00	@	5,157	-	-	-
-				-	-	-
Total Expenses				**$ -**	**$ -**	$ -
Human Resources Services						
FTE Positions	0.00	@	$ 330	$ -	$ -	$ -
OPS Positions	1.00	@	107	107	107	
Total Human Resources Services				**$ 107**	**$ 107**	
Special Categories/Contracted Services						
-				$ -	$ -	$ -
-				-	-	-
-				-	-	-
Total Special Categories/Contracted Services				**$ -**	**$ -**	**$ -**
Total Recurring Expenditures				**$ 56,042**	**$ 19,797**	**$ -**

Total Revenues and Expenditures:

Sub-Total Recurring Revenues	$ -	$ -	$ -
Total Revenues	**$ -**	**$ -**	**$ -**
Sub-Total Non-Recurring Expenditures	$ -	$ -	$ -
Sub-Total Recurring Expenditures	56,042	19,797	
Total Expenditures	**$ 56,042**	**$ 19,797**	**$ -**
Net Impact (Total Revenues minus Total Expenditures)	**$ (56,042)**	**$ (19,797)**	**$ -**

Net Impact (By Fund)

Health Care Trust Fund (2003)	$ (56,042)	$ (19,797)	$ -
-	-	-	-
-	-	-	-
-	-	-	-
Net Impact (By Fund)	**$ (56,042)**	**$ (19,797)**	**$ -**

3. DOES THE BILL HAVE A THE FISCAL IMPACT TO THE PRIVATE SECTOR? Y _X__ N ___

Revenues:	None
Expenditures:	None
Other:	Prohibits an organ transplantation facility from charging a donor or the donor's family for fees related to the donation of procurement of the donor's organs.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ___ N _X__

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	

FEDERAL IMPACT

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

If yes, describe the anticipated impact including any fiscal impact.	

ADDITIONAL COMMENTS

LEGAL – GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

1318
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Organ donation

Name Ron Watson

Job Title Lobbyist

Address 9114 Seafair Lane
Street

Tallahassee FL 32317
City *State* *Zip*

Phone 850 567-1202

Email Watson.strategy@comcast.net

Speaking: [X] For [ ] Against [ ] Information

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

Representing Florida Renal Coalition

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 766
INTRODUCER:	Senator Rouson
SUBJECT:	Cardiovascular Emergency Protocols and Training
DATE:	March 29, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Favorable**
2.			CA	
3.			RC	

I. Summary:

SB 766 creates s. 395.3042, F.S., to establish requirements for the triage and transportation of heart attack victims to adult cardiovascular services (ACS) providers. The bill requires the Department of Health (DOH) to send a list of Level I and Level II ACS providers to each licensed emergency medical services (EMS) provider in the state and to develop a sample heart attack-triage assessment tool. The DOH must post the assessment tool to its website and provide a copy to each licensed EMS provider. The medical director of each licensed EMS provider is required to develop and implement assessment, treatment, and transport-destination protocols for heart attack patients, and each licensed EMS provider must use an assessment tool substantially similar to the one created by the DOH.

The bill also amends s. 401.465, F.S., to define "telecommunicator cardiopulmonary resuscitation training" and to require each 911 public safety telecommunicator to receive such training every two years. The bill requires the DOH to establish a procedure to monitor adherence to such training and allows the DOH to adjust state grant or shared revenue funding to a public safety agency based on the public safety agency's adherence to the training requirements.

The bill provides an effective date of July 1, 2021.

II. Present Situation:

911 Public Safety Telecommunicator Certification

Chapter 401, F.S., relates to medical telecommunications and transportation. Part I of ch. 401, F.S., is specific to the state's emergency telecommunication systems, administered by the Department of Management Services. Part II of ch. 401, F.S., is specific to the emergency medical services (EMS) grants program administered by the DOH.

Part III of ch. 401, F.S., consisting of ss. 401.2101-401.465, F.S., is specific to medical transportation services and provides for the regulation of EMS by the DOH, including the licensure of EMS service entities, the certification of staff employed by those services, and the permitting of vehicles used by such staff—whether for basic life support (BLS), advanced life support (ALS), or air ambulance services (AAS). At present, the DOH is responsible for the licensure and oversight of more than 60,000 emergency medical technicians and paramedics, more than 270 advanced and basic life support agencies, and over 4,500 EMS vehicles.[1]

Section 401.465, F.S., is specific to 911 public safety telecommunicator (PST) certification, as administered as part of the DOH EMS program. For purposes of that section of statute, the following terms are defined:[2]

- "911 public safety telecommunicator" means a public safety dispatcher or 911 operator whose duties and responsibilities include the answering, receiving, transferring, and dispatching functions related to 911 calls; dispatching law enforcement officers, fire rescue services, emergency medical services, and other public safety services to the scene of an emergency; providing real-time information from federal, state, and local crime databases; or supervising or serving as the command officer to a person or persons having such duties and responsibilities. However, the term does not include administrative support personnel, such as, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel.
- "Public safety telecommunication training program" means a 911 emergency public safety telecommunication training program that the DOH determines to be equivalent to the public safety telecommunication training program curriculum framework developed by the Department of Education (DOE) and consists of not less than 232 hours.

Any person employed as a PST at a public safety answering point, as defined in s. 365.172(3), F.S.,[3] must be certified by the DOH. A public safety agency, as defined in s. 365.171(3)(d), F.S.,[4] may employ a PST for a period not to exceed 12 months if the trainee works under the direct supervision of a certified 911 public safety telecommunicator, as determined by rule of the DOH, and is enrolled in a PST training program. An applicant for certification or recertification as a PST must apply to the DOH under oath on DOH-provided forms. The DOH establishes by rule educational and training criteria for the certification and recertification of PSTs, determines whether the applicant meets the statutory and rule requirements, and issues a certificate to any person who meets such requirements including those specific to training program completion, an oath of no addiction, an oath that there is no physical or mental impairment, application fee, application submission, and passage of a certification examination.[5]

A PST certification expires automatically if not renewed at the end of the two-year period and may be renewed if the certificate holder meets the DOH-established qualifications. The DOH

[1] *See* http://www.floridahealth.gov/licensing-and-regulation/ems-system/index.html (last visited March 24, 2021).
[2] Section 401.465(1), F.S.
[3] Section 365.172 (3)(y), F.S., defines a "public safety answering point" as the public safety agency that receives incoming 911 requests for assistance and dispatches appropriate public safety agencies to respond to the requests in accordance with the state E911 plan.
[4] Section 365.171(3)(d), F.S., defines a "public safety agency" as a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.
[5] Section 401.465(2), F.S.

establishes by rule a procedure that requires 20 hours of training for the biennial renewal certification of PSTs. The DOH may suspend or revoke a certificate at any time if it determines that the certificate holder does not meet the applicable qualifications. There is a process by which a certificate holder may request that his or her certificate be placed on inactive status.[6]

A person who was employed as a PST or a state-certified firefighter before April 1, 2012, must pass the examination approved by the DOH which measures the competency and proficiency in the subject material of the PST program, and upon passage of the examination, the completion of the PST training program is waived. In addition, the requirement for certification as a PST is waived for a person employed as a sworn, state-certified law enforcement officer, provided specified criteria are met.[7]

The following PST-related fees are specified in statute:
- Initial application for original certification: $50;
- Examination fee, set by the DOH, not to exceed $75;
- Biennial renewal certificate, set by the DOH, not to exceed $50;
- Training program fee, set by the DOH, not to exceed $50; and
- Duplicate, substitute or replacement certificate fee, set by the DOH, not to exceed $25.

Fees collected are deposited into the DOH EMS Trust Fund and used solely for administering this program.[8] The fees currently applied by the DOH are the maximum fees indicated above.[9]

The DOH has adopted three rules specific to its PST program responsibilities. These rules, which address PST certification, certification renewal, and PST course equivalency, were adopted in 2012.[10] These rules not only link to the DOH forms and reference documents but also link to the relevant DOE documents, such as PST curriculum framework.

The DOH website has extensive details specific to the PST program and includes links to all applicable forms for individuals who are seeking to become certified or re-certified as a PST, including PST examination details, training program requirements, and fees. Training programs must follow the DOE Public Safety Telecommunication Curriculum Framework and consist of not less than 232 hours in order to be approved as a PST training program. The DOH uses a vendor, Prometric,[11] to administer the testing for PST candidates.[12]

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[6] *Id.*
[7] *Id.*
[8] Section 401.465(3), F.S.
[9] *See* the Department of Health, *911 Public Safety Telecommunicator Program*, *available at* http://www.floridahealth.gov/licensing-and-regulation/911-public-safety-telecommunicator-program/index.html (last visited March 24, 2021).
[10] Fla. Adm. Code R. 64J-3 (2012).
[11] Prometric is a provider of technology-enabled testing and assessment solutions to many licensing and certification organizations, academic institutions, and government agencies.
[12] *Supra* note 9.

The DOH develops the learning objectives for the PST program, and these are reflected in the 142-page program study guide.[13] Until State Fiscal Year 2014-2015, the DOH learning objectives and the DOE curriculum framework included a requirement that PST training must include CPR training. In conjunction with the DOE and other stakeholders, the CPR element of required training was discontinued.[14]

According to the DOH, there are currently 115 active approved PST training programs in the state.[15]

Curriculum Framework for Public Safety Telecommunication

One of the divisions within the DOE is the Division of Adult and Community Education. Under this division is the DOE's Career & Technical Education (CTE) Programs section, which is responsible for developing and maintaining educational programs that prepare individuals for occupations important to Florida's economic development. These programs are organized into 17 different career clusters and are geared toward middle school, high school, district technical school, and Florida College System students throughout the state. Listed among the DOE's Career Clusters and Programs is Law, Public Safety, and Security. Among the certificate programs is the public safety telecommunicator program.[16]

The DOE Curriculum Framework for the PST program title indicates that the program offers a sequence of courses that:

- Provide coherent and rigorous content aligned with challenging academic standards and relevant technical knowledge and skills needed to prepare for further education and careers in DOE's Law, Public Safety and Security career cluster;
- Provide technical skill proficiency, and;
- Include competency-based applied learning that contributes to the academic knowledge, higher-order reasoning and problem-solving skills, work attitudes, general employability skills, technical skills, occupation-specific skills, and knowledge of all aspects of the Law, Public Safety and Security career cluster.[17]

Cardiopulmonary Resuscitation (CPR): First Aid

Cardiopulmonary resuscitation (CPR) is a lifesaving technique useful in many emergencies, including a heart attack or near drowning, in which someone's breathing or heartbeat has stopped. At its most basic, CPR is a technique which utilizes chest compressions when a patient has suffered from cardiac arrest. The American Heart Association recommends that everyone — untrained bystanders and medical personnel alike — begin CPR with chest compressions. CPR

[13] *See* the Department of Health, *Florida 911 Public Safety Telecommunicator Study Guide*, *available at* http://www.floridahealth.gov/licensing-and-regulation/911-public-safety-telecommunicator-program/_documents/911-pst-studyguide-2017E4.pdf.pdf (last visited March 24, 2021).
[14] E-mail from Department of Education to staff of the Senate Committee on Health Policy (January 30, 2020) (on file with the Senate Committee on Health Policy).
[15] E-mail from the Department of Health to staff of the Senate Committee on Health Policy (January 30, 2020) (on file with the Senate Committee on Health Policy).
[16] Department of Educations, *Career and Technical Education*, *available at* http://www.fldoe.org/academics/career-adult-edu/career-tech-edu/ (last visited March 24, 2021).
[17] *Id.*

can keep oxygenated blood flowing to the brain and other vital organs until more definitive medical treatment can restore a normal heart rhythm. When the heart stops, the lack of oxygenated blood can cause brain damage in only a few minutes. A person may die within eight to 10 minutes.[18]

Adult Cardiovascular Services

There are two levels of hospital program licensure for ACS. A Level I program is authorized to perform adult percutaneous cardiac intervention (PCI)[19] without onsite cardiac surgery and a Level II program is authorized to perform PCI with onsite cardiac surgery.[20]

For a hospital seeking a Level I ACS program license, it must demonstrate that, for the most recent 12-month period as reported to AHCA, it has: [21]

- Provided a minimum of 300 adult inpatient and outpatient diagnostic cardiac catheterizations; or
- Discharged or transferred at least 300 inpatients with the principal diagnosis of ischemic heart disease;[22] and that it has formalized, written transfer agreement with a hospital that has a Level II program.

A hospital seeking a Level II program license, it must demonstrate that, for the most recent 12-month period as reported to AHCA, it has:

- Performed a minimum of 1,100 adult inpatient and outpatient cardiac catheterizations, of which at least 400 must be therapeutic catheterizations; or
- Discharged at least 800 patients with the principal diagnosis of ischemic heart disease.

The Agency for Health Care Administration currently maintains a list on its website of hospitals with Level I and Level II ACS programs.[23]

III. Effect of Proposed Changes:

SB 766 creates s. 395.3042, F.S., to require:

- The DOH to send a list of providers of Level I and Level II ACS to the medical director of each licensed EMS provider in the state by June 1 of each year.
- The DOH to develop a sample heart attack-triage assessment tool, post the tool on its webpage, and provide a copy of the tool to each licensed EMS provider.
- Each licensed EMS provider to use a heart attack-triage assessment tool that is substantially similar to the sample triage assessment tool provided by the DOH.

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[18] *See* Mayo Clinic: *Cardiopulmonary resuscitation (CPR): First aid*, *available at* https://www.mayoclinic.org/first-aid/first-aid-cpr/basics/art-20056600 (last visited March 24, 2021).
[19] Percutaneous cardiac intervention (PCI), commonly known as coronary angioplasty or angioplasty, is a nonsurgical technique for treating obstructive coronary artery disease.
[20] Section 395.1055(18)(a), F.S.
[21] Section 408.0361(3)(b), F.S.
[22] Heart condition caused by narrowed heart arteries. This is also called "coronary artery disease" and "coronary heart disease."
[23] Agency for Health Care Administration, *Hospital & Outpatient Services Unit, Reports, Cardiovascular – Level I and II ACS, available at* https://ahca.myflorida.com/MCHQ/Health_Facility_Regulation/Hospital_Outpatient/Reports.shtml (last visited March 24, 2021).

- The medical director of each licensed EMS provider to develop and implement assessment, treatment, and transport-destination protocols for heart attack patients, with the intent to assess and treat patients and transport them to the most appropriate hospital. Such protocols must include the development and implementation of a plan for the triage and transport of patients with acute heart attack symptoms.

The bill also amends s. 401.465, F.S., to define "telecommunicator cardiopulmonary resuscitation training" to mean specific training and continuing education that is evidence-based and uses nationally accepted guidelines for high-quality telecommunicator cardiopulmonary resuscitation, including for the recognition of out-of-hospital cardiac arrest over the telephone and the delivery of telephonic instructions for treating such cardiac arrest and performing compression-only cardiopulmonary resuscitation. The bill adds telecommunicator cardiopulmonary resuscitation training to the list of training that each PST who takes telephone calls and provides dispatch functions for emergency medical conditions must take every two years. The DOH is required to establish a procedure to monitor adherence to these training requirements and may adjust state grant or shared revenue funds distributed to a public safety agency based on its employees' adherence or failure to adhere to the requirements.

The bill provides an effective date of July 1, 2021.

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 766 may have an indeterminate negative fiscal impact on EMS providers and public safety agencies related to the implementation of the protocols and training required by the bill.

C. Government Sector Impact:

SB 766 may have an indeterminate fiscal impact on the DOH related to enforcing the new training requirements for PSTs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 401.465 of the Florida Statutes.

This bill creates section 395.3042 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Rouson

19-00150B-21 2021766__

A bill to be entitled

An act relating to cardiovascular emergency protocols and training; creating s. 395.3042, F.S.; requiring the Department of Health to send a list of certain providers of adult cardiovascular services to the medical directors of licensed emergency medical services providers by a specified date each year; requiring the department to develop a sample heart attack-triage assessment tool; requiring the department to post the sample assessment tool on its website and provide a copy of it to all licensed emergency medical services providers; requiring such providers to use an assessment tool substantially similar to the one developed by the department; requiring the medical director of each licensed emergency medical services provider to develop and implement certain protocols for heart attack patients; requiring licensed emergency medical services providers to comply with certain provisions; amending s. 401.465, F.S.; defining the term "telecommunicator cardiopulmonary resuscitation training"; requiring certain 911 public safety telecommunicators to receive biennial telecommunicator cardiopulmonary resuscitation training; requiring the department to establish a procedure to monitor adherence to the training requirements; authorizing the department to adjust state grant or shared revenue funds distributed to certain entities based on their employees' adherence or failure to adhere to the training

19-00150B-21 2021766__

requirements; providing an effective date.

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

Section 1. Section 395.3042, Florida Statutes, is created to read:

395.3042 Emergency medical services providers; triage and transportation of heart attack victims to an adult cardiovascular services provider.—

(1) By June 1 of each year, the department shall send a list of providers of Level I and Level II adult cardiovascular services to the medical director of each licensed emergency medical services provider in this state.

(2) The department shall develop a sample heart attack-triage assessment tool. The department shall post this sample assessment tool on its website and provide a copy of the assessment tool to each licensed emergency medical services provider. Each licensed emergency medical services provider must use a heart attack-triage assessment tool that is substantially similar to the sample triage assessment tool provided by the department.

(3) The medical director of each licensed emergency medical services provider shall develop and implement assessment, treatment, and transport-destination protocols for heart attack patients, with the intent to assess and treat patients and transport them to the most appropriate hospital. Such protocols must include the development and implementation of a plan for the triage and transport of patients with acute heart attack symptoms.

(4) Each emergency medical services provider licensed under chapter 401 shall comply with this section.

Section 2. Present subsections (3) and (4) of section 401.465, Florida Statutes, are redesignated as subsections (4) and (5), respectively, paragraph (d) of subsection (1) and a new subsection (3) are added to that section, and paragraphs (d) and (j) of subsection (2) of that section are amended, to read:

401.465 911 public safety telecommunicator certification.—

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

(d) "Telecommunicator cardiopulmonary resuscitation training" means specific training and continuing education that is evidence-based and uses nationally accepted guidelines for high-quality telecommunicator cardiopulmonary resuscitation, including for the recognition of out-of-hospital cardiac arrest over the telephone and the delivery of telephonic instructions for treating such cardiac arrest and performing compression-only cardiopulmonary resuscitation.

(2) PERSONNEL; STANDARDS AND CERTIFICATION.—

(d) The department shall determine whether the applicant meets the requirements specified in this section and in rules of the department and shall issue a certificate to any person who meets such requirements. Such requirements must include the following:

1. Completion of an appropriate 911 public safety telecommunication training program;

2. Certification under oath that the applicant is not addicted to alcohol or any controlled substance;

3. Certification under oath that the applicant is free from any physical or mental defect or disease that might impair the

applicant's ability to perform his or her duties;

4. Submission of the application fee prescribed in subsection (4) ~~(3)~~;

5. Submission of a completed application to the department which indicates compliance with subparagraphs 1., 2., and 3.; and

6. Effective October 1, 2012, passage of an examination approved by the department which measures the applicant's competency and proficiency in the subject material of the public safety telecommunication training program.

(j)1. The requirement for certification as a 911 public safety telecommunicator is waived for a person employed as a sworn state-certified law enforcement officer, provided the officer:

a. Is selected by his or her chief executive to perform as a 911 public safety telecommunicator;

b. Performs as a 911 public safety telecommunicator on an occasional or limited basis; and

c. Passes the department-approved examination that measures the competency and proficiency of an applicant in the subject material comprising the public safety telecommunication program.

2. A sworn state-certified law enforcement officer who fails an examination taken under subparagraph 1. must take a department-approved public safety telecommunication training program prior to retaking the examination.

3. The testing required under this paragraph is exempt from the examination fee required under subsection (4) ~~(3)~~.

(3) TELECOMMUNICATOR CARDIOPULMONARY RESUSCITATION TRAINING.—

(a) In addition to the certification and recertification requirements imposed in subsection (2), 911 public safety telecommunicators who take telephone calls and provide dispatch functions for emergency medical conditions shall also receive telecommunicator cardiopulmonary resuscitation training every 2 years.

(b) The department shall establish a procedure to monitor adherence to the training requirements of this subsection and may adjust state grant or shared revenue funds distributed to a public safety agency as defined in s. 365.171(3)(d) based on its employees' adherence or failure to adhere to these requirements.

Section 3. This act shall take effect July 1, 2021.

The Florida Senate

Committee Agenda Request

To: Senator Manny Diaz, Jr., Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: February 2, 2021

I respectfully request that **Senate Bill #766**, relating to Cardiovascular Emergency Protocols and Training, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Darryl E Rouson

Senator Darryl Ervin Rouson
Florida Senate, District 19

File signed original with committee office

S-020 (03/2004)

From: Taylor, Kathleen <Kathleen.Taylor@fldoe.org>
Sent: Thursday, January 30, 2020 12:35 PM
To: Williams, Phil
Subject: Fw: SB 1014

Phil:
Please see below.
Thank you.

From: Tomlin, Melissa <Melissa.Tomlin@fldoe.org>
Sent: Thursday, January 30, 2020 12:26 PM
To: Taylor, Kathleen <Kathleen.Taylor@fldoe.org>
Subject: RE: SB 1014

It is my understanding that DOH, in collaboration with other stakeholders such as DOE, EMS, Fire, and Law Enforcement personnel throughout the state, decided to remove CPR from the curriculum. The FDOE State Supervisor works closely with all regulatory agencies/boards to ensure all curriculum modifications are conducted promptly. Wendy Bynum, DOH's 911 Public Safety Telecommunicator Program Manager, is the contact relating to this program. At FDOE, you can contact Melissa Tomlin, State Supervisor for PST curriculum, Eric Owens, Senior Educational Program Director, or Bureau Chief Kathleen Taylor.

Wendy Bynum, Program Manager
911 Public Safety Telecommunicator Program
Office: 850.245.4517
Florida Department of Health
Bureau of Emergency Medical Oversight
4052 Bald Cypress Way, Bin A-22
Tallahassee, FL 32399-1722

From: Taylor, Kathleen
Sent: Thursday, January 30, 2020 10:54 AM
To: Tomlin, Melissa <Melissa.Tomlin@fldoe.org>
Subject: Re: SB 1014

Can you do me a favor and write up a response b.c. i am stuck upstairs for 4 hours?

From: Tomlin, Melissa <Melissa.Tomlin@fldoe.org>
Sent: Thursday, January 30, 2020 10:21 AM

To: Taylor, Kathleen <Kathleen.Taylor@fldoe.org>
Subject: RE: SB 1014

I am in the office whenever you are available.

From: Taylor, Kathleen
Sent: Wednesday, January 29, 2020 6:59 PM
To: Tomlin, Melissa <Melissa.Tomlin@fldoe.org>
Subject: Fw: SB 1014

Hi! Let's strategize on a response in the morning.
Thank you.

From: Williams, Phil <Williams.Phil@flsenate.gov>
Sent: Wednesday, January 29, 2020 6:42 PM
To: Taylor, Kathleen <Kathleen.Taylor@fldoe.org>
Cc: Tomlin, Melissa <Melissa.Tomlin@fldoe.org>; Owens, Eric <Eric.Owens@fldoe.org>; Garcia, Brianna <Brianna.Garcia@fldoe.org>
Subject: RE: SB 1014

All--Thanks very much for the responses, and the timeliness. Do any of you know why DOH suggested the CPR change in 2014-2015? When those types of changes are desired, is that just a policy decision that DOH or DOE makes, or was that in some way directed by the Legislature, either by a bill, proviso, or some other means? If a decision were to be made to re-institute CPR as part of training, including the telephonic instruction on performing CPR, how would that content directive best be communicated to DOH and the curriculum content directive best be communicated to DOE.

And I figured out that part of my lack of clarity with the CPR element of the curriculum was attributable that when I went searching for a curriculum the one that popped up was from 2010.

Thanks for helping me understand all this.

Phil

Phil E. Williams
Deputy Staff Director
Committee on Health Policy
Florida Senate
850.487.5824
williams.phil@flsenate.gov

From: Taylor, Kathleen <Kathleen.Taylor@fldoe.org>
Sent: Wednesday, January 29, 2020 5:36 PM
To: Williams, Phil <Williams.Phil@flsenate.gov>
Cc: Tomlin, Melissa <Melissa.Tomlin@fldoe.org>; Owens, Eric <Eric.Owens@fldoe.org>; Garcia, Brianna <Brianna.Garcia@fldoe.org>
Subject: FW: SB 1014

Phil:

Please see the responses below from a member of my team who oversees our public safety programs which includes public safety telecommunications. If you need additional information, we'd be happy to set up a conference call with you.
Thank you.
Kathleen

Kathleen Taylor
Bureau Chief
Division of Career and Adult Education
Florida Department of Education
325 West Gaines Street, Suite 714c
Tallahassee, FL 32399
850-245-9062 Office
Kathleen.taylor@fldoe.org

FLORIDA DEPARTMENT OF EDUCATION
fldoe.org

From: Tomlin, Melissa
Sent: Wednesday, January 29, 2020 2:51 PM
To: Taylor, Kathleen <Kathleen.Taylor@fldoe.org>
Subject: RE: SB 1014

Kathleen,

Below are my responses to the initial email, I feel these responses also provide guidance on the suggested approaches that were proposed in the later email. Let me know if you need me to be more specific. Also, I was able to speak with my contact at FDOH, to confirm these responses were accurate.

- As I understand it, the training protocol for all public safety telecommunicators is a standard protocol. Please confirm that.
  - Yes, Florida Department of Health has developed all learning objectives for public safety telecommunicators, Florida Department of Education maintains the curriculum framework.

- Part of the standard training includes training in cardiopulmonary resuscitation (CPR). Please confirm that.
  - No, the current curriculum framework does not include CPR training. This learning objective was eliminated in 2014-2015, per FDOH.

- Once one is trained in CPR, does that prepare one to give telephonic instructions on the use of CPR in an emergency situation? If the CPR training does prepare one to offer direction in CPR use by phone, is a specific supplemental training in CPR necessary?
  - When CPR was a learning objective in the curriculum framework, it was standard CPR training and did not include the telephonic instructions.

- What is the timing for 'refresher' training for telecommunicators? Would the two-year window for refresher CPR training specified in the bill be consistent or inconsistent with the telecommunicator refresher training schedule?
    - The timing for the "refresher" or renewal is every other year. However, as of now this does not include "Telecommunicator CPR training" in the framework therefore, this competency isn't identified as a portion of the 20 hours necessary for renewal per 64J-3.003 (1)(a).

- If SB 1014 were to proceed, would Florida's resulting telecommunicator training then be different in content that other standard training that exists, or has something like this been done elsewhere? To your knowledge, are there other examples of other 'one-off' training that has been incorporated into telecommunicator training elsewhere?
    - SB 1014 would modify the current content established by FDOH and then FLDOE would need to update our curriculum framework to include CPR and the supplemental standards for telephonic delivery of CPR.
    - Not familiar with any other "one-off" training for PST.

From: Taylor, Kathleen
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To: Williams, Phil <Williams.Phil@flsenate.gov>
Cc: Tomlin, Melissa <Melissa.Tomlin@fldoe.org>; Garcia, Brianna <Brianna.Garcia@fldoe.org>
Subject: RE: SB 1014

Phil,
Will do. My initial reaction is that this is an important enhancement to the training program and another mechanism for our public safety communicators to guide those in crisis to perform basic lifesaving CPR until such time as municipal first responders/EMTs/paramedics arrive on scene.

We hope to have a complete response to your questions later this afternoon.
Kind Regards,
Kathleen Taylor

Kathleen Taylor
Bureau Chief
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Tallahassee, FL 32399
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Kathleen.taylor@fldoe.org

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From: Williams, Phil [mailto:Williams.Phil@flsenate.gov]
Sent: Wednesday, January 29, 2020 8:53 AM
To: Taylor, Kathleen <Kathleen.Taylor@fldoe.org>

Good morning, Kathleen. As you folks work your way through this topic, please also provide me with your reaction to the statement below. This is a concept I have crafted as I think through possible alternative approaches to what Senator Rouson is trying to accomplish. I appreciated your input. Thanks. Phil

> As previously indicated, training in CPR is currently part of the public safety telecommunicator core training competencies. The approach proposed in the bill would require those who have undergone training and become certified in all other respects as a public safety telecommunicator to undergo another, separate level of training. The focus of this separate training requirement is to prepare a public safety telecommunicator in the delivery of telephonic instruction in the performance of CPR.
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> As an alternative approach, perhaps those core competencies for public safety telecommunicator training should be slightly modified to include as part of the CPR element specific competencies in the delivery of telephonic instruction in the performance of CPR. Once training is complete and certification granted, there would be no need for supplemental training other than standard periodic overall refresher training. To accomplish this, the bill would need to be amended to direct the Department of Education to appropriately modify the core training competencies for public safety telecommunicators.

Phil E. Williams
Deputy Staff Director
Committee on Health Policy
Florida Senate
850.487.5824
williams.phil@flsenate.gov

From: Williams, Phil <Williams.Phil@flsenate.gov>
Sent: Tuesday, January 28, 2020 7:13 PM
To: Taylor, Kathleen <Kathleen.Taylor@fldoe.org>
Subject: Re: SB 1014

Perfect. Thanks.

Sent from my iPhone

On Jan 28, 2020, at 7:01 PM, Taylor, Kathleen <Kathleen.Taylor@fldoe.org> wrote:

> Hello Phil:
> I am going to have my staff member who oversees our 911 telecommunication program review so I can respond to your questions as quickly as possible.
> Kind Regards,
> Kathleen Taylor
>
> ---
>
> **From:** Williams, Phil <Williams.Phil@flsenate.gov>
> **Sent:** Tuesday, January 28, 2020 5:05 PM
> **To:** Taylor, Kathleen <Kathleen.Taylor@fldoe.org>
> **Subject:** SB 1014
>
> Ms. Taylor. You do not know me, but I was referred to you by staff in the Senate Education Committee, and received your name and email address from them.

I am working on an analysis of SB 1014. I have a few questions for which I hope you can provide some assistance:

- As I understand it, the training protocol for all public safety telecommunicators is a standard protocol. Please confirm that.
- Part of the standard training includes training in cardiopulmonary resuscitation (CPR). Please confirm that.
- Once one is trained in CPR, does that prepare one to give telephonic instructions on the use of CPR in an emergency situation? If the CPR training does prepare one to offer direction in CPR use by phone, is a specific supplemental training in CPR necessary?
- What is the timing for 'refresher' training for telecommunicators? Would the two-year window for refresher CPR training specified in the bill be consistent or inconsistent with the telecommunicator refresher training schedule?
- If SB 1014 were to proceed, would Florida's resulting telecommunicator training then be different in content that other standard training that exists, or has something like this been done elsewhere? To your knowledge, are there other examples of other 'one-off' training that has been incorporated into telecommunicator training elsewhere?

If it is easier to address these issues via a call rather than a written or email response, I am happy to find time for that. My direct phone number is 850-487-5148.

Thanks in advance for your assistance.

Phil

Phil E. Williams
Deputy Staff Director
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Florida Senate
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From: Taylor, Kathleen <Kathleen.Taylor@fldoe.org>
Sent: Thursday, January 30, 2020 7:47 PM
To: Williams, Phil; Tomlin, Melissa; Owens, Eric
Subject: Re: SB 1014

Phil:
As soon as DOH hands over the specific competencies for student mastery we can update our framework and let school districts and state colleges know of the change.
Many thanks
Kathleen

From: Williams, Phil <Williams.Phil@flsenate.gov>
Sent: Thursday, January 30, 2020 3:08 PM
To: Taylor, Kathleen <Kathleen.Taylor@fldoe.org>
Subject: RE: SB 1014

Thanks very much. Greatly appreciated.

And for what will hopefully be my final question: If a directive is provided to change the DOH learning objectives and the DOE curriculum guidance, what is the typical timeline for completion?

Phil E. Williams
Deputy Staff Director
Committee on Health Policy
Florida Senate
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Subject: Fw: SB 1014

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Thank you.

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From: Williams, Phil [mailto:Williams.Phil@flsenate.gov]
Sent: Wednesday, January 29, 2020 8:53 AM
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Subject: RE: SB 1014

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Phil E. Williams
Deputy Staff Director
Committee on Health Policy
Florida Senate
850.487.5824

From: Williams, Phil <Williams.Phil@flsenate.gov>
Sent: Tuesday, January 28, 2020 7:13 PM
To: Taylor, Kathleen <Kathleen.Taylor@fldoe.org>
Subject: Re: SB 1014

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Sent from my iPhone

On Jan 28, 2020, at 7:01 PM, Taylor, Kathleen <Kathleen.Taylor@fldoe.org> wrote:

> Hello Phil:
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> Kathleen Taylor

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If it is easier to address these issues via a call rather than a written or email response, I am happy to find time for that. My direct phone number is 850-487-5148.

Thanks in advance for your assistance.

Phil

Phil E. Williams

Committee on Health Policy
Florida Senate
850.487.5824
williams.phil@flsenate.gov

From: Landry, Gary P <Gary.Landry@flhealth.gov>
Sent: Thursday, January 30, 2020 9:21 AM
To: Williams, Phil
Subject: Re: Last question was left off of previous email

Subject: RE: Followup to AED questions from last week
Good morning, our database shows 155 active approved 911 PST training programs.

Get Outlook for iOS

From: Williams, Phil <Williams.Phil@flsenate.gov>
Sent: Wednesday, January 29, 2020 6:52:35 PM
To: Landry, Gary P <Gary.Landry@flhealth.gov>
Subject: RE: Last question was left off of previous email

Thanks. And for the training programs that are approved, if you could somehow classify those, that would be helpful. Maybe along the lines of state colleges or technical centers or some other education entity

And one more question. In my ongoing back and forth with DOE, they provided the following:

- Part of the standard training includes training in cardiopulmonary resuscitation (CPR). Please confirm that.

No, the current curriculum framework does not include CPR training. This learning objective was eliminated in 2014-2015, per FDOH.

Does anyone at DOH have any knowledge as to why this change might have been made in 2014-2015? Was this in some way legislatively driven?

Thanks.

Phil E. Williams
Deputy Staff Director
Committee on Health Policy
Florida Senate
850.487.5824
williams.phil@flsenate.gov

From: Landry, Gary P <Gary.Landry@flhealth.gov>
Sent: Wednesday, January 29, 2020 4:20 PM
To: Williams, Phil <Williams.Phil@flsenate.gov>
Subject: RE: Last question was left off of previous email

They are working on it.

Gary Landry
Office of Legislative Planning
2585 Merchants Row Blvd
(850) 617-1431

From: Williams, Phil [mailto:Williams.Phil@flsenate.gov]
Sent: Wednesday, January 29, 2020 2:31 PM
To: Landry, Gary P <Gary.Landry@flhealth.gov>
Subject: RE: Last question was left off of previous email

Hey, Gary. Can you folks tell me how many training programs are approved at present to provide public safety telecommunicator training? Thanks. Phil

Phil E. Williams
Deputy Staff Director
Committee on Health Policy
Florida Senate
850.487.5824
williams.phil@flsenate.gov

From: Williams, Phil
Sent: Friday, January 24, 2020 5:20 PM
To: 'Landry, Gary P' <Gary.Landry@flhealth.gov>
Subject: RE: Last question was left off of previous email

Thanks, Gary. I think I have what I need on SB 934.

For SB 1014, do I need to direct my questions to DOE, since they seem to be the ones who set the training standards? The document you provided did not have the level of detail needed to address my questions.

And, any idea if I will see a DOH analysis for either bill?

Phil

Phil E. Williams
Deputy Staff Director
Committee on Health Policy
Florida Senate
850.487.5824
williams.phil@flsenate.gov

From: Landry, Gary P <Gary.Landry@flhealth.gov>
Sent: Friday, January 24, 2020 1:24 PM
To: Williams, Phil <Williams.Phil@flsenate.gov>
Subject: Last question was left off of previous email

The bill directs the Surgeon General to adopt rule guidance on bleeding control kits , just as was previously done for AED placement in all state buildings, in conjunction with the Department of Management Services (DMS). Does DOH have any information on how many AEDs are in state buildings at present under s. 768.1326, F.S.? I ask you because DMS does not have a number.
The department does not track the number of AEDs in all state buildings. We are working on getting the number of AEDs placed for DOH but do not have an answer yet. There are 12 AED's spread throughout 4 buildings.

Gary Landry

2585 Merchants Row Blvd
(850) 617-1431

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/31/2021
Meeting Date

SB 766
Bill Number (if applicable)

Topic SB 766 - Cardiovascular Emergency Protocols & Training

Amendment Barcode (if applicable)

Name Tiffany McCaskill Henderson

Job Title Government Relations Director

Address 2851 Remington Green Circle, Suite A
Street

Phone 850-933-5928

Tallahassee FL 32308
City *State* *Zip*

Email tiffany.henderson@heart.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing American Heart Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

766
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic _____

Name Chris Noland

Job Title _____

Address 4427 Herschel St
Street

Jax FL 32210
City *State* *Zip*

Phone 904-233-3011

Email cnolandlaw@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Society of Thoracic & Cardiovascular Surgeons

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 1830
INTRODUCER:	Health Policy Committee and Senator Jones
SUBJECT:	Medication Technicians
DATE:	March 31, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke/Smith	Brown	HP	**Fav/CS**
2.			AHS	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1830 defines the term "medication technician" and allows assisted living facilities (ALFs) to employ medication technicians for the provision of specified services who have completed six hours of training.

The bill provides an effective date of July 1, 2021.

II. Present Situation:

An ALF is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.[1] A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.[2] Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.[3]

An ALF is required to provide care and services that are appropriate to the needs of the residents who are accepted for admission to the facility.[4] The owner or facility administrator determines

[1] Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.
[2] Section 429.02(17), F.S.
[3] Section 429.02(1), F.S.
[4] *See* Fla. Admin. Code R. 59A-36.007 (2019), for specific minimum standards.

whether an individual is appropriate for admission to the facility based on a number of criteria.[5] If, as determined by the facility administrator or health care provider, a resident no longer meets the criteria for continued residency or the facility is unable to meet the resident's needs, the resident must be discharged in accordance with the Resident Bill of Rights.[6]

There are 3,146 licensed ALFs in Florida having a total of 112,520 beds.[7] An ALF must have a standard license issued by the Agency for Health Care Administration (AHCA) under part I of ch. 429, F.S., and part II of ch. 408, F.S. In addition to a standard license, an ALF may have one or more specialty licenses that allow an ALF to provide additional care. These specialty licenses include limited nursing services (LNS),[8] limited mental health services (LMH),[9] and extended congregate care services (ECC).[10]

ALF Staff Training

Administrators and Managers

Administrators and other ALF staff must meet minimum training and education requirements established in rule by the AHCA,[11] that are intended to assist ALFs in appropriately responding to the needs of residents, maintaining resident care and facility standards, and meeting licensure requirements.[12]

The current ALF core training requirements established by the AHCA consist of a minimum of 26 hours of training and passing a competency test. Administrators and managers must successfully complete the core training requirements within three months after becoming an ALF administrator or manager. The minimum passing score for the competency test is 75 percent.[13]

Administrators and managers must participate in 12 hours of continuing education in topics related to assisted living every two years.[14] A newly-hired administrator or manager, who has successfully completed the ALF core training and continuing education requirements, is not required to retake the core training. An administrator or manager who has successfully completed the core training but has not maintained the continuing education requirements, must retake the ALF core training and retake the competency test.[15]

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[5] Section 429.26, F.S., and Fla. Admin. Code R. 59A-36.006 (2019).
[6] Section 429.28, F.S.
[7] Agency for Health Care Administration, Health Care Finder. *See* http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx (last visited March 26, 2021).
[8] Section 429.07(3)(c), F.S.
[9] Section 429.075, F.S.
[10] Section 429.07(3)(b), F.S.
[11] Fla. Admin. Code R. 59A-36.011 (2019).
[12] Section 429.52(1), F.S.
[13] Administrators who have attended core training prior to July 1, 1997, and managers who attended the core training program prior to April 20, 1998, are not required to take the competency test. Administrators licensed as nursing home administrators in accordance with part II of chapter 468, F.S., are exempt from this requirement.
[14] Fla. Admin. Code R. 59A-36.011 (2019).
[15] Fla. Admin. Code R. 59A-36.011 (2019).

Staff with Direct Care Responsibilities

Facility administrators or managers are required to provide or arrange for six hours of in-service training for facility staff who provide direct care to residents.[16] Additionally, staff who will be assisting with the self-administration of medication must take an additional six hours of training prior to providing such assistance.

Staff training requirements must generally be met within 30 days after staff begin employment at the facility; however, staff must have at least one hour of infection control training before providing direct care to residents. Nurses, certified nursing assistants, and home health aides who are on staff with an ALF are exempt from many of the training requirements. In addition to the standard six hours of in-service training, staff must complete one hour of elopement training and one hour of training on "do not resuscitate" orders. The staff may be required to complete training on special topics such as self-administration of medication and Alzheimer's disease, if applicable.

Assistance with the Self-Administration of Medications

Section 429.256, F.S., establishes requirements for the assistance with the self-administration of medication. Residents who are capable of administering their own medications to do so but an unlicensed person who is 18 years of age or older and has completed the required six hours of training may,[17] consistent with a dispensed prescription's label or the package directions of an over-the-counter medication, assist a resident whose condition is medically stable with the self-administration of routine, regularly scheduled medications that are intended to be self-administered. Assistance with self-medication by an unlicensed person may occur only upon a documented request by, and the written informed consent of, a resident or the resident's surrogate, guardian, or attorney in fact.

The section specifies that the assistance with self-administration of medication includes:

- Taking the medication, in its previously dispensed, properly labeled container, including an insulin syringe that is prefilled with the proper dosage by a pharmacist and an insulin pen that is prefilled by the manufacturer, from where it is stored, and bringing it to the resident.
- In the presence of the resident, confirming that the medication is intended for that resident, orally advising the resident of the medication name and dosage, opening the container, removing a prescribed amount of medication from the container, and closing the container. The resident may sign a written waiver to opt out of being orally advised of the medication name and dosage. The waiver must identify all of the medications intended for the resident, including names and dosages of such medications, and must immediately be updated each time the resident's medications or dosages change.
- Placing an oral dosage in the resident's hand or placing the dosage in another container and helping the resident by lifting the container to his or her mouth.
- Applying topical medications.
- Returning the medication container to proper storage.
- Keeping a record of when a resident receives assistance with self-administration under this section.

[16] *Id*.
[17] *See* Fla. Admin. Code R. 59A-36.008(3)(a) (2019).

- Assisting with the use of a nebulizer, including removing the cap of a nebulizer, opening the unit dose of nebulizer solution, and pouring the prescribed premeasured dose of medication into the dispensing cup of the nebulizer.
- Using a glucometer to perform blood-glucose level checks.
- Assisting with putting on and taking off antiembolism stockings.
- Assisting with applying and removing an oxygen cannula but not with titrating the prescribed oxygen settings.
- Assisting with the use of a continuous positive airway pressure device but not with titrating the prescribed setting of the device.
- Assisting with measuring vital signs.
- Assisting with colostomy bags.

The section also specifies that assistance with self-administration does not include:

- Mixing, compounding, converting, or calculating medication doses, except for measuring a prescribed amount of liquid medication or breaking a scored tablet or crushing a tablet as prescribed.
- The preparation of syringes for injection or the administration of medications by any injectable route.
- Administration of medications by way of a tube inserted in a cavity of the body.
- Administration of parenteral preparations.
- The use of irrigations or debriding agents used in the treatment of a skin condition.
- Assisting with rectal, urethral, or vaginal preparations.
- Assisting with medications ordered by the physician or health care professional with prescriptive authority to be given "as needed," unless the order is written with specific parameters that preclude independent judgment on the part of the unlicensed person, and the resident requesting the medication is aware of his or her need for the medication and understands the purpose for taking the medication.
- Medications for which the time of administration, the amount, the strength of dosage, the method of administration, or the reason for administration requires judgment or discretion on the part of the unlicensed person.

III. Effect of Proposed Changes:

CS/SB 1830 amends ss. 429.02 and 429.52, F.S., to define "medication technician" to mean an unlicensed staff member who has completed six hours of training. A medication technician may provide assistance with a resident's self-administration of medications and with his or her use of point-of-care devices.[18] The bill requires medication technicians to complete a minimum of six hours of training, established by AHCA rule. The training must address:

- Infection control;

[18] Point of care (POC) diagnostic devices are used to obtain diagnostic results while with the patient or close to the patient. Used in doctors' offices, hospitals, and in patients' homes, POC diagnostic devices give quick feedback on many sorts of medical tests. POC diagnostic devices are used to test glucose and cholesterol levels, do electrolyte and enzyme analysis, test for drugs of abuse and for infectious diseases, and for pregnancy testing. Blood gases, cardiac markers, and fecal occult blood tests can also be done with POC diagnostic devices. There are several advantages to doing the tests at the point of care, including quick results and faster implementation of therapy, if needed. *See* https://www.labcompare.com/Clinical-Diagnostics/5096-POC-Diagnostic-Devices/ (last visited March 26, 2021).

- Safe handling and use of assistive care devices;
- Communicating with case managers and health care providers;
- Standard of care protocols for the provision of care in licensed ALFs;
- Identification of nursing standards; and
- Methods of assisting residents with the self-administration of medications.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 429.02 and 429.52.

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 March 31, 2021:
The CS:

- Removes all provisions of the underlying bill dealing with Medicaid managed care plans; and
- Modifies the underlying bill's training requirements for medication technicians by removing the requirements for the training to be available on-line; for trainees to take an end-of-course exam; and for trainees to receive a certificate showing their passing exam score and a unique certification number.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2021	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present subsections (16) through (28) of section 429.02, Florida Statutes, are redesignated as subsections (17) through (29), respectively, a new subsection (16) is added to that section, and subsection (12) is amended, to read:

429.02 Definitions.—When used in this part, the term:

(12) "Extended congregate care" means acts beyond those

524086

authorized in subsection (19) ~~(18)~~ which may be performed pursuant to part I of chapter 464 by persons licensed thereunder while carrying out their professional duties, and other supportive services that may be specified by rule. The purpose of such services is to enable residents to age in place in a residential environment despite mental or physical limitations that might otherwise disqualify them from residency in a facility licensed under this part.

(16) "Medication technician" means an unlicensed staff member who has completed 6 hours of training. A medication technician may provide assistance with a resident's self-administration of medications and with his or her use of point-of-care devices.

Section 2. Subsection (6) of section 429.52, Florida Statutes, is amended to read:

429.52 Staff training and educational requirements.—

(6) Medication technicians shall ~~Staff assisting with the self-administration of medications under s. 429.256 must~~ complete a minimum of 6 additional hours of training provided by a registered nurse or a licensed pharmacist before providing assistance. Two hours of continuing education are required annually thereafter. The agency shall establish by rule the minimum requirements of medication technician ~~this~~ training, which must address infection control, safe handling and use of point-of-care devices, communicating with case managers and health care providers, standard of care protocols for the provision of care in a licensed assisted living facility, identification of nursing standards, and methods of assisting residents with the self-administration of medications.

524086

Section 3. This act shall take effect July 1, 2021.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to medication technicians; amending s. 429.02, F.S.; defining the term "medication technician"; amending s. 429.52, F.S.; providing minimum requirements and specifications for training of medication technicians; providing an effective date.

By Senator Jones

35-01908A-21 20211830__

A bill to be entitled

An act relating to assisted living facilities; amending s. 409.982, F.S.; using funds appropriated by the Legislature, requiring long-term care managed care plans to pay assisted living facilities certain rates and to calculate and make special payments for certain residents; requiring plans to pay assisted living facilities for claims within a specified timeframe; amending s. 429.02, F.S.; defining the term "medication technician"; amending s. 429.52, F.S.; providing minimum requirements and specifications for training of medication technicians; requiring the agency to authorize online materials and courses to be used for such training; providing for examination and certification of medication technicians after they complete an online training course; providing an effective date.

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

Section 1. Subsection (5) of section 409.982, Florida Statutes, is amended to read:

409.982 Long-term care managed care plan accountability.—In addition to the requirements of s. 409.967, plans and providers participating in the long-term care managed care program must comply with the requirements of this section.

(5) PROVIDER PAYMENT.—Managed care plans and providers shall negotiate mutually acceptable rates, methods, and terms of payment. Plans shall pay nursing homes an amount equal to the

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nursing facility-specific payment rates set by the agency; however, mutually acceptable higher rates may be negotiated for medically complex care. Plans shall pay hospice providers through a prospective system for each enrollee an amount equal to the per diem rate set by the agency. For recipients residing in a nursing facility and receiving hospice services, the plan shall pay the hospice provider the per diem rate set by the agency minus the nursing facility component and shall pay the nursing facility the applicable state rate. Using funds appropriated by the Legislature, plans shall pay assisted living facilities a rate that reflects the medical acuity and complexity of each resident which must be based on a three-tiered reimbursement payment system for care. Plans shall ensure that they calculate and make special payments for residents who are diagnosed with serious mental illness and for those who require complex care due to dementia or require more supervision for their own safety. Plans also shall ~~must~~ ensure that electronic nursing home, ~~and~~ hospice, and assisted living facility claims that contain sufficient information for processing are paid within 10 business days after receipt.

Section 2. Present subsections (16) through (28) of section 429.02, Florida Statutes, are redesignated as subsections (17) through (29), respectively, a new subsection (16) is added to that section, and subsection (12) of that section is amended, to read:

429.02 Definitions.—When used in this part, the term:

(12) "Extended congregate care" means acts beyond those authorized in subsection (19) ~~(18)~~ which may be performed pursuant to part I of chapter 464 by persons licensed thereunder

while carrying out their professional duties, and other supportive services that may be specified by rule. The purpose of such services is to enable residents to age in place in a residential environment despite mental or physical limitations that might otherwise disqualify them from residency in a facility licensed under this part.

(16) "Medication technician" means an unlicensed staff member who has completed 6 hours of training approved by the agency and provided by an agency-certified trainer. A medication technician may provide assistance with a resident's self-administration of medications and with his or her use of point-of-care devices.

Section 3. Subsection (6) of section 429.52, Florida Statutes, is amended to read:

429.52 Staff training and educational requirements.—

(6) Medication technicians shall ~~Staff assisting with the self-administration of medications under s. 429.256 must~~ complete a minimum of 6 additional hours of training provided by a registered nurse or a licensed pharmacist before providing assistance. Two hours of continuing education are required annually thereafter. The agency shall establish by rule the minimum requirements of medication technician ~~this~~ training, which must address infection control, safe handling and use of assistive care devices, communicating with case managers and health care providers, standard of care protocols for the provision of care in licensed assisted living facilities, identification of nursing standards, and methods of assisting residents with the self-administration of medications. The agency shall authorize approved training for medication

technicians to be conducted using online materials and courses approved by the agency. An online training course must conclude with the trainee taking an end-of-course exam. The course must provide a certificate with a passing exam score on the document and provide a unique certification number for each trainee.

Section 4. This act shall take effect July 1, 2021.

The Florida Senate

Committee Agenda Request

To: Chair Manny Diaz, Jr.
Committee on Health Policy

Subject: Committee Agenda Request

Date: March 5th, 2021

I respectfully request that **Senate Bill #1830**, relating to Assisted Living Facilities, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Shevrin D. "Shev" Jones
Florida Senate, District 35

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1476
INTRODUCER:	Senator Brodeur
SUBJECT:	Controlled Substances
DATE:	March 29, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	**Favorable**
2.	Looke	Brown	HP	**Favorable**
3.			RC	

I. Summary:

SB 1476 amends s. 893.03, F.S., which contains Florida's controlled substance schedules, to remove the following substance from Schedule V: a drug product in finished dosage formulation which has been approved by the U.S. Food and Drug Administration (FDA) and which contains cannabidiol (CBD) derived from cannabis and no more than 0.1 percent tetrahydrocannabinols.

In 2019, the Legislature placed the previously-described language in Schedule V. From that time to the present date, the scheduling language has only applied to Epidiolex®, the first pharmaceutical oral solution containing highly purified CBD to be approved by the FDA. It is used for the treatment of seizures associated with two rare and severe forms of epilepsy. While making Epidiolex® a Schedule V controlled substance was consistent with the federal scheduling in 2019, the substance has since been descheduled by the U.S. Drug Enforcement Administration (DEA). Therefore, the bill's removal of the Schedule V language (and the descheduling of Epidiolex®) would be consistent with federal descheduling action.

The bill takes effect upon becoming a law.

II. Present Situation:

Florida's Controlled Substance Schedules

Section 893.03, F.S., classifies controlled substances into five categories, known as schedules. These schedules regulate the manufacture, distribution, preparation, and dispensing of the substances listed in the schedules. The most important factors in determining which schedule may apply to a substance are the "potential for abuse"[1] of the substance and whether there is a

[1] Pursuant to s. 893.035(3)(a), F.S., "potential for abuse" means a substance has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: (1) used in amounts that

currently accepted medical use for the substance. The controlled substance schedules are as follows:

- Schedule I substances (s. 893.03(1), F.S.) have a high potential for abuse and no currently accepted medical use in treatment in the United States. Use of these substances under medical supervision does not meet accepted safety standards.
- Schedule II substances (s. 893.03(2), F.S.) have a high potential for abuse and a currently accepted but severely restricted medical use in treatment in the United States. Abuse of these substances may lead to severe psychological or physical dependence.
- Schedule III substances (s. 893.03(3), F.S.) have a potential for abuse less than the Schedule I and Schedule II substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of anabolic steroids may lead to physical damage.
- Schedule IV substances (s. 893.03(4), F.S.) have a low potential for abuse relative to Schedule III substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule III substances.
- Schedule V substances (s. 893.03(5), F.S.) have a low potential for abuse relative to the substances in Schedule IV and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule IV substances.

Prescribing and Dispensing a Schedule V Controlled Substance

A prescriber[2] or dispenser[3] of controlled substances in Florida is required to consult the state's Prescription Drug Monitoring Program (PDMP) system each time a controlled substance is prescribed or dispensed to a patient age 16 or over unless a statutory exemption applies.[4] A dispenser is required to report to the PDMP each time a controlled substance, including a controlled substance in Schedule V, is dispensed to a patient.[5] Willful and knowing failure to report the dispensing of a controlled substance is a first degree misdemeanor.[6]

Numerous pieces of information are required to appear on the face or written record of the prescription for a controlled substance[7] and the prescription must be retained by the prescribing pharmacy for two years.[8] There are also numerous labeling requirements relating to the container in which a controlled substance is delivered.[9] There are also limitations on filling or refilling a

create a hazard to the user's health or the safety of the community; (2) diverted from legal channels and distributed through illegal channels; or (3) taken on the user's own initiative rather than on the basis of professional medical advice.

[2] A "prescriber" is a prescribing physician, prescribing practitioner, or other prescribing health care practitioner authorized by the laws of this state to order controlled substances. Section 893.055(1)(k), F.S.

[3] A "dispenser" is a dispensing health care practitioner, pharmacy, or pharmacist licensed to dispense controlled substances in or into this state. Section 893.055(1)(e), F.S.

[4] Section 893.055(8), F.S.

[5] Section 893.055(3), F.S. Schedule I substances are not included because, by definition, a Schedule I substance has no accepted medical use, and therefore, is not prescribed or dispensed.

[6] Section 893.055(9), F.S. A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to $1,000. Sections 775.082 and 775.083, F.S.

[7] Section 893.04(1)(c), F.S.

[8] Section 893.04(1)(d), F.S.

[9] Section 893.04(1)(d), F.S.

prescription for a controlled substance: no more than five times within a period of six months after the date on which the prescription was written unless the prescription is renewed by a practitioner.[10]

Punishment of Prohibited Drug Acts Involving Cannabis and Schedule V Controlled Substances

Cannabis is a Schedule I controlled substance.[11] Schedule I is the most restrictive controlled substance schedule. Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, delivery, and importation of a Schedule I controlled substance. Simple possession of 20 grams or less of cannabis is a first degree misdemeanor,[12] and simple possession of more than 20 grams of cannabis is a third degree felony.[13] Purchase, or possession with intent to purchase, cannabis is a third degree felony.[14] Delivery, without consideration, of 20 grams or less of cannabis is a first degree misdemeanor.[15] Generally, it is a third degree felony to deliver, sell, manufacture, import, or possess with the intent to sell, manufacture, or deliver cannabis.[16] Section 893.135, F.S., punishes drug trafficking. Trafficking in significant quantities of cannabis is a first degree felony, which is subject to a three, seven, or 15-year mandatory minimum term and mandatory fine based on the quantity of cannabis trafficked.[17]

Schedule V is the least restrictive controlled substance schedule. Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, delivery, and importation of a Schedule V controlled substance. Simple possession of a Schedule V controlled substance is a second degree misdemeanor.[18] Purchase, or possession with intent to purchase, a Schedule V controlled substance is a first degree misdemeanor.[19] Generally, it is a first degree misdemeanor to deliver, sell, manufacture, import, or possess with the intent to sell, manufacture, or deliver a Schedule V controlled substance.[20] Drug trafficking offenses in s. 893.135, F.S., do not apply to Schedule V controlled substances.[21]

[10] Section 893.04(1)(g), F.S.
[11] Section 893.03(1)(c)7., F.S.
[12] Section 893.13(6)(b), F.S.
[13] Section 893.13(6)(a), F.S. A third degree felony is punishable by up to five years in state prison and a fine of up to $5,000. Sections 775.082 and 775.083, F.S.
[14] Section 893.13(2)(a)2., F.S.
[15] Section 893.13(3), F.S.
[16] Section 893.13(1)(a)2. and (5)(b), F.S.
[17] Section 893.135(1)(a), F.S. A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to $10,000. Sections 775.082 and 775.083, F.S.
[18] Section 893.13(6)(d), F.S. A second degree misdemeanor is punishable by up to 60 days in county jail and a fine of up to $500. Sections 775.082 and 775.083, F.S.
[19] Section 893.13(2)(a)3., F.S.
[20] Section 893.13(1)(a)3. and (5)(c), F.S.
[21] *See* s. 893.135(1)(a)-(n), F.S.

Scheduling of Epidiolex®

Epidiolex® is an oral solution developed by GW Pharmaceuticals (GW).[22] According to GW, Epidiolex® is "a pharmaceutical formulation of highly purified cannabidiol (CBD)[.]"[23] CBD is "a chemical constituent of the cannabis plant (commonly referred to as marijuana)."[24] "However, CBD does not cause intoxication or euphoria (the 'high') that comes from tetrahydrocannabinol (THC)."[25]

In June of 2018, the FDA announced that it approved Epidiolex® for the treatment of seizures associated with two rare and severe forms of epilepsy, Lennox-Gastaut syndrome and Dravet syndrome, in patients two years of age and older.[26] Epidiolex® "is the first FDA-approved drug that contains a purified drug substance derived from marijuana."[27]

On September 28, 2018, the DEA rescheduled Epidiolex® from Schedule I to Schedule V of the federal Controlled Substance Act (CSA).[28] Because Epidiolex® was approved by the FDA, the DEA determined it has a currently accepted medical use in treatment in the United States, and no longer met criteria for placement in Schedule I of the CSA.[29] Epidiolex® was a Schedule I substance under federal law because it contains CBD, a chemical component of the cannabis plant, which is a Schedule I controlled substance.[30]

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[22] *EPIDIOLEX® (cannabidiol) Oral Solution – the First FDA-approved Plant-derived Cannabinoid Medicine – Now Available by Prescription in the U.S.*, Press Release (Nov. 1, 2018), GW Pharmaceuticals, Ltd., *available at* http://ir.gwpharm.com/news-releases/news-release-details/epidiolexr-cannabidiol-oral-solution-first-fda-approved-plant (last visited March 25, 2021). According to GW, Epidiolex® "will be marketed in the U.S. by its subsidiary, Greenwich Biosciences." *Id*.

[23] *FDA-approved drug Epidiolex placed in schedule V of Controlled Substance Act*, Press Release (Sept. 27, 2018), U.S. Drug Enforcement Administration, *available at* https://www.dea.gov/press-releases/2018/09/27/fda-approved-drug-epidiolex-placed-schedule-v-controlled-substance-act (last visited March 25, 2021).

[24] *Id.*

[25] *FDA approves first drug comprised of an active ingredient derived from marijuana to treat rare, severe forms of epilepsy*, News Release (June 25, 2018), U.S. Food and Drug Administration, *available at* https://www.fda.gov/newsevents/newsroom/pressannouncements/ucm611046.htm (last visited March 25, 2021).

[26] *Id.*

[27] *Id.*

[28] *Schedules of Controlled Substances: Placement in Schedule V of Certain FDA-Approved Drugs Containing Cannabidiol; Corresponding Change to Permit Requirements*, 83 FR 48950 (Sept. 28, 2018), *available at* https://www.federalregister.gov/documents/2018/09/28/2018-21121/schedules-of-controlled-substances-placement-in-schedule-v-of-certain-fda-approved-drugs-containing (last visited March 25, 2021). The U.S. Department of Health and Human Services advised the DEA "that it found the Epidiolex formulation to have a very low potential for abuse[.]" *Id*. The federal Controlled Substance Act is codified at 21 U.S.C. ss. 801-978.

[29] *Id.*

[30] *Id.*

On October 31, 2018, former Florida Attorney General Pam Bondi, pursuant to her emergency scheduling authority under s. 893.0355, F.S.,[31] rescheduled Epidiolex® from Schedule I of the Florida controlled substance schedules (s. 893.03, F.S.) to Schedule V of the schedules.[32]

In 2019, the Legislature placed the following language in Schedule V: "a drug product in finished dosage formulation which has been approved by the U.S. Food and Drug Administration (FDA) and which contains cannabidiol (CBD) derived from cannabis and no more than 0.1 percent tetrahydrocannabinols."[33] From that time to the present date, the scheduling language has only applied to Epidiolex®.

In 2020, the DEA removed Epidiolex® from Schedule V and descheduled it entirely, meaning Epidiolex® is no longer subject to the federal CSA.[34] Epidiolex® remains a Schedule V controlled substance in Florida's controlled substance schedules until or unless the Legislature removes the scheduling language applicable to Epidiolex®.

"Low-THC Cannabis" and Epidiolex®

The Compassionate Medical Cannabis Act of 2014[35] legalized "low-THC cannabis," a low THC and high CBD form of cannabis,[36] for medical use[37] by patients suffering from cancer, epilepsy, and certain other specified medical conditions.[38]

A "low-THC cannabis" product obtained from a medical marijuana treatment center is not an FDA-approved CBD product. As previously described, Epidiolex® is the only CBD product that is currently approved by the FDA. Further, Epidiolex® is *prescribed* by a physician. A "low-

[31] Section 893.0355(2), F.S., delegates to the Attorney General the authority to adopt rules rescheduling specified substances to a less controlled schedule, or deleting specified substances from a schedule, upon a finding that reduced control of such substances is in the public interest. Rulemaking under s. 893.0355, F.S., must be in accordance with the procedural requirements of ch. 120, F.S., including the emergency rule provisions found in s. 120.54, F.S., except that s. 120.54(7), F.S. (petition to initiate rulemaking), does not apply. Section 893.0355(4), F.S.

[32] The text of Emergency Rule 2ER18-1 *available at* https://www.flrules.org/gateway/notice_Files.asp?ID=21109642 (last visited March 25, 2021).

[33] Section 893.03(5)(d), F.S.

[34] *See Implementation of the Agriculture Improvement Act of 2018* (interim final rule), Drug Enforcement Administration, 85 FR 51639 (Aug. 21, 2020), *available at* https://www.federalregister.gov/documents/2020/08/21/2020-17356/implementation-of-the-agriculture-improvement-act-of-2018 (last visited March 25, 2021). The interim final rule, in part, removed "from control in schedule V under 21 CFR 1308.15(f) a "drug product in finished dosage formulation that has been approved by the U.S. Food and Drug Administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1% (w/w) residual tetrahydrocannabinols." *Id.* "… [I]nterim final rules are considered final rules that carry the force and effect of law." Todd Gravey, *A Brief Overview of Rulemaking and Judicial Review* (March 27, 2017), Congressional Research Service, at p. 9 and n. 79 (citing *Career College Ass'n v. Riley*, 74 F.3d 1265 (D.C. Cir. 1996)), *available at* https://fas.org/sgp/crs/misc/R41546.pdf. (last visited March 25, 2021). *See also* prescription information for Epidiolex® (on file with the Senate Committee on Criminal Justice).

[35] *See* ch. 2014-157, Laws of Fla., and s. 381.986, F.S.

[36] "Low-THC cannabis" means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed from a medical marijuana treatment center. Section 381.986(1)(e), F.S.

[37] With specified exceptions, "medical use" means the acquisition, possession, use, delivery, transfer, or administration of marijuana authorized by a physician certification. Section 381.986(1)(j), F.S.

[38] Section 381.986(2), F.S.

THC cannabis" product is not prescribed. In addition to other requirements, a *physician certification* from a qualified physician is required for a qualified patient to obtain a "low-THC cannabis" product from a medical marijuana treatment center.[39]

Epidiolex® was subject to extensive clinical and non-clinical studies to determine its safety and efficacy for the treatment of Lennox-Gastaut syndrome and Dravet syndrome in patients two years of age and older.[40] In contrast, a "low-THC cannabis" product dispensed by a medical marijuana treatment center is tested by a medical marijuana testing laboratory to determine that the product meets the definition of "low-THC cannabis," the THC concentration meets the potency requirements of s. 381.986, F.S., the labeling of the concentration of THC and CBD is accurate, and the product is safe for human consumption and free from contaminants that are unsafe for human consumption.[41]

"Low-THC cannabis" described in s. 381.986(1)(e), F.S., is still cannabis, and cannabis is a Schedule I controlled substance. As previously described, unlawful acts involving a Schedule I controlled substance are generally subject to significant criminal penalties. However, when a qualified patient lawfully obtains "low-THC cannabis" (as provided in s. 381.986, F.S.), he or she is not subject to criminal penalties.[42] In contrast, as previously described, Epidiolex® is a Schedule V controlled substance pursuant to Florida law, and unlawful acts involving a Schedule V controlled substance are punished less severely than unlawful acts involving a Schedule I controlled substance.

III. Effect of Proposed Changes:

The bill amends s. 893.03, F.S., which contains Florida's controlled substance schedules, to remove the following substance from Schedule V: a drug product in finished dosage formulation which has been approved by the FDA and which contains CBD derived from cannabis and no more than 0.1 percent tetrahydrocannabinols. This drug product is referenced in s. 893.03(5)(d), F.S. The bill also amends the definition of "cannabis," which is relevant to ch. 893, F.S., to remove a sentence in the definition that currently states that the term "cannabis" does not include a drug product described in s. 893.03(5)(d), F.S.

In 2019, the Legislature placed the previously-described language relevant to Epidiolex® in Schedule V. From that time to the present date, the scheduling language has only applied to Epidiolex®, the first pharmaceutical oral solution containing highly purified CBD to be approved by the FDA. It is used for the treatment of seizures associated with two rare and severe forms of epilepsy. While making Epidiolex® a Schedule V controlled substance was consistent with the federal scheduling in 2019, the substance has since been descheduled by the DEA, and

[39] Section 381.986(2)-(8), F.S.
[40] *See* footnote 23, *supra*.
[41] Section 381.986(8)(e)10.d., F.S.
[42] Notwithstanding s. 893.13, F.S., s. 893.135, F.S., s. 893.147, F.S., or any other provision of law, but subject to the requirements of this section, a qualified patient and the qualified patient's caregiver may purchase from a medical marijuana treatment center for the patient's medical use a marijuana delivery device and up to the amount of marijuana authorized in the physician certification, but may not possess more than a 70-day supply of marijuana at any given time and all marijuana purchased must remain in its original packaging. Section 381.986(14)(a), F.S.

therefore, the bill's removal of the Schedule V language (and the descheduling of Epidiolex®) is consistent with federal scheduling action.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The descheduling of Epidiolex® means that a prescriber would no longer have to consult the PDMP system before prescribing Epidiolex®, and a dispenser would no longer have to report to the PDMP system each time the prescriber dispenses Epidiolex®. Other requirements relating to Schedule V controlled substances (information-reporting, recordkeeping, labeling containers, and filling and refilling prescriptions) would no longer apply.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Although the bill removes language from Schedule V applicable to Epidiolex®, there is nothing in the bill that would specifically indicate that a drug product in finished dosage formulation which has been approved by the FDA and which contains CBD derived from cannabis and no more than 0.1 percent tetrahydrocannabinols is not "cannabis" as defined in ch. 893, F.S., or a controlled substance under ch. 893, F.S. It is possible that Epidiolex® fits under the definition of "hemp" in s. 581.217, F.S., and as such would not be a controlled substance pursuant to s. 581.217(2)(b), F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 893.03 and 893.02.

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 Brodeur

9-01009A-21 20211476__

A bill to be entitled

An act relating to controlled substances; amending s. 893.03, F.S.; removing from Schedule V certain drug products in finished dosage formulation which have been approved by the United States Food and Drug Administration; amending s. 893.02, F.S.; conforming a provision to changes made by the act; providing an effective date.

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

Section 1. Paragraph (d) of subsection (5) of section 893.03, Florida Statutes, is amended to read:

893.03 Standards and schedules.—The substances enumerated in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, trade name, or class designated. The provisions of this section shall not be construed to include within any of the schedules contained in this section any excluded drugs listed within the purview of 21 C.F.R. s. 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt Anabolic Steroid Products."

(5) SCHEDULE V.—A substance, compound, mixture, or preparation of a substance in Schedule V has a low potential for abuse relative to the substances in Schedule IV and has a currently accepted medical use in treatment in the United

9-01009A-21 20211476__

States, and abuse of such compound, mixture, or preparation may lead to limited physical or psychological dependence relative to the substances in Schedule IV.

~~(d) A drug product in finished dosage formulation that has been approved by the United States Food and Drug Administration that contains cannabidiol (2-[1R-3-methyl-6R-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol) derived from cannabis and no more than 0.1 percent (w/w) residual tetrahydrocannabinols.~~

Section 2. Subsection (3) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(3) "Cannabis" means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin. The term does not include "marijuana," as defined in s. 381.986, if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed, in conformance with s. 381.986. The term does not include hemp as defined in s. 581.217 or industrial hemp as defined in s. 1004.4473. ~~The term does not include a drug product described in s. 893.03(5)(d).~~

Section 3. This act shall take effect upon becoming a law.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JASON BRODEUR
9th District

COMMITTEES:
Environment and Natural Resources, *Chair*
Health Policy, *Vice Chair*
Appropriations Subcommittee on Agriculture, Environment, and General Government
Appropriations Subcommittee on Health and Human Services
Children, Families, and Elder Affairs
Community Affairs

SELECT COMMITTEE:
Select Committee on Pandemic Preparedness and Response

JOINT COMMITTEE:
Joint Administrative Procedures Committee

March 23, 2021

Honorable Manny Diaz, Jr.
306 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Diaz,

I am writing to request that **SB 1476, Controlled Substances**, be placed on the agenda to be heard in the Health Policy Committee.

I appreciate your consideration in this matter.

Sincerely,

Jason Brodeur

Jason Brodeur

Cc: Allen Brown, Staff Director
Lynn Wells, Administrative Assistant

REPLY TO:
❒ 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5009

Senate's Website: *www.flsenate.gov*

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 1296
INTRODUCER:	Health Policy Committee and Senator Brodeur
SUBJECT:	Nursing Programs
DATE:	March 31, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto Van-Winkle	Brown	HP	**Fav/CS**
2.			ED	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1296 redefines how Florida measures and evaluates approved nursing education and training programs to determine whether the programs' graduates are meeting national performance standards to satisfy the state's increasing demands for safe nursing services for the public's health, safety, and welfare. The bill:

- Amends terminology to expand the number and time frame over which a nursing education and training program's graduate passage rates of the Nursing Council Licensure Examination (NCLEX) are measured, from the percentage of first-time test takers in a calendar year passing the NCLEX, to:
  - The program's average graduate passage rate of test takers passing the NCLEX during the two most recent calendar years, including those retaking the NCLEX but excluding those who fail more than three consecutive times; or
  - The program's passage rate as calculated by the contract testing service of the National Council of State Boards of Nursing if the average passage rate is 80 percent or greater on the NCLEX for the prior calendar year;
- Defines "test takers" to include graduates who take the NCLEX within one year after graduation and do not fail the NCLEX more than three consecutive times;
- Repeals the definition of "required passage rate" which, under current law, means the graduate passage rate that an approved nursing education program is required to attain and relies on a graduate passage rate of not more than ten percentage below the national average

for first-time test takers on the NCLEX during the same calendar year for graduates of comparable degree programs who were educated in the U.S.;
- Requires an approved program to achieve an average graduate passage rate of 80 percent or greater for the most recent average graduate passage rate on the NCLEX or be placed on probation or terminated;
- Amends the requirements for an approved programs' annual reports to the Board of Nursing (BON) to change the due date and includes additional requirements;
- Requires an approved program to provide students who fail the NCLEX on the first attempt, for at least one year after graduation, information about remediation programs designed to assist the student in passing the NCLEX;
- Prohibits the BON from considering, in any manner, the average graduate passage rates of any approved program for the calendar years 2020 and 2021 when determining whether to take any adverse action against the program; and
- Provides Legislative intent for the bill's provisions relating to probation and termination to apply retroactively to January 1, 2021, to prevent the BON from placing or continuing an approved program on probation or terminating an existing approved program that is already on probation.

The bill provides an effective date of July 1, 2021.

II. Present Situation:

Part I of ch. 464, F.S., the Nurse Practice Act, governs the licensure and regulation of nurses in Florida. Nurses are licensed by the Department of Health (DOH)[1] and are regulated by the BON.[2] Currently a nurse desiring to practice nursing in the state of Florida must obtain a Florida license by examination or endorsement.

Applicants for licensure by examination as a registered nurse (RN) or licensed practical nurse (LPN) must, among other requirements:
- Graduate from an approved program or its equivalent as determined by the BON;[3]
- Submit an application to the DOH;
- Pay a fee;
- Submit information for a criminal background check;[4] and
- Pass the NCLEX.[5]

Licensure by endorsement requirements include submitting an application and fee, passing a criminal background screening, and:
- Holding a valid license to practice professional or practical nursing in another state or territory of the U.S. which, when issued, met or exceeded those in Florida at that time;

[1] Section 464.008, F.S.
[2] The BON is composed of 13 members appointed by the Governor and confirmed by the Senate who serve four-year terms. All members must be residents of the state. Seven members must be registered nurses who are representative of the diverse areas of practice within the nursing profession. Three members must be licensed practical nurses and three members must be laypersons. At least one member of the board must be 60 years of age or older. *See* Section 464.004, F.S.
[3] Section 464.008(1)(c), F.S.
[4] Section 464.008(1)(b), F.S.
[5] Section 464.008(2), F.S.

- Meeting the requirements for licensure in Florida and having successfully completed an examination in another state which is substantially equivalent to the examination in Florida; or
- Having actively practiced nursing in another state, jurisdiction, or territory of the U.S. for two of the preceding three years without having his or her license acted against by the licensing authority of any jurisdiction.[6]

In 2016, the Legislature created s. 464.0095, F.S., – Florida's entrance into the Nurse Licensure Compact (NLC) – which took effect January 19, 2018, and adopts the revised NLC in its entirety into state law. This allows for licensed practical and professional nurses to practice in all member states by maintaining a single license in the nurse's primary state of residence. To date, 34 states, including Florida, have adopted the revised NLC.[7]

The National Council of State Boards of Nursing, Inc. (NCSBN)

The NCSBN is an independent, non-profit organization that was created in 1978 out of recognition that in order to guard the safety of the public, the organization involved in the regulation of nurses needs to be a separate entity from the American Nurses Association (ANA) Council on State Boards of Nursing, which represents professional nurses. The NCSBN's membership is now composed of state boards of nursing and other nursing regulatory bodies that are charged with the responsibility of providing regulatory excellence for public health, safety, and welfare. To meet that goal, the NCSBN developed a psychometrically sound and legally-defensible nurse licensure examination consistent with current nursing practice. NCSBN became the first organization to implement computerized adaptive testing for nationwide licensure examinations in 1994, – the NCLEX-RN and NCLEX-LPN.[8]

Nursing Education Program Approval and Accreditation

Section 464.019, F.S., requires an institution desiring to offer a pre-licensure nursing education program to submit an application to the DOH and pay a program review fee for each campus or instructional site. In addition to identifying information about the program, the application must indicate the name of the accrediting agency.

The application must document compliance with the following program standards: faculty qualifications; clinical training and clinical simulation requirements, including a requirement that no more than 50 percent of the program's clinical training consist of clinical simulation; faculty-to-student supervision ratios; and curriculum and instruction requirements.

Once the DOH determines an application is complete, it forwards the application to the BON. The BON may conduct an onsite evaluation if necessary to document the applicant's compliance with required program standards. Upon receipt, the BON has 90 days to approve the application or to provide the applicant with notice of its intent to deny and the reasons for the denial. An

[6] Section 464.009, F.S.
[7] The National Council of State Boards of Nursing administers the NLC. They refer to it as the enhanced NLC. *available at* https://www.nursecompact.com/Updated_onepaged_NLC.pdf (last visited on March 23, 2021).
[8] National Council of State Boards of Nursing, Inc., *History. available at* https://www.ncsbn.org/history.htm (last visited Mar. 28, 2021).

applicant may request a hearing under ch. 120, F.S., on a notice of intent to deny his or her application.[9]

Chapter 464, F.S., recognizes and distinguishes between nursing education programs that are approved by the BON and programs that are approved and accredited.[10]

An "accredited program" is accredited by a specialized nursing accrediting agency that is nationally recognized by the U.S. Secretary of Education to accredit nursing education programs.[11] The specialized nursing accrediting agencies currently recognized by the U.S. Department of Education include the Commission on Collegiate Nursing Education and the Accreditation Commission for Education in Nursing.[12]

A BON-approved nursing education program[13] is required to submit an annual report to the BON which includes an affidavit certifying compliance with the program standards and documentation for the previous academic year that sets forth data related to the number of students who applied, were accepted, enrolled, and graduated; retention rates; and accreditation status.[14]

The BON posts the following information on its website:[15]

- A list of all accredited programs and graduation rates for the most recent two years;
- A list of all approved programs that are not accredited;
- All documentation submitted in a program's application;
- A summary of the program's compliance with program standards;
- A program's accreditation status, probationary status, graduate passage rates for the most recent two years, and retention rates.[16]

Approved programs must have a graduate passage rate not lower than ten percent below the national average for two consecutive years. Programs are placed on probation for low performance with NCLEX scores for two consecutive years and are subject to termination. The program director is required to present a plan for remediation to the BON that includes specific benchmarks to identify progress toward a graduate passage rate goal. The program must remain on probationary status until it achieves a graduate passage rate that equals or exceeds the required passage rate for any one calendar year. If the program does not achieve the required passage rate in any one calendar year after a program has been placed on probationary status, the

[9] Section 464.019(2)(c), F.S. If the BON does not act on a program application within the 90-day review period, the program application is deemed approved. *Id.*
[10] The program application and approval process, the annual report requirement, the data submission requirements and the pass rate requirements are not applicable to accredited programs.
[11] Section 464.003(1), F.S.
[12] United States Department of Education, *Accreditation in the United States: Specialized Accrediting Agencies*, *available at* https://www2.ed.gov/admins/finaid/accred/accreditation_pg7.html (last visited Mar. 25, 2021).
[13] Section 464.003(4), F.S., defines an "approved program" as "a program for the pre-licensure education of professional or practical nurses that is conducted in the state at an educational institution and that is approved under s. 464.019, F.S. The term includes such a program placed on probationary status."
[14] Section 464.019(3), F.S.
[15] Florida Department of Health, Board of Nursing, *Education and Training Programs, available at* https://floridasnursing.gov/education-and-training-programs/ (last visited Mar. 28, 2021).
[16] Section 464.019(4), F.S.

BON is authorized to terminate the program or may extend the probation for one additional year.[17]

An approved program which has been placed on probation must disclose its probationary status in writing to the program's students and applicants.[18]

If an accredited program ceases to be accredited, the educational institution conducting the program must provide written notice to that effect to the BON, the program's students and applicants, and each entity providing clinical training sites or experiences. It may then apply to be an approved program.[19]

An approved program graduate who does not take the licensure examination within six months after graduation must enroll in, and successfully complete, a licensure examination preparatory course pursuant to s. 464.008, F.S.

The BON does not have rulemaking authority for the approval of nursing education programs, except as to the format for submitting applications, the format for the annual report required to be submitted by each approved program, and to administer the documentation of the accreditation of nursing education programs.[20] The BON may adopt rules relating to the nursing curriculum, including rules relating to the uses and limitations of simulation technology and rules relating to the criteria to qualify for an extension of time to meet accreditation requirements.[21] The BON may not impose any condition or requirement on an educational institution submitting a program application, an approved program, or an accredited program.[22]

Florida Nurse Education Program Graduate Passage Rates - 2019[23]

In 2001 the Legislature created The Florida Center for Nursing (FCN) to establishing and maintaining a database on nursing supply and demand and evaluate nursing program-specific data for each approved program and accredited nursing education program to determine each program's student populations and NCLEX passage rates.

The FCN found that Florida's NCLEX passage rates varied by program type, and by the program's classification as public or private. According to the FCN in 2019, "**For the third year in a row, Florida's NCLEX passage rates for RN and LPN programs were at or near the bottom of the United States and Territories."**(emphasis original).[24] RN programs include graduates of bachelor's degree nurse (BSN) programs and associate degree nurse (AARN) programs. As a group, BSN graduates performed the best, followed by licensed practical nurse (LPN) graduates. AARN graduates collectively performed at the lowest level.

[17] Section. 464.019(5), F.S.
[18] *Id.*
[19] Section 464.019(9)(b), F.S.
[20] Section 464.019(8), F.S.
[21] *Id.*
[22] *Id.*
[23] This is the most recent Florida Center for Nursing report available, as of this writing.
[24] Florida Center for Nursing, *Review of Florida Nurse Education Program Graduate Passage Rates on the National Council of State Boards of Nursing Licensure Examination: Calendar Year 2019*, April 2020, *available at* https://floridasnursing.gov/forms/2019-nclex-pass-rates.pdf (last visited Mar. 28, 2021) (emphasis original).

Florida's performance standard requires each program's passage rate to be no more than 10 percentage points below than national passage rates of comparable degree programs in the same calendar year. Nearly half of all Florida programs scored below the state's performance standard, including 89 AARN (54 percent), 66 LPN (47 percent), and 18 BSN (31 percent) programs.

In total, 364 nursing programs in Florida had graduates that took the NCLEX in 2019 for the first time, including 98 public programs and 266 private programs. Among AARN and BSN programs, the NCLEX passage rates of public programs were above the national totals. Public LPN programs were below the national passage rate but above the state's performance standard. In contrast, the total passage rate for private programs in each category (e.g. LPN, AARN, BSN) were below national rates with the LPN and AARN passage rates falling well below the state's 10-percentage point standard. However, all non-profit private programs scored above the standard.

The state of Florida invests in its post-secondary education programs with the intent to meet the talent needs of industry. Nursing program graduates cannot practice in their chosen field unless they successfully pass the RN or LPN NCLEX and are awarded a license to practice by the BON. The majority of licensed LPN and AARN graduates prepared to work as nurses in Florida are coming from public programs. Private BSN programs produced 61 percent of licensed graduates in 2019, which may be impacted by private programs outnumbering public schools about five to one.[25]

In 2017, the Florida Legislature directed the FCN to evaluate program-specific data for all approved and accredited nursing education programs in the state, including graduate passage rates on the NCLEX.[26]

The FCN found that for the third year in a row, Florida program graduates performed below national totals for their program type. Within Florida, BSN graduates performed the best with an 89-percent passage rate, followed by LPN graduates with a 72-percent passage rate. The AARN graduates performed at the lowest level with a 66-percent passage rate, as a group. In 2019, the statewide BSN passage rate was the same as 2018, which was a slight improvement over 2017 (87 percent). The AARN program passage rates decreased from 2017 to 2018 and again from 2018 to 2019. The LPN passage rate improved slightly between 2017 and 2018 but decreased in 2019.[27]

The FCN also found of the 364 nursing programs in Florida, 98 (27 percent) were classified as public programs and 266 (73 percent) are private programs and that the total NCLEX passage rate of public AARN and BSN programs exceeded the corresponding national passage rate. In contrast, the total NCLEX passage score of LPN programs and all private programs were below national passage rates and, for private LPN and AARN programs, more than 10 percentage points below the national totals.[28]

[25] *Id*.
[26] Chapters 2009-168, 2010-37, 2014-92, and 2017-134, Laws of Florida.
[27] Florida Center for Nursing, *Review of Florida Nurse Education Program Graduate Passage Rates on the National Council of State Boards of Nursing Licensure Examination: Calendar Year 2018*, June 2019, (on file with the Senate Committee on Health Policy).
[28] *See* Note 23.

2019 Florida NCLEX Passage Rates by Program Type

Program	National	Florida Public		Florida Private	
	Passage Rate	Passage Rate	Programs	Passage Rate	Programs
BSN	91.2	92.9	10	86.5	18
AARN	85,2	89.3	31	52.3	92
LPN	85.6	82.8	57	55.9	61

According to the FCN, prior to the COVID-19 pandemic, Florida was already experiencing a critical shortage of RNs and LPNs which was expected to worsen as demand increased.

According to the FCN, the continued decreasing passage rates of public and private AARN and BSN programs, the impact of the pandemic, and the aging of Florida's population, demonstrate the extreme challenge to provide an adequate health workforce in response to a public health crisis when the health system is already experiencing shortages In addition, the aging of the nurse population and pending health worker retirements contributes to the urgency to address the supply of nurses and compounds the already inadequate supply of working RNs and LPNs, according to the FCN. In 2019, Florida lost almost 1,000 potential LPNs and almost 4,700 potential RNs because nursing program graduates did not pass their licensure exams. The FCN indicates the importance of identifying the institutional characteristics that contribute to this substantial number of graduates being ill-prepared for licensure examination.[29]

National NCLEX Passage Rates and COVID-19

In response to the COVID-19 pandemic, the NCSBN introduced several carefully-evaluated and tested modifications to the NCLEX examinations. These modifications expired on Sept. 30, 2020, and, beginning Oct. 1, 2020, both NCLEX-RN and NCLEX-LPN exams will retain some of the characteristics of the modified exam. The difficulty levels and passing standards of the exams have not changed.[30]

NCLEX pass rates appear to be starting to decrease slightly as the COVID-19 pandemic continues. NCLEX Data shows the following:

- **RN**: NCSBN data shows that NCLEX test takers for the RN version had been hovering around a pass rate of 89 percent for all of 2019 and into early 2020. However, the first-time passage rate for the RN test had dropped to just under 85 percent.
- **LPN**: NCLEX first-time test takers for the LPN version had been around 86 percent passage rate in 2019 and early 2020. The passage rate had dropped down to slightly below 83 percent.

III. Effect of Proposed Changes:

The bill:

- Amends terminology to expand the number and time frame over which a nursing education and training program's graduate passage rates of the NCLEX are measured, from the percentage of first-time test takers in a calendar year passing the NCLEX:

[29] *Id.*
[30] National Council of State Boards of Nursing, Inc., *COVID-19 Impact to NCLEX Candidates, available at* https://www.ncsbn.org/14428.htm (last visited Mar. 28, 2021).

  - To the program's average graduate passage rate of test takers passing the NCLEX during the two most recent calendar years, including those retaking the NCLEX but excluding those who fail more than three consecutive times; or
  - To the program's passage rate as calculated by the contract testing service of the National Council of State Boards of Nursing if the average passage rate is 80 percent or greater on the NCLEX for the prior calendar year;
- Defines, "test takers" to include those graduates who take the NCLEX within one year after graduation and do not fail the examination more than three consecutive times;
- Repeals the definition of "required passage rate" which, under current law, means the graduate passage rate that an approved nursing education program is required to attain and relies on a graduate passage rate of not more than ten percentage below the national average passage rate for first-time test takers of the NCLEX during the same calendar year for graduates of comparable degree programs who were educated in the U.S.;
- Requires an approved program to achieve an average graduate passage rate of 75 percent, or greater than the most recent average graduate passage rate, or be placed on probation or terminated;
- Amends the requirements for the approved programs' annual reports to the BON to:
  - Change the due date from November 1 to April 1;
  - Change the reporting period from the previous academic year to the previous calendar year;
  - Require reporting of the programs' average graduate passage rate or the program's passage rate as calculated by the contract testing service of the National Council of State Boards of Nursing if the average passage rate is 80 percent or greater on the NCLEX for the prior calendar year; and
  - The number of students who failed to pass the NCLEX on their first attempt, that the approved program provided information to on the availability of remediation programs designed to assist the student in passing the NCLEX.
- Authorizes the BON to place approved programs' on probation if the programs' average graduate passage rate does not equal or exceed the required average graduate passage rate of 80 percent;
- Requires the accredited programs to remain on probation until it achieves an average graduate passage rate of 80 percent or greater for test takers who took the NCLEX during the most recent calendar year and do not fail the examination more than three consecutive times, and the BON will remove the probationary status at the next regular BON meeting;
- Requires an approved program to provide each student who fail the NCLEX on his or her first attempt, for at least one calendar year following his or her graduation, information about remediation programs designed to assist the student in passing the NCLEX;
- Prohibits the BON from considering, in any manner, the average graduate passage rates of any approved program for calendar years 2020 and 2021 when determining whether to take any adverse action against the program;
- Provides Legislative intent for the bill's provisions relating to probation and termination to apply retroactively to January 1, 2021, to prevent the BON from placing or continuing an approved program on probation or terminating an existing approved program that is already on probation.
- Amends the information the BON must publish on its website for its list of accredited programs to include:

  - The programs' average graduate passage rate, rather than the graduate passage rate; and repeals the requirement that the information be for the most recent two calendar years;
  - The average graduate pass rates for the test takers educated in the U.S., rather than the graduate passage rates, for first-time U.S.-educated test takers; and
- Amends s. 960.28, F.S., to make a technical change.

The bill provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill uses an undefined term on lines 142-143, i.e. "graduate passage rate." The bill replaces current law's defined term "graduate passage rate" with "average graduate passage rate" and changes every occurrence of the former to the latter, except on lines 142-143.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 464.003, 464.019, and 960.28.

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 March 31, 2021:
The CS:

- Revises the definition of "test takers" to exclude persons who fail the nurse licensure exam more than three consecutive times;
- Moves the due-date for nursing education program's annual reports to April 1st instead of February 1st;
- Provides an alternative to programs reporting their two year "average graduate passage rate" to allow programs to report their passage rate calculated by the National Council of State Boards of Nursing if the average passage rate is 80 percent or greater on the NCLEX for the prior calendar year;
- Requires programs to achieve an average graduate passage rate of 80 percent or greater, instead of 75 percent as in the underlying bill, or be placed on probation or terminated;
- Eliminates the underlying bill's requirement that programs report numerous types of data pertaining to graduate passage or failure on licensure exams;
- Removes the underlying bill's requirement for programs to offer remediation to students who fail the licensure exam on their 1st attempt and, instead, requires programs to provide such students with information about remediation programs; and
- Prohibits the BON from considering, in any manner, a program's average graduate passage rate for the 2020 and 2021 calendar years when determining whether to take adverse action against the program.

B. Amendments:

None.

147202

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/31/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present subsections (6) through (13) of section 464.003, Florida Statutes, are redesignated as subsections (7) through (14), respectively, present subsection (14) of that section is redesignated as subsection (6) and amended, and subsection (22) of that section is amended, to read:

464.003 Definitions.—As used in this part, the term:

147202

(6) ~~(14)~~ "Average graduate passage rate" means the percentage of a program's test takers ~~graduates~~ who, as first-time test takers, pass the National Council of State Boards of Nursing Licensing Examination (NCLEX) during the most recent 2 consecutive ~~a~~ calendar years ~~year, as calculated by the contract testing service of the National Council of State Boards of Nursing~~. The term includes all test takers as defined in this section.

(22) "Test takers" means those graduates who take the NCLEX within 1 year after their graduation date and do not fail the examination more than three consecutive times pursuant to s. 464.008(3) ~~"Required passage rate" means the graduate passage rate required for an approved program pursuant to s. 464.019(5)(a)~~.

Section 2. Subsections (3), (4), and (5) of section 464.019, Florida Statutes, are amended to read:

464.019 Approval of nursing education programs.—

(3) ANNUAL REPORT.—By April ~~November~~ 1 of each year, each approved program shall submit to the board an annual report composed ~~comprised~~ of an affidavit certifying continued compliance with subsection (1), a summary description of the program's compliance with subsection (1), and documentation for the previous calendar ~~academic~~ year that, to the extent applicable, describes:

(a) The number of student applications received, qualified applicants, applicants accepted, accepted applicants who enroll in the program, students enrolled in the program, and program graduates.

(b) The program's retention rates for students tracked from

147202

program entry to graduation.

(c) The program's average graduate passage rate as defined in s. 464.003 or the program's passage rate as calculated by the contract testing service of the National Council of State Boards of Nursing if the average passage rate is 80 percent or greater on the NCLEX for the prior calendar year.

(d) ~~(c)~~ The program's accreditation status, including identification of the accrediting agency.

(e) The number of students who were provided information on available remediation programs pursuant to paragraph (5)(e).

(4) INTERNET WEBSITE.—The board shall publish the following information on its Internet website:

(a) A list of each accredited program conducted in the state and the program's average graduate passage rate ~~rates for the most recent 2 calendar years~~, which the department shall determine through the following sources:

1. For a program's accreditation status, the specialized accrediting agencies that are nationally recognized by the United States Secretary of Education to accredit nursing education programs.

2. For a program's average graduate passage rate ~~rates~~, the contract testing service of the National Council of State Boards of Nursing and the approved program.

(b) The following data for each approved program, which includes, to the extent applicable:

1. All documentation provided by the program in its program application.

2. The summary description of the program's compliance submitted under subsection (3).


147202

3. The program's accreditation status, including identification of the accrediting agency.

4. The program's probationary status.

5. The program's average graduate passage rate ~~rates for the most recent 2 calendar years~~.

6. Each program's retention rates for students tracked from program entry to graduation.

(c) The average graduate passage rate ~~rates~~ for United States-educated ~~United States educated, first-time~~ test takers ~~on the National Council of State Boards of Nursing Licensing Examination for the most recent 2 calendar years, as calculated by the contract testing service of the National Council of State Boards of Nursing~~. The average graduate passage rate must ~~rates shall~~ be published separately for each type of comparable degree program listed in paragraph (5)(a) ~~subparagraph (5)(a)1~~.

The information required to be published under this subsection shall be made available in a manner that allows interactive searches and comparisons of individual programs selected by the website user. The board shall update the Internet website at least quarterly with the available information.

(5) ACCOUNTABILITY.—

(a)1. An approved program must achieve an average ~~a~~ graduate passage rate of 80 percent or greater or be placed on probationary status or terminated as provided in subparagraph (5)(a)2 ~~for first-time test takers which is not more than 10 percentage points lower than the average passage rate during the same calendar year for graduates of comparable degree programs who are United States educated, first-time test takers on the~~

~~National Council of State Boards of Nursing Licensing Examination, as calculated by the contract testing service of the National Council of State Boards of Nursing~~. For purposes of this subparagraph, an approved program is comparable to all degree programs of the same program type from among the following program types:

a. Professional nursing education programs that terminate in a bachelor's degree.

b. Professional nursing education programs that terminate in an associate degree.

c. Professional nursing education programs that terminate in a diploma.

d. Practical nursing education programs.

2. If an approved program's average graduate passage rate does ~~rates do~~ not equal or exceed the average graduate ~~required~~ passage rate required in subparagraph 1. ~~rates for 2 consecutive calendar years~~, the board shall place the program on probationary status pursuant to chapter 120 and the program director shall appear before the board to present a plan for remediation, which shall include specific benchmarks to identify progress toward the required average ~~a~~ graduate passage rate ~~goal~~. The program must remain on probationary status until it achieves an average ~~a~~ graduate passage rate that equals or exceeds the required average graduate passage rate for any 1 calendar year. The board shall deny a program application for a new prelicensure nursing education program submitted by an educational institution if the institution has an existing program that is already on probationary status.

3. Upon the program's achievement of a graduate passage

147202

rate of 80 percent or greater for test takers who took the NCLEX during the most recent calendar year and do not fail the examination more than three consecutive times pursuant to s. 464.008(3) ~~that equals or exceeds the required passage rate~~, the board, at its next regularly scheduled meeting following release of the program's average graduate passage rate ~~by the National Council of State Boards of Nursing~~, shall remove the program's probationary status. If the program, during the 2 calendar years following its placement on probationary status, does not achieve the required average graduate passage rate ~~for any 1 calendar year~~, the board may extend the program's probationary status for 1 additional year, provided the program has demonstrated adequate progress toward achieving the required average graduate passage rate ~~goal~~ by meeting a majority of the benchmarks established in the remediation plan. If the program is not granted the 1-year extension or fails to achieve the required average graduate passage rate by the end of such extension, the board shall terminate the program pursuant to chapter 120.

(b) If an approved program fails to submit the annual report required in subsection (3), the board shall notify the program director and president or chief executive officer of the educational institution in writing within 15 days after the due date of the annual report. The program director shall appear before the board at the board's next regularly scheduled meeting to explain the reason for the delay. The board shall terminate the program pursuant to chapter 120 if the program director fails to appear before the board, as required under this paragraph, or if the program does not submit the annual report within 6 months after the due date.

147202

(c) A nursing education program, whether accredited or nonaccredited, which has been placed on probationary status shall disclose its probationary status in writing to the program's students and applicants. The notification must include an explanation of the implications of the program's probationary status on the students or applicants.

(d) If students from a program that is terminated pursuant to this subsection transfer to an approved or an accredited program under the direction of the Commission for Independent Education, the board shall recalculate the passage rates of the programs receiving the transferring students, excluding the test scores of those students transferring more than 12 credits.

(e) For each student who fails to pass the NCLEX on his or her first attempt, and for at least 1 calendar year following his or her graduation date, an approved program must provide such student information about remediation programs designed to assist the student in passing the NCLEX.

(f) The average graduate passage rate of an approved program for calendar years 2020 and 2021, as determined by the contract testing service of the National Council of State Boards of Nursing, may not be considered by the board in any manner when determining whether to take any adverse action against an approved program, such as placing or continuing an approved program on probationary status or terminating an existing approved program that is already on probationary status.

(g) It is the intent of the Legislature that the amendment to this subsection apply retroactively to January 1, 2021, to prevent the board from placing or continuing an approved program on probationary status or terminating an existing approved

147202

program that is already on probationary status.

Section 3. Subsection (2) of section 960.28, Florida Statutes, is amended to read:

960.28 Payment for victims' initial forensic physical examinations.—

(2) The Crime Victims' Services Office of the department shall pay for medical expenses connected with an initial forensic physical examination of a victim of sexual battery as defined in chapter 794 or a lewd or lascivious offense as defined in chapter 800. Such payment shall be made regardless of whether the victim is covered by health or disability insurance and whether the victim participates in the criminal justice system or cooperates with law enforcement. The payment shall be made only out of moneys allocated to the Crime Victims' Services Office for the purposes of this section, and the payment may not exceed $1,000 with respect to any violation. The department shall develop and maintain separate protocols for the initial forensic physical examination of adults and children. Payment under this section is limited to medical expenses connected with the initial forensic physical examination, and payment may be made to a medical provider using an examiner qualified under part I of chapter 464, excluding s. 464.003(15) ~~s. 464.003(14)~~; chapter 458; or chapter 459. Payment made to the medical provider by the department shall be considered by the provider as payment in full for the initial forensic physical examination associated with the collection of evidence. The victim may not be required to pay, directly or indirectly, the cost of an initial forensic physical examination performed in accordance with this section.

147202

Section 4. This act shall take effect July 1, 2021.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to nursing programs; amending s. 464.003, F.S.; defining the terms "average graduate passage rate" and "test takers"; amending s. 464.019, F.S.; revising requirements for an annual report submitted by approved nursing programs; revising specified information that the Board of Nursing must publish on its website; revising graduate passage rate requirements for approved nursing programs; requiring nursing programs to provide specified information to students who fail to pass a certain examination on their first attempt; prohibiting the board from considering average graduate passage rates from the 2020 and 2021 calendar years when making certain determinations; providing for retroactive applicability; amending s. 960.28, F.S.; correcting a cross-reference; providing an effective date.

By Senator Brodeur

9-01171B-21 20211296__

A bill to be entitled

An act relating to nursing programs; amending s. 464.003, F.S.; defining the terms "average graduate passage rate" and "test takers"; amending s. 464.019, F.S.; revising requirements for an annual report submitted by approved nursing programs; revising specified information that the Board of Nursing must publish on its website; revising graduate passage rate requirements for approved nursing programs; providing that certain requirements for nursing programs apply beginning in a specified year; requiring nursing programs to offer remediation programs to students who fail to pass a certain examination on their first attempt; prohibiting the board from considering average graduate passage rates from the 2020 and 2021 calendar years when making certain determinations; providing for retroactive applicability; amending s. 960.28, F.S.; correcting a cross-reference; providing an effective date.

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

Section 1. Present subsections (6) through (13) of section 464.003, Florida Statutes, are redesignated as subsections (7) through (14), respectively, present subsection (14) is redesignated as subsection (6) and amended, and subsection (22) of that section is amended, to read:

464.003 Definitions.—As used in this part, the term:

(6) ~~(14)~~ "Average graduate passage rate" means the

9-01171B-21 20211296__

percentage of a program's test takers ~~graduates~~ who~~, as first-time test takers,~~ pass the National Council of State Boards of Nursing Licensing Examination (NCLEX) during the most recent 2 consecutive ~~a~~ calendar years ~~year, as calculated by the contract testing service of the National Council of State Boards of Nursing~~. The term includes all test takers as defined in this section regardless of the number of times the student takes the NCLEX.

(22) "Test takers" means those graduates who take the NCLEX within 1 year after their graduation date ~~"Required passage rate" means the graduate passage rate required for an approved program pursuant to s. 464.019(5)(a)~~.

Section 2. Subsections (3), (4), and (5), paragraph (a) of subsection (9), and paragraph (f) of subsection (11) of section 464.019, Florida Statutes, are amended to read:

464.019 Approval of nursing education programs.—

(3) ANNUAL REPORT.—By February ~~November~~ 1 of each year, each approved program shall submit to the board an annual report composed ~~comprised~~ of an affidavit certifying continued compliance with subsection (1), a summary description of the program's compliance with subsection (1), and documentation for the previous calendar ~~academic~~ year which ~~that~~, to the extent applicable, describes:

(a) The number of student applications received, qualified applicants, applicants accepted, accepted applicants who enroll in the program, students enrolled in the program, and program graduates.

(b) The program's retention rates for students tracked from program entry to graduation.

(c) The program's average graduate passage rate.

(d) The program's accreditation status, including identification of the accrediting agency.

(4) INTERNET WEBSITE.—The board shall publish the following information on its Internet website:

(a) A list of each accredited program conducted in this ~~the~~ state and the program's average graduate passage rate ~~rates for the most recent 2 calendar years~~, which the department shall determine through the following sources:

1. For a program's accreditation status, the specialized accrediting agencies that are nationally recognized by the United States Secretary of Education to accredit nursing education programs.

2. For a program's average graduate passage rate ~~rates~~, the contract testing service of the National Council of State Boards of Nursing and the approved program.

(b) The following data for each approved program, which includes, to the extent applicable:

1. All documentation provided by the program in its program application.

2. The summary description of the program's compliance submitted under subsection (3).

3. The program's accreditation status, including identification of the accrediting agency.

4. The program's probationary status.

5. The program's average graduate passage rate ~~rates for the most recent 2 calendar years~~.

6. Each program's retention rates for students tracked from program entry to graduation.

(c) The average graduate passage rate ~~rates~~ for United States-educated ~~United States educated, first-time~~ test takers ~~on the National Council of State Boards of Nursing Licensing Examination for the most recent 2 calendar years, as calculated by the contract testing service of the National Council of State Boards of Nursing~~. The average graduate passage rate must ~~rates shall~~ be published separately for each type of comparable degree program listed in paragraph (5)(a) ~~subparagraph (5)(a)1~~.

The information required to be published under this subsection shall be made available in a manner that allows interactive searches and comparisons of individual programs selected by the website user. The board shall update the Internet website at least quarterly with the available information.

(5) ACCOUNTABILITY.—

(a)~~1.~~ An approved program must achieve an average ~~a~~ graduate passage rate of 75 percent or greater than the most recent national average graduate passage rate or be placed on probationary status or terminated as provided in paragraph (b) ~~for first-time test takers which is not more than 10 percentage points lower than the average passage rate during the same calendar year for graduates of comparable degree programs who are United States educated, first-time test takers on the National Council of State Boards of Nursing Licensing Examination, as calculated by the contract testing service of the National Council of State Boards of Nursing~~. For purposes of this paragraph ~~subparagraph~~, an approved program is comparable to all degree programs of the same program type from among the following program types:

1.~~a.~~ Professional nursing education programs that terminate in a bachelor's degree.

2.~~b.~~ Professional nursing education programs that terminate in an associate degree.

3.~~c.~~ Professional nursing education programs that terminate in a diploma.

4.~~d.~~ Practical nursing education programs.

(b) Beginning in calendar year 2022, all of the following requirements apply:

1. By February 1 of each calendar year, approved programs, in consultation with the board, must report all of the following information for the 2 most recent consecutive calendar years to the board:

a. The names and number of students who graduated, along with their graduation dates, and who took, passed, or failed the NCLEX, and the number of times each student took the NCLEX.

b. The percentage of graduates who failed the NCLEX a third time compared to the number of graduates who took the NCLEX.

c. The number of graduates who were offered the remediation program, their graduation dates, and the names of students who participated in the remediation program.

d. The average graduate passage rate and whether the approved program has met or exceeded the average graduate passage rate required in paragraph (a).

2. Upon receipt of the information in subparagraph 1., the board shall prepare a report detailing the average graduate passage rate for each approved program and shall provide such report to each approved program.

3. Upon receipt of the board's report, an approved program

has 30 calendar days to provide additional information to the board if there are any disputes relating to the information the board used to prepare the report.

4. After the board receives all required or additional information, the board shall issue a final report detailing the average graduate passage rate for each approved program in accordance with this subsection.

5.~~2.~~ If an approved program's average graduate passage rate does ~~rates do~~ not equal or exceed the average graduate ~~required~~ passage rate required in paragraph (a) ~~rates for 2 consecutive calendar years~~, the board shall place the program on probationary status pursuant to chapter 120 and the program director shall appear before the board to present a plan for remediation, which shall include specific benchmarks to identify progress toward the required average ~~a~~ graduate passage rate ~~goal~~. The program must remain on probationary status until it achieves an average ~~a~~ graduate passage rate that equals or exceeds the required average graduate passage rate for any 1 calendar year. The board shall deny a program application for a new prelicensure nursing education program submitted by an educational institution if the institution has an existing program that is already on probationary status.

6.~~3.~~ Upon the program's achievement of an average ~~a~~ graduate passage rate that equals or exceeds the required average graduate passage rate, the board shall remove the program's probationary status~~,~~ at its next regularly scheduled meeting following release of the program's average graduate passage rate ~~by the National Council of State Boards of Nursing, shall remove the program's probationary status~~.

7. If the program, during the 2 calendar years following its placement on probationary status, does not achieve the required average graduate passage rate ~~for any 1 calendar year~~, the board may extend the program's probationary status for 1 additional year, provided the program has demonstrated adequate progress toward achieving the required average graduate passage rate goal by meeting a majority of the benchmarks established in the remediation plan.

8. If the program is not granted the 1-year extension or fails to achieve the required average graduate passage rate by the end of such extension, the board shall terminate the program pursuant to chapter 120.

(c) For each student who fails to pass the NCLEX on his or her first attempt, and for at least 1 calendar year following his or her graduation date, an approved program must offer such student a remediation program designed to assist the student in passing the NCLEX.

(d) ~~(b)~~ If an approved program fails to submit the annual report required in subsection (3), the board shall notify the program director and president or chief executive officer of the educational institution in writing within 15 days after the due date of the annual report. The program director shall appear before the board at the board's next regularly scheduled meeting to explain the reason for the delay. The board shall terminate the program pursuant to chapter 120 if the program director fails to appear before the board, as required under this paragraph, or if the program does not submit the annual report within 6 months after the due date.

(e) ~~(c)~~ A nursing education program, whether accredited or

nonaccredited, which has been placed on probationary status shall disclose its probationary status in writing to the program's students and applicants. The notification must include an explanation of the implications of the program's probationary status on the students or applicants.

(f) ~~(d)~~ If students from a program that is terminated pursuant to this subsection transfer to an approved or an accredited program under the direction of the Commission for Independent Education, the board shall recalculate the passage rates of the programs receiving the transferring students, excluding the test scores of those students transferring more than 12 credits.

(g) The board may not consider average graduate passage rates of any program for calendar years 2020 and 2021, as determined by the contract testing service of the National Council of State Boards of Nursing, in determining whether to take any adverse action against an approved program, such as placing or continuing a program on probationary status or terminating a program that is already on probationary status.

(h) It is the intent of the Legislature that the amendment to this subsection apply retroactively to January 1, 2021, to prevent the board from placing or continuing an approved program on probationary status or terminating an existing approved program that is already on probationary status.

(9) APPLICABILITY TO ACCREDITED PROGRAMS.—

(a) Subsections (1)-(3), paragraph (4)(b), and paragraph (5)(d) ~~(5)(b)~~ do not apply to an accredited program.

(11) ACCREDITATION REQUIRED.—

(f) An approved nursing education program may, no sooner

than 90 days before the deadline for meeting the accreditation requirements of this subsection, apply to the board for an extension of the accreditation deadline for a period which does not exceed 2 years. An additional extension may not be granted. In order to be eligible for the extension, the approved program must establish that it has a graduate passage rate of 60 percent or higher on the National Council of State Boards of Nursing Licensing Examination for the most recent calendar year and must meet a majority of the board's additional criteria, including, but not limited to, all of the following:

1. A student retention rate of 60 percent or higher for the most recent calendar year.

2. A graduate work placement rate of 70 percent or higher for the most recent calendar year.

3. The program has applied for approval or been approved by an institutional or programmatic accreditor recognized by the United States Department of Education.

4. The program is in full compliance with subsections (1) and (3) and paragraph (5)(d) ~~(5)(b)~~.

5. The program is not currently in its second year of probationary status under subsection (5).

The applicable deadline under this paragraph is tolled from the date on which an approved program applies for an extension until the date on which the board issues a decision on the requested extension.

Section 3. Subsection (2) of section 960.28, Florida Statutes, is amended to read:

960.28 Payment for victims' initial forensic physical

examinations.—

(2) The Crime Victims' Services Office of the department shall pay for medical expenses connected with an initial forensic physical examination of a victim of sexual battery as defined in chapter 794 or a lewd or lascivious offense as defined in chapter 800. Such payment shall be made regardless of whether the victim is covered by health or disability insurance and whether the victim participates in the criminal justice system or cooperates with law enforcement. The payment shall be made only out of moneys allocated to the Crime Victims' Services Office for the purposes of this section, and the payment may not exceed $1,000 with respect to any violation. The department shall develop and maintain separate protocols for the initial forensic physical examination of adults and children. Payment under this section is limited to medical expenses connected with the initial forensic physical examination, and payment may be made to a medical provider using an examiner qualified under part I of chapter 464, excluding s. 464.003(15) ~~s. 464.003(14)~~; chapter 458; or chapter 459. Payment made to the medical provider by the department shall be considered by the provider as payment in full for the initial forensic physical examination associated with the collection of evidence. The victim may not be required to pay, directly or indirectly, the cost of an initial forensic physical examination performed in accordance with this section.

Section 4. This act shall take effect upon becoming a law.

The Florida Senate

Committee Agenda Request

To: Senator Manny Diaz, Jr., Chair
Committee on Health Policy

Subject: Committee Agenda Request

Date: March 16, 2021

I respectfully request that **Senate Bill 1296**, relating to Nursing Programs, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Jason Brodeur

Senator Jason Brodeur
Florida Senate, District 9

File signed original with committee office

S-009 (03/2004)

FCN Florida Center for Nursing

June 2019

Review of Florida Nurse Education Program Graduate Passage Rates on the National Council of State Boards of Nursing Licensure Examination: Calendar Year 2018

At a Glance

To be granted a license to practice as a registered nurse (RN) or licensed practical nurse (LPN) in Florida, graduates from approved or accredited education programs must successfully pass the National Council of State Boards of Nursing Licensure Examination (NCLEX). Florida's average NCLEX passage rates varied by program type and public or private classification. Florida's average NCLEX passage rates were below the national average for each program type. Within Florida, bachelor's degree nurse (BDN) graduates performed the best, followed by licensed practical nurse (LPN) graduates. Associate degree nurse (ADN) graduates performed at the lowest level, on average. Nationally, Florida's RN programs (ADN and BDN combined) performed lowest among all 50 states and the District of Columbia, matching their 2017 rank. The average LPN passage rate decreased since 2017, ranking Florida 50th out of 51, nationally.[1]

Fifty-eight (58 / 40.6%) LPN programs scored below the state's performance standard, which requires each program's passage rate to be no more than 10 percentage points lower than the national average. More than half (82 / 51.6%) of Florida's 159 associate degree RN programs, had passage rates below the standard. Only 25% of bachelor's degree RN programs (n = 10) had a passage rate more than 10 percentage points lower than the national average.

In total, 354 nursing programs in Florida had graduates that took the NCLEX in 2018, including 103 public programs and 251 private programs. For each program type (e.g. LPN, ADN, BDN), the average NCLEX passage rates of *public* programs were above the national average. In contrast, the average NCLEX passage rates for each group of *private* programs were below the national average. Additionally, average passage rates for private LPN and ADN programs were more than 10 percentage points lower than the national average, thus not meeting Florida's required standard. Among private programs, not-for-profit programs achieved higher NCLEX passage rates than for-profit programs in each program type.

The state of Florida invests in its post-secondary education programs with the intent to meet the talent needs of industry. Program graduates cannot practice in their chosen field unless they successfully pass the RN or PN NCLEX and are awarded a license to practice by the Florida Board of Nursing. When the state ranks at or near the bottom of NCLEX passage rate achievement, nationwide, understanding achievements by public and private program status may aid in the design and implementation of actions for improvement. Overall, Florida's public nursing schools are performing better than average, preparing graduates to successfully achieve licensure status. Private (particularly for-profit) programs were less likely to meet Florida's performance standards.

[1] Includes all 50 states and the District of Columbia

Scope

In 2017, the Florida Legislature directed the Florida Center for Nursing (FCN) to evaluate program-specific data for all approved and accredited nursing education programs in the state, including graduate passage rates on the National Council of State Boards of Nursing Licensure Examination (NCLEX).[2]

This report is a companion to the FCN report published in January 2019 – *Review of Florida's Nursing Education Programs, Academic Year 2017-18.* Together the two reports complete the nursing program review, mandated by statute, for Academic Year 2017-2018 and Calendar Year 2018. Additional reports on the characteristics of Florida's nursing LPN, ADN, BSN, post-licensure education programs, and nursing program faculty are available on the Florida Center for Nursing website.

Background

Since 2009 the Legislature has made several statutory changes with the intent to increase the number of approved nursing education programs to address Florida's shortage of nurses. One established performance standard requires that each program's graduate passage rate for first-time NCLEX takers is not more than 10 percentage points lower than the national average passage rate for graduates of comparable degree programs during the same calendar year. If a program's passage rate does not meet the requirement for two consecutive calendar years, it is placed on probation and must submit a remediation plan and increase its passage rate to meet or exceed the required passage rate within timeframes specified in statute.[3]

This report provides program-specific nursing licensure exam data for all licensed practical and registered nurse (associate and bachelor's degrees) education programs[4] in Florida for the 2018 calendar year. Data include each program's passage rate for graduates who took the NCLEX for the first time and within six months of their graduation date.[5]

Findings

How do graduates of Florida programs compare to graduates nationally?

Florida's registered nurse (RN) graduates may complete either an associate degree or a bachelor's degree to qualify for examination. As a group, **Florida program graduates performed below national averages** for their program type (see Exhibit 1, next page).

Within Florida, **bachelor's degree (BDN) graduates performed the best** (89% passage rate), followed by licensed practical nurse (LPN) graduates (76% passage rate). Associate degree (ADN) graduates performed at the lowest level (68% passage rate), as a group. Averages within

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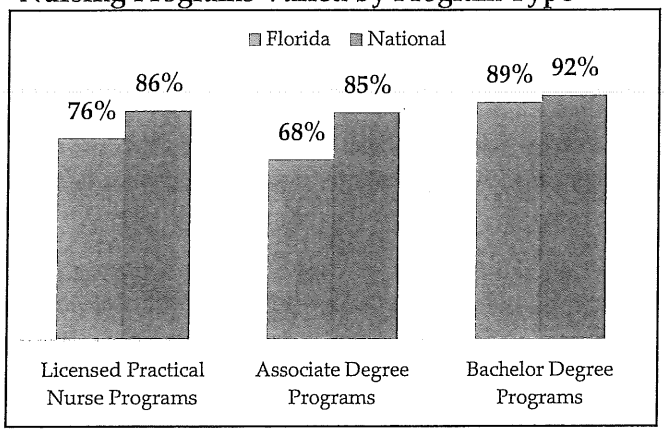
[2] Chapters 2009-168, 2010-37, 2014-92, and 2017-134 *Laws of Florida.*
[3] 464.019 (5)(a)(3), F.S.
[4] Public school districts, Florida colleges, state universities, private institutions licensed by the Commission for Independent Education, and private institutions that are members of the Independent Colleges and Universities of Florida offer nursing programs. In addition, state law authorizes Pensacola Christian College to offer a Bachelor of Science in nursing degree.
[5] Graduates who fail their first attempt are eligible to retake the exam and pass at a later date. Some programs may report different statistics for their individual programs due to the consideration of graduates passing after retaking the exam. This report only considers NCLEX takers based on the criteria above.

Exhibit 1: Florida's 2018 Average Licensure Exam Passage Rates for Students Who Graduated from Nursing Programs Varied by Program Type



the state increased for BDN and LPN programs since 2017, while the ADN average passage rate decreased.[6]

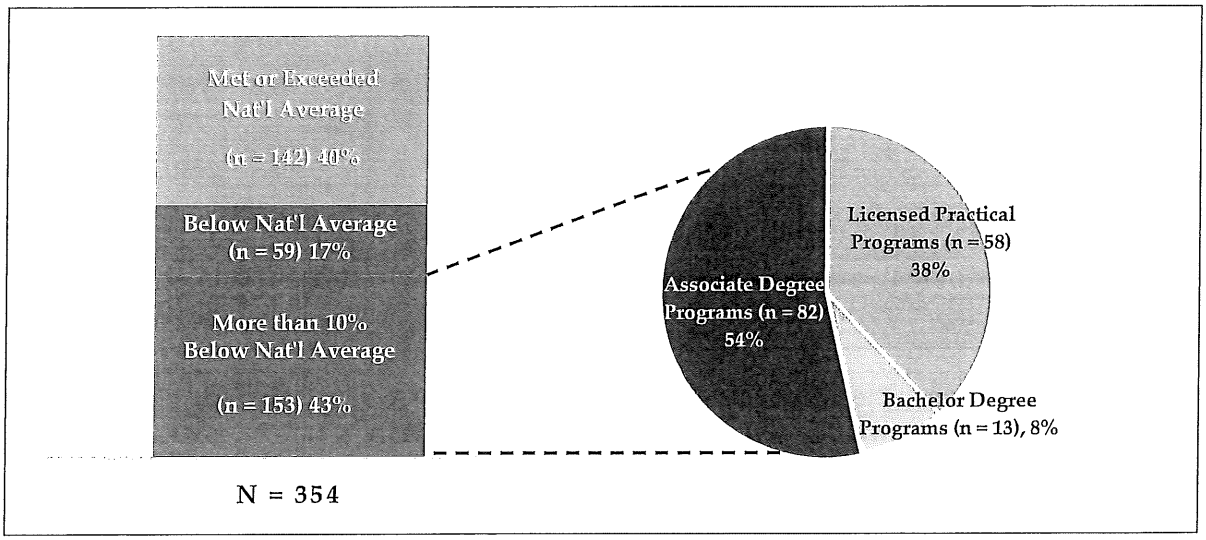
In 2018, Florida's statewide RN NCLEX passage rate (combining associate and bachelor's degree programs) [i] was 72.74% compared to 88.29% nationally – ranking Florida the lowest among the 50 states and District of Columbia.

The statewide passage rate for LPNs was 75.56% compared to 85.91% nationally – ranking Florida's LPN programs 50th out of the 50 states and District of Columbia.

How many Florida programs had licensure examination passage rates more than 10 percentage points below the national average?

Exhibit 2 describes program passage rates in relation to national averages. Among the 354 nursing education programs in Florida with NCLEX test takers,[7] 43% earned a passage rate more than 10 percentage points below the national average.

Exhibit 2: Distribution of Florida's Nursing Programs with NCLEX Passage Rates More than 10 Percentage Points Below the National Average (2018)



[6] Florida 2017 Passage rates: LPN (75%), ADN (70%), BDN (87%) (Florida Center for Nursing, 2018)

[7] Program counts may not match those reported in the January 2019 report submitted to legislature, due to programs opening and closing in the 2018 calendar year. The Florida nursing program survey considers a 'snapshot' of active programs as of September 2018, while NCLEX reports are provided for all programs active at any point during the calendar year, with affiliated test takers.

Of 143 licensed practical nurse (LPN) programs, 61 (42.7%) achieved passage rates higher than the national average. Twenty-four (16.8%) had passage rates lower than the national average but not more than 10 percentage points below it. A total of **58 (40.6%) LPN programs had passage rates more than 10 percentage points below the national average.**

Fifty-six (35.2%) of the 159 associate degree programs achieved passage rates higher than the national average. Twenty-one (13.2%) programs had passage rates lower than the national average but not more than 10 percentage points below it. **More than half of the associate degree programs (82 / 51.6%) earned passage rates more than 10 percentage points below the national average.**

Of the 52 bachelor's degree programs, nearly half (25 / 48.1%) achieved passage rates higher than the national average. Fourteen (26.9%) had passage rates lower than the national average but not more than 10 percentage points below it. A total of **13 (25.0%) bachelor's degree programs had passage rates more than 10 percentage points below the national average.**

Is there evidence of variance in results when public programs are compared to private programs?

Public programs are those offered at public school districts, Florida colleges, or state universities. All others are considered *private* and are licensed by the Commission for Independent Education or are members of the Independent Colleges and Universities of Florida. **Of the 354 nursing programs in Florida, 103 (29%) are classified as public programs and 251 (71%) are classified as private programs.** Private education programs can be further delineated as either for-profit or not-for-profit.[8]

Exhibit 3: Average NCLEX Passage Rates for Public and Private Schools by Program Type and For-Profit Status, Compared to National Average

Program	FL Public		National	FL Private							
				Total Private		For-Profit		Not-for-Profit		Unknown	
	NCLEX Avg.	#	NCLEX Avg.	NCLEX Avg.	#	*NCLEX Avg.*	#	*NCLEX Avg.*	#	*NCLEX Avg.*	#
LPN	86.7%	61	**85.9%**	58.8	82	*78.5%*	*40*	*82.8%*	*4*	*21.8%*	*38*
AD-RN	88.6%	31	**85.1%**	52.9	128	*61.0%*	*77*	*81.5%*	*20*	*15.9%*	*31*
BD-RN	93.7%	11	**91.6%**	85.9	41	*82.6%*	*13*	*91.0%*	*22*	*46.0%*	*6*

In each program type, the average NCLEX passage rate of public programs exceeded the corresponding national average (Exhibit 3). In contrast, the average NCLEX passage score of private programs were below the national average and, for LPN and ADN programs, more than 10 percentage points below the national average. When comparing for-profit to not-for-profit private programs, not-for-profit programs achieved higher NCLEX passage rates than for-profit in each program type, and closely approached national averages. The poorest performing schools

[8] Determined by self-reported classification in response to the Florida Center for Nursing's 2018 Survey of Nursing Education Programs. For-Profit/Not-For-Profit delineation is unknown for private programs which did not respond to the survey.

also did not complete FCN's survey[9]; therefore, their for-profit/not-for-profit status is unknown. These schools had substantially lower average passage rates than any other group. It is evident that **Florida's public nursing education programs are performing better than average, preparing graduates to be successful in achieving licensure status in each program type.**

What is the class size variance by program type and public/private status?

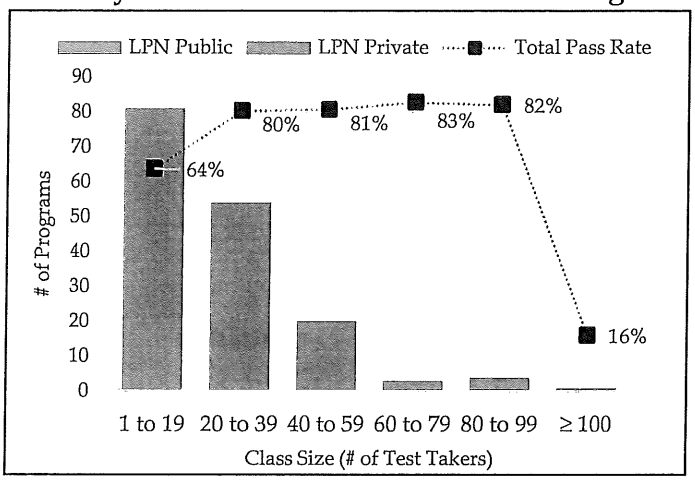
Program class size was determined based on the number of exam takers[10]. Generally, LPN programs had the smallest class sizes, and ADN class sizes were largest. Private schools were more likely to have considerably smaller class sizes than public (see Exhibits 4a, 4b, and 4c).

LPN Program Class Sizes

Although LPN programs typically have smaller class sizes, the largest pool of LPN exam takers came from a single private program with a class size exceeding 100. In this program, only 20 out of 125 takers passed the exam, resulting in a 16% NCLEX passage rate for this school. Apart from this outlier, 73% of the 82 private programs had fewer than 20 exam takers, compared to 26% of the 81 public programs.

In total, 81 of 143 LPN programs (public and private combined) had between 1 and 19 exam takers (Exhibit 4a). Among them, 328 of 515 exam takers passed, resulting in an overall passage rate of 63.69% for this class size.

Exhibit 4a: Licensed Practical Program (LPN) Class Sizes by Public/Private Status and Total Passage Rate



Total passage rates were highest among class size groups with more public than private programs. The largest quantity of successful LPN exam takers were in class sizes between 20 and 59. In these groups, 1519 of 1888 exam takers passed (80.46%). Though below the national average, this is within the required range per Florida statute.

ADN Program Class Sizes

There were 128 private ADN programs, compared to 31 public programs. Private programs were more likely to have smaller class sizes compared to public ADN programs (Exhibit 4b, next page). The only group that achieved an average passage rate within the allowed Florida range were programs with 60 to 79 exam takers (78.53%). Programs with 1 to 19 exam takers achieved the

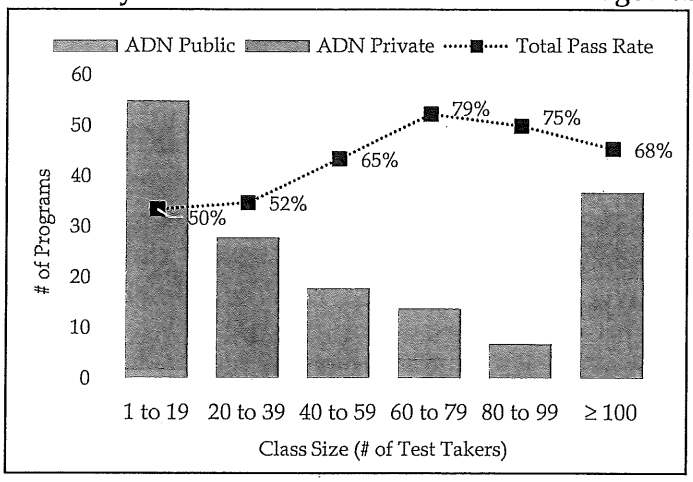
[9] For-profit/not-for-profit status is not provided with NCLEX score reports. Programs which did not complete the survey to answer this question may have already been closed by the beginning of the survey cycle or may have neglected to complete the survey for other reasons.

[10] Each nursing program submits to the Board of Nursing a list of graduates *qualified* to take the NCLEX who are then permitted to take the exam. This list may be less than the number of students graduating.

lowest passage rate of 50.26%. Only two public programs had a class size smaller than 20, compared to 53 private programs.

Overall, there were four times as many private ADN programs, compared to public programs in Florida. Private programs produced 53% of all 2018 exam takers (n=6,965) compared to 4,837 exam takers from public schools. However, public programs produced 54% of all successful exam takers (n = 4,285) while private programs produced a total of 3,686 successful exam takers.

Exhibit 4b: Associate Degree Program (ADN) Class Sizes by Public/Private Status and Total Passage Rate

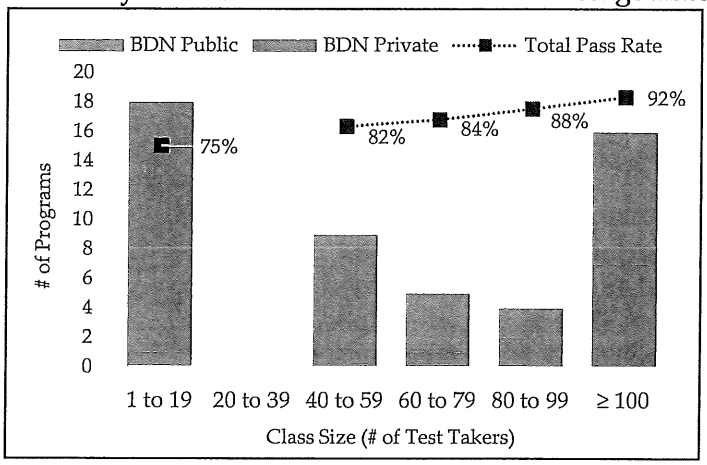


BDN Program Class Sizes

As previously stated, bachelor's degree programs achieved the highest average passage rate in Florida (88.98%) (see Exhibit 4c), although still below the national average.

There were 41 private BDN programs and 11 public programs. Most public programs had 100 or more exam takers, while 41% of private programs had fewer than 20 exam takers.

Exhibit 4c: Bachelor's Degree Program (BDN) Class Sizes by Public/Private Status and Total Passage Rate



Overall, larger class sizes had higher exam passage rates. The three programs with the largest number of exam takers, all greater than 200, were **public schools whose average passage rate was above the national average (94.1%)**. Programs with fewer than 20 exam takers had an average passage rate (75.19%) more than 10 percentage points below the national average.

Single Exam Takers

Passage rates for a total of 38 programs relied on the score of a single exam taker, including 26 LPN programs, six (6) ADN programs, and six (6) BDN programs. Twelve of the 26 LPN programs with only one exam taker received 100% passage rates, and 14 failed (0% passage rates). When combined, 46% of LPN programs with single test takers passed, while 54% did not.

Three of the six ADN programs with one test taker received 100% passage rates, while three failed (0%). Similarly, three of the six BDN programs with single test takers received 100% passage rates. As a group, 50% of ADN programs and 50% of BDN programs with single test takers achieved acceptable passage rates.

Implications

Florida is experiencing a critical shortage of registered and licensed practical nurses which is expected to worsen as demand increases. The aging of the nurse population and pending retirements contributes to the urgency to address the supply of nurses and compounds the already inadequate supply of working RNs and LPNs. **It is imperative that the abysmal passage rate of Florida RNs (74% in 2017 and 73% in 2018) and LPNs (75% in 2017 and 76% in 2018) be reversed.**

One of Florida's mandates intended to address failing RN or LPN programs states that beginning calendar year 2010, if an approved program's graduate passage rate does not equal or exceed the required passage rates for two consecutive calendar years, the Florida Board of Nursing shall place the program on probationary status pursuant to Chapter 120 and the program director shall appear before the board to present a plan for remediation. If the program does not receive an extension of probation or fails to achieve the required passage rate by the end of an approved extension, the board shall terminate the program pursuant to Chapter 120. Though this regulation is administered by the Florida Board of Nursing, Florida Center for Nursing's (FCN) review of 2017 and 2018 data revealed that **37 LPN, 62 ADN, and 11 BDN programs have had passage rates at least 10 percentage points below the national average for two consecutive years.**

Additionally, Florida Statute 464.019 requires RN programs enrolling students prior to July 1, 2014 to become nationally accredited by July 1, 2019. RN programs that were approved after the July 1, 2014 effective date must become nationally accredited within five (5) years of enrolling the program's first students. Any program that fails to meet the accreditation requirement shall be terminated by the Board of Nursing. This requirement is based on an assumption that a component of achieving accreditation is the demonstration of student success on the NCLEX. The FCN report published in January 2019 – *Review of Florida's Nursing Education Programs, Academic Year 2017-18* found that, as of September 2018, 60.5% of the existing 157 RN programs had achieved accreditation status. The Florida Board of Nursing is responsible for identifying any unaccredited RN programs which do not meet this statutory requirement.

These two mechanisms to measure program quality intend to have a positive effect on the state's NCLEX passage rates. However, given the current state of Florida's passage rates, Florida's elected and appointed leadership should consider all available options to improve the production of a viable, quality nurse workforce. This may require an assessment of the return on investment of Florida's dollars spent. Private programs comprise the majority of Florida programs and graduated 59% of the RN and 41% of the LPN first-time NCLEX test takers in 2018. However, low passage rates of private programs compared to the higher than average rate of public programs indicate that **the majority of licensed graduates prepared to work as nurses in Florida are coming from public programs**. Yet, qualified applicants are being declined admission to nursing programs, and a lack of clinical sites was a commonly reported barrier for expanding program capacity.[11] Perhaps consideration should be given to identifying a mechanism to maximize clinical site access for programs with high NCLEX passage rates. Similarly, funding allocation could be evaluated to ensure that the state's scarce funding

[11] As reported in Florida's Nursing Education Programs Academic Year 2017-18: Pre-Licensure Registered Nurse Education and available on the FCN's website.

resources are being directed to programs with the greatest return on investment and encourage those programs to expand their capacity.

To date, the evidence does not suggest that the statutory changes initiated in 2009 to address Florida's shortage of nurses have increased the production of quality nurses. However, the two mechanisms to measure quality implemented since 2009 and discussed here may contribute to the achievement of that goal.

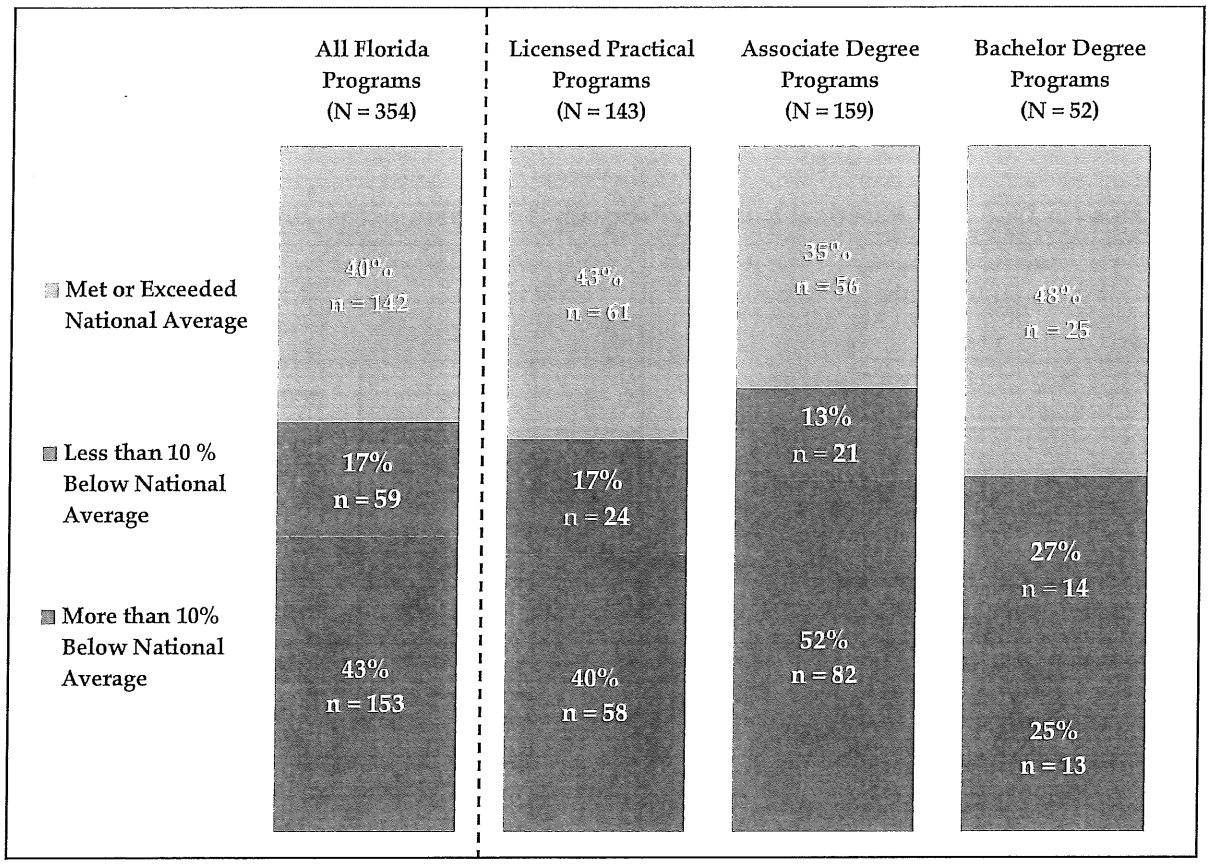
Respectfully Submitted for the Florida Center for Nursing by:

Mary Lou Brunell, MSN, RN – Executive Director
Alyssa Mullins, PhD – Assistant Director

Appendix A

Florida Nursing Education Program 2018 Passage Rates by Program Type

Appendix A describes how many Florida nursing education programs met or exceeded the national average passage rate, were below the national average but higher than the 10 percentage point standard, or were more than 10 percentage points below the national average.



Appendix B

Licensed Practical Nursing (Generic and Bridge) Program Graduate Exam Scores

Exhibit B-1 shows for each institution the passage rates for licensed practical nursing program graduates who took the National Council of State Boards of Nursing's National Council Licensure Examination (NCLEX) during Calendar Year 2018. Data include only first-time test takers who took the exam within six months of graduation. The statewide percentage of exam takers who passed the NCLEX (75.56%) is lower than the national average passage rate of 85.91% and slightly below the state's required standard of not more than 10 percentage points lower than the national average (75.91%). Fifty-eight of the 143 licensed practical nursing programs (40.56%) in Florida were more than 10 percentage points below the national average in 2018. When comparing public to private schools, the statewide average passage rate for public LPN schools was 86.70% while that of private LPN schools was 58.77%.

Exhibit B-1

Passage Rates for Licensed Practical Nursing Program Graduates in the 2018 Calendar Year

NCLEX Code	Licensed Practical Nursing Program	Exam Takers	Number of Exam Takers Who Passed	Percentage of Exam Takers Who Passed	Public / Private*	For-Profit / Non-Profit^
70-1112	BROWARD COUNTY - ATLANTIC TECHNICAL COLLEGE	4	4	100.00%	Public	Non-Profit
70-2073	BROWN MACKIE COLLEGE - MIAMI	1	1	100.00%	Private	Unknown
70-1042	CAPE CORAL TECHNICAL COLLEGE	27	27	100.00%	Public	Non-Profit
70-1121	CARLEEN HEALTH INSTITUTE OF SOUTH FLORIDA	1	1	100.00%	Private	Unknown
70-1031	CENTURA INSTITUTE - Orlando	1	1	100.00%	Private	Unknown
70-1000	CHIPOLA COLLEGE	2	2	100.00%	Public	Non-Profit
70-2041	EMIRAZA COLLEGE	1	1	100.00%	Private	For-Profit
70-1082	FIRST COAST TECHNICAL COLLEGE	49	49	100.00%	Public	Non-Profit
70-2062	FLORIDA ACADEMY OF NURSING	3	3	100.00%	Private	For-Profit
70-2061	FORTIS COLLEGE - Largo	1	1	100.00%	Private	Unknown
70-1061	GADSDEN CENTER FOR HEALTH EDUCATION	7	7	100.00%	Public	Non-Profit
70-2080	GENESIS SCHOOL OF NURSING	1	1	100.00%	Private	Unknown
70-1049	HORIZON HEALTHCARE INSTITUTE - Fort Myers	3	3	100.00%	Private	For-Profit
70-2046	HORIZON HEALTHCARE INSTITUTE - Melbourne	6	6	100.00%	Private	For-Profit
70-2059	MARION TECHNICAL COLLEGE	35	35	100.00%	Public	Non-Profit
70-2011	RASMUSSEN COLLEGE - Ft. Myers	11	11	100.00%	Private	For-Profit
70-2032	RASMUSSEN COLLEGE - Tampa/ Brandon Campus	21	21	100.00%	Private	For-Profit
70-2053	RUBY'S ACADEMY FOR HEALTH OCCUPATIONS	1	1	100.00%	Private	For-Profit
70-2049	SABER, INC.	1	1	100.00%	Private	For-Profit
70-1096	SANTA FE COLLEGE	1	1	100.00%	Public	Non-Profit
70-1132	SHERIDAN TECHNICAL HIGH SCHOOL	4	4	100.00%	Public	Non-Profit

NCLEX Code	Licensed Practical Nursing Program	Exam Takers	Number of Exam Takers Who Passed	Percentage of Exam Takers Who Passed	Public / Private*	For-Profit / Non-Profit^
70-1106	SOUTH DADE TECHNICAL COLLEGE	3	3	100.00%	Public	Non-Profit
70-2007	SOUTHEASTERN COLLEGE - New Port Richey	1	1	100.00%	Private	For-Profit
70-1129	ST. JOHNS RIVER STATE COLLEGE	1	1	100.00%	Public	Non-Profit
70-1126	SUNCOAST COLLEGE OF HEALTH -	2	2	100.00%	Private	For-Profit
70-1014	TAYLOR COLLEGE	10	10	100.00%	Private	For-Profit
70-2082	TREASURE COAST TECHNICAL COLLEGE	19	19	100.00%	Public	Non-Profit
70-2076	TRINITY SCHOOL OF NURSING	1	1	100.00%	Private	Unknown
70-1091	TOM P HANEY TECHNICAL CENTER	37	36	97.30%	Public	Non-Profit
70-1081	FORT MYERS TECHNICAL COLLEGE	33	32	96.97%	Public	Non-Profit
70-1068	SOUTH FLORIDA STATE COLLEGE	28	27	96.43%	Public	Non-Profit
70-1064	PASCO-HERNANDO STATE COLLEGE	92	88	95.65%	Public	Non-Profit
70-1094	PINELLAS TECHNICAL COLLEGE - Clearwater	45	43	95.56%	Public	Non-Profit
70-1095	TRAVISS TECHNICAL COLLEGE	45	43	95.56%	Public	Non-Profit
70-2002	MCFATTER TECHNICAL COLLEGE	51	48	94.12%	Public	Non-Profit
70-1067	WITHLACOOCHEE TECHNICAL COLLEGE	17	16	94.12%	Public	Non-Profit
70-1055	JERSEY COLLEGE - Tampa	49	46	93.88%	Private	For-Profit
70-1115	ATA COLLEGE	32	30	93.75%	Private	For-Profit
70-1020	EMERALD COAST TECHNICAL COLLEGE	31	29	93.55%	Public	Non-Profit
70-1006	FLORIDA GATEWAY COLLEGE	30	28	93.33%	Public	Non-Profit
70-1085	DAYTONA STATE COLLEGE	28	26	92.86%	Private	Non-Profit
70-1004	GALEN COLLEGE OF NURSING	49	45	91.84%	Private	For-Profit
70-1032	JERSEY COLLEGE - Jacksonville	60	55	91.67%	Private	For-Profit
70-1050	PALM BEACH STATE COLLEGE	24	22	91.67%	Public	Non-Profit
70-2014	RASMUSSEN COLLEGE - Ocala	50	45	90.00%	Private	For-Profit
70-1086	ATLANTIC TECHNICAL COLLEGE	87	78	89.66%	Public	Non-Profit
70-1053	LINDSEY HOPKINS TECHNICAL COLLEGE	29	26	89.66%	Public	Non-Profit
70-2075	ANTIGUA COLLEGE INTERNATIONAL	9	8	88.89%	Private	For-Profit
70-1071	FLORIDA PANHANDLE TECHNICAL COLLEGE	36	32	88.89%	Public	Non-Profit
70-1099	LIVELY TECHNICAL CENTER	45	40	88.89%	Public	Non-Profit
70-1060	MERCY HOSPITAL SCHOOL OF PRACTICAL NURSING	43	38	88.37%	Private	For-Profit
70-1127	SUNCOAST TECHNICAL COLLEGE - Sarasota	17	15	88.24%	Public	Non-Profit
70-2022	RASMUSSEN COLLEGE - Land O'Lakes	25	22	88.00%	Private	For-Profit
70-2010	BLANCHE ELY HIGH SCHOOL	8	7	87.50%	Private	Unknown
70-1093	SUNCOAST TECHNICAL COLLEGE - Sarasota	40	35	87.50%	Public	Non-Profit
70-1089	NORTH FLORIDA COMMUNITY COLLEGE	23	20	86.96%	Public	Non-Profit
70-1007	NORTH FLORIDA TECHNICAL COLLEGE	38	33	86.84%	Public	Non-Profit
70-1057	PENSACOLA STATE COLLEGE	15	13	86.67%	Public	Non-Profit
70-1083	MANATEE TECHNICAL COLLEGE	44	38	86.36%	Public	Non-Profit

NCLEX Code	Licensed Practical Nursing Program	Exam Takers	Number of Exam Takers Who Passed	Percentage of Exam Takers Who Passed	Public / Private*	For-Profit / Non-Profit^
70-1073	RIVEROAK TECHNICAL COLLEGE	22	19	86.36%	Public	Non-Profit
NATIONAL AVERAGE PASSAGE RATE				**85.91%**		
70-1072	EASTERN FLORIDA STATE COLLEGE	21	18	85.71%	Public	Non-Profit
70-2056	HERZING UNIVERSITY	14	12	85.71%	Private	Non-Profit
70-1087	ORANGE TECHNICAL COLLEGE - Orlando Campus	28	24	85.71%	Public	Non-Profit
70-2088	HARRIS-CASEL INSTITUTE	34	29	85.29%	Private	For-Profit
70-2048	ROBERT MORGAN EDUCATIONAL	27	23	85.19%	Public	Non-Profit
70-1005	OKALOOSA TECHNICAL COLLEGE	47	40	85.11%	Public	Non-Profit
70-1077	INDIAN RIVER STATE COLLEGE	65	55	84.62%	Public	Non-Profit
70-1051	PINELLAS TECHNICAL COLLEGE - Saint Petersburg	44	37	84.09%	Public	Non-Profit
70-1103	SANTA FE COLLEGE	25	21	84.00%	Public	Non-Profit
70-2009	MED-LIFE INSTITUTE	6	5	83.33%	Private	For-Profit
70-2054	MIAMI LAKES EDUCATIONAL CENTER AND TECHNICAL COLLEGE	30	25	83.33%	Public	Non-Profit
70-1079	FLORIDA STATE COLLEGE AT JACKSONVILLE	45	37	82.22%	Public	Non-Profit
70-2069	SOUTHEASTERN COLLEGE - Miami Lakes	11	9	81.82%	Private	For-Profit
70-1009	FORTIS INSTITUTE	16	13	81.25%	Private	For-Profit
70-2001	ACADEMY FOR NURSING AND HEALTH OCCUPATIONS	37	30	81.08%	Private	Non-Profit
70-2005	SHERIDAN TECHNICAL CENTER	84	68	80.95%	Public	Non-Profit
70-1008	RIDGE TECHNICAL COLLEGE	31	25	80.65%	Public	Non-Profit
70-2027	CAMBRIDGE COLLEGE OF HEALTHCARE & TECHNOLOGY	5	4	80.00%	Private	For-Profit
70-1063	DESOTO COUNTY SCHOOL OF PRACTICAL NURSING	10	8	80.00%	Public	Non-Profit
70-2006	HORIZON HEALTHARE INSTITUTE, INC - Port Charlotte	5	4	80.00%	Private	For-Profit
70-1078	LAKE TECHNICAL COLLEGE PRACTICAL NURSING PROGRAM	50	40	80.00%	Public	Non-Profit
70-1070	LORENZO WALKER TECHNICAL COLLEGE	29	23	79.31%	Public	Non-Profit
70-1066	CHARLOTTE TECHNICAL COLLEGE	54	42	77.78%	Public	Non-Profit
70-2036	LOCKLIN TECHNICAL CENTER	13	10	76.92%	Public	Non-Profit
10 PERCENTAGE POINTS BELOW NATIONAL AVERAGE RATE				**75.91%**		
70-1104	BIG BEND TECHNICAL COLLEGE	20	15	75.00%	Public	Non-Profit
70-1027	HEALTH & TECHNOLOGY	44	33	75.00%	Private	For-Profit
70-1130	INLET GROVE COMMUNITY HIGH SCHOOL	12	9	75.00%	Public	Non-Profit
70-1054	ERWIN TECHNICAL COLLEGE	78	58	74.36%	Public	Non-Profit
70-1097	GULF COAST STATE COLLEGE - GULF FRANKLIN CENTER	23	17	73.91%	Public	Non-Profit

NCLEX Code	Licensed Practical Nursing Program	Exam Takers	Number of Exam Takers Who Passed	Percentage of Exam Takers Who Passed	Public / Private*	For-Profit / Non-Profit^
70-1036	TECHNICAL EDUCATION CENTER - Osceola County	35	25	71.43%	Public	Non-Profit
70-1039	MEDICAL PREP INSTITUTE OF TAMPA BAY	6	4	66.67%	Private	For-Profit
70-1107	WILLIAM H TURNER TECHNICAL ARTS HIGH SCHOOL	9	6	66.67%	Public	Non-Profit
70-1069	INLET GROVE ADULT COMMUNITY HIGH SCHOOL	14	9	64.29%	Private	Non-Profit
70-1059	SOUTH TECH ACADEMY	14	9	64.29%	Public	Non-Profit
70-1025	CONCORDE CAREER INSTITUTE	43	27	62.79%	Private	For-Profit
70-1033	BREWSTER TECHNICAL CENTER	16	10	62.50%	Public	Non-Profit
70-1119	HEALTH EDUCATION TRAINING SCHOOL	8	5	62.50%	Private	Unknown
70-2020	NORTH BROWARD TECHNICAL CENTER, INC	16	10	62.50%		Unknown
70-1034	SOUTHEASTERN COLLEGE - West Palm Beach	16	10	62.50%	Private	For-Profit
70-1024	GWINNETT INSTITUTE	82	49	59.76%	Private	For-Profit
70-2024	GENESIS VOCATIONAL INSTITUTE	21	12	57.14%	Private	Unknown
70-1045	IMMOKALEE TECHNICAL CENTER	14	8	57.14%	Public	Non-Profit
70-1074	FLORIDA COLLEGE OF HEALTH SCIENCE, INC.	9	5	55.56%	Private	For-Profit
70-1123	CARLEEN HEALTH INSTITUTE OF SOUTH FLORIDA	2	1	50.00%	Private	Unknown
70-2067	JAMES INTERNATI ONAL ACADEMY OF	2	1	50.00%	Private	For-Profit
70-1113	ANGEL TECHNICAL INSTITUTE, LLC	35	16	45.71%	Private	For-Profit
70-1102	CHANCELLOR INSTITUTE	6	2	33.33%	Private	For-Profit
70-2086	TECHNI-PRO INSTITUTE, INC	10	3	30.00%	Private	Unknown
70-1056	EXPRESS TRAINING SERVICES, LLC	4	1	25.00%	Private	For-Profit
70-2038	MED-LIFE INSTITUTE - Lauderdale Lakes	24	5	20.83%	Private	Unknown
70-1035	CAPSCARE ACADEMY FOR HEALTHCARE EDUCATION	5	1	20.00%	Private	Unknown
70-2081	SIENA COLLEGE OF HEALTH	5	1	20.00%	Private	Unknown
70-2043	IDEAL PROFESSIONAL INSTITUTE	41	8	19.51%	Private	Unknown
70-2003	SUNSHINE TRAINING CENTER	42	8	19.05%	Private	Unknown
70-2034	SUNSHINE ACADEMY	125	20	16.00%	Private	Unknown
70-2078	SACRED HEART INTERNATIONAL INSTITUTE, INC	13	2	15.38%	Private	Unknown
70-2079	FAITH MEDICAL INSTITUTE	7	1	14.29%	Private	Unknown
70-1026	HEALTH EDUCATION TRAINING SCHOOL	21	3	14.29%	Private	Unknown
70-2023	MED-LIFE INSTITUTE - Naples	14	1	7.14%	Private	Unknown
70-1108	ALLIED MEDICAL TRAINING CENTER, INC	16	1	6.25%	Private	Unknown
70-1101	KING'S CAREER INSTITUTE	28	1	3.57%	Private	Unknown
70-1038	AMERICAN MEDICAL ACADEMY	1	0	0.00%	Private	Unknown

NCLEX Code	Licensed Practical Nursing Program	Exam Takers	Number of Exam Takers Who Passed	Percentage of Exam Takers Who Passed	Public / Private*	For-Profit / Non-Profit^
70-1017	AZURE COLLEGE, INC - Ft. Lauderdale	1	0	0.00%	Private	Unknown
70-1047	AZURE COLLEGE, INC - Sebring	1	0	0.00%	Private	Unknown
70-2057	BRILLIANT ACADEMY HEALTH CENTER	1	0	0.00%	Private	For-Profit
70-1122	CARLEEN HEALTH INSTITUTE OF SOUTH FLORIDA	1	0	0.00%	Private	Unknown
70-1002	COLLEGE OF CENTRAL FLORIDA	3	0	0.00%		Unknown
70-2064	HOPE HEALTH CAREER INSTITUTE	1	0	0.00%	Private	Unknown
70-2013	INTERNATIONAL ACADEMY TRAINING CENTER	1	0	0.00%	Private	Unknown
70-2017	INTERNATIONAL INSTITUTE FOR HEALTHCARE PROFESSIONALS, INC	1	0	0.00%	Private	For-Profit
70-1100	J & J HEALTHCA RE INSTITUTE	1	0	0.00%	Private	Unknown
70-2039	MED-LIFE INSTITUTE - Miami Gardens	12	0	0.00%	Private	Unknown
70-1041	NASSAU MEDICAL INSTITUTE	1	0	0.00%	Private	Unknown
70-2045	NRI INSTITUTE OF HEALTH SCIENCES	1	0	0.00%	Private	Unknown
70-2051	O'REGGIO TECHNICAL CAREER INSTITUTE	3	0	0.00%	Private	Unknown
70-2026	PRC CAREER CENTER	1	0	0.00%	Private	Unknown
70-1750	SEMINOLE STATE COLLEGE	1	0	0.00%	Public	Non-Profit
70-1012	SIGMA COLLEGE - Oakland Park	3	0	0.00%	Private	Unknown
70-1092	SIGMA INSTITUTE OF HEALTH CAREERS	7	0	0.00%	Private	For-Profit
70-2047	SOUTH FLORIDA MEDICAL COLLEGE	2	0	0.00%	Private	For-Profit
70-1021	SUNCOAST COLLEGE OF HEALTH - Bradenton	3	0	0.00%	Private	For-Profit
70-7040	TECHNI-PRO INSTITUTE, LLC	1	0	0.00%	Private	Unknown

Special Cases

70-9097	PARTIAL RN EDUCATION TAKING PN	135	118	87.41%	n/a	n/a
70-9099	RN FAILURE TAKING PN	33	21	63.64%	n/a	n/a
70-9000	CLOSED PROGRAM	4	2	50.00%	n/a	n/a

* Public programs are those offered at public school districts, Florida colleges, and state universities. Private institutions are those licensed by the Commission for Independent Education and institutions that are members of the Independent Colleges and Universities of Florida. In addition, state law authorizes Pensacola Christian College to offer a Bachelor of Science in nursing degree.

^ Private programs may be either For-Profit or Non-Profit. The Annual Survey includes an item seeking to know the profit status of participating programs. Those who did not participate in the survey or chose not to respond to this item are indicated as 'Unknown'.

Associate Degree in Nursing (Generic & Bridge) Program Graduate Exam Scores

Exhibit B-2 shows for each institution the passage rates for associate degree nursing (ADN) program graduates who took the National Council of State Boards of Nursing Licensure Examination (NCLEX) during Calendar Year 2018. Data include only first-time test takers who took the exam within six months of graduation. The statewide percentage of ADN exam takers who passed the NCLEX (67.52%) is much lower than the national average passage rate of 85.11% and lower than the state's required standard of not more than 10 percentage points lower than the national average (75.11%). Eighty-two (51.57%) of the 159 associate degree nursing programs in Florida were more than 10 percentage points below the national average in 2018. When comparing public to private schools, the statewide average passage rate for public associate degree schools was 88.59% while that of private associate degree schools was 52.92%.

Exhibit B-2

Passage Rates for Associate Degree Nursing Program Graduates in the 2018 Calendar Year

NCLEX Code	ASSOCIATE DEGREE RN PROGRAM	Exam Takers	Number of Exam Takers Who Passed	Percentage of Exam Takers Who Passed	Public / Private *	For-Profit / Non-Profit ^
70-4100	ADVANCE SCIENCE COLLEGE	2	2	100.00%	Private	Unknown
70-4010	ADVENTIST UNIVERSIT Y OF HEALTH SCIENCES	2	2	100.00%	Private	Non-Profit
70-4088	BRECKINRIDGE SCHOOL OF NURSING - ITT TECH INSTITUTE - Fort Myers	1	1	100.00%	Private	Unknown
70-7043	CITY COLLEGE - Altamonte Springs	7	7	100.00%	Private	Non-Profit
70-4051	COLLEGE OF CENTRAL FLORIDA - Lecanto	15	15	100.00%	Public	Non-Profit
70-4012	FORTIS COLLEGE - Largo	3	3	100.00%	Private	For-Profit
70-4116	KEISER UNIVERSITY - Clearwater	9	9	100.00%	Private	Non-Profit
70-4005	LAKE-SUMTER STATE COLLEGE	63	63	100.00%	Public	Non-Profit
70-4112	MIAMI REGIONAL UNIVERSIT Y - Miami Springs	3	3	100.00%	Private	For-Profit
70-4092	PALM BEACH STATE COLLEGE - Belle Glade	9	9	100.00%	Public	Non-Profit
70-7051	PREMIERE INTERNATIONAL COLLEGE	1	1	100.00%	Private	For-Profit
70-4057	TAYLOR COLLEGE	1	1	100.00%	Private	For-Profit
70-4068	TALLAHASSEE COMMUNITY COLLEGE	108	107	99.07%	Public	Non-Profit
70-4050	NORTHWEST FLORIDA STATE COLLEGE	69	68	98.55%	Public	Non-Profit
70-4062	SEMINOLE STATE COLLEGE	243	239	98.35%	Public	Non-Profit
70-4009	MERCY HOSPITAL COLLEGE OF NURSING	69	67	97.10%	Private	For-Profit
70-4067	VALENCIA COLLEGE	218	211	96.79%	Public	Non-Profit
70-4080	STATE COLLEGE OF FL - Manatee-Sarasota	121	117	96.69%	Public	Non-Profit
70-4075	BROWARD COLLEGE	300	289	96.33%	Public	Non-Profit
70-4026	KEISER UNIVERSITY - Tallahassee	27	26	96.30%	Private	Non-Profit
70-4082	COLLEGE OF CENTRAL FLORIDA - Ocala	76	73	96.05%	Public	Non-Profit
70-7035	JERSEY COLLEGE - Ft. Lauderdale	84	80	95.24%	Private	For-Profit
70-4076	POLK STATE COLLEGE	151	143	94.70%	Public	Non-Profit

NCLEX Code	ASSOCIATE DEGREE RN PROGRAM	Exam Takers	Number of Exam Takers Who Passed	Percentage of Exam Takers Who Passed	Public / Private *	For-Profit / Non-Profit ^
70-4038	EASTERN FLORIDA STATE COLLEGE - Palm Bay	48	45	93.75%	Public	Non-Profit
70-4003	KEISER UNIVERSITY - Lakeland	47	44	93.62%	Private	Non-Profit
70-7029	EMIRAZA COLLEGE	28	26	92.86%	Private	For-Profit
70-4007	KEISER UNIVERSITY - Miami	28	26	92.86%	Private	Non-Profit
70-4055	KEISER UNIVERSITY - Orlando	54	50	92.59%	Private	Non-Profit
70-4011	GALEN COLLEGE OF NURSING	400	368	92.00%	Private	For-Profit
70-4089	ST. PETERSBURG COLLEGE	285	261	91.58%	Public	Non-Profit
70-4091	RASMUSSEN COLLEGE - New Port Richey	177	162	91.53%	Private	For-Profit
70-4015	KEISER UNIVERSITY - Melbourne	68	62	91.18%	Private	Non-Profit
70-4064	PASCO-HERNANDO COMMUNITY COLLEGE	210	191	90.95%	Public	Non-Profit
70-4063	ACADEMY FOR NURSING AND HEALTH OCCUPATIONS	21	19	90.48%	Private	Non-Profit
70-4022	FORTIS INSTITUTE - Pensacola	73	66	90.41%	Private	For-Profit
70-4074	FLORIDA KEYS COMMUNITY COLLEGE	40	36	90.00%	Public	Non-Profit
70-4040	KEISER UNIVERSITY - Port St. Lucie	59	53	89.83%	Private	Non-Profit
70-4077	INDIAN RIVER STATE COLLEGE	219	196	89.50%	Public	Non-Profit
70-4000	SOUTH FLORIDA STATE COLLEGE	35	31	88.57%	Public	Non-Profit
70-4023	KEISER UNIVERSITY - Ft. Lauderdale	68	60	88.24%	Private	Non-Profit
70-4090	KEISER UNIVERSITY - Jacksonville	34	30	88.24%	Private	Non-Profit
70-4069	HILLSBOROUGH COMMUNITY COLLEGE	313	276	88.18%	Public	Non-Profit
70-4004	JERSEY COLLEGE - Tampa	82	72	87.80%	Private	For-Profit
70-4001	CHIPOLA COLLEGE	48	42	87.50%	Public	Non-Profit
70-4124	JERSEY COLLEGE - Largo	8	7	87.50%	Private	For-Profit
70-4025	ST. JOHNS RIVER STATE COLLEGE	104	91	87.50%	Public	Non-Profit
70-4086	PALM BEACH STATE COLLEGE - Lake Worth	206	180	87.38%	Public	Non-Profit
70-4056	JERSEY COLLEGE - Jacksonville	100	87	87.00%	Private	For-Profit
70-4083	DAYTONA STATE COLLEGE	250	217	86.80%	Public	Non-Profit
70-4071	SANTA FE COLLEGE	151	131	86.75%	Public	Non-Profit
70-4016	NORTH FLORIDA COMMUNITY COLLEGE	60	52	86.67%	Public	Non-Profit
70-4020	KEISER UNIVERSITY - Sarasota	37	32	86.49%	Private	Non-Profit
70-7069	ANTIGUA COLLEGE INTERNATIONAL, INC	21	18	85.71%	Private	For-Profit
70-4036	RASMUSSEN COLLEGE - Fort Myers	157	134	85.35%	Private	For-Profit
70-4087	PENSACOLA STATE COLLEGE	148	126	85.14%	Public	Non-Profit
NATIONAL AVERAGE PASSAGE RATE				**85.11%**		
70-7016	BETHESDA COLLEGE OF HEALTH SCIENCES NURSING PROGRAM	19	16	84.21%	Private	Unknown
70-7057	FORTIS COLLEGE - Orange Park	35	29	82.86%	Private	For-Profit
70-4072	FLORIDA SOUTHWESTERN STATE COLLEGE	228	188	82.46%	Public	Non-Profit
70-4095	RASMUSSEN COLLEGE - Ocala	307	253	82.41%	Private	For-Profit
70-4081	GULF COAST STATE COLLEGE	129	106	82.17%	Public	Non-Profit

NCLEX Code	ASSOCIATE DEGREE RN PROGRAM	Exam Takers	Number of Exam Takers Who Passed	Percentage of Exam Takers Who Passed	Public / Private *	For-Profit / Non-Profit ^
70-4070	EASTERN FLORIDA STATE COLLEGE - Melbourne	83	68	81.93%	Public	Non-Profit
70-4073	FLORIDA STATE COLLEGE AT JACKSONVILLE	308	252	81.82%	Public	Non-Profit
70-4044	HERZING UNIVERSITY	76	62	81.58%	Private	Non-Profit
70-7032	INTERNATIONAL INSTITUTE FOR HEALTHCARE PROFESSIONALS, INC - Boca Raton	142	114	80.28%	Private	For-Profit
70-4104	ACTIVE HEALTH INSTITUTE	5	4	80.00%	Private	For-Profit
70-4030	ALTIERUS CAREER COLLEGE	5	4	80.00%	Private	Non-Profit
70-4027	TAYLOR COLLEGE	50	40	80.00%	Private	For-Profit
70-4084	MIAMI DADE COMMUNITY COLLEGE	486	385	79.22%	Public	Non-Profit
70-4006	KEISER UNIVERSITY - West Palm Beach	48	38	79.17%	Private	Non-Profit
70-7059	INTERNATIONAL COLLEGE OF HEALTH SCIENCES	86	68	79.07%	Private	For-Profit
70-4013	SOUTHEASTERN COLLEGE - Miami Lakes	38	30	78.95%	Private	For-Profit
70-7036	LARKIN SCHOOL OF NURSING	14	11	78.57%	Private	Unknown
70-4094	RASMUSSEN COLLEGE - Tampa	138	108	78.26%	Private	For-Profit
70-7013	MIAMI REGIONAL UNIVERSIT Y - Miami Springs	284	218	76.76%	Private	For-Profit
70-4018	KEISER UNIVERSITY - Tampa	45	34	75.56%	Private	Non-Profit
70-7004	FORTIS COLLEGE - Cutler Bay	81	61	75.31%	Private	For-Profit
10 PERCENTAGE POINTS BELOW NATIONAL AVERAGE RATE				**75.11%**		
70-7009	FORTIS INSTITUTE - Port St. Lucie	43	32	74.42%	Private	For-Profit
70-4114	KEISER UNIVERSITY - New Port Richey	19	14	73.68%	Private	Non-Profit
70-4078	FLORIDA GATEWAY COLLEGE	113	77	68.14%	Public	Non-Profit
70-7014	SOUTHERN TECHNICAL COLLEGE - Ft. Myers	91	62	68.13%	Private	For-Profit
70-7033	MEDICAL PREP INSTITUTE OF TAMPA BAY	47	32	68.09%	Private	For-Profit
70-7056	EMERGENCY EDUCATION INSTITUTE	103	69	66.99%	Private	For-Profit
70-4117	ATA CAREER EDUCATION	21	14	66.67%	Private	For-Profit
70-4045	BRECKINRIDGE SCHOOL OF NURSING - ITT TECHNICAL INSTITUTE - Tallahassee	3	2	66.67%	Private	Unknown
70-4119	DAYTONA COLLEGE	3	2	66.67%	Private	For-Profit
70-4054	FLORIDA NATIONAL UNIVERSIT - Miami - South Campus	6	4	66.67%	Private	For-Profit
70-7002	HOPE COLLEGE OF ARTS AND SCIENCE	12	8	66.67%	Private	For-Profit
70-4113	SIENA EDUCATION CENTER, LLC	3	2	66.67%	Private	Unknown
70-7066	ORLANDO MEDICAL INSTITUTE	25	16	64.00%	Private	For-Profit
70-7028	CARE HOPE COLLEGE	24	14	58.33%	Private	For-Profit
70-4105	NRI INSTITUTE OF HEALTH SCIENCES	16	9	56.25%	Private	For-Profit
70-4110	FLORIDA NATIONAL UNIVERSITY - Hialeah	61	34	55.74%	Private	For-Profit
70-4118	FLORIDA NATIONAL UNIVERSIT - Miami - South Campus	40	22	55.00%	Private	For-Profit

NCLEX Code	ASSOCIATE DEGREE RN PROGRAM	Exam Takers	Number of Exam Takers Who Passed	Percentage of Exam Takers Who Passed	Public / Private *	For-Profit / Non-Profit ^
70-7034	SOUTHERN TECHNICAL COLLEGE - Tampa	20	11	55.00%	Private	For-Profit
70-7055	HEALTH CAREER INSTITUTE	71	39	54.93%	Private	For-Profit
70-7060	GWINNETT INSTITUTE	70	38	54.29%	Private	For-Profit
70-4099	CONCORDE CAREER INSTITUTE - Miramar	70	37	52.86%	Private	For-Profit
70-4109	CAMBRIDGE COLLEGE OF HEALTHCARE AND TECHNOLOGY - Delray Beach	10	5	50.00%	Private	For-Profit
70-4008	DADE MEDICAL COLLEGE - Miami	2	1	50.00%	Private	Unknown
70-4108	FLORIDA CAREER COLLEGE - Boynton Beach	14	7	50.00%	Private	For-Profit
70-7025	FLORIDA CAREER COLLEGE - Jacksonville	2	1	50.00%	Private	For-Profit
70-7074	FMI CAREER SCHOOL	4	2	50.00%	Private	For-Profit
70-4129	SUNCOAST COLLEGE OF HEALTH - Bradenton	2	1	50.00%	Private	For-Profit
70-4120	CONCORDE CAREER INSTITUTE - Jacksonville	61	29	47.54%	Private	For-Profit
70-4103	CAMBRIDGE INSTITUTE OF ALLIED HEALTH AND TECHNOLOGY - Altamonte Springs	37	17	45.95%	Private	For-Profit
70-7067	AMERICAN MEDICAL ACADEMY, INC	18	8	44.44%	Private	For-Profit
70-7044	CAPSCARE ACADEMY FOR HEALTHCARE EDUCATION	94	40	42.55%	Private	For-Profit
70-7062	FLORIDA COLLEGE OF HEALTH SCIENCE, INC - Tampa	24	10	41.67%	Private	For-Profit
70-7012	AZURE COLLEGE - Fort Lauderdale	25	10	40.00%	Private	For-Profit
70-4019	CONCORDE CAREER INSTITUTE - Orlando	45	18	40.00%	Private	For-Profit
70-7058	FLORIDA ACADEMY OF NURSING	45	18	40.00%	Private	Unknown
70-4021	CONCORDE CAREER INSTITUTE - Tampa	42	15	35.71%	Private	For-Profit
70-4111	HEALTH EDUCATION TRAINING SCHOOL	14	5	35.71%	Private	Unknown
70-4058	AZURE COLLEGE - Miami Gardens	17	6	35.29%	Private	For-Profit
70-7030	FLORIDA CAREER COLLEGE - Pembroke Pines	29	10	34.48%	Private	For-Profit
70-4034	BRECKINRIDGE SCHOOL OF NURSING - ITT TECHNICAL INSTITUTE - Lake Mary	3	1	33.33%	Private	Unknown
70-7037	MED-LIFE INSTITUTE - Kissimmee	33	11	33.33%	Private	For-Profit
70-7061	HOSANNA COLLEGE OF HEALTH	49	15	30.61%	Private	For-Profit
70-4107	CENSA INTERNATIONAL COLLEGE - Miami	15	4	26.67%	Private	For-Profit
70-7022	FLORIDA CAREER COLLEGE - Lauderdale	38	10	26.32%	Private	For-Profit
70-7041	FLORIDA COLLEGE OF HEALTH SCIENCE, INC - Orlando	49	12	24.49%	Private	For-Profit

NCLEX Code	ASSOCIATE DEGREE RN PROGRAM	Exam Takers	Number of Exam Takers Who Passed	Percentage of Exam Takers Who Passed	Public / Private *	For-Profit / Non-Profit ^
70-7039	MED-LIFE INSTITUTE - Miramar	25	6	24.00%	Private	For-Profit
70-4093	SABER, INC	169	38	22.49%	Private	Unknown
70-4049	CITY COLLEGE - Miami	9	2	22.22%	Private	Non-Profit
70-4101	NORTH BROWARD TECHNICAL CENTER	36	8	22.22%	Private	For-Profit
70-7005	SCHILLER INTERNATIONAL UNIVERSITY	9	2	22.22%	Private	Unknown
70-7064	CARLEEN HEALTH INSTITUTE OF SOUTH FLORIDA - Palm Bay	34	7	20.59%	Private	Unknown
70-7019	MED-LIFE INSTITUTE - Lauderdale Lakes	128	26	20.31%	Private	For-Profit
70-7021	HEBRON TECHNICAL INSTITUTE - Miami Gardens	5	1	20.00%	Private	For-Profit
70-7065	CARLEEN HEALTH INSTITUTE OF SOUTH FLORIDA - West Palm Beach	27	5	18.52%	Private	Unknown
70-7031	SUNCOAST COLLEGE OF HEALTH - Bradenton	115	21	18.26%	Private	For-Profit
70-7018	SIGMA INSTITUTE OF HEALTH CAREERS	127	22	17.32%	Private	For-Profit
70-7071	UNIVERSAL CAREER SCHOOL	52	9	17.31%	Private	Non-Profit
70-7073	AZURE COLLEGE - Sebring	18	3	16.67%	Private	For-Profit
70-4059	AZURE COLLEGE - Sebring	6	1	16.67%	Private	For-Profit
70-7003	VICTORIA MEDICAL COLLEGE	6	1	16.67%	Private	Unknown
70-7038	PALM BEACH SCHOOL OF NURSING	381	63	16.54%	Private	Unknown
70-7049	MED-LIFE INSTITUTE - Naples	459	71	15.47%	Private	For-Profit
70-4079	CARLEEN HOME HEALTH SCHOOL - Lauderhill	31	4	12.90%	Private	Unknown
70-4097	ULTIMATE MEDICAL ACADEMY, LLC	8	1	12.50%	Private	Unknown
70-7000	BURNETT INTERNATIONAL COLLEGE	26	3	11.54%	Private	Unknown
70-7063	IDEAL PROFESSIONAL INSTITUTE, INC	287	27	9.41%	Private	Unknown
70-7040	TECHNI-PRO INSTITUTE, LLC	442	38	8.60%	Private	Unknown
70-7052	CENSA INTERNATIONAL COLLEGE - Miami Gardens	29	2	6.90%	Private	For-Profit
70-4115	AMERICAN COLLEGE OF HEALTH & SCIENCES, LLC	3	0	0.00%	Private	Unknown
70-7072	AZURE COLLEGE - Miami Gardens	4	0	0.00%	Private	For-Profit
70-4035	BRECKINRIDGE SCHOOL OF NURSING - ITT TECH INSTITUTE - Jacksonville	2	0	0.00%	Private	Unknown
70-4046	BRECKINRIDGE SCHOOL OF NURSING - ITT TECHNICAL INSTITUTE - Miami	2	0	0.00%	Private	Unknown
70-4066	BROWN MACKIE COLLEGE	5	0	0.00%	Private	Unknown
70-4033	CONCORDE CAREER INSTITUTE - Jacksonville	3	0	0.00%	Private	For-Profit
70-4031	DADE MEDICAL COLLEGE - Hollywood	2	0	0.00%	Private	Unknown
70-7023	DADE MEDICAL COLLEGE - West Palm Beach	3	0	0.00%	Private	Unknown
70-4052	DADE MEDICAL COLLEGE - Miami Lakes	26	0	0.00%	Private	Unknown
70-7026	FLORIDA CAREER COLLEGE - Kendall	4	0	0.00%	Private	For-Profit
70-7077	FLORIDA CAREER COLLEGE - Orlando	1	0	0.00%	Private	For-Profit

NCLEX Code	ASSOCIATE DEGREE RN PROGRAM	Exam Takers	Number of Exam Takers Who Passed	Percentage of Exam Takers Who Passed	Public / Private *	For-Profit / Non-Profit ^
70-4042	KAPLAN COLLEGE	1	0	0.00%	Private	Unknown
70-4014	MATTIA COLLEGE	1	0	0.00%	Private	Unknown
70-7001	SIGMA COLLEGE	17	0	0.00%	Private	For-Profit

Special Cases

70-9000	FLORIDA CLOSED PROGRAM	2	2	100.00%	n/a	n/a

* Public programs are those offered at public school districts, Florida colleges, state universities, private institutions are those licensed by the Commission for Independent Education, and institutions that are members of the Independent Colleges and Universities of Florida. In addition, state law authorizes Pensacola Christian College to offer a Bachelor of Science in nursing degree.

^ Private programs may be either For-Profit or Non-Profit. The Annual Survey includes an item seeking to know the profit status of participating programs. Those who did not participate in the survey or chose not to respond to this item are indicated as 'Unknown'.

NCLEX Code	BACHELOR DEGREE RN PROGRAM	Exam Takers	Number of Exam Takers Who Passed	Percentage of Exam Takers Who Passed	Public / Private *	For Profit / Non-Profit ^
70-5089	FLORIDA INTERNATIONAL UNIVERSITY	189	168	88.89%	Public	Non-Profit
70-5009	HERZING UNIVERSITY	45	40	88.89%	Private	Non-Profit
70-5078	NOVA SOUTHEASTERN UNIVERSITY - Ft. Lauderdale	176	155	88.07%	Private	Non-Profit
70-5025	CHAMBERLAIN COLLEGE OF NURSING - Jacksonville	91	80	87.91%	Private	For Profit
70-5070	SOUTH UNIVERSITY - West Palm Beach	63	54	85.71%	Private	Non-Profit
70-5107	NOVA SOUTHEASTERN UNIVERSITY - Miami	150	128	85.33%	Private	Non-Profit
70-5120	ECPI UNIVERSITY COLLEGE OF NURSING	113	96	84.96%	Private	For Profit
70-5040	CHAMBERLAIN COLLEGE OF NURSING - Miramar	148	125	84.46%	Private	For Profit
70-5092	COLLEGE OF NURSING AND HEALTH SCIENCES AT BARRY UNIVERSITY	96	81	84.38%	Private	Non-Profit
70-5022	ADVENTIST UNIVERSITY OF HEALTH SCIENCES	135	113	83.70%	Private	Non-Profit
70-5116	KEISER UNIVERSIT Y - Ft. Lauderdale	18	15	83.33%	Private	Non-Profit
70-5098	FLORIDA A & M UNIVERSITY	89	73	82.02%	Public	Non-Profit
10 PERCENTAGE POINTS BELOW NATIONAL AVERAGE RATE				**81.57%**		
70-5101	WESTERN GOVERNORS UNIVERSITY	8	6	75.00%	Private	Non-Profit
70-5069	BETHUNE-COOKMAN UNIVERSITY	11	8	72.73%	Private	Non-Profit
70-5011	FLORIDA NATIONAL UNIVERSITY - Hialeah	46	33	71.74%	Private	For Profit
70-5023	ANTIGUA COLLEGE INTERNATIONAL	15	10	66.67%	Private	For Profit
70-5032	UNIVERSIDAD DEL TURABO - Miramar	72	37	51.39%	Private	Unknown
70-5034	UNIVERSIDAD DEL TURABO - Tampa	45	22	48.39%	Private	Unknown
70-5008	MILLER'S COLLEGE OF NURSING	13	6	46.15%	Private	For Profit
70-5033	UNIVERSIDAD DEL TURABO - Orlando	47	19	40.43%	Private	Unknown
70-5021	CARLEEN HEALTH INSTITUTE OF SOUTH FLORIDA - West Palm Beach	6	2	33.33%	Private	Unknown
70-5028	AZURE COLLEGE, INC	1	0	0.00%	Private	For Profit
70-5012	CARLEEN HEALTH INSTITUTE OF SOUTH FLORIDA - Lauderhill	3	0	0.00%	Private	Unknown
70-5019	CARLEEN HEALTH INSTITUTE OF SOUTH FLORIDA - Palm Bay	1	0	0.00%	Private	Unknown
70-5017	HOSANNA COLLEGE OF HEALTH	1	0	0.00%	Private	For Profit

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^ Private programs may be either For Profit or Non-Profit. The Annual Survey includes an item seeking to know the profit status of participating programs. Those who did not participate in the survey or chose not to respond to this item are indicated as 'Unknown'.

Bachelor Degree in Nursing (Generic) Program Graduate Exam Scores

Exhibit B-2 shows for each institution the passage rates for bachelor of science degree nursing (BSN) program graduates who took the National Council of State Boards of Nursing's National Council Licensure Examination (NCLEX) during Calendar Year 2018. Data include only first-time test takers who took the exam within six months of graduation. The statewide percentage of BSN exam takers who passed the NCLEX (88.98%) is about 3 percentage points below the national average passage rate of 91.57% and well above the state's required standard of not more than 10 percentage points lower than the national average (81.57%). Twenty-five (25%) of the 52 bachelor degree nursing programs in Florida were more than 10 percentage points below the national average in 2018. When comparing public to private schools, the statewide average passage rate for public bachelor degree schools was above the national average at 93.65% while that of private bachelor degree schools was 85.87%.

Exhibit B-3

Passage Rates for Bachelor Degree Nursing Program Graduates in the 2018 Calendar Year

NCLEX Code	BACHELOR DEGREE RN PROGRAM	Exam Takers	Number of Exam Takers Who Passed	Percentage of Exam Takers Who Passed	Public / Private *	For Profit / Non-Profit ^
70-5102	AVE MARIA UNIVERSITY	7	7	100.00%	Private	Non-Profit
70-5003	FLORIDA GULF COAST UNIVERSITY	77	77	100.00%	Public	Non-Profit
70-5114	FLORIDA NATIONAL UNIVERSITY - Miami	9	9	100.00%	Private	For Profit
70-5020	FLORIDA SOUTHERN COLLEGE	46	46	100.00%	Private	Non-Profit
70-5029	HOPE COLLEGE OF ARTS AND SCIENCES	1	1	100.00%	Private	For Profit
70-5119	MIAMI REGIONAL COLLEGE	9	9	100.00%	Private	For Profit
70-5117	RASSMUSSEN COLLEGE - Tampa	1	1	100.00%	Private	For Profit
70-5015	RASSMUSSEN COLLEGE - Lake Mary	1	1	100.00%	Private	For Profit
70-5007	UNIVERSITY OF FLORIDA - Jacksonville	5	5	100.00%	Public	Non-Profit
70-5010	UNIVERSITY OF TAMPA	53	53	100.00%	Private	Non-Profit
70-5005	UNIVERSITY OF WEST FLORIDA	85	83	97.65%	Public	Non-Profit
70-5091	UNIVERSITY OF MIAMI	175	170	97.14%	Private	Non-Profit
70-5066	FLORIDA ATLANTIC UNIVERSITY	134	130	97.01%	Public	Non-Profit
70-5030	PALM BEACH ATLANTIC UNIVERSITY	55	53	96.36%	Private	Non-Profit
70-5068	PENSACOLA CHRISTIAN COLLEGE	100	96	96.00%	Private	Non-Profit
70-5094	UNIVERSITY OF NORTH FLORIDA	108	103	95.37%	Public	Non-Profit
70-5067	UNIVERSITY OF CENTRAL FLORIDA	252	240	95.24%	Public	Non-Profit
70-5018	WEST COAST UNIVERSITY	145	138	95.17%	Private	Non-Profit
70-5090	FLORIDA STATE UNIVERSITY	115	109	94.78%	Public	Non-Profit
70-5065	UNIVERSITY OF SOUTH FLORIDA	216	204	94.44%	Public	Non-Profit
70-5060	JACKSONVILLE UNIVERSITY	109	102	93.58%	Private	Non-Profit
70-5096	NOVA SOUTHEASTERN UNIVERSITY - Ft. Myers	45	42	93.33%	Private	Non-Profit
70-5103	UTICA COLLEGE	70	65	92.86%	Private	Non-Profit
70-5085	UNIVERSITY OF FLORIDA - Gainesville	227	210	92.51%	Public	Non-Profit
70-5110	KEISER UNIVERSIT Y - Sarasota	40	37	92.50%	Private	Non-Profit
NATIONAL AVERAGE PASSAGE RATE				**91.57%**		
70-5004	SOUTH UNIVERSITY - Tampa	62	56	90.32%	Private	Non-Profit
70-5036	SOUTHEASTERN UNIVERSITY	19	17	89.47%	Private	Non-Profit

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/31/21
Meeting Date

1296
Bill Number (if applicable)

147202
Amendment Barcode (if applicable)

Topic Nursing Programs

Name Bob L. Harris

Job Title

Address 2618 Centennial Place
Street

Tallahassee FL 32308
City *State* *Zip*

Phone 222-0720

Email bharris@laufla.com

Speaking: ☑ For ☐ Against ☑ Information

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

Representing Florida Advocates for Nursing Students

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: KB 412 **Case No.:** - **Type:**
Caption: Senate Health Policy Committee **Judge:**

Started: 3/31/2021 8:02:02 AM
Ends: 3/31/2021 10:28:35 AM Length: 02:26:34

8:02:01 AM Meeting called to order by Chair Diaz
8:02:03 AM Roll call by CAA Lynn Wells
8:02:14 AM Quorum present
8:02:23 AM Comments from Chair Diaz
8:02:36 AM Introduction of Tab 8, SB 1476 by Chair Diaz
8:03:25 AM Explanation of SB 1476, Controlled Substances by Senator Brodeur
8:03:58 AM Comments from Chair Diaz
8:04:08 AM Closure waived
8:04:21 AM Roll call by CAA
8:04:26 AM SB 1476 reported favorably
8:04:40 AM Introduction of Tab 9, SB 1296, Nursing Programs by Chair Diaz
8:05:01 AM Explanation of SB 1296, Nursing Programs by Senator Brodeur
8:05:11 AM Introduction of Amendment Barcode 147202 by Chair Diaz
8:05:16 AM Explanation of Amendment by Senator Brodeur
8:05:51 AM Comments from Chair Diaz
8:05:55 AM Question from Senator Cruz
8:06:01 AM Response from Senator Brodeur
8:06:35 AM Follow-up question from Senator Cruz
8:06:42 AM Response from Senator Brodeur
8:07:06 AM Comments from Chair Diaz
8:07:20 AM Speaker Bob Harris, Florida Advocates for Nursing Students waives in support
8:07:44 AM Comments from Chair Diaz
8:07:49 AM Closure waived
8:07:52 AM Amendment adopted
8:08:00 AM Comments from Chair Diaz
8:08:16 AM Closure waived
8:08:21 AM Roll call by CAA
8:08:26 AM CS/SB 1296 reported favorably
8:08:40 AM Introduction of Tab 6, SB 766 by Chair Diaz
8:08:52 AM Explanation of SB 766, Cardiovascular Emergency Protocols and Training by Senator Rouson
8:09:44 AM Comments from Chair Diaz
8:09:50 AM Tiffany McCaskill Henderson, American Heart Association waives in support
8:10:08 AM Chris Nuland, Florida Society of Thoracic & Cardiovascular Surgeons waives in support
8:10:19 AM Comments from Chair Diaz
8:10:23 AM Senator Cruz in debate
8:10:52 AM Comments from Chair Diaz
8:10:57 AM Closure by Senator Rouson
8:11:03 AM Roll call by CAA
8:11:08 AM SB 766 reported favorably
8:11:25 AM Introduction of Tab 2, SB 1540 by Chair Diaz
8:11:40 AM Explanation of SB 1540, Maternal Health Outcomes by Senator Gibson
8:13:30 AM Introduction of Amendment Barcode 659422 by Chair Diaz
8:13:35 AM Explanation of Amendment by Senator Gibson
8:13:48 AM Comments from Chair Diaz
8:13:54 AM Brian Jogerst, Florida Association of Healthy Start Coalitions waives in support of the Amendment
8:14:06 AM Comments from Chair Diaz
8:14:11 AM Closure waived
8:14:14 AM Amendment adopted
8:14:20 AM Comments from Chair Diaz
8:14:31 AM Barbara DeVane, FL NOW waives in support
8:14:35 AM Ron Watson, Midwife Association of Florida waives in support
8:14:40 AM Ida Eskamani, Florida Rising waives in support

8:14:46 AM Speaker Kim Porteus, FL NOW in support
8:15:26 AM Comments from Chair Diaz
8:15:30 AM Senator Cruz in debate
8:16:42 AM Senator Book in debate
8:17:24 AM Senator Gibson in closure
8:17:52 AM Roll call by CAA
8:18:54 AM CS/SB 1540 reported favorably
8:19:09 AM Introduction of Tab 4, SB 1680 by Chair Diaz
8:19:29 AM Explanation of SB 1680, Access to Health Care Practitioner Services by Senator Rodriguez
8:20:00 AM Comments from Chair Diaz
8:20:01 AM Question from Senator Cruz
8:21:02 AM Response from Senator Rodriguez
8:22:03 AM Follow-up question from Senator Cruz
8:22:10 AM Response from Senator Rodriguez
8:22:39 AM Comments from Chair Diaz
8:22:56 AM Closure by Senator Rodriguez
8:23:02 AM Roll call by CAA
8:23:08 AM SB 1680 reported favorably
8:23:22 AM Introduction of Tab 5, SB 1318 by Chair Diaz
8:23:40 AM Explanation of SB 1318, Organ Donation and Transplantation by Senator Harrell
8:25:22 AM Comments from Chair Diaz
8:25:28 AM Speaker Ron Watson, Florida Renal Coalition in support
8:26:14 AM Comments from Chair Diaz
8:26:21 AM Senator Cruz in debate
8:26:48 AM Senator Harrell in closure
8:26:53 AM Roll call by CAA
8:27:10 AM SB 1318 reported favorably
8:27:24 AM Introduction of Tab 3, SB 1568 by Chair Diaz
8:27:46 AM Explanation of SB 1568, Department of Health by Senator Rodriguez
8:28:11 AM Introduction of Amendment Barcode 334918 by Chair Diaz
8:28:17 AM Explanation of Amendment by Senator Rodriguez
8:28:24 AM Comments from Chair Diaz
8:28:37 AM Closure waived
8:28:40 AM Amendment adopted
8:28:45 AM Introduction of Amendment Barcode 521406 by Chair Diaz
8:28:53 AM Explanation of Amendment by Senator Rodriguez
8:29:08 AM Comments from Chair Diaz
8:29:12 AM Speaker Melissa Villar, NORML Tallahassee
8:30:36 AM Comments from Chair Diaz
8:30:40 AM Amendment adopted
8:30:44 AM Introduction of Amendment Barcode 721272 by Chair Diaz
8:30:49 AM Explanation of Amendment by Senator Rodriguez
8:31:10 AM Comments from Chair Diaz
8:31:23 AM Speaker Joe Anne Hart, Florida Dental Association in support
8:32:43 AM Comments from Chair Diaz
8:32:51 AM Amendment adopted
8:32:54 AM Introduction of Amendment Barcode 237798 by Chair Diaz
8:32:58 AM Explanation of Amendment by Senator Rodriguez
8:33:21 AM Comments from Chair Diaz
8:33:23 AM Ron Watson, Midwife Association of Florida waives in support
8:33:35 AM Comments from Chair Diaz
8:33:39 AM Amendment adopted
8:33:43 AM Introduction of Amendment Barcode 117184 by Chair Diaz
8:33:46 AM Explanation of Amendment by Senator Rodriguez
8:34:06 AM Comments from Chair Diaz
8:34:23 AM Stephen Ecenia, HCA Healthcare, Inc. waives in support
8:34:38 AM Comments from Chair Diaz
8:34:41 AM Amendment adopted
8:34:46 AM Introduction of Amendment Barcode 276700 by Chair Diaz
8:34:50 AM Explanation of Amendment by Senator Rodriguez
8:35:00 AM Comments from Chair Diaz
8:35:45 AM Amendment adopted

8:35:53 AM Introduction of Late-filed Amendment Barcode 557514 by Chair Diaz
8:36:08 AM Amendment Barcode 557514 withdrawn
8:36:22 AM Comments from Chair Diaz
8:36:32 AM Speaker Melissa Villar, NORML Tallahassee
8:36:56 AM Speaker Brian Watson, Midwife Association of Florida in support
8:37:22 AM Comments from Chair Diaz
8:37:35 AM Senator Rodriguez in closure
8:37:40 AM Roll call by CAA
8:37:44 AM CS/SB 1568 reported favorably
8:37:57 AM Introduction of Tab 1, SB 2012 by Chair Diaz
8:38:14 AM Explanation of SB 2012, Promoting Equality of Athletic Opportunity by Senator Stargel
8:38:59 AM Comments from Chair Diaz
8:39:05 AM Question from Senator Cruz
8:39:12 AM Response from Senator Stargel
8:39:24 AM Follow-up question from Senator Cruz
8:39:31 AM Response from Senator Stargel
8:39:43 AM Follow-up question from Senator Cruz
8:39:50 AM Response from Senator Stargel
8:40:32 AM Follow-up question from Senator Cruz
8:40:40 AM Response from Senator Stargel
8:41:06 AM Follow-up question from Senator Cruz
8:41:15 AM Response from Senator Stargel
8:41:18 AM Follow-up question from Senator Cruz
8:41:22 AM Response from Senator Stargel
8:41:36 AM Follow-up question from Senator Cruz
8:41:41 AM Response from Senator Stargel
8:41:45 AM Follow-up question from Senator Cruz
8:41:48 AM Response from Senator Stargel
8:42:00 AM Follow-up question from Senator Cruz
8:42:07 AM Response from Senator Stargel
8:43:17 AM Comments from Chair Diaz
8:43:22 AM Question from Senator Jones
8:43:29 AM Response from Senator Stargel
8:44:09 AM Follow-up question from Senator Jones
8:44:24 AM Response from Senator Stargel
8:44:35 AM Follow-up question from Senator Jones
8:45:06 AM Response from Senator Stargel
8:45:59 AM Follow-up question from Senator Jones
8:46:05 AM Response from Senator Stargel
8:46:48 AM Follow-up question from Senator Jones
8:47:41 AM Response from Senator Stargel
8:48:23 AM Follow-up question from Senator Jones
8:49:00 AM Response from Senator Stargel
8:49:25 AM Follow-up question from Senator Jones
8:49:56 AM Response from Senator Stargel
8:50:18 AM Follow-up question from Senator Jones
8:50:25 AM Response from Senator Stargel
8:50:37 AM Follow-up question from Senator Jones
8:50:51 AM Response from Senator Stargel
8:51:03 AM Follow-up question from Senator Jones
8:51:33 AM Response from Senator Stargel
8:51:39 AM Follow-up question from Senator Jones
8:52:12 AM Response from Senator Stargel
8:52:49 AM Question from Senator Book
8:52:59 AM Response from Senator Stargel
8:53:32 AM Question from Senator Book
8:54:06 AM Response from Senator Stargel
8:54:14 AM Comments from Senator Book
8:54:40 AM Comments from Chair Diaz
8:54:45 AM Question from Senator Farmer
8:55:01 AM Response from Senator Stargel
8:56:57 AM Follow-up question from Senator Farmer

8:57:05 AM Response from Senator Stargel
8:57:17 AM Follow-up question from Senator Farmer
8:57:26 AM Response from Senator Stargel
8:57:45 AM Follow-up question from Senator Farmer
8:57:52 AM Response from Senator Stargel
8:57:58 AM Follow-up question from Senator Farmer
8:58:08 AM Response from Senator Stargel
8:58:16 AM Follow-up question from Senator Farmer
8:58:26 AM Response from Senator Stargel
8:59:27 AM Follow-up question from Senator Farmer
8:59:38 AM Response from Senator Stargel
9:00:06 AM Comments from Chair Diaz
9:00:33 AM Pamela Burch Fort, ACLU of Florida in opposition
9:00:40 AM Speaker Elliott Bertrand in opposition
9:02:04 AM Dannie McMillion, Florida PTA waives in opposition
9:02:12 AM Barbara DeVane, FL NOW waives in opposition
9:02:20 AM Speaker Vincenza Berardo in opposition
9:04:58 AM Speaker Randy Bertrand in opposition
9:08:50 AM Speaker Ash Soto in opposition
9:10:38 AM Speaker Chloe Ilcus in opposition
9:11:26 AM Speaker Abilgail O'Laughlin in opposition
9:12:58 AM Speaker Lauren Brenzel in opposition
9:15:44 AM Speaker Andrew Coleman in opposition
9:17:48 AM Speaker Madeline Riley in opposition
9:19:33 AM Speaker Kim Porteous, FL National Organization For Women in opposition
9:24:04 AM Question from Senator Garcia
9:25:03 AM Response from Ms. Porteous
9:25:59 AM Speaker Jon Harris Maurer, Equality Florida in opposition
9:27:39 AM Speaker Ida Eskamani, Florida Rising in opposition
9:28:44 AM Comments from Chair Diaz
9:28:56 AM Speaker Lakey Love, Florida Coalition for Transgender Liberation in opposition
9:33:17 AM Speaker Anthony Verdego, Christian Familiy Coalition Florida in support
9:36:01 AM Speaker Paul Arons in opposition
9:37:24 AM Speaker Bev Kilmer, Freedom Speaks in support
9:40:14 AM Speaker Heidi Daniels, Florida Citizens Alliance in support
9:42:05 AM Speaker Annie Filkewski, The Florida Alliance of Planned Parenthood Affiliates in opposition
9:43:06 AM Speaker Demaris Allen in opposition
9:44:31 AM Speaker Armando Pomar, Hispanic American Diabetes Association in support
9:44:55 AM Comments from Chair Diaz
9:45:02 AM Senator Garcia in debate
9:47:36 AM Senator Jones in debate
9:53:25 AM Senator Book in debate
9:56:08 AM Senator Cruz in debate
10:02:30 AM Senator Baxley in debate
10:07:52 AM Comments from Senator Jones
10:09:30 AM Comments from Chair Diaz
10:10:02 AM Senator Farmer in debate
10:12:08 AM Comments from Chair Diaz
10:12:30 AM Response from Senator Farmer
10:13:51 AM Comments from Chair Diaz
10:14:23 AM Senator Farmer in debate
10:22:04 AM Comments from Chair Diaz
10:22:39 AM Continued debate by Senator Farmer
10:23:44 AM Senator Stargel waives closure
10:24:46 AM Roll call by CAA
10:24:52 AM SB 2012 reported favorably
10:25:01 AM Introduction of Tab 7, SB 1830 and Amendment
10:25:16 AM Explanation of Amendment Barcode 524086 by Senator Jones
10:25:39 AM Comments from Chair Diaz
10:25:50 AM Closure waived
10:25:59 AM Amendment adopted
10:26:05 AM Comments from Chair Diaz

10:26:11 AM Closure waived
10:26:14 AM Roll call by CAA
10:26:21 AM CS/SB 1830 reported favorably
10:26:36 AM Comments from Chair Diaz
10:27:32 AM Senator Brodeur would like to be shown voting in the affirmative on CS/SB 1568
10:27:43 AM Senator Farmer would like to be shown voting in the affirmative on CS/SB 1568, SB 1476, and CS/SB 1296
10:28:01 AM Senator Albritton would like to be shown voting in the affirmative on SB 766, SB 1476, and CS/SB 1296
10:28:09 AM Senator Garcia moves to adjourn
10:28:23 AM Meeting adjourned