

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

HEALTH POLICY
Senator Bean, Chair
Senator Sobel, Vice Chair

MEETING DATE: Thursday, March 14, 2013
TIME: 8:00 —10:30 a.m.
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Bean, Chair; Senator Sobel, Vice Chair; Senators Brandes, Braynon, Flores, Galvano, Garcia, Grimsley, and Joyner

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1066 Richter (Similar H 1115)	Public Records/Dental Workforce Surveys; Providing an exemption from public records requirements for information contained in dental workforce surveys submitted by dentists or dental hygienists to the Department of Health; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity, etc. HP 03/14/2013 Favorable GO RC	Favorable Yeas 9 Nays 0
2	SB 1660 Flores	Quality Cancer Care and Research; Establishing a Cancer Center of Excellence Award for providers that excel in providing cancer care and treatment in this state; requiring the Florida Cancer Control and Research Advisory Council and the Biomedical Research Advisory Council to jointly develop performance measures, a rating system, and a rating standard in accordance with specified criteria for applicants to qualify for the award; providing that an award-winning cancer provider is granted preference in competitive solicitations for a specified period of time; authorizing endowments under the William G. "Bill" Bankhead, Jr., and David Coley Cancer Research Program for establishing funded research chairs at research institutions contingent upon an appropriation, etc. HP 03/14/2013 Favorable CF AP	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Health Policy

Thursday, March 14, 2013, 8:00 —10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 248 Thrasher (Compare CS/H 349)	Treatment Programs for Impaired Licensees and Applicants; Authorizing the Department of Business and Professional Regulation to require a person licensed by or applying for a license from the department to comply with provisions governing treatment programs for impaired practitioners as if the licensee or applicant were under the jurisdiction of the Division of Medical Quality Assurance within the Department of Health; providing that the impaired practitioner consultant is the official custodian of records relating to the referral of the licensee or applicant to the consultant and any other interaction between them, etc. HP 03/14/2013 Fav/CS RI	Fav/CS Yeas 9 Nays 0
4	SB 1016 Hays (Identical H 1205)	Sovereign Immunity for Dentists and Dental Hygienists; Defining the term "uncompensated services" as it relates to the liability of health care providers licensed under ch. 466, F.S., who are agents of governmental contractors; providing that the contribution to the dental laboratory expenses associated with the care of a patient is not considered compensation for the services, etc. HP 03/14/2013 Fav/CS JU AHS AP	Fav/CS Yeas 8 Nays 1
5	SB 144 Altman (Identical H 1237)	Payment for Services Provided by Licensed Psychologists; Adding licensed psychologists to the list of health care providers who are protected by a limitations period from claims for overpayment being sought by health insurers or health maintenance organizations; adding licensed psychologists to the list of health care providers who are subject to a limitations period for submitting claims to health insurers or health maintenance organizations for underpayment; adding licensed psychologists to the list of health care providers who are eligible for direct payment for medical services by a health insurer under certain circumstances, etc. HP 03/14/2013 Favorable BI AHS AP	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Health Policy

Thursday, March 14, 2013, 8:00 —10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	SB 938 Dean (Similar H 969)	Recreational Vehicle Parks; Defining the term "occupancy"; providing for the regulation of recreational vehicle parks and recreational camps by the Department of Health; providing requirements for the establishment of separation and setback distances in parks; repealing provisions relating to the posting of site rental rates, advertising, and penalties, etc. HP 03/14/2013 Fav/CS AHS AP	Fav/CS Yeas 9 Nays 0
7	CS/SB 370 Regulated Industries / Sachs (Identical CS/H 171)	Disposition of Human Remains; Revising procedures for the registration of certificates of death or fetal death and the medical certification of causes of death; revising procedures for the reporting and disposition of unclaimed remains; prohibiting certain uses or dispositions of the remains of deceased persons whose identities are not known; revising provisions prohibiting the selling or buying of human remains or the transmitting or conveying of such remains outside the state, etc. RI 03/07/2013 Fav/CS HP 03/14/2013 Favorable JU AP	Favorable Yeas 9 Nays 0
8	SB 462 Thompson (Identical H 173)	Death Certificates; Providing for a service charge for the recording of certain death certificates; requiring each permanent certificate of death or fetal death, excluding any information that is confidential and exempt from public records requirements, to be recorded in the public records of the county in which it is issued, etc. HP 03/14/2013 Fav/CS CA AHS AP	Fav/CS Yeas 9 Nays 0
9	SB 966 Bean (Identical H 1071)	Health Care; Conforming provisions to a redefinition of the term "accrediting organizations" in s. 395.002, F.S., relating to hospital licensing and regulation; designating the Florida Hospital Sanford-Burnham Translational Research Institute for Metabolism and Diabetes as a resource for diabetes research in this state, etc HP 03/07/2013 Temporarily Postponed HP 03/14/2013 Fav/CS AP	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Health Policy

Thursday, March 14, 2013, 8:00 —10:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	SB 1130 Garcia (Similar H 463)	Examination of Dentists; Revising the eligibility requirements for taking examinations required to practice dentistry; authorizing applicants enrolled in a recognized dental specialty program on a specified date to take the examinations if specified conditions are met; providing for future expiration of such authorization, etc. HP 03/14/2013 Fav/CS AHS AP	Fav/CS Yeas 9 Nays 0
11	SB 1302 Garcia (Similar H 847)	Temporary Certificates for Visiting Physicians; Providing that a physician who has been invited by certain medical or surgical training programs or educational symposiums may be issued a temporary certificate for limited privileges solely to provide educational training; modifying criteria; revising the requirements for proof of medical malpractice insurance, etc. HP 03/14/2013 Fav/1 Amendment ED BI	Fav/1 Amendment (516098) Yeas 9 Nays 0
12	SB 896 Garcia (Similar H 793)	Prepaid Dental Plans; Postponing the scheduled repeal of a provision requiring the Agency for Health Care Administration to contract with dental plans for dental services on a prepaid or fixed-sum basis; authorizing the agency to provide a prepaid dental health program in Miami-Dade County on a permanent basis, etc. HP 03/14/2013 Fav/CS AHS AP	Fav/CS Yeas 9 Nays 0

Other Related Meeting Materials

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 1066

INTRODUCER: Senator Richter

SUBJECT: Public Records/Dental Workforce Surveys

DATE: March 11, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McElheney	Stovall	HP	Favorable
2.			GO	
3.			RC	
4.				
5.				
6.				

I. Summary:

SB 1066 makes confidential and exempt from public records requirements all personal identifying information contained in records provided by dentists or dental hygienists in response to dental workforce surveys and held by the Department of Health (DOH). The bill specifies circumstances under which the confidential and exempt information may be released.

The bill provides for review and repeal of the exemption pursuant to the Open Government Sunset Review Act and provides a statement of the public necessity for the exemption. Because this bill creates a new public records exemption, it requires a two-thirds vote of each house of the Legislature for passage.

This bill will take effect upon becoming a law.

This bill creates two undesignated sections of law.

II. Present Situation:

Public Records

The State of Florida has a long history of providing public access to governmental records. The Florida Legislature enacted the first public records law in 1892.¹ One hundred years later, Floridians adopted an amendment to the State Constitution that raised the statutory right of

¹ Section 1390, 1391 F.S. (Rev. 1892).

access to public records to a constitutional level.² Article I, s. 24, of the State Constitution, provides that:

Every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

In addition to the State Constitution, the Public Records Act,³ which predates the State Constitution's public records provisions, specifies conditions under which public access must be provided to records of an agency.⁴ Section 119.07(1)(a), F.S., states:

Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

Unless specifically exempted, all agency records are available for public inspection. The term "public record" is broadly defined to mean:

All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.⁵

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge.⁶ All such materials, regardless of whether they are in final form, are open for public inspection unless made exempt.⁷

Only the Legislature is authorized to create exemptions to open government requirements.⁸ Exemptions must be created by general law, and such law must specifically state the public

² Art I, s. 24, State Constitution

³ Ch. 119, F.S.

⁴ The word "agency" is defined in s. 119.011(2), F.S., to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Florida Constitution also establishes a right of access to any public record made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except those records exempted by law or the State Constitution. See *supra* fn. 3.

⁵ Section 119.011(12), F.S.

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ *Wait v. Florida Power & Light Co.*, 372 So. 2d 420 (Fla. 1979).

⁸ *Supra* fn. 1.

necessity justifying the exemption. Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law.⁹ A bill enacting an exemption¹⁰ may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.¹¹

There is a difference between records that the Legislature has made exempt from public inspection and those that are confidential and exempt. If the Legislature makes a record confidential and exempt, such information may not be released by an agency to anyone other than to the persons or entities designated in the statute.¹² If a record is simply made exempt from disclosure requirements, an agency is not prohibited from disclosing the record in all circumstances.¹³

Open Government Sunset Review Act

The Open Government Sunset Review Act (Act)¹⁴ provides for the systematic review, through a 5-year cycle ending October 2 of the fifth year following enactment, of an exemption from the Public Records Act or the Public Meetings Law.

The Act states that an exemption may be created, revised, or expanded only if it serves an identifiable public purpose and if the exemption is no broader than necessary to meet the public purpose it serves.¹⁵ An identifiable public purpose is served if the exemption meets one of three specified criteria and if the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption. An exemption meets the statutory criteria if it:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protects information of a sensitive personal nature concerning individuals, the release of which would be defamatory or cause unwarranted damage to the good name or reputation of such individuals, or would jeopardize their safety; or
- Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information that is used to protect or further a business advantage over those who do not know or use it, the disclosure of which would injure the affected entity in the marketplace.¹⁶

The Act also requires the Legislature to consider the following:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?

⁹ *Memorial Hospital-West Volusia v. News-Journal Corporation*, 784 So. 2d 438 (Fla. 2001); *Halifax Hospital Medical Center v. News-Journal Corp.*, 724 So. 2d 567, 569 (Fla. 1999).

¹⁰ Under s. 119.15, F.S., an existing exemption may be considered a new exemption if the exemption is expanded to cover additional records.

¹¹ *Supra* fn. 1.

¹² Florida Attorney General Opinion 85-62.

¹³ *Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991), review denied, 589 So. 2d 289 (Fla. 1991).

¹⁴ Section 119.15, F.S.

¹⁵ Section 119.15(6)(b), F.S.

¹⁶ *Id.*

- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

While the standards in the Open Government Sunset Review Act may appear to limit the Legislature in the exemption review process, those aspects of the act that are only statutory, as opposed to constitutional, do not limit the Legislature because one session of the Legislature cannot bind another.¹⁷ The Legislature is only limited in its review process by constitutional requirements.

Workforce Surveys

The DOH currently administers an optional workforce survey which dentists and dental hygienists may complete as part of their licensure renewal. For the 2009-2010 licensing cycle, the first time that this survey was offered, 89 percent of all dentists with active licenses responded.¹⁸ The survey was expanded to include dental hygienists for the 2010-2011 licensing cycle, and 87.9 percent responded.¹⁹

Physicians are required to respond to physician workforce surveys as a condition of license renewal.²⁰ All personal identifying information contained in records provided by physicians in response to these workforce surveys is confidential and exempt under s. 458.3193, F.S., concerning allopathic physicians, and s. 459.0083, F.S., concerning osteopathic physicians.

III. Effect of Proposed Changes:

Section 1 creates an undesignated section of law to require that personal identifying information contained in records provided by dentists or dental hygienists in response to dental workforce surveys held by the DOH be confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. The bill authorizes disclosure of such information with the written consent of the individual to whom the information pertains or the individual's legally authorized representative, by court order upon a showing of good cause, or to a research entity fulfilling certain conditions.

Access to public records is a substantive right, and, therefore, a statute affecting that right is presumptively prospective in its application. There must be a clear legislative intent for a statute affecting substantive rights to apply retroactively.²¹ Accordingly, this bill may only make

¹⁷ *Straughn v. Camp*, 293 So. 2d 689, 694 (Fla. 1974).

¹⁸ DOH, *Report on the 2009-2010 Workforce Survey of Dentists*, available at: http://doh.state.fl.us/Family/dental/OralHealthcareWorkforce/2009_2010_Workforce_Survey_Dentists_Report.pdf (Last visited on December 19, 2011).

¹⁹ DOH, *2012 Bill Analysis, Economic Statement, and Fiscal Note for SB 584*. A copy is on file with the Senate Health Regulation Committee.

²⁰ Section 381.4018, F.S. Language requiring the submission of physician workforce surveys for license renewal can be found in s. 458.3191, F.S., for allopathic physicians and s. 459.0081, F.S., for osteopathic physicians.

²¹ *Memorial Hospital-West Volusia v. News-Journal Corporation*, 784 So. 2d 438 (Fla. 2001).

confidential and exempt personal identifying information that is received after the effective date of the act.

The bill provides that the public records exemption created in this act is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and will stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 creates an undesignated section of law providing justification of public necessity for the exemption. Candid and honest responses to the workforce survey will ensure that timely and accurate information is available to the DOH. The failure to maintain the confidentiality of the personal identifying information would prevent the resolution of important state interests to ensure the availability of dentists or dental hygienists in this state.

Section 3 provides that this public records exemption takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Vote Requirement

Section 24(c), Art. I, of the State Constitution requires a two-thirds vote of each house of the Legislature for passage of a newly created public records or public meetings exemption. Because this bill creates a new public records exemption, it requires a two-thirds vote for passage.

Subject Requirement

Section 24(c), Art. I, of the State Constitution requires the Legislature to create public records or public meetings exemptions in legislation separate from substantive law changes. This bill complies with that requirement.

Public Necessity Statement

Section 24(c), Art. I, of the State Constitution requires a public necessity statement for a newly created public records or public meetings exemption. Because this bill creates a new public records exemption, it includes a public necessity statement.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 1066 will protect personal identifying information of dentists and dental hygienists who respond to the voluntary dental workforce survey.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

By Senator Richter

23-00946-13

20131066__

A bill to be entitled

An act relating to public records; providing an exemption from public records requirements for information contained in dental workforce surveys submitted by dentists or dental hygienists to the Department of Health; providing exceptions to the exemption; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity; providing an effective date.

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

Section 1. Confidentiality of certain information contained in dental workforce surveys.—

(1) All personal identifying information that is contained in records provided by dentists or dental hygienists licensed under chapter 466, Florida Statutes, in response to dental workforce surveys and held by the Department of Health is confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution, except such information shall be disclosed:

(a) With the express written consent of the individual to whom the information pertains or the individual's legally authorized representative.

(b) By court order upon a showing of good cause.

(c) To a research entity, if the entity seeks the records or data pursuant to a research protocol approved by the Department of Health, maintains the records or data in

Page 1 of 3

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

23-00946-13

20131066__

accordance with the approved protocol, and enters into a purchase and data-use agreement with the department, the fee provisions of which are consistent with s. 119.07(4), Florida Statutes. The department may deny a request for records or data if the protocol provides for intrusive follow-back contacts, does not plan for the destruction of confidential records after the research is concluded, is administratively burdensome, or does not have scientific merit. The agreement must restrict the release of information that would identify individuals, limit the use of records or data to the approved research protocol, and prohibit any other use of the records or data. Copies of records or data issued pursuant to this paragraph remain the property of the department.

(2) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15, Florida Statutes, and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that personal identifying information concerning a dentist or dental hygienist licensed under chapter 466, Florida Statutes, who responds to a dental workforce survey be made confidential and exempt from disclosure. Candid and honest responses by licensed dentists or dental hygienists to the workforce survey will ensure that timely and accurate information is available to the Department of Health. The Legislature finds that the failure to maintain the confidentiality of such personal identifying information would prevent the resolution of important state interests to ensure the availability of dentists or dental hygienists in this state.

Page 2 of 3

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

23-00946-13

20131066__

59

Section 3. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Gaming, Chair
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health
and Human Services
Banking and Insurance
Commerce and Tourism
Judiciary
Rules
Transportation

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR GARRETT RICHTER

President Pro Tempore
23rd District

March 3, 2013

The Honorable Aaron Bean, Chair
Committee on Health Policy
530 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Bean:

Senate Bill 1066, Public Records to a Dental Workforce Survey, has been referred to the Committee on Health Policy. I would appreciate the placing of this bill on the committee's agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

Garrett Richter

cc: Sandra Stovall, Staff Director

REPLY TO:

- 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
- 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
- 25 Homestead Road North, Suite 42 B, Lehigh Acres, Florida 33936 (239) 338-2777

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore





THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Gaming, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health
and Human Services
Banking and Insurance
Commerce and Tourism
Judiciary
Rules
Transportation

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR GARRETT RICHTER

President Pro Tempore
23rd District

March 12, 2013

The Honorable Aaron Bean, Chair
Committee on Health Policy
530 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Bean:

Thank you for scheduling Senate Bill 1066, a Public Records bill related to the Dental Workforce Survey, for hearing in your committee on Thursday, March 14, 2013.

Like many members I am experiencing scheduling problems. I respectfully request that my legislative assistant, Becky Kokkinos, be allowed to present my bill on my behalf.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Garrett Richter".

Garrett Richter

cc: Sandra Stovall, Staff Director

REPLY TO:

- 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
- 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
- 25 Homestead Road North, Suite 42 B, Lehigh Acres, Florida 33936 (239) 338-2777

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD



3/14/13

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

Meeting Date

Topic

Public Records Exemption

Bill Number

SB 1066

(if applicable)

Name

Casey Stoutamire

Amendment Barcode

(if applicable)

Job Title

Lobbyist

Address

118 E Jefferson St

Phone

850 224-1089

Street

Tallahassee

FL

32301

E-mail

cstoutamire@florida
dental.org

City

State

Zip

Speaking:

For Against Information

Representing

Florida Dental Assoc FDA

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)

3/14/2013

Meeting Date

Topic _____

Bill Number 1068
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

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 1660
 INTRODUCER: Senator Flores
 SUBJECT: Quality Cancer Care and Research
 DATE: March 12, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Stovall	HP	Favorable
2.	_____	_____	CF	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

SB 1660 establishes a Cancer Center of Excellence Award to recognize hospitals, treatment centers, and other providers in Florida which demonstrate excellence in patient-centered, coordinated care for persons undergoing cancer treatment and therapy. The bill provides for the development of performance measures, a rating system, and a rating standard that must be achieved to be eligible for recognition. The award and designation may be used in the provider’s advertising and marketing for up to three years and it entitles the recipient to preferential consideration in competitive solicitations by a state agency or state university.

The bill also provides for endowments to cancer research institutions in the state to establish a funded research chair that will attract and retain a promising researcher in order to serve as a catalyst to attract other national grant-producing researchers to the state. The endowments are contingent upon funding in the General Appropriations Act.

This bill substantially amends s. 381.922, F.S., and creates s. 381.925, F.S.

II. Present Situation:

Cancer is the general name for a group of more than 100 diseases. Although there are many kinds of cancer, all cancers start because abnormal cells grow out of control. Untreated cancers can cause serious illness and death. Half of all men and one-third of all women in the U.S. will develop cancer during their lifetimes.¹

¹ American Cancer Society, What is Cancer, available at: <http://www.cancer.org/cancer/cancerbasics/what-is-cancer> (Last visited March 12, 2013).

About 1,660,290 new cancer cases are expected to be diagnosed in 2013 in the United States, with approximately 118,290 of those occurring in Florida. In 2013, about 580,350 Americans are expected to die of cancer, almost 1,600 people per day. Cancer is the second most common cause of death in the United States, exceeded only by heart disease, accounting for nearly one of every four deaths. The National Cancer Institute estimates that approximately 13.7 million Americans with a history of cancer were alive on January 1, 2012. Some of these individuals were cancer free, while others still had evidence of cancer and may have been undergoing treatment.²

Cancer is the leading cause of death in Florida. Florida has the second-highest number of new cases of cancer in the U.S., even though it is the fourth-largest state in terms of population. However, there is only one National Cancer Institute-designated comprehensive cancer center in the state.³ Designation by the National Cancer Institute is a nationally recognized marker of high-quality in cancer care and research, and is linked to higher federal funding for cancer. Florida has fewer designated cancer centers than peer states. For example, New York has four centers, Texas has three, and California has ten.⁴

Florida Cancer Control and Research Advisory Council

The Florida Cancer Control and Research Advisory Council (Council) is created within the H. Lee Moffitt Cancer Center and Research Institute, Inc. (Moffitt).⁵ The Council:

- Advises the Board of Governors, the State Surgeon General, and the Legislature on cancer control and research in Florida;
- Annually approves the Florida Cancer Plan;
- Provides recommendations for the Florida Cancer Plan to include the coordination and integration of plans concerned with cancer control and research provided by other stakeholders;
- Formulates and recommends to the State Surgeon General:
 - A plan for the care and treatment of persons suffering from cancer,
 - Standard requirements for organization, equipment, and conduct of cancer units or departments in hospitals and clinics, and
 - The designation of cancer units following a survey of needs and facilities for treatment of cancer throughout the state;
- Recommends grant awards and contracts to qualified recipients;
- Develops educational materials and programs; and
- Recommends rules and methods of implementing or enforcing laws concerned with cancer control, research, and education.

The Council consists of 35 members including appointees by the Speaker of the House of Representatives, the President of the Senate, and the Governor and other persons representing: the American Cancer Society, Florida Tumor Registrars Association, Sylvester Comprehensive

² American Cancer Society *Cancer Facts and Figures 2013* available at: <http://www.cancer.org/acs/groups/content/@epidemiologysurveillance/documents/document/acspc-036845.pdf> (Last visited March 12, 2013).

³ H. Lee Moffitt Cancer Center is the only designated cancer center.

⁴ Department of Health Bill Analysis for SB 1660 (2013), dated March 8, 2013, on file with the Senate Health Policy Committee.

⁵ s. 1004.435(4), F.S.

Cancer Center of the University of Miami, Department of Health (DOH), University of Florida Shands Cancer Center, Agency for Health Care Administration, Florida Nurses Association, Florida Osteopathic Medical Association, American College of Surgeons, School of Medicine of the University of Miami, College of Medicine of the University of Florida, NOVA Southeastern College of Osteopathic Medicine, College of Medicine of the University of South Florida, College of Public Health of the University of South Florida, Florida Society of Clinical Oncology, Florida Obstetric and Gynecologic Society, Florida Ovarian Cancer Alliance Speaks, Florida Medical Association, Florida Pediatric Society, Florida Radiological Society, Florida Society of Pathologists, Moffitt, Florida Dental Association, Florida Hospital Association, Association of Community Cancer Centers, statutory teaching hospitals, Florida Association of Pediatric Tumor Programs, Inc., Cancer Information Services, Florida Agricultural and Mechanical University Institute of Public Health, Florida Society of Oncology Social Workers, and consumer advocates from the general public.

Biomedical Research Advisory Council (BRAC)

The Biomedical Research Advisory Council (BRAC) is established within the DOH.⁶ The BRAC advises the State Surgeon General as to the direction and scope of the state's biomedical research program. This responsibility includes:

- Providing advice on program priorities, emphases, and overall program budget;
- Participating in periodic program evaluation;
- Assisting in developing guidelines for fairness, neutrality, principles of merit, and quality in the conduct of the program;
- Assisting in developing linkages to nonacademic entities such as voluntary organizations, health care delivery institutions, industry, government agencies, and public officials;
- Developing guidelines, criteria and standards for the solicitation, review, and award of research grants and fellowships; and
- Developing and providing oversight regarding mechanisms for disseminating research results.

The BRAC consists of 11 members including appointees by the Speaker of the House of Representatives from a professional medical organization or a comprehensive cardiovascular program with experience in biomedical research approved by the American College of Cardiology, and from a cancer program approved by the American College of Surgeons; the President of the Senate with expertise in behavioral or social research and from a cancer program approved by the American College of Surgeons; and the Governor with expertise in biomedical research, from a research university in Florida, and one representing the general public; and other persons representing the American Cancer Society, American Heart Association, and American Lung Association.

Commission on Cancer for the American College of Surgeons

The Commission on Cancer (CoC) Accreditation Program⁷ encourages hospitals, treatment centers, and other facilities to improve their quality of patient care through various cancer-related

⁶ s. 215.5602(3), F.S.

⁷ See <http://www.facs.org/cancer/coc/approval.html> (Last visited on March 12, 2013).

programs. These programs focus on prevention, early diagnosis, pretreatment evaluation, staging, optimal treatment, rehabilitation, surveillance for recurrent disease, support services, and end-of-life care.

Accredited cancer programs are assigned an accreditation category that describes the services available at the facility and the number of cases. Category assignments are made by CoC staff and are retained, unless there are changes to the services provided or the facility caseload over a three-year period. The cancer accreditation categories include:⁸

- Academic Comprehensive Cancer Program
- Community Cancer Program
- Comprehensive Community Cancer Program
- Free Standing Cancer Center Program
- Hospital Associate Cancer Program
- Integrated Network Cancer Program
- NCI-Designated Comprehensive Cancer Center Program
- Pediatric Cancer Program
- Veterans Affairs Cancer Program.

Cancer Control Collaborative

In 2001, the Florida Comprehensive Cancer Control Program (CCC Program) within the DOH was created through a cooperative agreement with the federal Centers for Disease Control and Prevention (CDC). The main objective of the cooperative agreement is to reduce the cancer burden through a collaborative effort with public and private partners. The CCC Program supports regional cancer collaboratives which are networks of volunteer groups to enhance communications and efforts to reduce cancer incidence, morbidity, and mortality through prevention, early detection, treatment, rehabilitation, and palliation. There are five regional cancer control collaboratives in Florida, the Northwest Region, Northeast Region, North Central Region, Southwest Region, and the Southeast Region.⁹

State Supported Cancer Research in Florida

The Florida Biomedical Research Programs administered by the DOH includes two grant-funding programs; the James and Esther King Biomedical Research Program (King Program)¹⁰ and the Bankhead-Coley Cancer Research Program (Bankhead-Coley Program).¹¹ Annually the Florida Legislature appropriates monies for competitive awards for biomedical research related to the goals of these two programs.

The goals of the King Program are to:

- Improve the health of Floridians by researching better prevention, diagnoses, treatments, and cures for cancer, cardiovascular disease, stroke, and pulmonary disease.

⁸ See American College of Surgeons Cancer Programs Categories of Accreditation for a description of the distinguishing characteristics of these categories at: <http://www.facs.org/cancer/coc/categories3.html> (Last visited on March 12, 2013).

⁹ <http://www.doh.state.fl.us/family/cancer/ccc/index.html> (Last visited March 12, 2013).

¹⁰ s. 215.5602, F.S.

¹¹ s. 381.922, F.S.

- Expand the foundation of biomedical knowledge relating to the prevention, diagnosis, treatment, and cure of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease.
- Improve the quality of the state's academic health centers by bringing the advances of biomedical research into the training of physicians and other health care providers.
- Increase the state's per capita funding for research by undertaking new initiatives in public health and biomedical research that will attract additional funding from outside the state.
- Stimulate economic activity in the state in areas related to biomedical research, such as the research and production of pharmaceuticals, biotechnology, and medical devices.

The goals of the Bankhead-Coley Program are to:

- Significantly expand cancer research capacity in the state by:
 - Identifying ways to attract new research talent and attendant national grant-producing researchers to cancer research facilities in this state;
 - Implementing a peer-reviewed, competitive process to identify and fund the best proposals to expand cancer research institutes in this state;
 - Funding through available resources for those proposals that demonstrate the greatest opportunity to attract federal research grants and private financial support;
 - Encouraging the employment of bioinformatics in order to create a cancer informatics infrastructure that enhances information and resource exchange and integration through researchers working in diverse disciplines, to facilitate the full spectrum of cancer investigations;
 - Facilitating the technical coordination, business development, and support of intellectual property as it relates to the advancement of cancer research; and
 - Aiding in other multidisciplinary research-support activities as they inure to the advancement of cancer research.
- Improve both research and treatment through greater participation in clinical trials networks.
- Reduce the impact of cancer on disparate groups.

Any university or research institute in Florida may apply for grant funding to support the goals of either program and all qualified investigators in the state, regardless of institution, have equal opportunity to compete for funding. All awards are made based on scientific merit, as determined by open competitive peer review.

The extent of funding for these programs has varied significantly from year to year. In 2012-2013 funding for biomedical research occurred through several appropriation streams:

- The King Program received \$5 million from DOH funded from the tobacco surcharge. These monies were allocated through grants:
 - The total awarded under the King Program was \$3,946,000 (rounded).
 - The largest research award under the King Program was \$400,000.
- The Bankhead-Coley Program received \$5 million from DOH funded from the tobacco surcharge. These monies were allocated through grants:
 - The total awarded under the Bankhead/Coley Program was \$3,606,000 (rounded).
 - The largest research award under the Bankhead/Coley Program was \$374,000.
- Direct appropriations to institutions:

- Moffitt received \$5 million from DOH funded from the tobacco surcharge and \$10,576,930 in the General Appropriations Act. Section 2 – Education: Division of Universities).
- Shands Cancer Hospital received \$5 million from DOH funded from tobacco surcharge and \$2,500,000 from General Revenue.
- Sylvester Comprehensive Cancer Center at the University of Miami received \$5 million from DOH funded from the tobacco surcharge and \$2,500,000 from General Revenue.
- Sanford-Burnham Medical Research Institute received \$3,000,000 from General Revenue.

III. Effect of Proposed Changes:

Section 1 creates s. 381.925, F.S., to establish the Cancer Center of Excellence Award. The award will recognize hospitals, treatment centers, and other providers in Florida which demonstrate excellence in patient-centered, coordinated care for persons undergoing cancer treatment and therapy in this state. The goal is to encourage, not only excellence in cancer care in this state, but to attract and retain the best cancer care providers to the state and help Florida providers to be recognized nationally as a preferred destination for quality cancer care.

The Council and the BRAC will jointly develop rigorous performance measures, a rating system, a rating standard, and an application form that includes submission of documentation that the performance measures have been met. These performance measures, at a minimum, must require a provider:

- Maintain a license in Florida that authorizes health care services to be provided. The provider may not have been disciplined or subject to any administrative enforcement action by state or federal regulatory authorities within the preceding three years;
- Be accredited by the Commission on Cancer for the American College of Surgeons;
- Actively participate in at least one regional cancer control collaborative; and
- Meet enhanced cancer care coordination standards which, at a minimum, focus on:
 - Coordination of care by cancer specialists, nurses, and allied health professionals;
 - Psychosocial assessment and services;
 - Suitable and timely referrals and follow-up;
 - Providing accurate and complete information on treatment options that are tailored to the patient's needs regardless of whether the services are available from that provider;
 - Participation in a comprehensive network of cancer specialists of multiple disciplines so that the patient may consult with various experts to examine treatment alternatives;
 - Family services and support;
 - Aftercare and survivor services; and
 - Patient and family satisfaction survey results.

There will be two application cycles annually. The State Surgeon General will appoint an independent evaluation team from among various groups specified in the bill, to determine eligibility for the award. Once each team member has reported the score for the applicants, the State Surgeon General will notify the Governor regarding the providers that are eligible to receive the Cancer Center of Excellence Award.

A provider that excels in providing quality, comprehensive, and patient-centered coordinated care as recognized through this program will be designated as a Cancer Center of Excellence for three years and will be able to use that designation in advertising and market as well as receive preferential consideration in competitive solicitations by a state agency or state university.

A provider may reapply for subsequent awards.

By January 31, 2014, and annually thereafter, the State Surgeon General is required to report to the Speaker of the House of Representatives and the President of the Senate on the status of implementing the program, data on the number of applicants and awards earned as well as the name of recipients, and any recommended legislation to improve the program.

Section 2 amends s. 381.922, F.S., to establish endowments for cancer research institutions in Florida so that the institutions can fund an endowed research chair. Subject to appropriation, the endowments will provide a stable research position for a period of at least seven years so that the research institutions are able to recruit and retain experienced and promising researchers. These endowed chairs will facilitate research coordination among other research institutions within the state and attract other promising researchers and national funding to the state.

Accountability for the endowed chair includes the research institution submitting a proposal that describes the research program and general responsibilities of the intended chair. Periodically, the institution will report to the DOH the name, salary, and specific research responsibilities of the chair as well as progress toward achieving the goals of the program, and financial information pertaining to the endowment.

The bill provides for academic and professional qualifications for the person selected for the chair and specifies that the endowment is awarded to the research institution, not to the selected researcher.

Section 3 provides that the act will take effect July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Although application for the Cancer Center of Excellence award is voluntary, providers in the state that wish to be designated as such, will incur indeterminable costs to bring their program to the level contemplated by this bill. Patients in Florida as well as patients from outside the state will benefit from accessing the comprehensive range of services and support that these centers will provide. In addition, patients will benefit from the improvements cancer providers implement while seeking to attain the quality standards developed by the Council and the BRAC.

C. Government Sector Impact:

The fiscal impact of SB 1660 has not been determined at publication of this analysis. However, the DOH will incur administrative costs to support the two programs established in the bill. The amount of the endowments for the research chairs is indeterminate and will be specified in the General Appropriations Act.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.

By Senator Flores

37-01278A-13

20131660__

1 A bill to be entitled
 2 An act relating to quality cancer care and research;
 3 creating s. 381.925, F.S.; providing legislative
 4 intent and goals; establishing a Cancer Center of
 5 Excellence Award for providers that excel in providing
 6 cancer care and treatment in this state; requiring the
 7 Florida Cancer Control and Research Advisory Council
 8 and the Biomedical Research Advisory Council to
 9 jointly develop performance measures, a rating system,
 10 and a rating standard in accordance with specified
 11 criteria for applicants to qualify for the award;
 12 providing minimum standards; authorizing a provider to
 13 apply to the Department of Health for the award;
 14 requiring the Florida Cancer Control and Research
 15 Advisory Council and the Biomedical Research Advisory
 16 Council to jointly develop an application form;
 17 providing two application cycles each year; requiring
 18 the State Surgeon General to assemble an evaluation
 19 team to assess applications; providing membership of
 20 and requirements for the evaluation team; providing
 21 duties of the members of the evaluation team;
 22 requiring the State Surgeon General to notify the
 23 Governor of the providers that are eligible to receive
 24 the award; limiting the duration of the award;
 25 authorizing an award-winning cancer provider to use
 26 the designation in its advertising and marketing;
 27 providing that an award-winning cancer provider is
 28 granted preference in competitive solicitations for a
 29 specified period of time; requiring the State Surgeon

Page 1 of 7

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

37-01278A-13

20131660__

30 General to report to the Legislature by a specified
 31 date the status of implementing the award program;
 32 amending s. 381.922, F.S.; authorizing endowments
 33 under the William G. "Bill" Bankhead, Jr., and David
 34 Coley Cancer Research Program for establishing funded
 35 research chairs at research institutions contingent
 36 upon an appropriation; requiring submission of
 37 proposals; requiring that research institutions report
 38 certain information regarding the selected research
 39 chair of the endowment and other information about the
 40 endowment; providing for qualifications of the chair;
 41 specifying the use of the funds in the endowment;
 42 providing an effective date.

43
 44 Be It Enacted by the Legislature of the State of Florida:

45
 46 Section 1. Section 381.925, Florida Statutes, is created to
 47 read:

48 381.925 Cancer Center of Excellence Award.—

49 (1) The Legislature intends to recognize hospitals,
 50 treatment centers, and other providers in this state which
 51 demonstrate excellence in patient-centered, coordinated care for
 52 persons undergoing cancer treatment and therapy in this state.
 53 The goal of this program is to encourage excellence in cancer
 54 care in this state, attract and retain the best cancer care
 55 providers to the state, and help Florida providers be recognized
 56 nationally as a preferred destination for quality cancer care.
 57 The Cancer Center of Excellence Award will recognize providers
 58 that exceed service standards and excel in providing a quality,

Page 2 of 7

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

37-01278A-13 20131660

59 comprehensive, and patient-centered coordinated care program.
 60 (2) The Florida Cancer Control and Research Advisory
 61 Council, established in s. 1004.435, and the Biomedical Research
 62 Advisory Council, established in s. 215.5602, shall jointly
 63 develop rigorous performance measures, a rating system, and a
 64 rating standard that must be achieved to document and
 65 distinguish a cancer center that excels in providing a quality,
 66 comprehensive, and patient-centered coordinated care program. At
 67 a minimum, the criteria must require that each hospital,
 68 treatment center, or other provider:
 69 (a) Maintain a license in this state which authorizes
 70 health care services to be provided. A provider may not have
 71 been disciplined or subjected to any administrative enforcement
 72 action by state or federal regulatory authorities within the
 73 preceding 3 years.
 74 (b) Be accredited by the Commission on Cancer of the
 75 American College of Surgeons.
 76 (c) Actively participate in at least one regional cancer
 77 control collaborative that is operating pursuant to the Florida
 78 Comprehensive Cancer Control Program's cooperative agreement
 79 with the Centers for Disease Control and Prevention's National
 80 Comprehensive Cancer Control Program.
 81 (d) Meet enhanced cancer care coordination standards set by
 82 the councils which, at a minimum, focus on:
 83 1. Coordination of care by cancer specialists and nursing
 84 and allied health professionals.
 85 2. Psychosocial assessment and services.
 86 3. Suitable and timely referrals and followup.
 87 4. Providing accurate and complete information on treatment

37-01278A-13 20131660

88 options, including clinical trials, which consider each person's
 89 needs, preferences, and resources, whether provided by that
 90 center or available through other health care providers.
 91 5. Participation in a comprehensive network of cancer
 92 specialists of multiple disciplines which enables the patient to
 93 consult with a variety of experts to examine treatment
 94 alternatives.
 95 6. Family services and support.
 96 7. Aftercare and survivor services.
 97 8. Patient and family satisfaction survey results.
 98 (3) (a) A provider may apply to the Department of Health for
 99 a Cancer Center of Excellence Award. The Florida Cancer Control
 100 and Research Advisory Council and the Biomedical Research
 101 Advisory Council shall jointly develop an application form that
 102 requires, among other things, submission of documentation by the
 103 provider which demonstrates that the criteria in subsection (2)
 104 have been met.
 105 (b) The council shall conduct two application cycles
 106 annually.
 107 (4) (a) The State Surgeon General shall appoint a team of
 108 independent evaluators to assess applicants to determine
 109 eligibility for the award. The team shall consist of five
 110 evaluators to be selected, in any combination, from the
 111 following:
 112 1. No more than five health care practitioners or health
 113 care facilities not licensed in this state which provide health
 114 care services involving cancer diagnoses or treatment;
 115 2. No more than three members from the Florida Cancer
 116 Control and Research Advisory Council;

37-01278A-13

20131660

117 3. No more than two members from the Biomedical Research
 118 and Advisory Council; and

119 4. No more than one layperson who has experience as a
 120 cancer patient or as a family member of a cancer patient if that
 121 person or his or her family member did not receive care from the
 122 applicant or providers being evaluated.

123 (b) Each evaluator must be independent and free of any
 124 conflict of interest with respect to a health care provider or
 125 facility licensed in this state. Each person selected to
 126 participate on the evaluation team must sign a conflict of
 127 interest attestation before being appointed to the evaluation
 128 team.

129 (5) (a) An evaluation team member may verify, as necessary,
 130 documentation submitted with an application for the award.

131 (b) Each member on the evaluation team shall report to the
 132 State Surgeon General those applicants that achieved or exceeded
 133 the required score based on the rating system developed in
 134 subsection (2) which demonstrates the cancer center excels in
 135 providing a quality, comprehensive, and patient-centered
 136 coordinated care program.

137 (6) The State Surgeon General shall notify the Governor
 138 regarding the providers that are eligible to receive the Cancer
 139 Center of Excellence Award.

140 (7) The award shall be recognized for a period of 3 years
 141 from the date of the award. A provider may reapply for
 142 subsequent awards.

143 (8) A provider that receives a Cancer Center of Excellence
 144 Award may use the designation in its advertising and marketing
 145 for up to 3 years from the date of the award. In addition, a

37-01278A-13

20131660

146 provider that receives a Cancer Center of Excellence Award may
 147 be granted, for 3 years from the date of the award, a preference
 148 in competitive solicitations undertaken by a state agency or
 149 state university.

150 (9) The State Surgeon General shall report to the President
 151 of the Senate and the Speaker of the House of Representatives by
 152 January 31, 2014, and annually thereafter, the status of
 153 implementing the Cancer Center of Excellence Award program,
 154 metrics on the number of applications received and the number of
 155 award recipients by application cycle, a list of award
 156 recipients, and recommendations for legislation to strengthen
 157 the program.

158 Section 2. Subsection (4) of section 381.922, Florida
 159 Statutes, is renumbered as subsection (5), and a new subsection
 160 (4) is added to that section, to read:

161 381.922 William G. "Bill" Bankhead, Jr., and David Coley
 162 Cancer Research Program.—

163 (4) In order to attract and retain experienced research
 164 talent and attendant national grant-producing researchers to
 165 cancer research institutions in this state, the Department of
 166 Health shall award endowments to cancer research institutions
 167 for establishing a funded research chair, pursuant to the
 168 General Appropriations Act specifying an appropriation for this
 169 purpose. The purpose of the endowment is to provide a secure
 170 salary for at least 7 years to attract an experienced and
 171 promising researcher whose continued employment for this period
 172 is not contingent upon grant awards associated with time-limited
 173 research projects. In addition, the Legislature intends for this
 174 chair to specialize in a cancer-related research field that will

37-01278A-13 20131660

175 facilitate coordination among research institutions within the
176 state, and attract other promising researchers and funding to
177 the state.

178 (a) A research institution shall submit a proposal for the
179 endowment which must, at a minimum, describe the research
180 program and general responsibilities of the researcher who is to
181 be selected for the research chair. Upon final selection of the
182 research chair or if it becomes necessary to identify a
183 replacement research chair the research institution shall notify
184 the Department of Health of his or her name, salary, and
185 specific research responsibilities. The research institution
186 shall annually report to the department the chair's name,
187 current salary, research responsibilities, percentage of time
188 devoted to research if the chair also serves as a member of the
189 faculty, reports on research progress and progress toward
190 achieving the goals of this program, endowment balance, interest
191 rate, and interest earned on the endowment.

192 (b) The person selected for the research chair must possess
193 a doctoral degree and have demonstrated promising research
194 potential in the field in which the chair is to conduct
195 research. The endowment is awarded to the research institution,
196 not to the selected researcher.

197 (c) The principal and interest earned on the endowment
198 shall be used to fund the selected chair's research salary for
199 at least 7 years. A selected chair may also serve as a member of
200 the faculty who receives supplemental pay from other sources.

201 Section 3. This act shall take effect July 1, 2013.

THE FLORIDA SENATE
APPEARANCE RECORD



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

3/14/13

Meeting Date

Topic Quality Cancer Care

Bill Number SB 1660
(if applicable)

Name Shira Kastan

Amendment Barcode _____
(if applicable)

Job Title Asst. Vice President

Address 1320 S. Dixie Hwy #325

Phone 305-284-2618

Street

Coral Gables, FL 33146

City

State

Zip

E-mail skastan@miami.edu

Speaking: For Against Information

Representing Sylvester Cancer Center @ The University of Miami

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

13 Mar 13

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

Meeting Date

Topic Cancer Care

Bill Number 1660
(if applicable)

Name James Mosteller

Amendment Barcode _____
(if applicable)

Job Title Government Relations Dir

Address 2851 Huntington Green Cir

Phone 850/727-3712

Tallahassee, FL
City State Zip

E-mail James.Mosteller@heart.org

Speaking: For Against Information

Representing American Heart Assn

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)

3/14/13

Meeting Date

Topic QUALITY CANCER CARE

Bill Number SB 1660
(if applicable)

Name JAMIE WILSON

Amendment Barcode _____
(if applicable)

Job Title VICE PRESIDENT

Address 12902 Magnolia Dr.
Street

Phone 813-745-1521

TAMPA FL 33412
City State Zip

E-mail jami.wilson@
moffitt.org

Speaking: For Against Information

Representing MOFFITT CANCER CENTER

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)

March 14, 2013

Meeting Date

Topic Quality Cancer Care and Research

Bill Number 1660
(if applicable)

Name Layne Smith

Amendment Barcode N/A
(if applicable)

Job Title Director, State Government Relations

Address 4500 San Pablo Road
Street

Phone 904-953-7334

Jacksonville FL 32224
City State Zip

E-mail smith.layne@mayo.edu

Speaking: For Against Information

Representing Mayo Clinic

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD



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

3/19/2013

Meeting Date

Topic _____

Bill Number 1660
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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 (10/20/11)



THE FLORIDA SENATE
APPEARANCE RECORD

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

3/14/2013

Meeting Date

Topic Quality Cancer Care and Research

Bill Number SB 1660
(if applicable)

Name Heather Wildermuth

Amendment Barcode _____
(if applicable)

Job Title Director of Government Relations

Address 2619 Centennial Blvd, Suite 101
Street

Phone 850-251-2111

Tallahassee FL 32308
City *State* *Zip*

E-mail heather.wildermuth@cancer.org

Speaking: For Against Information

Representing American Cancer Society Cancer Action Network

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The bill provides an effective date of July 1, 2013.

This bill substantially amends, creates, or repeals s. 456.076, F.S.; s. 458.331, F.S.; s. 459.015, F.S.; and s. 468.315, F.S.

II. Present Situation:

Treatment Programs for Impaired Health Care Practitioners

Section 456.076, F.S., provides for resources to assist health care practitioners¹ who are impaired as a result of the misuse or abuse of alcohol, drugs, or a mental or physical condition which could affect the practitioners' ability to practice with skill and safety. Whenever the DOH receives a legally sufficient complaint² alleging that a practitioner is so impaired, and no other complaints exist against the practitioner, the DOH shall forward all information it has concerning him or her to a consultant.³ The consultant, who must be a licensed physician, a licensed nurse, or an entity with a licensed physician or nurse as its medical director, assists the DOH in determining if the practitioner is actually impaired, connects the practitioner to appropriate resources for treatment of the impairment, and monitors progress. Consultants may also work with medical students, physician assistant students, nursing students, or pharmacy students at a school's request. However, the DOH or the consultant is not responsible for any fees incurred throughout this process.⁴

An impaired practitioner will not be disciplined by the DOH as long as he or she:

- Is not the subject of any other complaints to the DOH;
- Has acknowledged the impairment;
- Has voluntarily enrolled in an appropriate, approved treatment program;
- Has voluntarily withdrawn from practice or limited his or her scope of practice, as required by the consultant, until the successful completion of an approved treatment program; and
- Has authorized release of all records of evaluations, diagnoses, and treatment to the consultant.⁵

There are currently two department-approved treatment programs for impaired practitioners in Florida, the Professionals Resource Network and the Intervention Project for Nurses. These

¹ Health care practitioners are defined in s. 456.001(4), F.S., to include licensed acupuncturists, physicians, physician assistants, chiropractors, podiatrists, naturopaths, dentists, dental hygienists, optometrists, nurses, nursing assistants, pharmacists, midwives, speech language pathologists, nursing home administrators, occupational therapists, respiratory therapists, dietitians, athletic trainers, orthotists, prosthetists, practitioners of electrolysis, massage therapists, clinical laboratory personnel, medical physicists, dispensers of optical devices or hearing aids, physical therapists, psychologists, social workers, counselors, and psychotherapists, among other professions. These practitioners are regulated by the Division of Medical Quality Assurance within the Department of Health.

² According to s. 456.073(1), F.S., a complaint is legally sufficient if it contains ultimate facts that show a violation of ch. 456, F.S., or any of the practice acts or rules relating to professions regulated by the department. Special requirements apply to complaints filed by state prisoners. The department is statutorily required to investigate all legally sufficient complaints.

³ Section 456.076(3), F.S.

⁴ Section 456.076(2), F.S.

⁵ Section 456.076(3)(a), F.S.

programs also serve as consultants to the DOH.⁶ Any information related to treatment of an impaired practitioner is exempt from state public records requirements except when a consultant determines that impairment affects a practitioner's practice and constitutes an immediate, serious danger to the public health, safety, or welfare.⁷

Treatment Programs for Other Impaired Practitioners

The DBPR has no statutory authority under its general provisions in ch. 455, F.S., to create its own impaired practitioner program. However, ch. 455, F.S., does provide for disciplinary action against people who do not fully participate in the program operated by the DOH.

Section 455.227(1)(u), F.S., states that "termination from a treatment program for impaired practitioners as described in s. 456.076, F.S., for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee or failing to successfully complete a drug or alcohol treatment program" is grounds for disciplinary action from the DBPR. Chapter 310, F.S., concerning harbor pilots, and ch. 474, F.S., concerning veterinarians, charge the DBPR with the same duties concerning impaired practitioners as the DOH, but no statute governing any other profession under the DBPR mentions this program.

Part IV of ch. 468, F.S., which governs radiologic technologists, also describes disciplinary consequences of failure to participate in an impaired practitioner program.⁸ However, radiologic technologists are not included in the definition of "health care practitioner" in ch. 456, F.S., and are thus not subject to the impaired practitioner program in s. 456.076, F.S.⁹

Currently, the Professionals Resource Network also treats veterinarians, harbor pilots, and certified public accountants.¹⁰

III. Effect of Proposed Changes:

Section 1 amends s. 456.076, F.S., adds an entity that employs an executive director who is a registered nurse to the list of persons eligible to contract with the DOH as an impaired practitioner consultant; makes technical changes and to state that entities serving as consultants are not required to be licensed as substance abuse providers or mental health treatment providers under chs. 394, 395, or 397, F.S., for purposes of participating in the impaired practitioner treatment program. Consultants are authorized to assist students enrolled in a school or program to become licensed as health care practitioners as defined in ch. 456, F.S., rather than for the limited professions of doctors and physician assistants licensed under the medical practice act and osteopathic act and pharmacists, or as veterinarians; the list of students eligible to receive consultant services is currently limited to physicians, nurses, and pharmacists. The bill also releases certain health care practitioner schools and veterinary schools from liability for referring students to consultants.

⁶ Professionals Resource Network, *About Us*, <http://www.flprn.org/about.html>. Last accessed March 11, 2013.

⁷ Section 456.076(3)(e), (5), and (6), F.S.

⁸ Section 468.3101(1)(n), F.S.

⁹ Section 456.001(4), F.S.

¹⁰ *Supra* fn. 6.

The bill provides that the chair or a designee from each board or profession within the Division of Medical Quality Assurance has the authority to refer any licensure applicant to a consultant to determine if he or she is impaired. This referral may be conducted before the board or profession decides whether to certify the licensure application. If the applicant agrees to be evaluated by a consultant, DOH's deadline to approve or deny the licensure application (usually a maximum of 90 days per s. 120.60(1), F.S.) is tolled until the evaluation is completed and the consultant's recommendation has been conveyed to the appropriate board. If the applicant refuses evaluation, the board may still approve or deny the licensure application according to its normal procedures.

The bill makes technical changes to the numbering of subsections in s. 456.076, F.S.

This section also provides that the consultant is the official custodian of all records relating to any action between an impaired practitioner or applicant and the consultant. The consultant may disclose to the practitioner, license applicant, or his or her designee any information that has been obtained by the consultant, but only to the extent that it is necessary to carry out the consultant's duties under s. 456.076, F.S. The DOH and any other entity that has entered into a contract with the consultant for his or her services has direct administrative control over the consultant so as to receive disclosures required by federal law. If a disciplinary proceeding is pending, the impaired practitioner or license applicant may obtain these records from the DOH following procedures in s. 456.073, F.S.¹¹

Section 2 amends s. 458.331, F.S., to require approved treatment providers licensed under the Medical Practice Act to forward information to the DOH or the consultant as the official custodian of records, pursuant to s. 456.076(8), F.S., which this bill adds to statute. This section also makes technical amendments to the numbering of subsections to correspond with changes made by the bill.

Section 3 amends s. 459.015, F.S., to require approved treatment providers licensed under the Osteopathic Medical Practice Act to forward information to the DOH or the consultant as the official custodian of records, pursuant to s. 456.076(8), F.S., which this bill adds to statute. This section also makes technical amendments to the numbering of subsections to correspond with changes made by the bill.

Section 4 amends s. 468.315, F.S., to require that radiologic technologists also be subject to the provisions of the impaired practitioner program under s. 456.076, F.S.

Section 5 provides an effective date of July 1, 2013.

¹¹ Section 456.073(10), F.S., states that any complaint and subsequent investigation relating to a complaint is held confidential and exempt from public record until ten days after probable cause has been found by the appropriate disciplinary panel or until the subject of the investigation waives his or her right to confidentiality, whichever occurs first. Upon completion of the investigation and finding of probable cause, the subject of the investigation has the right to inspect the investigative file after submission of a written request. The subject may also examine the testimony of expert witnesses or patient if he or she agrees to keep this information confidential until ten days after probable cause has been found. Confidentiality of patient records must also be maintained.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Consultants may see an increase in revenue from the expanded pool of students, veterinary students, and health practitioner licensure applicants. These students and applicants will bear the costs of their own referral and treatment.

C. Government Sector Impact:

The DBPR may experience an increase in cost if it decides to set up its own impaired practitioner referral program. The DOH may experience an increase in cost from a possible increased volume of impaired professionals identified due to the expansion of eligibility for the impaired practitioner program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Health Policy on March 14, 2013:

The CS eliminates the amendment to s. 20.165, F.S., which would have allowed DBPR to require that a licensee or license applicant to comply with impaired practitioner program

provisions in s. 456.076, F.S., as if he or she were under the jurisdiction of the DOH. This amendment also granted DBPR and its professional boards the same powers granted to the DOH and its boards under s. 456.076, F.S.

The CS clarifies that consultants do not need to be licensed as substance abuse providers or mental health treatment providers for the purposes of providing services under the impaired practitioner treatment program. The CS also clarifies that consultants are authorized to assist students enrolled in a school or program to become licensed as health care practitioners as defined in ch. 456, F.S.

The CS eliminates the bill's original expansion of provisions concerning identification, monitoring, and treatment of impaired health care practitioners to include applicants for licensure under the DOH in addition to current licensees. Instead, the CS provides that each board or profession may evaluate licensure applicants for impairment before deciding whether to certify or not certify the application. If the applicant agrees to undergo evaluation by a consultant, the DOH's deadline for certifying or not certifying a licensure application is tolled until the evaluation is concluded and the results have been relayed to the appropriate board.

The CS also removes the bill's expansion of entities who can submit information on a potentially impaired practitioner or license applicant to a consultant; only DOH may submit such information. The CS also makes some technical amendments to numbering of subsections to correspond to changes made in the bill.

B. Amendments:

None.



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 456.076, Florida Statutes, is amended to
read:

456.076 Treatment programs for impaired practitioners.—

(1) For professions that do not have impaired practitioner
programs provided for in their practice acts, the department
shall, by rule, designate approved impaired practitioner
programs under this section. The department may adopt rules
setting forth appropriate criteria for approval of treatment
providers. The rules may specify the manner in which the



consultant, retained as set forth in subsection (2), works with
the department in intervention, requirements for evaluating and
treating a professional, requirements for continued care of
impaired professionals by approved treatment providers,
continued monitoring by the consultant of the care provided by
approved treatment providers regarding the professionals under
their care, and requirements related to the consultant's
expulsion of professionals from the program.

(2) (a) The department shall retain one or more impaired
practitioner consultants who are each licensees. ~~The consultant~~
~~shall be a licensee~~ under the jurisdiction of the Division of
Medical Quality Assurance within the department and who must be:

1. A practitioner or recovered practitioner licensed under
chapter 458, chapter 459, or part I of chapter 464; ~~r~~ or

2. An entity that employs: ~~employing~~

a. A medical director who must be a practitioner or
recovered practitioner licensed under chapter 458 ~~or~~ chapter
459; ~~r~~ or

b. An executive director who must be a registered nurse or
a recovered registered nurse licensed under part I of chapter
464.

(b) An entity retained as an impaired practitioner
consultant under this section which employs a medical director
or an executive director is not required to be licensed as a
substance abuse provider or mental health treatment provider
under chapter 394, chapter 395, or chapter 397 for purposes of
providing services under this program.

(c) 1. The consultant shall assist the probable cause panel
and the department in carrying out the responsibilities of this



587390

43 section. This ~~includes shall include~~ working with department
44 investigators to determine whether a practitioner is, in fact,
45 impaired.

46 2. The consultant may contract ~~with a school or program to~~
47 ~~provide for services to a student be provided, for appropriate~~
48 ~~compensation, if requested by the school, for students enrolled~~
49 ~~for the purpose of preparing in schools~~ for licensure as a
50 health care practitioner as defined in this chapter or as a
51 veterinarian under chapter 474 if the student is allegedly
52 allopathic physicians or physician assistants under chapter 458,
53 osteopathic physicians or physician assistants under chapter
54 459, nurses under chapter 464, or pharmacists under chapter 465
55 who are alleged to be impaired as a result of the misuse or
56 abuse of alcohol or drugs, or both, or due to a mental or
57 physical condition. The department is not responsible under any
58 circumstances for paying for the costs of care provided by
59 approved treatment providers or a consultant, and the department
60 is not responsible for paying the costs of consultants' services
61 provided for students.

62 (d) A medical school accredited by the Liaison Committee on
63 Medical Education ~~or of~~ the Commission on Osteopathic College
64 Accreditation, or another other school providing for the
65 education of students enrolled in preparation for licensure as a
66 health care practitioner as defined in this chapter or a
67 veterinarian under chapter 474 allopathic physicians under
68 chapter 458 or osteopathic physicians under chapter 459, which
69 is governed by accreditation standards requiring notice and the
70 provision of due process procedures to students, is not liable
71 in any civil action for referring a student to the consultant



587390

72 retained by the department or for disciplinary actions that
73 adversely affect the status of a student when the disciplinary
74 actions are instituted in reasonable reliance on the
75 recommendations, reports, or conclusions provided by such
76 consultant, if the school, in referring the student or taking
77 disciplinary action, adheres to the due process procedures
78 adopted by the applicable accreditation entities and if the
79 school committed no intentional fraud in carrying out the
80 provisions of this section.

81 (3) Each board and profession within the Division of
82 Medical Quality Assurance may delegate to its chair or other
83 designee its authority to determine, before certifying or
84 declining to certify an application for licensure to the
85 department, that an applicant for licensure under its
86 jurisdiction may be impaired as a result of the misuse or abuse
87 of alcohol or drugs, or both, or due to a mental or physical
88 condition that could affect the applicant's ability to practice
89 with skill and safety. Upon such determination, the chair or
90 other designee may refer the applicant to the consultant for an
91 evaluation before the board certifies or declines to certify his
92 or her application to the department. If the applicant agrees to
93 be evaluated by the consultant, the department's deadline for
94 approving or denying the application pursuant to s. 120.60(1) is
95 tolled until the evaluation is completed and the result of the
96 evaluation and recommendation by the consultant is communicated
97 to the board by the consultant. If the applicant declines to be
98 evaluated by the consultant, the board shall certify or decline
99 to certify the applicant's application to the department
100 notwithstanding the lack of an evaluation and recommendation by



101 the consultant.
102 ~~(4)(3)~~ (a) Whenever the department receives a written or
103 oral legally sufficient complaint alleging that a licensee under
104 the jurisdiction of the Division of Medical Quality Assurance
105 within the department is impaired as a result of the misuse or
106 abuse of alcohol or drugs, or both, or due to a mental or
107 physical condition which could affect the licensee's ability to
108 practice with skill and safety, and no complaint against the
109 licensee other than impairment exists, the reporting of such
110 information shall not constitute grounds for discipline pursuant
111 to s. 456.072 or the corresponding grounds for discipline within
112 the applicable practice act if the probable cause panel of the
113 appropriate board, or the department when there is no board,
114 finds:
115 1. The licensee has acknowledged the impairment problem.
116 2. The licensee has voluntarily enrolled in an appropriate,
117 approved treatment program.
118 3. The licensee has voluntarily withdrawn from practice or
119 limited the scope of practice as required by the consultant, in
120 each case, until such time as the panel, or the department when
121 there is no board, is satisfied the licensee has successfully
122 completed an approved treatment program.
123 4. The licensee has executed releases for medical records,
124 authorizing the release of all records of evaluations,
125 diagnoses, and treatment of the licensee, including records of
126 treatment for emotional or mental conditions, to the consultant.
127 The consultant shall make no copies or reports of records that
128 do not regard the issue of the licensee's impairment and his or
129 her participation in a treatment program.



130 (b) If, however, the department has not received a legally
131 sufficient complaint and the licensee agrees to withdraw from
132 practice until such time as the consultant determines the
133 licensee has satisfactorily completed an approved treatment
134 program or evaluation, the probable cause panel, or the
135 department when there is no board, shall not become involved in
136 the licensee's case.
137 (c) Inquiries related to impairment treatment programs
138 designed to provide information to the licensee and others and
139 which do not indicate that the licensee presents a danger to the
140 public shall not constitute a complaint within the meaning of s.
141 456.073 and shall be exempt from the provisions of this
142 subsection.
143 (d) Whenever the department receives a legally sufficient
144 complaint alleging that a licensee is impaired as described in
145 paragraph (a) and no complaint against the licensee other than
146 impairment exists, the department shall forward all information
147 in its possession regarding the impaired licensee to the
148 consultant. For the purposes of this section, a suspension from
149 hospital staff privileges due to the impairment does not
150 constitute a complaint.
151 (e) The probable cause panel, or the department when there
152 is no board, shall work directly with the consultant, and all
153 information concerning a practitioner obtained from the
154 consultant by the panel, or the department when there is no
155 board, shall remain confidential and exempt from the provisions
156 of s. 119.07(1), subject to the provisions of subsections ~~(5)~~
157 ~~and~~ (6) and (7).
158 (f) A finding of probable cause shall not be made as long



587390

159 as the panel, or the department when there is no board, is
160 satisfied, based upon information it receives from the
161 consultant and the department, that the licensee is progressing
162 satisfactorily in an approved impaired practitioner program and
163 no other complaint against the licensee exists.

164 ~~(5)(4)~~ In any disciplinary action for a violation other
165 than impairment in which a licensee establishes the violation
166 for which the licensee is being prosecuted was due to or
167 connected with impairment and further establishes the licensee
168 is satisfactorily progressing through or has successfully
169 completed an approved treatment program pursuant to this
170 section, such information may be considered by the board, or the
171 department when there is no board, as a mitigating factor in
172 determining the appropriate penalty. This subsection does not
173 limit mitigating factors the board may consider.

174 ~~(6)(5)~~(a) An approved treatment provider shall, upon
175 request, disclose to the consultant all information in its
176 possession regarding the issue of a licensee's impairment and
177 participation in the treatment program. All information obtained
178 by the consultant and department pursuant to this section is
179 confidential and exempt from the provisions of s. 119.07(1),
180 subject to the provisions of this subsection and subsection
181 ~~(7)(6)~~. Failure to provide such information to the consultant is
182 grounds for withdrawal of approval of such program or provider.

183 (b) If in the opinion of the consultant, after consultation
184 with the treatment provider, an impaired licensee has not
185 progressed satisfactorily in a treatment program, all
186 information regarding the issue of a licensee's impairment and
187 participation in a treatment program in the consultant's



587390

188 possession shall be disclosed to the department. Such disclosure
189 shall constitute a complaint pursuant to the general provisions
190 of s. 456.073. Whenever the consultant concludes that impairment
191 affects a licensee's practice and constitutes an immediate,
192 serious danger to the public health, safety, or welfare, that
193 conclusion shall be communicated to the State Surgeon General.

194 ~~(7)(6)~~ A consultant, licensee, or approved treatment
195 provider who makes a disclosure pursuant to this section is not
196 subject to civil liability for such disclosure or its
197 consequences. The provisions of s. 766.101 apply to any officer,
198 employee, or agent of the department or the board and to any
199 officer, employee, or agent of any entity with which the
200 department has contracted pursuant to this section.

201 ~~(8)(7)~~(a) A consultant retained pursuant to subsection (2),
202 a consultant's officers and employees, and those acting at the
203 direction of the consultant for the limited purpose of an
204 emergency intervention on behalf of a licensee or student as
205 described in subsection (2) when the consultant is unable to
206 perform such intervention shall be considered agents of the
207 department for purposes of s. 768.28 while acting within the
208 scope of the consultant's duties under the contract with the
209 department if the contract complies with the requirements of
210 this section. The contract must require that:

- 211 1. The consultant indemnify the state for any liabilities
212 incurred up to the limits set out in chapter 768.
- 213 2. The consultant establish a quality assurance program to
214 monitor services delivered under the contract.
- 215 3. The consultant's quality assurance program, treatment,
216 and monitoring records be evaluated quarterly.



587390

217 4. The consultant's quality assurance program be subject to
218 review and approval by the department.

219 5. The consultant operate under policies and procedures
220 approved by the department.

221 6. The consultant provide to the department for approval a
222 policy and procedure manual that comports with all statutes,
223 rules, and contract provisions approved by the department.

224 7. The department be entitled to review the records
225 relating to the consultant's performance under the contract for
226 the purpose of management audits, financial audits, or program
227 evaluation.

228 8. All performance measures and standards be subject to
229 verification and approval by the department.

230 9. The department be entitled to terminate the contract
231 with the consultant for noncompliance with the contract.

232 (b) In accordance with s. 284.385, the Department of
233 Financial Services shall defend any claim, suit, action, or
234 proceeding against the consultant, the consultant's officers or
235 employees, or those acting at the direction of the consultant
236 for the limited purpose of an emergency intervention on behalf
237 of a licensee or student as described in subsection (2) when the
238 consultant is unable to perform such intervention which is
239 brought as a result of any act or omission by any of the
240 consultant's officers and employees and those acting under the
241 direction of the consultant for the limited purpose of an
242 emergency intervention on behalf of a licensee or student as
243 described in subsection (2) when the consultant is unable to
244 perform such intervention when such act or omission arises out
245 of and in the scope of the consultant's duties under its



587390

246 contract with the department.

247 (c) If the consultant retained pursuant to subsection (2)
248 is retained by any other state agency, and if the contract
249 between such state agency and the consultant complies with the
250 requirements of this section, the consultant, the consultant's
251 officers and employees, and those acting under the direction of
252 the consultant for the limited purpose of an emergency
253 intervention on behalf of a licensee or student as described in
254 subsection (2) when the consultant is unable to perform such
255 intervention shall be considered agents of the state for the
256 purposes of this section while acting within the scope of and
257 pursuant to guidelines established in the contract between such
258 state agency and the consultant.

259 (9) An impaired practitioner consultant is the official
260 custodian of records relating to the referral of an impaired
261 licensee or applicant to that consultant and any other
262 interaction between the licensee or applicant and the
263 consultant. The consultant may disclose to the impaired licensee
264 or applicant or his or her designee any information that is
265 disclosed to or obtained by the consultant or that is
266 confidential under paragraph (6) (a), but only to the extent that
267 it is necessary to do so to carry out the consultant's duties
268 under this section. The department, and any other entity that
269 enters into a contract with the consultant to receive the
270 services of the consultant, has direct administrative control
271 over the consultant to the extent necessary to receive
272 disclosures from the consultant as allowed by federal law. If a
273 disciplinary proceeding is pending, an impaired licensee may
274 obtain such information from the department under s. 456.073.



275 Section 2. Paragraph (e) of subsection (1) of section
 276 458.331, Florida Statutes, is amended to read:
 277 458.331 Grounds for disciplinary action; action by the
 278 board and department.—
 279 (1) The following acts constitute grounds for denial of a
 280 license or disciplinary action, as specified in s. 456.072(2):
 281 (e) Failing to report to the department any person who the
 282 licensee knows is in violation of this chapter or of the rules
 283 of the department or the board. A treatment provider approved
 284 pursuant to s. 456.076 shall provide the department or
 285 consultant with information in accordance with the requirements
 286 of s. 456.076(4), (5), (6), (7), and (9) ~~s. 456.076(3), (4),~~
 287 ~~(5), and (6)~~.
 288 Section 3. Paragraph (e) of subsection (1) of section
 289 459.015, Florida Statutes, is amended to read:
 290 459.015 Grounds for disciplinary action; action by the
 291 board and department.—
 292 (1) The following acts constitute grounds for denial of a
 293 license or disciplinary action, as specified in s. 456.072(2):
 294 (e) Failing to report to the department or the department's
 295 impaired professional consultant any person who the licensee or
 296 certificateholder knows is in violation of this chapter or of
 297 the rules of the department or the board. A treatment provider,
 298 approved pursuant to s. 456.076, shall provide the department or
 299 consultant with information in accordance with the requirements
 300 of s. 456.076(4), (5), (6), (7), and (9) ~~s. 456.076(3), (4),~~
 301 ~~(5), and (6)~~.
 302 Section 4. Section 468.315, Florida Statutes, is created to
 303 read:



304 468.315 Treatment program for impaired radiological
 305 personnel.—Radiological personnel who are subject to
 306 certification under this part are governed by s. 456.076 as if
 307 they were under the jurisdiction of the Division of Medical
 308 Quality Assurance.
 309 Section 5. This act shall take effect July 1, 2013.
 310
 311 ===== T I T L E A M E N D M E N T =====
 312 And the title is amended as follows:
 313 Delete everything before the enacting clause
 314 and insert:
 315 A bill to be entitled
 316 An act relating to treatment programs for impaired
 317 licensees and applicants; amending s. 456.076, F.S.;
 318 exempting an entity retained by the Department of
 319 Health as an impaired practitioner consultant from
 320 certain licensure requirements; authorizing impaired
 321 practitioner consultants to contract with schools or
 322 programs to provide services to impaired students who
 323 are enrolled for the purpose of preparing for
 324 licensure as a specified health care practitioner or
 325 as a veterinarian; limiting the liability of those
 326 schools or programs when they refer a student to an
 327 impaired practitioner consultant; authorizing each
 328 board and profession within the division to delegate
 329 to its chair or other designee the authority to
 330 determine that an applicant for licensure under its
 331 jurisdiction may be impaired before certifying or
 332 declining to certify an application for licensure;



333 authorizing the chair or other designee to refer the
334 applicant to the consultant for an evaluation before
335 the board certifies or declines to certify the
336 applicant's application to the department; tolling the
337 department's deadline for approving or denying the
338 application until the evaluation is completed and the
339 result of the evaluation and recommendation by the
340 consultant is communicated to the board by the
341 consultant if the applicant agrees to be evaluated by
342 the consultant; requiring the board to certify or
343 decline to certify the applicant's application to the
344 department notwithstanding the lack of an evaluation
345 and recommendation by the consultant if the applicant
346 declines to be evaluated by the consultant; providing
347 that the impaired practitioner consultant is the
348 official custodian of records relating to the referral
349 of the licensee or applicant to the consultant and any
350 other interaction between them; clarifying the
351 circumstances under which an impaired practitioner
352 consultant may disclose certain information concerning
353 an impaired licensee or applicant; authorizing the
354 Department of Health and others that contract with an
355 impaired practitioner consultant to have
356 administrative control over the consultant to the
357 extent necessary to receive disclosures allowed under
358 federal law; authorizing an impaired licensee to
359 obtain confidential information from the department
360 regarding a pending disciplinary proceeding; amending
361 ss. 458.331 and 459.015, F.S.; conforming cross-



362 references; creating s. 468.315, F.S.; providing that
363 radiological personnel are subject to a treatment
364 program for impaired licensees; providing an effective
365 date.
366

By Senator Thrasher

6-00153A-13

2013248__

1 A bill to be entitled
 2 An act relating to treatment programs for impaired
 3 licensees and applicants; amending s. 20.165, F.S.;
 4 authorizing the Department of Business and
 5 Professional Regulation to require a person licensed
 6 by or applying for a license from the department to
 7 comply with provisions governing treatment programs
 8 for impaired practitioners as if the licensee or
 9 applicant were under the jurisdiction of the Division
 10 of Medical Quality Assurance within the Department of
 11 Health; authorizing the Department of Business and
 12 Professional Regulation to exercise the powers granted
 13 to the Department of Health with respect to such
 14 programs; amending s. 456.076, F.S.; exempting an
 15 entity retained by the Department of Health as an
 16 impaired practitioner consultant from certain
 17 licensure requirements; authorizing impaired
 18 practitioner consultants to contract with schools or
 19 programs to provide services to impaired students who
 20 are enrolled for the purpose of preparing for
 21 licensure as a specified health care practitioner or
 22 as a veterinarian; limiting the liability of those
 23 schools or programs when they refer a student to an
 24 impaired practitioner consultant; providing that if
 25 the Department of Health receives a complaint alleging
 26 that an applicant is impaired, such information does
 27 not constitute grounds for discipline under certain
 28 circumstances; providing that if the department does
 29 not receive a legally sufficient complaint and the

Page 1 of 9

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

6-00153A-13

2013248__

30 applicant agrees to withdraw his or her application
 31 until the applicant has completed a treatment program,
 32 the probable cause panel or the department is
 33 prohibited from becoming involved in the applicant's
 34 case; providing that certain inquiries against an
 35 applicant do not constitute a complaint; providing
 36 procedures for when the department receives a legally
 37 sufficient complaint alleging that an applicant is
 38 impaired; providing that the impaired practitioner
 39 consultant is the official custodian of records
 40 relating to the referral of the licensee or applicant
 41 to the consultant and any other interaction between
 42 them; clarifying the circumstances under which an
 43 impaired practitioner consultant may disclose certain
 44 information concerning an impaired licensee or
 45 applicant; authorizing the Department of Health and
 46 others that contract with an impaired practitioner
 47 consultant to have administrative control over the
 48 consultant to the extent necessary to receive
 49 disclosures allowed under federal law; authorizing an
 50 impaired licensee or applicant to obtain confidential
 51 information from the department regarding a pending
 52 disciplinary proceeding; amending ss. 458.331 and
 53 459.015, F.S.; conforming cross-references; creating
 54 s. 468.315, F.S.; providing that radiological
 55 personnel are subject to a treatment program for
 56 impaired licensees; providing an effective date.
 57
 58 Be It Enacted by the Legislature of the State of Florida:

Page 2 of 9

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

6-00153A-13

2013248__

59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87

Section 1. Subsection (10) is added to section 20.165, Florida Statutes, to read:

20.165 Department of Business and Professional Regulation.— There is created a Department of Business and Professional Regulation.

(10) The Department of Business and Professional Regulation may require that a person licensed by or applying for a license from the department comply with s. 456.076 as if the licensee or applicant were under the jurisdiction of the Division of Medical Quality Assurance. The Department of Business and Professional Regulation, and the board from which the license was granted or is sought, may exercise any of the powers granted to the Department of Health and its boards by s. 456.076.

Section 2. Subsections (2) and (3) of section 456.076, Florida Statutes, are amended, and subsection (8) is added to that section, to read:

456.076 Treatment programs for impaired practitioners.—

(2) (a) The department shall retain one or more impaired practitioner consultants who are each licensees. ~~The consultant shall be a licensee~~ under the jurisdiction of the Division of Medical Quality Assurance within the department and who must be:

1. A practitioner or recovered practitioner licensed under chapter 458, chapter 459, or part I of chapter 464; ~~r~~ or

2. An entity that employs; ~~employing~~

a. A medical director who must be a practitioner or recovered practitioner licensed under chapter 458 ~~or~~ chapter 459; ~~r~~ or

b. An executive director who must be a registered nurse or

6-00153A-13

2013248__

88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116

a recovered registered nurse licensed under part I of chapter 464.

(b) An entity retained as an impaired practitioner consultant under this section which employs a medical director or an executive director is not required to be licensed as a substance abuse provider or mental health treatment provider under chapter 394, chapter 395, or chapter 397.

(c)1. The consultant shall assist the probable cause panel and the department in carrying out the responsibilities of this section. This includes ~~shall include~~ working with department investigators to determine whether a practitioner is, in fact, impaired.

2. The consultant may contract with a school or program to provide for services to a student be provided, for appropriate compensation, if requested by the school, for students enrolled for the purpose of preparing in schools for licensure as a health care practitioner under chapter 456 or as a veterinarian under chapter 474 if the student is allegedly allopathic physicians or physician assistants under chapter 458, osteopathic physicians or physician assistants under chapter 459, nurses under chapter 464, or pharmacists under chapter 465 who are alleged to be impaired as a result of the misuse or abuse of alcohol or drugs, or both, or due to a mental or physical condition. The department is not responsible under any circumstances for paying for the costs of care provided by approved treatment providers or a consultant, and the department is not responsible for paying the costs of consultants' services provided for students.

(d) A medical school accredited by the Liaison Committee on

6-00153A-13

2013248__

117 Medical Education ~~or of~~ the Commission on Osteopathic College
 118 Accreditation, or another ~~other~~ school providing for the
 119 education of students enrolled in preparation for licensure as a
 120 health care practitioner under chapter 456 or a veterinarian
 121 under chapter 474 ~~allopathic physicians under chapter 458 or~~
 122 ~~osteopathic physicians under chapter 459~~, which is governed by
 123 accreditation standards requiring notice and the provision of
 124 due process procedures to students, is not liable in any civil
 125 action for referring a student to the consultant retained by the
 126 department or for disciplinary actions that adversely affect the
 127 status of a student when the disciplinary actions are instituted
 128 in reasonable reliance on the recommendations, reports, or
 129 conclusions provided by such consultant, if the school, in
 130 referring the student or taking disciplinary action, adheres to
 131 the due process procedures adopted by the applicable
 132 accreditation entities and if the school committed no
 133 intentional fraud in carrying out the provisions of this
 134 section.

135 (3) (a) Whenever the department receives a written or oral
 136 legally sufficient complaint alleging that an applicant or a
 137 licensee under the jurisdiction of the Division of Medical
 138 Quality Assurance within the department is impaired as a result
 139 of the misuse or abuse of alcohol or drugs, or both, or due to a
 140 mental or physical condition ~~that~~ which could affect the
 141 licensee's ability to practice with skill and safety or the
 142 applicant's potential to practice with skill or safety, and no
 143 complaint against the licensee or applicant other than
 144 impairment exists, the reporting of such information does shall
 145 not constitute grounds for discipline pursuant to s. 456.072 or

Page 5 of 9

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

6-00153A-13

2013248__

146 the corresponding grounds for discipline within the applicable
 147 practice act if the probable cause panel of the appropriate
 148 board, or the department when there is no board, finds:

149 1. The licensee or applicant has acknowledged the
 150 impairment problem.

151 2. The licensee or applicant has voluntarily enrolled in an
 152 appropriate, approved treatment program.

153 3. The licensee has voluntarily withdrawn from practice or
 154 limited the scope of practice as required by the consultant, in
 155 each case, until such time as the panel, or the department when
 156 there is no board, is satisfied the licensee has successfully
 157 completed an approved treatment program.

158 4. The licensee or applicant has executed releases for
 159 medical records, authorizing the release of all records of
 160 evaluations, diagnoses, and treatment of the licensee or
 161 applicant, including records of treatment for emotional or
 162 mental conditions, to the consultant. The consultant may not
 163 ~~shall~~ make ~~no~~ copies or reports of records that do not regard
 164 the issue of the licensee's or applicant's impairment and his or
 165 her participation in a treatment program.

166 (b) If, however, the department has not received a legally
 167 sufficient complaint and the applicant agrees to withdraw his or
 168 her application or the licensee agrees to withdraw from practice
 169 until such time as the consultant determines the licensee or
 170 applicant has satisfactorily completed an approved treatment
 171 program or evaluation, the probable cause panel, or the
 172 department when there is no board, may shall not become involved
 173 in the licensee's or applicant's case.

174 (c) Inquiries related to impairment treatment programs

Page 6 of 9

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

6-00153A-13 2013248

175 designed to provide information to the licensee, applicant, and
 176 others and which do not indicate that the licensee or applicant
 177 presents a danger to the public ~~does shall~~ not constitute a
 178 complaint within the meaning of s. 456.073 and are shall be
 179 exempt from the provisions of this subsection.

180 (d) Whenever the department receives a legally sufficient
 181 complaint alleging that a licensee or applicant is impaired as
 182 described in paragraph (a) and no complaint against the licensee
 183 or applicant other than impairment exists, the appropriate
 184 board, the board's designee, or the department shall forward to
 185 the consultant all information in its possession regarding the
 186 impaired licensee or applicant ~~to the consultant~~. For the
 187 purposes of this section, a suspension from hospital staff
 188 privileges due to the impairment does not constitute a
 189 complaint.

190 (e) The probable cause panel, or the department when there
 191 is no board, shall work directly with the consultant, and all
 192 information concerning a licensee or applicant ~~practitioner~~
 193 obtained from the consultant by the panel, or the department
 194 when there is no board, shall remain confidential and exempt
 195 from the provisions of s. 119.07(1), subject to the provisions
 196 of subsections (5) and (6).

197 (f) A finding of probable cause shall not be made as long
 198 as the panel, or the department when there is no board, is
 199 satisfied, based upon information it receives from the
 200 consultant and the department, that the licensee or applicant is
 201 progressing satisfactorily in an approved impaired practitioner
 202 program and no other complaint against the licensee or applicant
 203 exists.

Page 7 of 9

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

6-00153A-13 2013248

204 (8) An impaired practitioner consultant is the official
 205 custodian of records relating to the referral of an impaired
 206 licensee or applicant to that consultant and any other
 207 interaction between the licensee or applicant and the
 208 consultant. The consultant may disclose to the impaired licensee
 209 or applicant or his or her designee any information that is
 210 disclosed to or obtained by the consultant or that is
 211 confidential under paragraph (5) (a), but only to the extent that
 212 it is necessary to do so to carry out the consultant's duties
 213 under this section. The department, and any other entity that
 214 enters into a contract with the consultant to receive the
 215 services of the consultant, has direct administrative control
 216 over the consultant to the extent necessary to receive
 217 disclosures from the consultant as allowed by federal law. If a
 218 disciplinary proceeding is pending, an impaired licensee or
 219 applicant may obtain such information from the department under
 220 s. 456.073.

221 Section 3. Paragraph (e) of subsection (1) of section
 222 458.331, Florida Statutes, is amended to read:

223 458.331 Grounds for disciplinary action; action by the
 224 board and department.-

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

227 (e) Failing to report to the department any person who the
 228 licensee knows is in violation of this chapter or of the rules
 229 of the department or the board. A treatment provider approved
 230 pursuant to s. 456.076 shall provide the department or
 231 consultant with information in accordance with the requirements
 232 of s. 456.076(3), (4), (5), ~~and~~ (6), and (8).

Page 8 of 9

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

6-00153A-13

2013248__

233 Section 4. Paragraph (e) of subsection (1) of section
234 459.015, Florida Statutes, is amended to read:

235 459.015 Grounds for disciplinary action; action by the
236 board and department.—

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

239 (e) Failing to report to the department or the department's
240 impaired professional consultant any person who the licensee or
241 certificateholder knows is in violation of this chapter or of
242 the rules of the department or the board. A treatment provider,
243 approved pursuant to s. 456.076, shall provide the department or
244 consultant with information in accordance with the requirements
245 of s. 456.076(3), (4), (5), ~~and~~ (6), and (8).

246 Section 5. Section 468.315, Florida Statutes, is created to
247 read:

248 468.315 Treatment program for impaired radiological
249 personnel.—Radiological personnel who are subject to
250 certification under this part are governed by s. 456.076 as if
251 they were under the jurisdiction of the Division of Medical
252 Quality Assurance.

253 Section 6. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Rules, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health
and Human Services
Community Affairs
Ethics and Elections
Gaming
Judiciary
Regulated Industries

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR JOHN THRASHER

6th District

March 5, 2013

MEMORANDUM

To: Senator Aaron Bean, Chairman
Senate Committee on Health Policy

Fm: Senator John Thrasher

Re: Senate Bill 248; Treatment Programs for Impaired Practitioners

It will be appreciated if you will agenda my Senate Bill 248 for a hearing by the Senate Committee on Health Policy at your earliest convenience.

Thank you for your consideration of this request.

REPLY TO:

- 113 Nature Walk Parkway, Suite 106, St. Augustine, Florida 32092 (904) 287-4222 FAX: 1-888-263-3475
- 400 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD



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

3/14/2013

Meeting Date

Topic _____

Bill Number 248
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD



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

3-14-13
Meeting Date

Topic Impaired Professionals Treatment

Bill Number 248
(if applicable)

Name Rebecca O'Hara

Amendment Barcode _____
(if applicable)

Job Title VP Govt Affairs

Address 113 E College Ave
Street

Phone 339 6211

Tallahassee FL 32301
City State Zip

E-mail rohara@flmedical.org

Speaking: For Against Information

Representing Fla Medical Ass'n

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)

3/14/13
Meeting Date

Topic Impaired Professionals

Bill Number 248
(if applicable)

Name MATTHEW FARRAR

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2910 Kerry Forest Pkwy D4-368
Street
Tallahassee FL 32309
City State Zip

Phone 850-832-1763

E-mail mat@timminsconsulting.com

Speaking: For Against Information

Representing Intervention Project for Nurses

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)

3/14/2013
Meeting Date

Topic PRN S248

Bill Number S248
(if applicable)

Name Robert Watson

Amendment Barcode
(if applicable)

Job Title Professor Neurology

Address 1115 West Call Street

Phone (850) 524-4959

Tallahassee FL 32308
City State Zip

E-mail robert.watson@med.fsu.edu

Speaking: For Against Information

Representing PRN Board of Directors

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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



Meeting Date _____

Topic PRN

Bill Number SB 248
(if applicable)

Name Dr. Martha Brown

Amendment Barcode _____
(if applicable)

Job Title Assistant Medical Director, PRN

Address P.O. Box 1020
Street

Phone 1-800-888-8776

Fernandina Beach, FL 32035
City State Zip

E-mail ~~repon~~ drbrown@flprn.org

Speaking: For Against Information

Representing Professionals Resource Network, PRN

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.

WAIVE IN SUPPORT

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-2013

Meeting Date

Topic IMPAIRED PHYSICIANS

Bill Number SB 248 (if applicable)

Name STEPHEN R. WINN

Amendment Barcode (if applicable)

Job Title EXECUTIVE DIRECTOR

Address 2007 APACHE PARKWAY

Phone 878-7463

TALLAHASSEE FL 32301 (Street, City, State, Zip)

E-mail

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

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

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.

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 1016

INTRODUCER: Health Policy Committee and Senator Hays

SUBJECT: Sovereign Immunity for Dentists and Dental Hygienist

DATE: March 15, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McElheney	Stovall	HP	Fav/CS
2.			JU	
3.			AHS	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 1016 authorizes a dentist, who is a government contracted health care provider under the Access to Health Care Act, to allow a patient, or a parent or guardian of a patient to voluntarily contribute a fee to cover costs of dental laboratory work. The contribution may not exceed the actual cost of the laboratory fee. When the voluntary contribution is accepted from the patient for dental laboratory fees it is not considered compensation for services so that sovereign immunity protection is not lost.

This bill substantially amends section 766.1115 of the Florida Statutes.

II. Present Situation:

Access to Health Care Act

Section 766.1115, F.S., is entitled “The Access to Health Care Act” (the Act). The Act was enacted in 1992 to encourage health care providers to provide care to low-income persons.¹ This section extends sovereign immunity to health care providers who execute a contract with a governmental contractor and who provide volunteer, uncompensated health care services to low-income individuals as an agent of the state. These health care providers are considered agents of the state under s. 768.28(9), F.S., for purposes of extending sovereign immunity while acting within the scope of duties required under the Act.

Health care providers under the Act include:²

- A birth center licensed under chapter 383.
- An ambulatory surgical center licensed under chapter 395.
- A hospital licensed under chapter 395.
- A physician or physician assistant licensed under chapter 458.
- An osteopathic physician or osteopathic physician assistant licensed under chapter 459.
- A chiropractic physician licensed under chapter 460.
- A podiatric physician licensed under chapter 461.
- A registered nurse, nurse midwife, licensed practical nurse, or advanced registered nurse practitioner licensed or registered under part I of chapter 464 or any facility which employs nurses licensed or registered under part I of chapter 464 to supply all or part of the care delivered under this section.
- A dentist or dental hygienist licensed under chapter 466.
- A midwife licensed under chapter 467.
- A health maintenance organization certificated under part I of chapter 641.
- A health care professional association and its employees or a corporate medical group and its employees.
- Any other medical facility the primary purpose of which is to deliver human medical diagnostic services or which delivers nonsurgical human medical treatment, and which includes an office maintained by a provider.
- A free clinic that delivers only medical diagnostic services or nonsurgical medical treatment free of charge to all low-income recipients.
- Any other health care professional, practitioner, provider, or facility under contract with a governmental contractor, including a student enrolled in an accredited program that prepares the student for licensure as any one of the professionals listed in subparagraphs 4.-9.
- Any nonprofit corporation qualified as exempt from federal income taxation under s. 501(a) of the Internal Revenue Code, and described in s. 501(c) of the Internal Revenue Code, which delivers health care services provided by the listed licensed professionals, any

¹ Low-income persons are defined in the Act as 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, or any eligible client of the Department of Health who voluntarily chooses to participate in a program offered or approved by the department.

² s. 766.1115(3)(d), F.S.

federally funded community health center, and any volunteer corporation or volunteer health care provider that delivers health care services.

A governmental contractor is defined in the Act as the Department of Health (DOH or department), a county health department, a special taxing district with health care responsibilities, or a hospital owned and operated by a governmental entity.³

The definition of contract under the Act provides that the contract must be for volunteer, uncompensated services. For services to qualify as volunteer, uncompensated services the health care provider must receive no 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.⁴

The Act further specifies contract requirements. The contract must provide that:

- The governmental contractor retains the right of dismissal or termination of any health care provider delivering services under the contract.
- The governmental contractor has access to the patient records of any health care provider delivering services under the contract.
- The health care provider must report adverse incidents and information on treatment outcomes.
- The governmental contractor must make patient selection and initial referrals.
- The health care provider must accept all referred patients, however the contract may specify limits on the number of patients to be referred.
- Patient care, including any follow-up or hospital care, is subject to approval by the governmental contractor.
- The health care provider is subject to supervision and regular inspection by the governmental contractor.

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 actions related to medical negligence.

The individual accepting services through this contracted provider must not have medical or dental care coverage for the illness, injury, or condition in which medical or dental care is sought.⁵ The services not covered under this program include experimental procedures and clinically unproven procedures. The governmental contractor shall determine whether or not a procedure is covered.

The health care provider may not subcontract for the provision of services under this chapter.⁶

³ s. 766.1115(3)(c), F.S.

⁴ s. 766.1115(3)(a), F.S.

⁵ Rule 64I-2.001, F.A.C.

⁶ *Supra*, fn 5

Currently, s. 766.1115, F.S., is interpreted differently across the state. In certain parts of the state one Medical Director interprets this law to mean that as long as there is transparency and clear proof that the volunteer provider is providing services, without receiving personal compensation, then the patient can pay a nominal amount per visit to assist in covering laboratory fees. In other parts of the state, a Medical Director suggests that if any monetary amount is accepted then sovereign immunity is pierced. Patients sometimes offer to pay a nominal contribution to cover some of the cost of laboratory fees that the provider incurs to pay outside providers for items such as dentures for the patient. In many areas the dentist is paying the cost of these fees from his or her own resources.⁷

Sovereign Immunity

The term “sovereign immunity” originally referred to the English common law concept that the government may not be sued because “the King can do no wrong.” Sovereign immunity bars lawsuits against the state or its political subdivisions for the torts of officers, employees, or agents of such governments unless the immunity is expressly waived.

Article X, s. 13, of the Florida Constitution recognizes the concept of sovereign immunity and gives the Legislature the right to waive such 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 or named as a party defendant in any action 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 or function, unless such officer, employee, or agent acted in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

Instead, the state steps in as the party litigant and defends against the claim. Subsection (5) limits the recovery of any one person to \$200,000 for one incidence and limits all recovery related to one incidence to a total of \$300,000. The sovereign immunity recovery caps do not prevent a plaintiff from obtaining a judgment in excess of the caps but the plaintiff cannot recover the excess damages without action by the Legislature.⁸

Whether sovereign immunity applies turns on the degree of control of the agent of the state retained by the state.⁹ In *Stoll v. Noel*, the Florida Supreme Court explained that independent contractor physicians may be agents of the state for purposes of sovereign immunity:

One who contracts on behalf of another and subject to the other’s control except with respect to his physical conduct is an agent and also independent contractor.¹⁰

The court examined the employment contract between the physicians and the state to determine whether the state’s right to control was sufficient to create an agency relationship and held that it did.¹¹ The court explained:

⁷ Discussion notes from meeting with representatives from the Florida Dental Association on March 8, 2013.

⁸ Section 768.28(5), F.S.

⁹ *Stoll v. Noel*, 694 So. 2d 701, 703(Fla. 1997)

¹⁰ *Stoll v. Noel*, 694 So. 2d 701, 703(Fla. 1997) (quoting The Restatement of Agency)

Whether the CMS physician consultants are agents of the state turns on the degree of control retained or exercised by CMS. This Court has held that the right to control depends upon the terms of the employment contract. *National Sur. Corp. v. Windham*, 74 So. 2d 549, 550 (Fla. 1954) (“The [principal’s] right to control depends upon the terms of the contract of employment...”.) The CMS requires each consultant, as a condition of participating in the CMS program, to agree to abide by the terms published in its HRS¹² Manual and CMS Consultants Guide which contain CMS policies and rules governing its relationship with the consultants. The Consultant’s Guide states that all services provided to CMS patients must be authorized in advance by the clinic medical director. The language of the HRS Manual ascribes to CMS responsibility to supervise and direct the medical care of all CMS patients and supervisory authority over all personnel. The manual also grants to the CMS medical director absolute authority over payment for treatments proposed by consultants. The HRS Manual and the Consultant’s Guide demonstrate that CMS has final authority over all care and treatment provided to CMS patients, and it can refuse to allow a physician consultant’s recommended course of treatment of any CMS patient for either medical or budgetary reasons.

Our conclusion is buttressed by HRS’s acknowledgement that the manual creates an agency relationship between CMS and its physician consultants, and despite its potential liability in this case, HRS has acknowledged full financial responsibility for the physicians’ actions. HRS’s interpretation of its manual is entitled to judicial deference and great weight.¹³

III. Effect of Proposed Changes:

The CS amends s. 766.1115(4), F.S., to require another provision be included in the contract between the governmental contractor and the health care provider. The new provision authorizes a health care provider licensed under ch. 466, F.S., to allow a patient or a parent or guardian of the patient to voluntarily contribute a fee to cover costs of dental laboratory work related to the services provided to the patient. The contribution may not exceed the actual cost of the dental laboratory charges.

The effective date of the bill is July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹¹ *Stoll v. Noel*, 694 So. 2d 701, 703(Fla. 1997)

¹² Florida Department of Health and Rehabilitative Services

¹³ *Stoll v. Noel*, 694 So. 2d 701, 703(Fla. 1997)

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact is expected to be minimal since many areas in the state already allow voluntary contributions.¹⁴

C. Government Sector Impact:

Additional documentation and billing may be required to avoid possible compensation to the practitioner. It could be unclear whether the services of the dentist's staff in coordinating lab services were compensated or not. This can be problematic if the dentist is volunteering through a professional association. Mistakes could result in litigation on the issue of compensation to the health care provider.¹⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Health Policy on March 14, 2013:

The CS removes the definition for the term “uncompensated services.” The CS authorizes a dentist, who is a government contracted health care provider, to allow a patient, parent, or guardian to voluntarily contribute a fee to cover costs of dental laboratory work.

¹⁴ See Department of Health Bill Analysis for SB 1016 (dated March 11, 2013) on file with the Senate Health Policy Committee and notes from telephone call with staff on March 12, 2013.

¹⁵ See Department of Health Bill Analysis for S B 1016(dated March 11, 2013) on file with the Senate Health Policy Committee.

B. Amendments:

None.

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



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (3) of section 766.1115, Florida Statutes, is amended, and paragraph (h) is added to subsection (4) of that section, to read:

766.1115 Health care providers; creation of agency relationship with governmental contractors.—

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

(a) "Contract" means an agreement executed in compliance with this section between a health care provider and a



governmental contractor ~~which allows. This contract shall allow~~ the health care provider to deliver health care services to low-income recipients as an agent of the governmental contractor. The contract must be for volunteer, uncompensated services. For services to qualify as volunteer, uncompensated services under this section, the health care provider must receive no compensation from the governmental contractor for ~~any~~ services provided under the contract and must not bill or accept compensation from the recipient, or a ~~any~~ public or private third-party payor, for the specific services provided to the low-income recipients covered by the contract.

(4) CONTRACT REQUIREMENTS.—A health care provider that executes a contract with a governmental contractor to deliver health care services on or after April 17, 1992, as an agent of the governmental contractor is an agent for purposes of s. 768.28(9), while acting within the scope of duties under the contract, if the contract complies with the requirements of this section and regardless of whether the individual treated is later found to be ineligible. A health care provider under contract with the state may not be named as a defendant in any action arising out of medical care or treatment provided on or after April 17, 1992, under contracts entered into under this section. The contract must provide that:

(h) As an agent of the governmental contractor for purposes of s. 768.28(9), while acting within the scope of duties under the contract, a health care provider licensed under chapter 466 may allow a patient or a parent or guardian of the patient to voluntarily contribute a fee to cover costs of dental laboratory work related to the services provided to the patient. This



163784

42 contribution may not exceed the actual cost of the dental
43 laboratory charges and is deemed in compliance with this
44 section.

45
46 A governmental contractor that is also a health care provider is
47 not required to enter into a contract under this section with
48 respect to the health care services delivered by its employees.

49 Section 2. This act shall take effect July 1, 2013.

50
51 ===== T I T L E A M E N D M E N T =====

52 And the title is amended as follows:

53 Delete everything before the enacting clause
54 and insert:

55 A bill to be entitled

56 An act relating to sovereign immunity for dentists and
57 dental hygienists; amending s. 766.1115, F.S.;
58 revising a definition; requiring a contract with a
59 governmental contractor for health care services to
60 include a provision for a health care provider
61 licensed under ch. 466, F.S., as an agent of the
62 governmental contractor, to allow a patient or a
63 parent or guardian of the patient to voluntarily
64 contribute a fee to cover costs of dental laboratory
65 work related to the services provided to the patient
66 without forfeiting sovereign immunity; prohibiting the
67 contribution from exceeding the actual amount of the
68 dental laboratory charges; providing that the
69 contribution complies with the requirements of s.
70 766.1115, F.S.; providing an effective date.

By Senator Hays

11-00184C-13

20131016__

A bill to be entitled

An act relating to sovereign immunity for dentists and dental hygienists; amending s. 766.1115, F.S.; revising a definition; defining the term "uncompensated services" as it relates to the liability of health care providers licensed under ch. 466, F.S., who are agents of governmental contractors; providing that the contribution to the dental laboratory expenses associated with the care of a patient is not considered compensation for the services; requiring a contract with a governmental contractor for health care services to include a provision for a health care provider licensed under ch. 466, F.S., as an agent of the governmental contractor, to allow a patient or a parent or guardian of the patient to voluntarily contribute a fee to cover costs of dental laboratory work related to the services provided to the patient without forfeiting sovereign immunity; prohibiting the contribution from exceeding the actual amount of the dental laboratory charges; providing an effective date.

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

Section 1. Paragraph (a) of subsection (3) of section 766.1115, Florida Statutes, is amended, paragraph (f) is added to that subsection, and paragraph (h) is added to subsection (4) of that section, to read:

766.1115 Health care providers; creation of agency

Page 1 of 3

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

11-00184C-13

20131016__

relationship with governmental contractors.—

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

(a) "Contract" means an agreement executed in compliance with this section between a health care provider and a governmental contractor which allows. ~~This contract shall allow~~ the health care provider to deliver health care services to low-income recipients as an agent of the governmental contractor. The contract must be for volunteer, uncompensated services. For services to qualify as volunteer, uncompensated services under this section, the health care provider must receive no compensation from the governmental contractor for ~~any~~ services provided under the contract and must not bill or accept compensation from the recipient, or a ~~any~~ public or private third-party payor, for the specific services provided to the low-income recipients covered by the contract.

(f) "Uncompensated services" means services voluntarily provided under a contract in which a health care provider licensed under chapter 466 does not receive compensation from the governmental contractor and may not bill or accept compensation from the recipient or any public or private third-party payor for the specific services provided to a low-income recipient covered by the contract. If a patient or a parent or guardian of the patient chooses to contribute to the dental laboratory expenses associated with the care of the patient, this contribution is not considered compensation for the services.

(4) CONTRACT REQUIREMENTS.—A health care provider that executes a contract with a governmental contractor to deliver health care services on or after April 17, 1992, as an agent of

Page 2 of 3

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

11-00184C-13

20131016__

59 the governmental contractor is an agent for purposes of s.
60 768.28(9), while acting within the scope of duties under the
61 contract, if the contract complies with the requirements of this
62 section and regardless of whether the individual treated is
63 later found to be ineligible. A health care provider under
64 contract with the state may not be named as a defendant in any
65 action arising out of medical care or treatment provided on or
66 after April 17, 1992, under contracts entered into under this
67 section. The contract must provide that:

68 (h) As an agent of the governmental contractor for purposes
69 of s. 768.28(9), while acting within the scope of duties under
70 the contract, a health care provider licensed under chapter 466
71 may allow a patient or a parent or guardian of the patient to
72 voluntarily contribute a fee to cover costs of dental laboratory
73 work related to the services provided to the patient. This
74 contribution may not exceed the actual cost of the dental
75 laboratory charges.

76
77 A governmental contractor that is also a health care provider is
78 not required to enter into a contract under this section with
79 respect to the health care services delivered by its employees.

80 Section 2. This act shall take effect July 1, 2013.



The Florida Senate

Committee Agenda Request

To: Senator Aaron Bean, Chair
Committee on Health Policy

CC: Sandra Stovall, Staff Director
Celia Georgiades, Administrative Assistant

Subject: Committee Agenda Request

Date: February 27, 2013

I respectfully request that **Senate Bill #1016**, relating to Sovereign Immunity for Dentists and Dental Hygienists, be placed on the:

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

A handwritten signature in black ink, appearing to read "Alan Hays".

Senator Alan Hays
Florida Senate, District 11



File signed original with committee office

S-020 (03/2004)





THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13

Meeting Date

Topic Sovereign Immunity

Bill Number SB 1016

(if applicable)

Name Joe Am Hart

Amendment Barcode _____

(if applicable)

Job Title _____

Address 118 E Jefferson St

Phone _____

Street

Tallahassee FL 32301

E-mail _____

City

State

Zip

Speaking: For Against Information

Representing Florida Dental Association FDA

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)

3/14/2013

Meeting Date

Topic _____

Bill Number 1016
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

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 144

INTRODUCER: Senator Altman

SUBJECT: Payment for Services Provided by Licensed Psychologists

DATE: March 12, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McElheney	Stovall	HP	Favorable
2.			BI	
3.			AHS	
4.			AP	
5.				
6.				

I. Summary:

SB 144:

- Amends provisions relating to health insurance policies and health maintenance organizations (HMOs) to add psychologists to the list of health care providers protected by a 12-month limitations period from claims by health insurers or health maintenance organizations for *overpayment*, and adding psychologists to the list of health care providers subject to a 12-month limitations period for submitting claims to health insurers or health maintenance organizations for a claim for *underpayment*;
- Adds psychologists to the list of health care providers eligible for direct payment for medical services by a health insurer in accordance with the provisions of each policy; and
- Makes technical and grammatical changes.
- Provides an effective date of July 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 627.6131, 641.3155, and 627.638.

II. Present Situation:

Chapter 490, F.S., the “Psychological Services Act,” governs the practice of psychology and school psychology in Florida. A person desiring to practice psychology or school psychology in Florida must be licensed by the Department of Health. “Practice of psychology” means the observations, description, evaluation, interpretation, and modification of human behavior, by the use of scientific and applied psychological principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating symptomatic, maladaptive, or undesired

behavior and of enhancing interpersonal behavioral health and mental or psychological health.¹ “Practice of school psychology” means the rendering or offering to render to an individual, a group, an organization, a government agency, or the public any of the following services:² assessment, counseling, consultation, and development of programs.

Psychologists who contract as preferred providers³ (also network providers) with an insurer receive payment directly from the insurer, instead of the insured, for services rendered.⁴ In contrast, non-network psychologists are generally paid by the insured. After paying the psychologist, the insured then files a claim for reimbursement with the insurer. In comparison, non-network recognized hospitals, licensed ambulance providers, physicians, dentists, and other persons who provided services to the insured, in accordance with the provisions of the policy between the insured and the insurer, are directly reimbursed by the insurer if the insured specifically authorizes payment of benefits to the provider of services.⁵

After payment is made to a psychologist for services rendered to an insured, health insurers and HMOs are time-limited to making a claim for overpayment within 30 months (2-½ years) from the date of that payment.⁶ If a claim for overpayment is made, the psychologist has 40 days to pay it.⁷ If the psychologist denies or contests the claim, he/she must do so in writing within 35 days of receiving the claim.⁸ In comparison, claims of overpayment by health insurers and HMOs for service rendered by allopathic physicians, osteopathic physicians, chiropractic physicians, and dentists, must be submitted to the provider within 12 months after the health insurer’s payment of the claim.⁹

Assignment of Benefits to Health Care Providers

Prior to the 2009 Legislative Session, s. 627.638(2), F.S., required direct payment by health insurers to certain health care providers if the patient authorized assignment of benefits, unless otherwise provided in the insurance contract.¹⁰

Statutory amendments by the 2009 Legislature in ch. 2009-124, L.O.F., to s. 627.638(2), F.S., require health insurers and HMOs to directly pay non-network hospitals, licensed ambulance providers, physicians, dentists, and other persons who provide services to an insured, in accordance with the provisions of the policy between the insured and the insurer, if the insured specifically authorizes payment of benefits to the provider of services.

¹ S. 490.003(4), F.S.

² S. 490.003(5), F.S.

³ S. 627.6471(1)(b), F.S. defines preferred provider as, “any licensed health care provider with which the insurer has directly or indirectly contracted for an alternative or a reduced rate of payment...”

⁴ S. 627.638(3), F.S.

⁵ S. 627.638(2), F.S.

⁶ SS. 627.6131(6)(a)(1), F.S. and 641.3155, F.S.

⁷ S. 627.6131(6)(a)(1), F.S.

⁸ S. 627.6131(6)(a)(2), F.S.

⁹ SS. 627.6131(18), F.S. and 641.3155(14), F.S.

¹⁰ An exception existed that the insurance contract could not prohibit the assignment of benefits and direct payment for emergency services and care.

Due to concerns that this would lead to increased costs to the state's group health plan as a result of providers leaving the network, language was included in ch. 2009-124, L.O.F., providing for the amendments to be automatically repealed on July 1, 2012, and the language in s. 627.638(2), F.S., to revert to the language that existed on June 30, 2009, if the Office of Program Policy Analysis and Government Accountability (OPPAGA) made certain findings in a study to be published on or before March 1, 2012. The amendments would repeal if the OPPAGA found that: 1) the amendments have caused the third-party administrator of the state's group health plan to suffer a net loss of physicians from its preferred provider plan network and 2) as a direct result, the state's group health plan incurred an increase in costs.¹¹

In January 2012, the OPPAGA issued Report No. 12-01 as required by s. 2 of ch. 2009-124, L.O.F.¹² The OPPAGA's report found that the statutory changes made in 2009: 1) did not result in a loss of network physicians in the state's group health plan and 2) that no cost increase in the state's group health plan could be directly attributed to the 2009 changes.

III. Effect of Proposed Changes:

Section 1 amends s. 627.6131, F.S., relating to overpayment or underpayment of claims by health insurers to a provider, to include psychologists and school psychologists in the list of providers:

- To whom an insurer must submit a claim for overpayment within 12 months after the health insurer's payment of the claim; and
- Who must submit a claim for underpayment to an insurer within 12 months after the health insurer's payment of the claim.

Section 2 amends s. 641.3155, F.S., relating to overpayment or underpayment of claims by an HMO to a provider, to include psychologists and school psychologists in the list of providers:

- To whom an insurer must submit a claim for overpayment within 12 months after the health insurer's payment of the claim; and
- Who must submit a claim for underpayment to an insurer within 12 months after the health insurer's payment of the claim.

Section 3 amends s. 627.638(2), F.S., to include non-network psychologists in the list of providers:

- To whom an insurer must make direct payment, if the insured specifically authorizes the payment of benefits directly to the psychologist;
- For which an insurance contract may not prohibit the direct payment of benefits; and
- For which an insurer must provide a claim form with an option for direct payment of benefits.

¹¹ Ch. 2009-124, L.O.F.

¹² *Negative Effects on the State's Third Party Provider Network from 2009 Law Not Apparent*, Report No. 12-01, January 2012, Office of Program Policy Analysis and Government Accountability. Available at: <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1201rpt.pdf> (Last visited on Jan. 30, 2012).

This section is contingent upon the language in s. 627.638(2), F.S., *not* reverting to that in existence on June 30, 2009. Since the condition for reversion was not met, this section would take effect.

Section 4 amends s. 627.638(2), F.S., to include psychologists in the list of providers:

- To whom an insurer must make direct payment to, if the insured specifically authorizes payment of benefits directly to the psychologist, unless otherwise provided in the insurance contract;
- For which an insurance contract may not prohibit the direct payment of benefits for emergencies services and care; and
- For which an insurer must provide a claim form with an option for direct payment of benefits for emergency services and care.

This section is contingent upon the text of s. 627.638(2), F.S., reverting to that in existence on June 30, 2009. Since the text would not revert, this section has no effect.

Section 5 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Psychologists will have a shorter time frame for bringing insurance claims for services to conclusion.

Non-network psychologists will benefit by being entitled to direct payment of benefits from insurers, assuming that the insured executes an assignment of benefits.

The insured will be able to assign benefits to non-network psychologists, instead of paying the psychologist first and then seeking reimbursement from the insurer.

Health insurers and HMOs may have to update their claim forms to reflect psychologists as an option for assignment of benefits.

The carriers would acquire an administrative cost for revising forms to comply with the required payment to providers licensed pursuant to chapter 409.

C. Government Sector Impact:

Required changes to the insurance contracts and claims forms would impact the Office of Insurance Regulation's health forms review section, but the increased form reviews can be absorbed within current resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Sections 3 and 4 assume in conditional language that the OPPAGA report has not been released yet. As it has been released, and as it has shown that the test for automatic reversion has not been met, section 4 is not needed and the conditional provision in the directory clause in section 3 is unnecessary.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

By Senator Altman

16-00203-13

2013144

A bill to be entitled

An act relating to payment for services provided by licensed psychologists; amending ss. 627.6131 and 641.3155, F.S.; adding licensed psychologists to the list of health care providers who are protected by a limitations period from claims for overpayment being sought by health insurers or health maintenance organizations; adding licensed psychologists to the list of health care providers who are subject to a limitations period for submitting claims to health insurers or health maintenance organizations for underpayment; amending s. 627.638, F.S.; adding licensed psychologists to the list of health care providers who are eligible for direct payment for medical services by a health insurer under certain circumstances; making technical and grammatical changes; providing an effective date.

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

Section 1. Subsections (18) and (19) of section 627.6131, Florida Statutes, are amended to read:

627.6131 Payment of claims.—

(18) Notwithstanding the 30-month period provided in subsection (6), all claims for overpayment submitted to a provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, ~~or~~ chapter 466, or chapter 490 must be submitted to the provider within 12 months after the health insurer's payment of the claim. A claim for overpayment is ~~may~~ not ~~be~~ permitted

Page 1 of 4

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

16-00203-13

2013144

~~beyond~~ 12 months after the health insurer's payment of a claim, except that claims for overpayment may be sought after ~~beyond~~ that time from providers convicted of fraud pursuant to s. 817.234.

(19) Notwithstanding any other provision of this section, all claims for underpayment from a provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, ~~or~~ chapter 466, or chapter 490 must be submitted to the insurer within 12 months after the health insurer's payment of the claim. A claim for underpayment is ~~may~~ not ~~be~~ permitted ~~beyond~~ 12 months after the health insurer's payment of a claim.

Section 2. Subsections (16) and (17) of section 641.3155, Florida Statutes, are amended to read:

641.3155 Prompt payment of claims.—

(16) Notwithstanding the 30-month period provided in subsection (5), all claims for overpayment submitted to a provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, ~~or~~ chapter 466, or chapter 490 must be submitted to the provider within 12 months after the health maintenance organization's payment of the claim. A claim for overpayment is ~~may~~ not ~~be~~ permitted ~~beyond~~ 12 months after the health maintenance organization's payment of a claim, except that claims for overpayment may be sought after ~~beyond~~ that time from providers convicted of fraud pursuant to s. 817.234.

(17) Notwithstanding any other provision of this section, all claims for underpayment from a provider licensed under chapter 458, chapter 459, chapter 460, chapter 461, ~~or~~ chapter 466, or chapter 490 must be submitted to the health maintenance organization within 12 months after the health maintenance

Page 2 of 4

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

16-00203-13 2013144
 59 organization's payment of the claim. A claim for underpayment is
 60 ~~may not be permitted beyond~~ 12 months after the health
 61 maintenance organization's payment of a claim.

62 Section 3. Contingent upon the Office of Program Policy
 63 Analysis and Government Accountability not presenting the
 64 finding specified in section 2 of chapter 2009-124, Laws of
 65 Florida, and the text of subsection (2) of section 627.638,
 66 Florida Statutes, not reverting to that in existence on June 30,
 67 2009, that subsection is amended to read:

68 627.638 Direct payment for hospital, medical services.—

69 (2) ~~For Whenever, in~~ any health insurance claim form, if an
 70 insured specifically authorizes payment of benefits directly to
 71 a any recognized hospital, licensed ambulance provider,
 72 physician, dentist, psychologist, or other person who provided
 73 the services in accordance with ~~the provisions of~~ the policy,
 74 the insurer shall make such payment to the designated provider
 75 of such services. The insurance contract may not prohibit, and
 76 claims forms must provide an option for, the payment of benefits
 77 directly to a licensed hospital, licensed ambulance provider,
 78 physician, dentist, psychologist, or other person who provided
 79 the services in accordance with ~~the provisions of~~ the policy for
 80 care provided. The insurer may require written attestation of
 81 assignment of benefits. Payment to the provider from the insurer
 82 may not be more than the amount that the insurer would otherwise
 83 have paid without the assignment.

84 Section 4. Contingent upon the Office of Program Policy
 85 Analysis and Government Accountability presenting the finding
 86 specified in section 2 of chapter 2009-124, Laws of Florida, and
 87 the text of subsection (2) of section 627.638, Florida Statutes,

16-00203-13 2013144
 88 reverting to that in existence on June 30, 2009, that subsection
 89 is amended to read:

90 627.638 Direct payment for hospital, medical services.—

91 (2) ~~For Whenever, in~~ any health insurance claim form, if an
 92 insured specifically authorizes payment of benefits directly to
 93 a any recognized hospital, licensed ambulance provider,
 94 physician, ~~or~~ dentist, or psychologist, the insurer shall make
 95 such payment to the designated provider of such services, unless
 96 otherwise provided in the insurance contract. The insurance
 97 contract may not prohibit, and claims forms must provide an
 98 option for, the payment of benefits directly to a licensed
 99 hospital, licensed ambulance provider, physician, ~~or~~ dentist, or
 100 psychologist for care provided pursuant to s. 395.1041 or part
 101 III of chapter 401. The insurer may require written attestation
 102 of assignment of benefits. Payment to the provider from the
 103 insurer may not be more than the amount that the insurer would
 104 otherwise have paid without the assignment.

105 Section 5. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military Affairs, Space, and Domestic Security, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Criminal Justice
Environmental Preservation and Conservation

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR THAD ALTMAN
16th District

January 15, 2013

The Honorable Aaron Bean
Senate Committee on Health Policy, Chair
302 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Bean:

I respectfully request that SB 144, related to *Payment for Services Provided by Licensed Psychologists*, be placed on the committee agenda at your earliest convenience.

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

Sincerely,

Thad Altman
TA/rk

CC: Sandra Stovall, Staff Director, 530 Knott Building

REPLY TO:

- 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore





THE FLORIDA SENATE

APPEARANCE RECORD

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

3-14-13

Meeting Date

Topic Payment for services by Psychologists

Bill Number 144
(if applicable)

Name Carole Green

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 07463
Street

Phone 850-590-2206

Fort Myers, FL 33919
City State Zip

E-mail Carole@capitalstrategies
inc.com

Speaking: For Against Information

Representing Florida Psychological Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD



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

3-14-13

Meeting Date

Topic Payment for services by Psychologists

Bill Number 144
(if applicable)

Name Connie Gallietti

Amendment Barcode _____
(if applicable)

Job Title CEO Florida Psychologists

Address _____

Phone 850-656-2222

Street Tallahassee, FL
City Tallahassee *State* FL *Zip* _____

E-mail connie@flapsych.com

Speaking: For Against Information

Representing Florida Psychological Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
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 938

INTRODUCER: Health Policy Committee and Senator Dean

SUBJECT: Recreational Vehicle Parks

DATE: March 14, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Fav/CS
2.			AHS	
3.			AP	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 938 amends and creates sections in chapter 513, Florida Statutes, to:

- Create a definition for the term “occupancy” from language already present in the definition of the term “recreational vehicle” (RV).
- Fix setback and separation distances for RV sites at the time of initial approval of an RV park.
- Repeal section 513.111, F.S., which regulates site rates, the posting of signs, and advertising in and for RV parks and establishes penalties for violating those regulations.

This bill substantially amends section 513.01, F.S., creates section 513.1115, F.S., and repeals section 513.111, F.S.

II. Present Situation:

The Department of Health (DOH) is required under s. 381.006, F.S., to conduct an environmental health program as part of fulfilling the state’s public health mission. The mission of the environmental health program is to detect and prevent disease caused by natural and

manmade factors in the environment. The environmental health program includes the oversight of mobile home parks, lodging parks, RV parks, and recreational camps, as provided in ch. 513, F.S.¹

Chapter 513, F.S., provides that the DOH is the exclusive regulatory and permitting authority for sanitary standards for all mobile home parks, lodging parks, RV parks and recreational camps.² In addition to permit and sanitation requirements, ch. 513, F.S., requires each RV park renting by the day or week to post its rates, regulates the manner in which the rates are advertised, and requires each operator of a recreational vehicle park to maintain a guest register and a copy of ch. 513, F.S.

Chapter 513, F.S., also provides for:

- The operator of a recreational vehicle park's liability;
- The disposition of unclaimed property;
- The establishment of park rules and regulations;
- The right of a park operator to refuse accommodations or service in certain circumstances;
- Criminal penalties for persons obtaining park accommodations through fraud;
- Criminal penalties for theft of property belonging to the park;
- The eviction of transient guests; and
- Writs of distress.³

Pursuant to s. 513.05, F.S.,⁴ the DOH has adopted rules in Chapter 64E-15, Florida Administrative Code, pertaining to: minimum area requirements, water supply, sewage disposal, sanitary facilities, plumbing, garbage and refuse disposal, insect and rodent control, recreational camp standards, permits and fees, and owner's and operator's responsibilities.⁵

The Mobile Home and Recreational Vehicle Parks Program is administered within the DOH by the Division of Environmental Health. The program's primary objective is to minimize the risk of injury and illness by conducting routine inspections of parks and camps. The inspections focus on proper sewage disposal, safe drinking water, safe solid waste collection and disposal, and safe and disease-free swimming pools (where provided) to minimize the risk of certain diseases and minimize infestations of harmful insects and rodents. The county health departments are responsible for receiving and investigating environmental health and sanitation complaints; they

¹ Section 381.006(14), F.S.

² Section 513.051, F.S.

³ According to s. 83.12, F.S., "a distress writ shall be issued by a judge of the court which has jurisdiction of the amount claimed. The writ shall enjoin the defendant from damaging, disposing of, secreting, or removing any property liable to distress from the rented real property after the time of service of the writ until the sheriff levies on the property, the writ is vacated, or the court otherwise orders." Section 513.151, F.S., authorizes an operator of a recreational vehicle park to levy a lien against the property of a guest if a guest vacates the premises with an outstanding account.

⁴ See s. 513.05, F.S., "The DOH may adopt rules pertaining to the location, construction, modification, equipment, and operation of mobile home parks, lodging parks, recreational vehicle parks, and recreational vehicle camps... as necessary to administer this chapter."

⁵ See 64E-15.002-15.008, F.A.C.

also conduct routine inspections, plan reviews, educational programs, investigations, complaints, and enforcement actions.⁶

The DOH's enforcement actions may include citations, fines, or suspension or revocation of an operating permit.⁷ However, the DOH may only use a single enforcement procedure for any one violation.⁸ Certain violations of ch. 513, F.S., are also subject to criminal penalties.⁹

Currently, there are approximately 5,500 mobile home parks, lodging parks, recreational vehicle parks, and recreational camps in Florida.¹⁰ Permits for mobile home parks, lodging parks, recreational vehicle parks, and recreational camps are issued annually by the DOH under s. 513.02, F.S. Section 513.045, F.S., sets the permissible statutory range for permit fees at \$3.50-\$6.50 per space, and the total assessed fee at no less than \$50 or more than \$600, annually.¹¹ Permit fees are set by the DOH rule at \$4 per space and cumulatively not less than \$100 or more than \$600 annually.¹²

Certain local governments have adopted ordinances with definitions of terms that conflict with the definition of terms under ch. 513, F.S. For example, Charlotte County¹³ has adopted an ordinance that defines a "mobile home" as a vehicle exceeding 8 feet in width and 32 feet in overall length, which contradicts the definition of the term mobile home in s. 513.01(3), F.S., which defines a mobile home as a residential structure that is 8 body feet (2.4 meters) or more in width and over 35 feet in length with the hitch. Volusia County¹⁴ splits the definition of "mobile recreational shelters and vehicles" into multiple categories, some of which provide for different length and width requirements.¹⁵

III. Effect of Proposed Changes:

Section 1 amends s. 513.01, F.S., to create a new definition for the term "occupancy" from language already present in the definition of the term "recreational vehicle" in the same section.

Section 2 creates s. 513.1115, F.S., which fixes, at the time of initial approval of an RV park by the DOH and the local government, setback distances for the placement of RVs on lots in RV parks and separation distances for RV sites within an RV park. This section does not limit regulation under the uniform fire-safety standards established in s. 633.022, F.S.

⁶ The Department of Health, Division of Environmental Health, *Mobile Home and Recreational Vehicle Park Program*, available at: <<http://www.doh.state.fl.us/environment/community/mobile/index.html>> (Last visited on March 7, 2012).

⁷ Sections 513.055 and 513.065, F.S.

⁸ Section 513.065(6), F.S.

⁹ Sections 513.054 (second-degree misdemeanor for specified offenses by an operator of a camp or park), 513.10 (second-degree misdemeanor for operating without a permit), 513.111 (second-degree misdemeanor for an advertising violation), and 513.122, F.S. (third-degree felony for theft of guest property by park employee).

¹⁰ See *supra* note 6.

¹¹ Section 513.045, F.S.

¹² Rule 64E-15.010, F.A.C.

¹³ Ordinances of Charlotte County, Florida, Part III: *Land Development and Growth Management*, Ch. 3-4 "Mobile Homes," S. 3-4-1, "Definitions," available at: http://library.municode.com/HTML/10526/level2/PTIILADEGRMA_CH3-4MOHO.html#PTIILADEGRMA_CH3-4MOHO_S3-4-1DE (Last visited on March 7, 2012).

¹⁴ Volusia County Code of Ordinances, Ch. 72: *Land Planning*, "Definitions," available at: <http://library.municode.com/index.aspx?clientid=11665> (Last visited on March 7, 2012).

¹⁵ See s. 316.515, F.S.

Section 3 repeals s. 513.111, F.S., which regulates site rates, the posting of signs, and advertising in and for RV parks and establishes penalties for violating those regulations.

Section 4 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Health Policy on March 14, 2013:

The CS amends SB 938 to make technical changes and delete section 2 which:

- Stated the legislative intent that RV parks and recreational camps be regulated uniformly statewide under ch. 513, F.S.
- Required the DOH to administer and enforce laws and rules, with respect to RV parks and recreational camps, relating to sanitation, control of communicable diseases, illnesses, and hazards to health among humans, hazards to health from animals to humans, and the general health of the people of the state.
- Required the DOH to develop and enforce standards and procedures for RV parks and recreational camps including, but not limited to:
- The design, location, at site sizes for sites in parks and camps, including separation and setback distances established at the time of initial approval;
 - Permit requirements;
 - The inspection of parks and camps to enforce compliance with ch. 513, F.S.; and
 - Standards and procedures for the operation of parks and camps as detailed in this section, relating to a guest register, occupancy standards, conduct of transient guests, eviction procedures, writs of distress, theft of personal property, liability for personal property left on site, and disposal of unclaimed property.
- Mandated local governmental action, ordinances, and resolutions be consistent with the provisions in ch. 513, F.S., with exceptions for land use, building, fire-safety and other regulations.

B. Amendments:

None.



511592

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment (with title amendment)**

2
3 Delete lines 32 - 71.

4
5 ===== T I T L E A M E N D M E N T =====

6 And the title is amended as follows:

7 Delete lines 4 - 7

8 and insert:

9 "occupancy";



197434

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2013	.	
	.	
	.	
	.	

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

1 **Senate Amendment**

2
3 Delete line 76

4 and insert:

5 (1) Separation distances between recreational vehicle sites
6 within a recreational vehicle park

By Senator Dean

5-01172-13

2013938__

A bill to be entitled

An act relating to recreational vehicle parks; amending s. 513.01, F.S.; defining the term "occupancy"; creating s. 513.013, F.S.; providing legislative intent; providing for the regulation of recreational vehicle parks and recreational camps by the Department of Health; providing uniform standards; creating s. 513.1115, F.S.; providing requirements for the establishment of separation and setback distances in parks; repealing s. 513.111, F.S., relating to the posting of site rental rates, advertising, and penalties; providing an effective date.

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

Section 1. Present subsections (5) through (11) of section 513.01, Florida Statutes, are renumbered as subsections (6) through (12), respectively, and a new subsection (5) is added to that section, to read:

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

(5) "Occupancy" means the length of time that a recreational vehicle is occupied by a transient guest and not the length of time that such vehicle is located on the leased recreational vehicle site. A recreational vehicle may be stored and tied down on site when not in use to accommodate the needs of the guest. The attachment of a recreational vehicle to the ground with tie-downs or other removable fasteners, and the attachment of carports, porches, screen rooms, and similar appurtenances with removable attaching devices do not render the

Page 1 of 3

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

5-01172-13

2013938__

recreational vehicle a permanent part of the recreational vehicle site.

Section 2. Section 513.013, Florida Statutes, is created to read:

513.013 Regulation of recreational vehicle parks and recreational camps; uniform standards.—

(1) It is the intent of the Legislature that recreational vehicle parks and recreational camps be regulated uniformly statewide under this chapter. As such, the Department of Health shall administer and enforce, with respect to such parks and camps, laws and rules relating to sanitation, control of communicable diseases, illnesses, and hazards to health among humans and from animals to humans, and the general health of the people of the state.

(2) The Department of Health shall develop and enforce standards and procedures for recreational vehicle parks and recreational camps, which must include, but need not be limited to:

(a) The design, location, and site sizes for sites in parks and camps, including separation and setback distances established at the time of initial approval of the park or camp.

(b) Permit requirements.

(c) The inspection of parks and camps to enforce compliance with this chapter.

(d) Standards and procedures for the operation of parks and camps, which must include:

1. Maintenance of a guest register.

2. Occupancy standards for transient rentals in recreational vehicle parks and camps, including recreational

Page 2 of 3

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

5-01172-13

2013938

59 vehicle placements to allow the sizes and types of recreational
60 vehicles defined in s. 320.01.

61 3. Conduct required of a transient guest.

62 4. Procedures to follow for eviction of a transient guest,
63 for a writ of distress, or for a theft of personal property.

64 5. Liability for personal property that is left on site by
65 a transient guest.

66 6. Disposition of unclaimed property.

67 (3) A local governmental action, ordinance, or resolution
68 must be consistent with the uniform standards established by
69 this chapter and department rules. This chapter does not limit
70 the authority of a local government to adopt and enforce land
71 use, building, firesafety, or other regulations.

72 Section 3. Section 513.1115, Florida Statutes, is created
73 to read:

74 513.1115 Placement of recreational vehicles on lots in
75 permitted parks.-

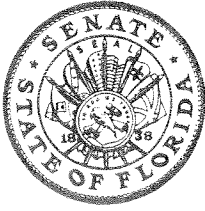
76 (1) Separation distances between recreational vehicle sites
77 must be the distances established at the time of the initial
78 approval of the recreational vehicle park by the department and
79 the local government.

80 (2) Setback distances from the exterior property boundary
81 of the recreational vehicle park must be the setback distances
82 established at the time of the initial approval by the
83 department and the local government.

84 (3) This section does not limit the regulation of the
85 uniform firesafety standards established under s. 633.022.

86 Section 4. Section 513.111, Florida Statutes, is repealed.

87 Section 5. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Environmental Preservation and Conservation, *Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on General Government
Children, Families, and Elder Affairs
Criminal Justice
Gaming
Military Affairs, Space, and Domestic Security

SENATOR CHARLES S. DEAN, SR.
5th District

February 22, 2013

The Honorable Aaron Bean
302 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Bean:

I respectfully request you place Senate Bill 938, relating to Recreational Vehicle Parks, on your Health Policy Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

Charles S. Dean
State Senator District 5

cc: Sandra Stovall, Staff Director

ENTERED



REPLY TO:

- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military Affairs, Space, and Domestic Security,
Chair
Budget - Subcommittee on Finance and Tax,
Vice Chair
Budget
Budget - Subcommittee on Higher Education
Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Higher Education
Reapportionment
Regulated Industries

SENATOR THAD ALTMAN
16th District

March 13, 2013

The Honorable Aaron Bean, Chair
Senate Committee on
Health Policy
530 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Bean:

Senate Bill 0144, related to *Payment for Services Provided by Licensed Psychologists*, is on the Health Policy Committee agenda on March 14, 2013.

Because of a conflict with the Committee on Military and Veterans Affairs, Space, and Domestic Security, I will be unable to attend. Please recognize my Legislative Aide, Selene Bruns, to present SB 0144, on my behalf.

Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Thad Altman".

Thad Altman/svb

REPLY TO:

- 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5053

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-14
Meeting Date

Topic _____

Bill Number 938
(if applicable)

Name Marc Dunbar

Amendment Barcode _____
(if applicable)

Job Title _____

Address P.O. Box 351
Street

Phone 850-933-8500

Tall. FL 32302
City State Zip

E-mail _____

Speaking: For Against Information

Representing Florida Assoc. of RV Parks + Campgrounds / FL RV Trade Assoc.

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)

3/14/2013

Meeting Date

Topic _____

Bill Number 938
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

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 370

INTRODUCER: Regulated Industries Committee and Senator Sachs

SUBJECT: Disposition of Human Remains

DATE: March 11, 2013 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	Fav/CS
2.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	Favorable
3.	_____	_____	<u>JU</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 370 amends various provisions relating to the disposition of human remains. The bill:

- Addresses technical issues such as adding the Department of Health (DOH) as an authorized issuer of extensions of time to provide the medical certification and of burial-transit permits, permitting electronic transfer of medical certification for cause of death, adding the appropriate district medical examiner as one of the persons who must file a death certificate, and clarifying the obligations of primary and attending physicians;
- Defines several terms to have the same meaning as provided in ch. 497, F.S.;
- Authorizes nontransplant anatomical donation organizations (NADOs) to accept donations of human remains.
- Directs any person or entity that has possession, charge, or control of unclaimed human remains that will be buried or cremated at public expense, to notify the anatomical board at the University of Florida Health Science Center (board);
- Defines the reasonable effort that must be undertaken to identify deceased persons, veterans who may be eligible for burial in a national cemetery, and to dispose of unclaimed remains;
- Authorizes the board to embalm the human remains it receives;
- Specifies the situations in which notification of the board is not required;

- Permits a funeral director licensed under ch. 497, F.S., to act as a legally authorized person for the unclaimed remains when no family exists or is available, and releases a funeral director from liability for damages when exercising that authority;
- Provides that, when the identity of the unclaimed remains cannot be ascertained, the remains may not be cremated, donated as an anatomical gift, buried at sea, or removed from the state;
- Authorizes counties to dispose of unclaimed remains by burial or cremation pursuant to an ordinance or resolution if the remains are not claimed by the board;
- Clarifies that competing claims for unclaimed remains are prioritized according to the priority of legally authorized persons provided in s. 497.005, F.S.;
- Permits the board to lend remains to accredited colleges of mortuary science for education or research purposes;
- Requires the board, rather than the Department of Financial Services (DFS), to keep a record of all fees and other financial transactions, and authorizes the University of Florida to audit these records using an accounting firm paid by the board at least once every 3 years and provide DFS with the audit;
- Limits the conveyance of human remains by the board outside the state for educational or scientific purposes;
- Allows third parties to convey human remains or any part thereof outside the state for dental education or research purposes, with proper notice to and approval by the board;
- Creates an exception for NADOs that are accredited by the American Association of Tissue Banks (AATB) to convey human remains into or outside the state, for medical or dental education or research purposes;
- Requires that the original burial-transit permit must accompany human remains received by the board or a NADO;
- Requires that a NADO must obtain written consent to dissect, segment, or disarticulate human remains, with such consent expressly stating such long-term preservation or extensive preparation methods that may be used on the remains being dissected, segmented or disarticulated; and
- Prohibits any person, institution or organization giving any monetary inducement or other valuable consideration to the donor's estate, or other third party. The payment or reimbursement of the reasonable costs associated with the removal, storage, and transportation of human remains, payment or reimbursement to a funeral establishment or removal service, and payment for the reasonable costs after use, including the disposition of human remains are not considered valuable consideration.

This bill substantially amends sections 382.002, 382.006, 382.008, 382.011, 406.50, 406.51, 406.52, 406.53, 406.55, 406.56, 406.57, 406.58, 406.59, 406.60, 406.61, 497.005, 497.382, 497.607, and 765.513 of the Florida Statutes.

The bill creates section 406.49 of the Florida Statutes. The bill repeals section 406.54 of the Florida Statutes.

II. Present Situation:

The Disposition of Human Remains

The transportation, handling and disposition of human remains is addressed by multiple Florida laws regulating various departments and persons:

- The DOH, Office of Vital Statistics (Chapter 382, F.S., the Florida Vital Statistics Act);
- Medical examiners and state anatomical board (Chapter 406, F.S., the Medical Examiners Act);
- Funeral directors, crematories, and direct disposers (Chapter 497, F.S., the Florida Funeral, Cemetery, and Consumer Services Act);¹ and
- Persons making advance directives (health care surrogate designations and living wills) and anatomical gifts, i.e., donations of a person's body (or portions thereof) for transplantation, therapy, research, or education, to organ procurement organizations, eye banks or tissue banks (Chapter 765, F.S.).²

Section 382.002, F.S., defines "final disposition" as burial, interment, cremation, removal from the state, or other authorized disposition. Cremation, rather than dispersion of the resulting ashes or residue, is deemed final disposition. Death certificates are to be filed by the funeral director assuming custody of a dead body, or a physician or other person in attendance at or after the death. Within 72 hours after receipt of a death certificate, the medical certification of cause of death is to be completed by the physician in charge of the decedent's care for the illness or condition which resulted in death, the physician in attendance at the time of death (or immediately before or after death), or the medical examiner.³

Medical examiners must investigate and determine the cause of death when:

- Death is due to unlawful acts, unlawful neglect, violence, accident, suicide;
- Sudden death occurs while the deceased was in apparent good health;
- Death occurs in prison, in police custody, under suspicious or unusual circumstances, or unattended by a physician;
- Death occurs by criminal abortion, by poison, or by disease constituting a public health threat;
- Death occurs by disease, injury, or toxic agent resulting from employment;
- The dead body is brought into the state without proper medical certification; or
- A body is to be cremated, dissected, or buried at sea.⁴

¹ Chapter 497, F.S., the Florida Funeral, Cemetery, and Consumer Services Act, includes defined terms concerning the various methods of final disposition of dead human bodies, including procedures, descriptions of facilities and merchandise, and priority of those persons legally authorized to decide upon and direct such disposition.

² Chapter 765, F.S., addresses advance directives (health care surrogate designations and living wills) and anatomical gifts, i.e., donations of a person's body (or parts thereof) for transplantation, therapy, research, or education, to organ procurement organizations, eye banks or tissue banks. The term "anatomical gift" is defined in s. 765.511(2), F.S., as "a donation of all or part of a human body to take effect after the donor's death and to be used for transplantation, therapy, research, or education."

³ Section 382.008, F.S.

⁴ Section 406.11, F.S.

There are 24 medical examiner districts in Florida and 22 Chief Medical Examiners. Some of the medical examiners serve more than one district.⁵

The legal disposition of human remains is further regulated in s. 406.50 to s. 406.61, F.S. Anyone (typically public officers and employees of governmental entities, and those in charge of prisons, morgues, hospitals, funeral parlors or mortuaries) coming into possession of human remains that are not claimed by a legally authorized person as defined in s. 497.005, F.S., or of remains to be buried or cremated at public expense, must notify the anatomical board. However, such notification is not required if the death was caused by crushing injury, the deceased had a contagious disease, an autopsy was required to determine the cause of death, the body was in a state of severe decomposition, or a family member objects to the use of the body for medical education and research.⁶

There are special requirements for the identification and handling of veterans or others entitled to burial in a national cemetery, including the contacting of certain county and federal offices, including required contractual provisions with providers handling unclaimed bodies.⁷ Similar provisions exist for the handling of unclaimed bodies of indigent persons.⁸

The Anatomical Board

The stated mission of the board is to supply anatomical materials for teaching and research programs in the State of Florida.⁹ The program provides donated bodies for the training of physicians, dentists, physician assistants, and other health workers.¹⁰

The board is permitted to accept and receive the bodies of those who die within the state of Florida, if they executed wills leaving their body to the board for the advancement of medical science.¹¹ Bodies received by the board may not be used for medical science purposes until 48 hours after receipt.¹² If there is a surfeit of bodies, or if the board deems a body unfit for anatomical purposes, the board may notify the county where the person died for identification and contact of relatives, if any.

After the delivery of a body to the board friends, representatives of a fraternal society of which the deceased was a member, or representatives of any charitable or religious organization, may claim a body and the board must surrender the body after its reasonable expenses have been reimbursed.¹³

The board or its duly authorized agent shall distribute any bodies delivered to it between the medical and dental schools, teaching hospitals, medical institutions, and health-related teaching

⁵ See <http://myfloridamedicalexaminer.com/> (Last visited March 12, 2013).

⁶ Section 406.50, F.S.

⁷ *Id.*

⁸ Section 406.53, F.S.

⁹ The anatomical board was created by the Legislature at the University of Florida in 1996, by ch. 96-251, L.O.F. Prior to 1996, the Division of Universities of the Department of Education was responsible for these functions.

¹⁰ See <http://old.med.ufl.edu/anatbd/> (Last visited March 12, 2013).

¹¹ Section 406.56, F.S.

¹² Section 406.52, F.S.

¹³ Section 406.54, F.S.

programs that require cadaveric material for study. Alternatively, those bodies may be loaned for examination or study purposes to recognized associations of licensed embalmers or funeral directors, or medical or dental examining boards.¹⁴

The board is prohibited from entering into any contract, oral or written, for the payment of any sum of money to a living person in exchange for the delivery of the body of that person upon death,¹⁵ and the buying or selling of bodies or parts of bodies (except transmittal or conveyances by recognized Florida medical or dental schools) is prohibited in the State of Florida, punishable as a misdemeanor of the first degree.¹⁶

Fees may be charged by the board to defray the costs of obtaining and preparing the bodies. The board is also empowered to receive money from public or private sources to defray the costs of embalming, handling, shipping, storage, cremation or other costs relating to the obtaining and use of the bodies. The record of all fees and other financial transactions are audited annually by the DFS, and a report of the audit made annually to the University of Florida.¹⁷

Nontransplant Anatomical Donation Organizations

According to the American Association of Tissue Banks (AATB), an organization that promulgates industry standards and accredits tissue banks in the United States and Canada,¹⁸ a NADO is a tissue bank or other organization that facilitates nontransplant anatomical donations. Facilitating includes referral, obtaining informed consent or authorization, acquisition, traceability, transport, assessing donor acceptability, preparation, packaging, labeling, storage, release, evaluating intended use, distribution, and final disposition of nontransplant anatomical donations.¹⁹ The AATB developed accreditation standards for NADOs in 2012, and there are currently four NADOs accredited by AATB, including one in Florida.²⁰

Organ Procurement Organizations

In addition to the organizations mentioned, the law defines several types of organizations permitted to handle human organs, human eye tissue or other human tissue. An organ procurement organization is defined as an organization designated by the Secretary of the United States Department of Health and Human Services that engages in the retrieval, screening, testing, processing, storage, or distribution (hereafter collectively the “evaluation and conveyance”) of human organs.²¹ Four major organ and tissue procurement organizations operate in Florida to facilitate the process of organ donation. These organizations are certified by the U.S. Centers for Medicare and Medicaid Services (CMS) and operate in Florida to increase the number of

¹⁴ Section 406.57, F.S.

¹⁵ Section 406.55, F.S.

¹⁶ Section 406.61(1), F.S.

¹⁷ Section 406.58, F.S.

¹⁸ Founded in 1976, the AATB has produced best practice standards for the operation of tissue banks since 1984. The association also provides an educational network for member organizations to encourage the dissemination of new practices. www.aatb.org/About-AATB (Last visited March 12, 2013).

¹⁹ See <http://www.aatb.org/index.asp?bid=271#> for accreditation requirements (Last visited March 12, 2013).

²⁰ See *supra* n. 19.

²¹ Section 765.511(15), F.S.

registered donors and coordinate the donation process when organs become available.²² Each organizations serves a different region of the state.²³ In addition to federal certification of organ procurement organizations, the Agency for Healthcare Administration (AHCA) also certifies these organ procurement organizations and other eye and tissue organizations.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 382.002, F.S. The definition of “final disposition” is amended to include “anatomical donation” as an authorized final disposition of a dead body and to indicate that such donation is considered final disposition. The term “funeral director” is amended to delete a reference to other persons as individuals who may first assume custody of, or who effects the final disposition of, a dead body.

Section 2 amends s. 382.006, F.S., to add the DOH as an authorized issuer of burial-transit permits.²⁵

Section 3 amends s. 382.008, F.S., to:

- Allow, in the absence of a funeral director who first assumes custody of the body, the district medical examiner of the county in which the death occurred or the body was found to file a death certificate.
- Permit electronic transfer of the medical certification of cause of death.
- Allow the decedent’s primary or attending physician, or the local district medical examiner in the event of a death in violent or suspicious circumstances, to provide certification of cause of death (previously the certification could only be supplied by the physician in charge of care for the illness or condition which resulted in death, or the physician in attendance at the time of, or immediately before or after, the death).
- Define primary or attending physician as a physician who treated the deceased through examination, medical advice, or medication during the 12 months preceding the date of death.
- Conform additional references to physicians and medical examiners to this definition and refer to the accurate status of the appropriate medical examiner.

Section 4 amends s. 382.011, F.S., to:

- Mandate that a medical examiner must determine the cause of death when death occurs more than 12 months (rather than only 30 days) after last treatment by a primary or attending physician.
- Add the medical examiner of the county in which the body was found to the people to who a case may be referred.

²² Organ Procurement Organizations, Organdonor.gov, available at <http://organdonor.gov/materialsresources/materialsopolist.html>, (last visited Mar. 12, 2013).

²³ Id.; LifeLink of Florida serves west Florida, LifeQuest Organ Recovery Services serves north Florida, TransLife Organ and Tissue Donation Services serves east Florida, and LifeAlliance Organ Recovery Services serves south Florida.

²⁴ AHCA’s authority for certifying organ, eye, and tissue banks can be found in s. 765.542, F.S., and a list of organ, eye and tissue banks is available on FloridaHealthFinder at www.floridahealthfinder.gov, (last visited on Mar. 12, 2013.)

²⁵ The county health departments appoint the registrars and deputy registrars.

Section 5 creates s. 406.49, F.S., to:

- Create definitions for “cremated remains,” “final disposition,” “human remains or remains,” and “legally authorized person” identical to definitions in s. 497.005, F.S.
- Create the definition of “nontransplant anatomical donation organization” as a tissue bank or other organization that facilitates nontransplant anatomical donations, including activities such as- referral, obtaining of consents and authorizations, acquisition, transport, assessment of acceptability of donors, preparation, storage, release, evaluation of intended use, distribution, and final disposition of donations.
- Transfer the definitions of “anatomical board” from s. 406.50, F.S., to this section and “indigent person” from s. 406.53, F.S., to this section.
- Define the term “unclaimed remains” to mean human remains that are not claimed by a legally authorized person, other than a medical examiner or the board of county commissioners, for final disposition at the person’s expense.
- Change the terms “body” and “dead human body” to the term “remains,” and “disposal” to “final disposition” wherever used in part II of ch. 406 – Disposition of Dead Bodies (but not in the title of part II).

Section 6 amends s. 406.50, F.S., to direct a person or entity that comes into possession, charge, or control of unclaimed remains that are required to be buried or cremated at public expense to notify the board.²⁶ The notification is not required when:

- The unclaimed remains are decomposed or mutilated by wounds;
- An autopsy is performed on the remains;
- The remains contain a contagious disease;
- A legally authorized person objects to the use of the remains for medical education or research; or
- The deceased person was a veteran of the United States Armed Forces, United States Reserve Forces or National Guard, and is eligible for burial in a national cemetery, or was the spouse or dependent child of a veteran eligible for burial in a national cemetery.

The bill strikes an exception for death caused by crushing injury.

The bill amends provisions to require that before final disposition the person or entity that comes into possession, charge, or control of unclaimed remains make reasonable effort to identify the remains, contact relatives, and determine if the deceased person is eligible. A reasonable effort is defined to include contacting the National Cemetery Scheduling Office in addition to contacting the county veterans’ service office and the regional office of the United States Department of Veterans Affairs. If the deceased is eligible for burial in a national cemetery²⁷, the person or entity in charge of the remains make those arrangements in accordance with federal regulations

²⁶ The duty of notification is presently on “all public officers, agents, or employees of every county, city, village, town or municipality and every person in charge of any prison, morgue, hospital, funeral parlor, or mortuary and all other persons” coming into possession of such remains.

²⁷ The bill clarifies who is eligible by referencing 38 C.F.R. s. 38.620.

and must also make a reasonable effort to cause the remains or cremated remains to be delivered to a national cemetery.

The bill provides that a funeral director licensed under ch. 497, F.S., may assume the responsibility of a legally authorized person when no family exists or is available and, after 24 hours has elapsed since the time of death, may authorize arterial embalming for the purpose of storage and delivery of the unclaimed remains to the board. Funeral directors are released from liability for damages under the subsection.

The bill provides that the remains of a deceased person whose identity cannot be ascertained may not be:

- Cremated;
- Donated as an anatomical gift;
- Buried at sea; or
- Removed from the state.

The bill strikes language which provides that competing claims for a body for interment by legally authorized persons shall be prioritized in accordance with s. 732.103, F.S.

The bill creates provisions that allow the board of county commissioners, or its designated department, of the county in which the remains were found or the death occurred to authorize and arrange for the burial or cremation of the entire remains if the anatomical board does not accept unclaimed remains. Boards of county commissioners may, by ordinance or resolution, prescribe policies and procedures for final disposition of unclaimed remains.

Section 7 amends s. 406.51, F.S., to make conforming changes and clarify references to federal law.

Section 8 substantially rewords s. 406.52, F.S., which relates to the retention of human remains and the process for reclaiming remains from the board. The bill:

- Authorizes the anatomical board to embalm human remains upon receipt and to refuse to accept unclaimed remains or the remains of an indigent person; and
- Provides that, at any point prior to use for medical education or research, human remains may be claimed by a legally authorized person, after payment of the board's expenses incurred for transporting, embalming and storing the remains;
- Exempt licensees under ch. 497, F.S., from liability for any damages resulting from cremating or burying human remains at the written direction of the county.

The bill deletes the provisions which:

- Deem county commissioners of the county where the death occurred as a legally authorized person under s. 497.005, F.S.;
- Allow the board to provide written notice to the appropriate county commissioners or other legally authorized persons that more bodies had been made available than could be used for

medical science, or that a body had been deemed unfit for anatomical purposes, in order to cause the unclaimed body to be buried or cremated in compliance with rules, laws and practices for disposing of unclaimed bodies; and

- Require the county to make reasonable efforts to determine the identity of the body, contact relatives, and accommodate the requests of relatives if a preference is expressed for either burial or cremation.

Section 9 substantially rewords s. 406.53, F.S. Notwithstanding the provisions of s. 406.50(1), F.S.,²⁸ a county is not required to notify the anatomical board of the unclaimed remains of an indigent person when:

- The remains are decomposed or mutilated by wounds;
- An autopsy is performed;
- A legally authorized person or a relative by blood or marriage claims the remains for final disposition at his or her expense;
 - If such person or relative is also an indigent person, the person must provide for final disposition in a manner consistent with policies of the county in which the death occurred or the remains were found;
- The deceased person was a veteran, or the spouse or dependent child of a veteran, of the United States Armed Forces, United States Reserve Forces, or National Guard and is eligible for burial in a national cemetery; or
- A licensed funeral director certifies that the board has been notified and either accepted or declined the remains.

The bill deletes notification exceptions for the following circumstances:

- In the event of death caused by crushing injury;
- Where the deceased had a contagious disease; or
- Where the body is claimed for burial at the expense of any friend or a representative of a fraternal society of which the deceased was a member, or a representative of any charitable or religious organization, or a governmental agency that was providing residential care to the indigent person at the time of his or her death.

The bill also deletes the provision directing the DOH to assess fees for burial pursuant to s. 402.33, F.S., when it claims the body of an indigent client.

Section 10 amends s. 406.55, F.S., to make conforming and technical changes.

Section 11 amends s. 406.56, F.S., to make conforming and technical changes.

Section 12 amends s. 406.57, F.S., to make conforming and technical changes and to require the board to loan remains to accredited colleges of mortuary science for education or research purposes.

²⁸ This section deals with unclaimed human remains generally.

Section 13 amends s. 406.58, F.S., to make conforming and technical changes and specify that the board may pay or reimburse the reasonable expenses, as determined by the board, for the removal, storage, or transportation of unclaimed remains by licensed funeral establishments or removal services.

The bill requires the board, not the DFS, to keep records of all fees and other financial transactions. The bill directs the University of Florida to audit these records at least once every three years or more frequently if deemed necessary, and to provide a copy of the audit to DFS within 90 days after completion. The bill authorizes the University of Florida to contract with a licensed public accounting firm “to provide for” the audit, and the accounting firm “may be paid from the fees collected by the board.”

Section 14 amends s. 406.59, F.S., to make conforming and technical changes and mandate that entities receiving remains from the board may not use them for any purposes other than medical education or research.

Section 15 amends s. 406.60, F.S., to reference “human remains” and to provide that the board or a cinerator facility licensed under ch. 497, F.S., may dispose of human remains by cremation when such remains have been used for, and are not of any further value to, medical or dental education or research.

Section 16 amends s. 406.61, F.S., to make conforming and technical changes and to affirmatively state that the anatomical board may transport human remains outside the state for educational or scientific purposes. The bill allows other persons, institutions or organizations that convey human remains or any part thereof outside the state to do so for dental education or research purposes, but only upon the required notification to, and approval from, the anatomical board.

The bill allows a NADO that is accredited by the AATB to convey human remains into or outside the state, for medical or dental education or research purposes without notifying the board or receiving board approval for the conveyance and requires that a NADO be accredited by the AATB effective October 1, 2014.

The bill makes buying or selling human remains or conveying human remains out of the state a misdemeanor of the first degree. Recognized Florida medical and dental schools are exceptions to this provision.

The bill requires that the original burial-transit permit issued pursuant to s. 382.007, F.S., must accompany human remains received by the board or a NADO. It also prohibits the dissection, segmentation, or disarticulation of the remains until the district medical examiner of the county in which the death occurred or the remains were found has granted approval pursuant to s. 406.11, F.S.

The bill requires that a NADO must obtain specific written consent for the dissection, segmentation, or disarticulation of any part of the remains from all persons who are authorized to consent to an anatomical gift as described in s. 765.512, F.S. Such consent must expressly state

that the remains may undergo long-term preservation or extensive preparation, including but not limited to, removal of the head, arms, legs, hands, feet, spine, organs, tissues, or fluids.

The bill prohibits any person offering any monetary inducement or other valuable consideration, including goods and services, to a donor, legally authorized person, the donor's estate, or any other third party, in exchange for human remains. The bill provides, however, that the term "valuable consideration" does not include, and does not prohibit payment or reimbursement of the following expenses:

- reasonable costs associated with the removal, storage, and transportation of human remains;
- fees of a licensed funeral establishment or removal service;
- reasonable costs after use of the human remains; or
- disposition by cremation of human remains after use when they are deemed of no further value to medical or dental education or research.

The bill also strikes language which provides a substitute format to comply with required documentation for plastinated remains exhibited before July 1, 2009 by entities accredited by the American Association of Museums. The substitute method of compliance expired on January 1, 2012, by the terms of the subsection.

Section 17 amends s. 497.005, F.S., to redefine "final disposition" as it relates to the Florida Funeral, Cemetery, and Consumer Services Act to include provisions relating to anatomical donation. Delivery of an anatomical donation is deemed to be final disposition if the medical institution or entity receiving it assumes responsibility for disposition after use.

Section 18 amends s. 497.382, F.S., to require that reports of embalming or other handling of dead bodies be recorded and signed monthly as appropriate by embalmers, funeral directors or direct disposers, and maintained at the business premises for inspection by staff of the Division of Funeral, Cemetery, and Consumer Services within the DFS. The bill deletes the requirement that the reports be submitted to or filed with the division. The bill also revises the reporting procedure for funeral directors performing a disinterment.

Section 19 amends s. 497.607, F.S., to require a reasonable effort must be made by a funeral or direct disposal establishment to determine whether remains that have not been claimed within 120 days after cremation are those of a veteran, or the spouse or dependent child of a veteran, of the United States Armed Forces, United States Reserve Forces, or National Guard eligible for burial in a national cemetery. If they are, the establishment shall arrange for interment in a national cemetery and may use the assistance of a veterans' service organization for this purpose. A funeral or direct disposal establishment or veterans' service organization acting in good faith is not liable for damages resulting from the release of required information to determine eligibility.

There is no requirement to determine if the deceased is an eligible veteran if the funeral or direct disposal establishment is informed by a legally authorized person that the deceased was not a veteran. Similarly, there is no requirement to relinquish possession of cremated remains to a veteran's service organization if the establishment is informed by a legally authorized person that the deceased did not desire any funeral, ceremony, or interment-related services recognizing the deceased's service as a veteran.

The bill defines “reasonable effort” to include contacting the National Cemetery Scheduling Office, the county veterans’ service office, the regional office of the U.S. Department of Veterans Affairs, or a veteran’s service organization. The term “veterans’ service organization” is defined as a tax-exempt entity under s. 501(c) (3) or 501(c)(10) of the Internal Revenue Code, organized for the benefit of veterans’ burial and interment, that is recognized by the Memorial Affairs Division of the U.S. Department of Veterans Affairs. This includes members and employees of those organizations that assist in facilitating the identification, recovery, and interment of the unclaimed cremated remains of veterans.

Section 20 amends s. 765.513, F.S., to specify that the anatomical board or a NADO may be a donee of the whole body for medical or dental education or research.

Section 21 repeals s. 406.54, F.S., related to the anatomical board surrendering a body to the claimant after payment of certain expenses. This is addressed in s. 406.52, F.S.

Section 22 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Effective October 1, 2014, NADOs must be accredited by the AATB to convey human remains outside and into the state. Staff at the AATB reports that the initial application cost is \$5,000, and annual renewals thereafter range between a minimum of \$3,250 and \$75,000 annually, based on gross revenues.²⁹

²⁹ Teleconference with D. Newman at AATB March 5, 2013.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The title of part II of chapter 406, F.S., remains “Disposition of Dead Bodies,” even though all references therein will refer to “human remains” or “remains”, the Division of Law Revision and Information in the Office of Legislative Services should conform the reference accordingly as needed.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Regulated Industries on March 7, 2013:

The committee substitute:

- Conforms the bill to its House companion (CS/HB 171);
- Allows the Department of Health as well as the local health department registrar to grant an extension of time for the submission of the medical certification of the cause of death;
- Defines NADOs as authorized to accept donations of human remains;
- Describes specific requirements for the contents of consents to be obtained by NADOs;
- Provides that an institution or organization may not offer monetary or other valuable consideration in exchange for human remains; and
- Defines the term “valuable consideration” to exclude payments or reimbursement of reasonable costs associated with the handling of the remains before and after use, including cremation.

B. Amendments:

None.



LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/14/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 584 - 609
and insert:

Section 18. Paragraph (j) is added to subsection (1) of section 497.260, Florida Statutes, to read:

497.260 Cemeteries; exemption; investigation and mediation.-

(1) The provisions of this chapter relating to cemeteries and all rules adopted pursuant thereto shall apply to all cemeteries except for:

(j) A religious-institution-owned cemetery, including all



13 associated columbaria and mausoleums, which are 50 acres or
 14 less, if the religious institution:
 15 1. Limits burial rights within the cemetery to members of
 16 the religious institution and their families; and
 17 2. Maintains escrowed funds sufficient to cover maintenance
 18 costs and preneed agreements.

19 Section 19. Section 497.382, Florida Statutes, is amended
20 to read:

21 497.382 Reports of cases embalmed and bodies handled.-

22 (1) Each funeral establishment, direct disposal
 23 establishment, cinerator facility, and centralized embalming
 24 facility shall record monthly ~~report~~ on a form prescribed and
 25 furnished by the licensing authority the name of the deceased
 26 and such other information as may be required by rule with
 27 respect to each dead human body embalmed or otherwise handled by
 28 the establishment or facility. Such forms shall be signed
 29 monthly by the embalmer who performs the embalming, if the body
 30 is embalmed, and the funeral director in charge of the
 31 establishment or facility or by the direct disposer who disposes
 32 of the body and shall be maintained at the business premises of
 33 the establishment or facility for inspection by division staff.
 34 The licensing authority shall prescribe by rule the procedures
 35 for preparing and retaining ~~in submitting~~ such forms
 36 ~~documentation. Reports required by this subsection shall be~~
 37 ~~filed by the 20th day of each month for final dispositions~~
 38 ~~handled the preceding month.~~

39 (2) Funeral directors performing disinterments shall record
 40 monthly on the form specified in subsection (1) and pursuant to
 41 ~~report, using a form and procedures prescribed~~ ~~specified~~ by



42 rule, the name of the deceased and such other information as may
43 be required by rule with respect to each dead human body
44 disinterred.

45 Section 20. Subsection (4) of section 497.452, Florida
46 Statutes, is amended to read:

47 497.452 Preneed license required.-

48 (4) The provisions of this section do not apply to
49 religious-institution-owned cemeteries exempt under s.
50 497.260(1)(d) or (j), ~~in counties with a population of at least~~
51 ~~960,000 persons on July 1, 1996,~~ with respect to the sale to the
52 religious institution's members and their families of interment
53 rights, mausoleums, crypts, cremation niches, cremation
54 interment containers, vaults, liners, urns, memorials, vases,
55 foundations, memorial bases, floral arrangements, monuments,
56 markers, engraving, and the opening and closing of interment
57 rights, mausoleums, crypts, cremation niches, and cremation
58 interment containers, if such cemeteries ~~have engaged in the~~
59 ~~sale of preneed contracts prior to October 1, 1993,~~ and maintain
60 a positive net worth at the end of each fiscal year of the
61 cemetery.

62
63 ===== T I T L E A M E N D M E N T =====

64 And the title is amended as follows:

65 Delete lines 65 - 68

66 and insert:

67 amending s. 497.260, F.S.; revising the exemptions to
68 ch. 497, F.S., relating to cemeteries, to include
69 certain religious-institution-owned cemeteries;
70 amending s. 497.382, F.S.; revising certain reporting



71 requirements for funeral establishments, direct
72 disposal establishments, cinerator facilities, and
73 centralized embalming facilities; amending s. 497.452,
74 F.S.; deleting obsolete provisions; conforming a
75 provision to changes made by the act; amending s.
76 497.607,

By the Committee on Regulated Industries; and Senator Sachs

580-02033-13

2013370c1

1 A bill to be entitled
 2 An act relating to disposition of human remains;
 3 amending s. 382.002, F.S.; revising definitions for
 4 purposes of the Florida Vital Statistics Act; amending
 5 s. 382.006, F.S.; authorizing the Department of Health
 6 to issue burial-transit permits; amending s. 382.008,
 7 F.S.; revising procedures for the registration of
 8 certificates of death or fetal death and the medical
 9 certification of causes of death; providing a
 10 definition; amending s. 382.011, F.S.; extending the
 11 time by which certain deaths must be referred to the
 12 medical examiner for investigation; creating s.
 13 406.49, F.S.; providing definitions; amending s.
 14 406.50, F.S.; revising procedures for the reporting
 15 and disposition of unclaimed remains; prohibiting
 16 certain uses or dispositions of the remains of
 17 deceased persons whose identities are not known;
 18 limiting the liability of licensed funeral directors
 19 who authorize the embalming of unclaimed remains under
 20 certain circumstances; amending s. 406.51, F.S.;
 21 requiring that local governmental contracts for the
 22 final disposition of unclaimed remains comply with
 23 certain federal regulations; amending s. 406.52, F.S.;
 24 revising procedures for the anatomical board's
 25 retention of human remains before their use; providing
 26 for claims by, and the release of human remains to,
 27 legally authorized persons after payment of certain
 28 expenses; authorizing county ordinances or resolutions
 29 for the final disposition of the unclaimed remains of

Page 1 of 24

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

580-02033-13

2013370c1

30 indigent persons; limiting the liability of certain
 31 licensed persons for cremating or burying human
 32 remains under certain circumstances; amending s.
 33 406.53, F.S.; revising exceptions from requirements
 34 for notice to the anatomical board of the death of
 35 indigent persons; deleting a requirement that the
 36 Department of Health assess fees for the burial of
 37 certain bodies; amending ss. 406.55, 406.56, and
 38 406.57, F.S.; conforming provisions; amending s.
 39 406.58, F.S.; requiring audits of the financial
 40 records of the anatomical board; conforming
 41 provisions; amending s. 406.59, F.S.; conforming
 42 provisions; amending s. 406.60, F.S.; authorizing
 43 certain facilities to dispose of human remains by
 44 cremation; amending s. 406.61, F.S.; revising
 45 provisions prohibiting the selling or buying of human
 46 remains or the transmitting or conveying of such
 47 remains outside the state; providing penalties;
 48 excepting accredited nontransplant anatomical donation
 49 organizations from requirements for the notification
 50 of and approval from the anatomical board for the
 51 conveyance of human remains for specified purposes;
 52 requiring that nontransplant anatomical donation
 53 organizations be accredited by a certain date;
 54 requiring that human remains received by the
 55 anatomical board be accompanied by a burial-transit
 56 permit; requiring approval by the medical examiner and
 57 consent of certain persons before the dissection,
 58 segmentation, or disarticulation of such remains;

Page 2 of 24

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

580-02033-13

2013370c1

59 prohibiting the offer of any monetary inducement or
 60 other valuable consideration in exchange for human
 61 remains; providing a definition; deleting an expired
 62 provision; conforming provisions; amending s. 497.005,
 63 F.S.; revising a definition for purposes of the
 64 Florida Funeral, Cemetery, and Consumer Services Act;
 65 amending s. 497.382, F.S.; revising certain reporting
 66 requirements for funeral establishments, direct
 67 disposal establishments, cinerator facilities, and
 68 centralized embalming facilities; amending s. 497.607,
 69 F.S.; providing requirements for the disposal of
 70 unclaimed cremated remains by funeral or direct
 71 disposal establishments; limiting the liability of
 72 funeral or direct disposal establishments and
 73 veterans' service organizations related to the release
 74 of information required to determine the eligibility
 75 for interment in a national cemetery of the unclaimed
 76 cremated remains of a veteran; providing definitions;
 77 amending s. 765.513, F.S.; revising the list of donees
 78 who may accept anatomical gifts and the purposes for
 79 which such a gift may be used; repealing s. 406.54,
 80 F.S., relating to claims of bodies after delivery to
 81 the anatomical board; providing an effective date.

82
 83 Be It Enacted by the Legislature of the State of Florida:

84
 85 Section 1. Subsections (8) and (9) of section 382.002,
 86 Florida Statutes, are amended to read:
 87 382.002 Definitions.—As used in this chapter, the term:

Page 3 of 24

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

580-02033-13

2013370c1

88 (8) "Final disposition" means the burial, interment,
 89 cremation, removal from the state, anatomical donation, or other
 90 authorized disposition of a dead body or a fetus as described in
 91 subsection (7). In the case of cremation, dispersion of ashes or
 92 cremation residue is considered to occur after final
 93 disposition; the cremation itself is considered final
 94 disposition. In the case of anatomical donation of a dead body,
 95 the donation itself is considered final disposition.

96 (9) "Funeral director" means a licensed funeral director or
 97 direct disposer licensed pursuant to chapter 497 ~~or other person~~
 98 who first assumes custody of or effects the final disposition of
 99 a dead body or a fetus as described in subsection (7).

100 Section 2. Subsection (2) of section 382.006, Florida
 101 Statutes, is amended to read:

102 382.006 Burial-transit permit.—

103 (2) A burial-transit permit shall be issued by the
 104 department or the local registrar or subregistrar of the
 105 registration district in which the death occurred or the body
 106 was found. A burial-transit permit ~~may shall~~ not be issued:

107 (a) Until a complete and satisfactory certificate of death
 108 or fetal death ~~is has been~~ filed in accordance with the
 109 requirements of this chapter and adopted rules, unless the
 110 funeral director provides adequate assurance that a complete and
 111 satisfactory certificate will be so registered.

112 (b) Except under conditions prescribed by the department,
 113 if the death occurred from some disease ~~that which~~ is deemed
 114 ~~held~~ by the department to be infectious, contagious, or
 115 communicable and dangerous to the public health.

116 Section 3. Paragraph (a) of subsection (2) and subsections

Page 4 of 24

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

580-02033-13

2013370c1

117 (3), (4), and (5) of section 382.008, Florida Statutes, are
118 amended to read:

119 382.008 Death and fetal death registration.-

120 (2) (a) The funeral director who first assumes custody of a
121 dead body or fetus shall file the certificate of death or fetal
122 death. In the absence of the funeral director, the physician or
123 other person in attendance at or after the death or the district
124 medical examiner of the county in which the death occurred or
125 the body was found shall file the certificate of death or fetal
126 death. The person who files the certificate shall obtain
127 personal data from the next of kin or the best qualified person
128 or source available. The medical certification of cause of death
129 shall be furnished to the funeral director, either in person or
130 via certified mail or electronic transfer, by the physician or
131 medical examiner responsible for furnishing such information.
132 For fetal deaths, the physician, midwife, or hospital
133 administrator shall provide any medical or health information to
134 the funeral director within 72 hours after expulsion or
135 extraction.

136 (3) Within 72 hours after receipt of a death or fetal death
137 certificate from the funeral director, the medical certification
138 of cause of death shall be completed and made available to the
139 funeral director by the decedent's primary or attending
140 physician in charge of the decedent's care for the illness or
141 condition which resulted in death, the physician in attendance
142 at the time of death or fetal death or immediately before or
143 after such death or fetal death, or, if s. 382.011 applies, the
144 district medical examiner of the county in which the death
145 occurred or the body was found if the provisions of s. 382.011

580-02033-13

2013370c1

146 ~~apply~~. The primary or attending physician or medical examiner
147 shall certify over his or her signature the cause of death to
148 the best of his or her knowledge and belief. As used in this
149 section, the term "primary or attending physician" means a
150 physician who treated the decedent through examination, medical
151 advice, or medication during the 12 months preceding the date of
152 death.

153 (a) The local registrar may grant the funeral director an
154 extension of time upon a good and sufficient showing of any of
155 the following conditions:

- 156 1. An autopsy is pending.
- 157 2. Toxicology, laboratory, or other diagnostic reports have
158 not been completed.
- 159 3. The identity of the decedent is unknown and further
160 investigation or identification is required.

161 (b) If the decedent's primary or attending physician or
162 district medical examiner of the county in which the death
163 occurred or the body was found indicates ~~has indicated~~ that he
164 or she will sign and complete the medical certification of cause
165 of death, but will not be available until after the 5-day
166 registration deadline, the local registrar may grant an
167 extension of 5 days. If a further extension is required, the
168 funeral director must provide written justification to the
169 registrar.

170 (4) If the department or local registrar grants ~~has granted~~
171 an extension of time to provide the medical certification of
172 cause of death, the funeral director shall file a temporary
173 certificate of death or fetal death which shall contain all
174 available information, including the fact that the cause of

580-02033-13

2013370c1

175 death is pending. The decedent's primary or attending physician
 176 or the district medical examiner of the county in which the
 177 death occurred or the body was found shall provide an estimated
 178 date for completion of the permanent certificate.

179 (5) A permanent certificate of death or fetal death,
 180 containing the cause of death and any other information that
 181 ~~which~~ was previously unavailable, shall be registered as a
 182 replacement for the temporary certificate. The permanent
 183 certificate may also include corrected information if the items
 184 being corrected are noted on the back of the certificate and
 185 dated and signed by the funeral director, physician, or district
 186 medical examiner of the county in which the death occurred or
 187 the body was found, as appropriate.

188 Section 4. Subsection (1) of section 382.011, Florida
 189 Statutes, is amended to read:

190 382.011 Medical examiner determination of cause of death.—

191 (1) In the case of any death or fetal death due to causes
 192 or conditions listed in s. 406.11, any ~~or where the~~ death that
 193 occurred more than 12 months ~~30 days~~ after the decedent was last
 194 treated by a primary or attending physician as defined in s.
 195 382.008(3) unless the death was medically expected as certified
 196 by an attending physician, or any death for which ~~where~~ there is
 197 reason to believe that the death may have been due to an
 198 unlawful act or neglect, the funeral director or other person to
 199 whose attention the death may come shall refer the case to the
 200 district medical examiner of the county ~~district~~ in which the
 201 death occurred or the body was found for investigation and
 202 determination of the cause of death.

203 Section 5. Section 406.49, Florida Statutes, is created in

580-02033-13

2013370c1

204 part II of chapter 406, Florida Statutes, to read:

205 406.49 Definitions.—As used in this part, the term:

206 (1) "Anatomical board" means the anatomical board of the
 207 state headquartered at the University of Florida Health Science
 208 Center.

209 (2) "Cremated remains" has the same meaning as provided in
 210 s. 497.005.

211 (3) "Final disposition" has the same meaning as provided in
 212 s. 497.005.

213 (4) "Human remains" or "remains" has the same meaning as
 214 provided in s. 497.005.

215 (5) "Indigent person" means a person whose family income
 216 does not exceed 100 percent of the current federal poverty
 217 guidelines prescribed for the family's household size by the
 218 United States Department of Health and Human Services.

219 (6) "Legally authorized person" has the same meaning as
 220 provided in s. 497.005.

221 (7) "Nontransplant anatomical donation organization" means
 222 a tissue bank or other organization that facilitates
 223 nontransplant anatomical donation, including referral, obtaining
 224 informed consent or authorization, acquisition, traceability,
 225 transport, assessing donor acceptability, preparation,
 226 packaging, labeling, storage, release, evaluating intended use,
 227 distribution, and final disposition of nontransplant anatomical
 228 donations.

229 (8) "Unclaimed remains" means human remains that are not
 230 claimed by a legally authorized person, other than a medical
 231 examiner or the board of county commissioners, for final
 232 disposition at the person's expense.

580-02033-13

2013370c1

233 Section 6. Section 406.50, Florida Statutes, is amended to
234 read:

235 406.50 Unclaimed ~~dead bodies or human~~ remains; disposition,
236 procedure.-

237 (1) A person or entity that comes ~~All public officers,~~
238 ~~agents, or employees of every county, city, village, town, or~~
239 ~~municipality and every person in charge of any prison, morgue,~~
240 ~~hospital, funeral parlor, or mortuary and all other persons~~
241 ~~coming into possession, charge, or control of unclaimed any dead~~
242 ~~human body or remains that which are unclaimed or which are~~
243 ~~required to be buried or cremated at public expense shall are~~
244 ~~hereby required to notify, immediately notify,~~ the anatomical
245 board, unless:

246 (a) The unclaimed remains are decomposed or mutilated by
247 wounds;

248 (b) An autopsy is performed on the remains;

249 (c) The remains contain ~~whenever any such body, bodies, or~~
250 ~~remains come into its possession, charge, or control.~~
251 ~~Notification of the anatomical board is not required if the~~
252 ~~death was caused by crushing injury, the deceased had a~~
253 ~~contagious disease;~~

254 (d) A legally authorized person, an autopsy was required to
255 ~~determine cause of death, the body was in a state of severe~~
256 ~~decomposition, or a family member objects to use of the remains~~
257 ~~body for medical education or and research; or~~

258 (e) The deceased person was a veteran of the United States
259 Armed Forces, United States Reserve Forces, or National Guard
260 and is eligible for burial in a national cemetery or was the
261 spouse or dependent child of a veteran eligible for burial in a

580-02033-13

2013370c1

262 national cemetery.

263 (2)(1) Before the final disposition of unclaimed remains,
264 the person or entity in charge or control of the ~~dead body or~~
265 ~~human~~ remains shall make a reasonable effort to ~~determine:~~

266 (a) Determine the identity of the deceased person and ~~shall~~
267 ~~further make a reasonable effort to~~ contact any relatives of the
268 ~~such~~ deceased person.

269 (b) Determine whether ~~or not~~ the deceased person is
270 eligible under 38 C.F.R. s. 38.620 for ~~entitled to~~ burial in a
271 national cemetery as a veteran of the armed forces and, if
272 eligible ~~is~~, to cause the deceased person's remains or cremated
273 remains to be delivered to a national cemetery shall make
274 arrangements for such burial services in accordance with the
275 provisions of 38 C.F.R.

276
277 For purposes of this subsection, "a reasonable effort" includes
278 contacting the National Cemetery Scheduling Office, the county
279 veterans service office, or the regional office of the United
280 States Department of Veterans Affairs.

281 (3)(2) Unclaimed remains ~~Such dead human bodies as~~
282 ~~described in this chapter~~ shall be delivered to the anatomical
283 board as soon as possible after death. When no family exists or
284 is available, a funeral director licensed under chapter 497 may
285 assume the responsibility of a legally authorized person and
286 may, after 24 hours have elapsed since the time of death,
287 authorize arterial embalming for the purposes of storage and
288 delivery of unclaimed remains to the anatomical board. A funeral
289 director licensed under chapter 497 is not liable for damages
290 under this subsection.

580-02033-13

2013370c1

291 (4) The remains of a deceased person whose identity is not
 292 known may not be cremated, donated as an anatomical gift, buried
 293 at sea, or removed from the state.

294 (5) If the anatomical board does not accept the unclaimed
 295 remains, the board of county commissioners or its designated
 296 county department of the county in which the death occurred or
 297 the remains were found may authorize and arrange for the burial
 298 or cremation of the entire remains. A board of county
 299 commissioners may by resolution or ordinance, in accordance with
 300 applicable laws and rules, prescribe policies and procedures for
 301 final disposition of unclaimed remains.

302 (6) ~~(3)~~ This part does not ~~Nothing herein shall~~ affect the
 303 right of a medical examiner to hold human such dead body or
 304 remains for the purpose of investigating the cause of death or
 305 ~~nor shall this chapter affect~~ the right of any court of
 306 competent jurisdiction to enter an order affecting the
 307 disposition of such body or remains.

308 ~~(4) In the event more than one legally authorized person~~
 309 ~~claims a body for interment, the requests shall be prioritized~~
 310 ~~in accordance with s. 732.103.~~

311 ~~For purposes of this chapter, the term "anatomical board" means~~
 312 ~~the anatomical board of this state located at the University of~~
 313 ~~Florida Health Science Center, and the term "unclaimed" means a~~
 314 ~~dead body or human remains that is not claimed by a legally~~
 315 ~~authorized person, as defined in s. 497.005, for interment at~~
 316 ~~that person's expense.~~

317 Section 7. Section 406.51, Florida Statutes, is amended to
 318 read:

Page 11 of 24

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

580-02033-13

2013370c1

320 406.51 Final disposition of unclaimed deceased veterans;
 321 contract requirements.—Any contract by a local governmental
 322 entity for the final disposition ~~disposal~~ of unclaimed human
 323 remains must provide for compliance with s. 406.50(2) ~~406.50(1)~~
 324 and require that the procedures in 38 C.F.R. s. 38.620, relating
 325 to disposition of unclaimed deceased veterans, are ~~be~~ followed.

326 Section 8. Section 406.52, Florida Statutes, is amended to
 327 read:

328 (Substantial rewording of section. See
 329 s. 406.52, F.S., for present text.)

330 406.52 Retention of human remains before use; claim after
 331 delivery to anatomical board; procedures for unclaimed remains
 332 of indigent persons.—

333 (1) The anatomical board shall keep in storage all human
 334 remains that it receives for at least 48 hours before allowing
 335 their use for medical education or research. Human remains may
 336 be embalmed when received. The anatomical board may, for any
 337 reason, refuse to accept unclaimed remains or the remains of an
 338 indigent person.

339 (2) At any time before their use for medical education or
 340 research, human remains delivered to the anatomical board may be
 341 claimed by a legally authorized person. The anatomical board
 342 shall release the remains to the legally authorized person after
 343 payment of the anatomical board's expenses incurred for
 344 transporting, embalming, and storing the remains.

345 (3) (a) A board of county commissioners may by resolution or
 346 ordinance, in accordance with applicable laws and rules,
 347 prescribe policies and procedures for the burial or cremation of
 348 the entire unclaimed remains of an indigent person whose death

Page 12 of 24

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

580-02033-13

2013370c1

349 occurred, or whose remains were found, in the county.

350 (b) A person licensed under chapter 497 is not liable for
 351 any damages resulting from cremating or burying such human
 352 remains at the written direction of the board of county
 353 commissioners or its designee.

354 Section 9. Section 406.53, Florida Statutes, is amended to
 355 read:

356 (Substantial rewording of section. See
 357 s. 406.53, F.S., for present text.)

358 406.53 Unclaimed remains of indigent person; exemption from
 359 notice to the anatomical board.—A board of county commissioners
 360 or its designated county department that receives a report of
 361 the unclaimed remains of an indigent person, notwithstanding s.
 362 406.50(1), is not required to notify the anatomical board of the
 363 remains if:

364 (1) The indigent person's remains are decomposed or
 365 mutilated by wounds or if an autopsy is performed on the
 366 remains;

367 (2) A legally authorized person or a relative by blood or
 368 marriage claims the remains for final disposition at his or her
 369 expense or, if such relative or legally authorized person is
 370 also an indigent person, in a manner consistent with the
 371 policies and procedures of the board of county commissioners of
 372 the county in which the death occurred or the remains were
 373 found;

374 (3) The deceased person was a veteran of the United States
 375 Armed Forces, United States Reserve Forces, or National Guard
 376 and is eligible for burial in a national cemetery or was the
 377 spouse or dependent child of a veteran eligible for burial in a

580-02033-13

2013370c1

378 national cemetery; or

379 (4) A funeral director licensed under chapter 497 certifies
 380 that the anatomical board has been notified and either accepted
 381 or declined the remains.

382 Section 10. Section 406.55, Florida Statutes, is amended to
 383 read:

384 406.55 Contracts for delivery of human remains ~~body~~ after
 385 death prohibited.—The anatomical board may not enter ~~is~~
 386 ~~specifically prohibited from entering~~ into any contract, oral or
 387 written, that provides for ~~whereby~~ any sum of money to ~~shall~~ be
 388 paid to any living person in exchange for ~~which~~ the delivery of
 389 that person's remains ~~body of said person shall be delivered~~ to
 390 the anatomical board when the ~~such living~~ person dies.

391 Section 11. Section 406.56, Florida Statutes, is amended to
 392 read:

393 406.56 Acceptance of human remains ~~bodies~~ under will.—If
 394 any person ~~being~~ of sound mind executes ~~shall execute~~ a will
 395 leaving his or her remains ~~body~~ to the anatomical board for ~~the~~
 396 ~~advancement of medical education or research science~~ and the
 397 ~~such~~ person dies within the geographical limits of the state,
 398 the anatomical board may ~~is hereby empowered to~~ accept and
 399 receive the person's remains ~~such body~~.

400 Section 12. Section 406.57, Florida Statutes, is amended to
 401 read:

402 406.57 Distribution of human remains ~~dead bodies~~.—The
 403 anatomical board or its duly authorized agent shall take and
 404 receive human remains ~~the bodies~~ delivered to it as provided in
 405 under the provisions of this chapter and shall:

406 (1) Distribute the remains ~~them~~ equitably ~~to and~~ among the

580-02033-13

2013370c1

407 medical and dental schools, teaching hospitals, medical
 408 institutions, and health-related teaching programs that require
 409 cadaveric material for study; or

410 ~~(2) Loan the remains same may be loaned for examination or~~
 411 ~~study purposes to accredited colleges of mortuary science~~
 412 ~~recognized associations of licensed embalmers or funeral~~
 413 ~~directors, or medical or dental examining boards for educational~~
 414 ~~or research purposes at the discretion of the anatomical board.~~

415 Section 13. Section 406.58, Florida Statutes, is amended to
 416 read:

417 406.58 Fees; authority to accept additional funds; annual
 418 audit.-

419 (1) The anatomical board may:

420 (a) ~~Adopt is empowered to prescribe~~ a schedule of fees to
 421 be collected from the institutions ~~institution or association~~ to
 422 which the human remains ~~bodies, as described in this chapter,~~
 423 are distributed or loaned to defray the costs of obtaining and
 424 preparing the remains ~~such bodies.~~

425 ~~(b)(2) The anatomical board is hereby empowered to~~ Receive
 426 money from public or private sources, in addition to the fees
 427 collected from the institutions ~~institution or association~~ to
 428 which human remains ~~the bodies~~ are distributed, to be used to
 429 defray the costs of embalming, handling, shipping, storing,
 430 cremating, and otherwise ~~storage, cremation, and other costs~~
 431 ~~relating to the obtaining and using the remains. use of such~~
 432 ~~bodies as described in this chapter; the anatomical board is~~
 433 ~~empowered to~~

434 (c) Pay or reimburse the reasonable expenses, as determined
 435 by the anatomical board, incurred by a funeral establishment or

580-02033-13

2013370c1

436 removal service licensed under chapter 497 for the removal,
 437 storage, and transportation ~~any person delivering the bodies as~~
 438 ~~described in this chapter~~ to the anatomical board of unclaimed
 439 human remains, and is further empowered to

440 (d) Enter into contracts and perform such other acts ~~as are~~
 441 necessary for ~~to~~ the proper performance of its duties.→

442 (2) The anatomical board shall keep a complete record of
 443 all fees and other financial transactions. The University of
 444 Florida shall conduct an audit of the financial records of the
 445 anatomical board at least once every 3 years or more frequently
 446 as the university deems necessary. Within 90 days after
 447 completing an audit, the university shall provide a copy of the
 448 audit to the Department of Financial Services. The university
 449 may contract with a licensed public accounting firm to provide
 450 for the audit, which firm may be paid from the fees collected by
 451 the of said anatomical board shall be kept and audited annually
 452 by the Department of Financial Services, and a report of such
 453 audit shall be made annually to the University of Florida.

454 Section 14. Section 406.59, Florida Statutes, is amended to
 455 read:

456 406.59 Institutions receiving human remains ~~bodies.~~ ~~A No~~
 457 ~~university, school, college, teaching hospital, or institution~~
 458 ~~may not, or association shall be allowed or permitted to receive~~
 459 ~~any human remains from the anatomical board such body or bodies~~
 460 ~~as described in this chapter~~ until its facilities are have been
 461 inspected and approved by the anatomical board. Human remains
 462 ~~All such bodies~~ received by such university, school, college,
 463 teaching hospital, or institution ~~may not, or association shall~~
 464 be used for any no other purpose other than the promotion of

580-02033-13

2013370c1

465 medical education or research science.

466 Section 15. Section 406.60, Florida Statutes, is amended to
467 read:

468 406.60 Disposition of human remains bodies after use. ~~At~~
469 ~~any time~~ When human remains any body or bodies or part or parts
470 ~~of any body or bodies, as described in this chapter, shall~~ have
471 been used for, and are not ~~deemed~~ of any no further value to,
472 medical or dental education or research science, ~~then~~ the
473 anatomical board or a cinerator facility licensed under chapter
474 ~~497 person or persons having charge of said body or parts of~~
475 ~~said body~~ may dispose of the remains or any part thereof by
476 cremation.

477 Section 16. Section 406.61, Florida Statutes, is amended to
478 read:

479 406.61 Selling, buying, or conveying human remains bodies
480 outside state prohibited; exceptions; ~~7~~ penalty.-

481 (1) (a) The anatomical board may transport human remains
482 outside the state for educational or scientific purposes. ~~Any~~
483 ~~person who sells or buys any body or parts of bodies as~~
484 ~~described in this chapter or any person except a recognized~~
485 ~~Florida medical or dental school who transmits or conveys or~~
486 ~~causes to be transmitted or conveyed such body or parts of~~
487 ~~bodies to any place outside this state commits a misdemeanor of~~
488 ~~the first degree, punishable as provided in ss. 775.082 and~~
489 ~~775.083. However,~~ This chapter does not prohibit the transport
490 of anatomical board from transporting human remains, any part of
491 such remains specimens outside the state for educational or
492 scientific purposes or prohibit the transport of bodies, parts
493 of bodies, or tissue specimens in furtherance of lawful

580-02033-13

2013370c1

494 examination, investigation, or autopsy conducted pursuant to s.
495 406.11.

496 (b) A ~~Any~~ person, institution, or organization that conveys
497 human remains bodies or any part thereof ~~parts of bodies~~ into or
498 outside out of the state for medical or dental education or
499 research purposes must shall notify the anatomical board of such
500 intent and receive approval from the board.

501 (c) Notwithstanding paragraph (b), a nontransplant
502 anatomical donation organization accredited by the American
503 Association of Tissue Banks may convey human remains or any part
504 thereof into or outside the state for medical or dental
505 education or research purposes without notifying or receiving
506 approval from the anatomical board. Effective October 1, 2014, a
507 nontransplant anatomical donation organization must be
508 accredited by the American Association of Tissue Banks.

509 (d) A person who sells or buys human remains or any part
510 thereof, or a person who transmits or conveys or causes to be
511 transmitted or conveyed such remains or part thereof to any
512 place outside this state, in violation of this section commits a
513 misdemeanor of the first degree, punishable as provided in s.
514 775.082 or s. 775.083. This paragraph does not apply to a
515 recognized Florida medical or dental school.

516 (2) (a) Human remains received in this state by the
517 anatomical board or a nontransplant anatomical donation
518 organization must be accompanied by the original burial-transit
519 permit issued pursuant to s. 382.007. The remains may not be
520 dissected, segmented, or disarticulated until the district
521 medical examiner of the county in which the death occurred or
522 the remains were found grants approval pursuant to s. 406.11.

580-02033-13

2013370c1

523 (b) A nontransplant anatomical donation organization must
 524 obtain specific written consent for the dissection,
 525 segmentation, or disarticulation of any part of the remains from
 526 a person who is authorized under s. 765.512 to give such
 527 consent. Such consent must expressly state that the remains may
 528 undergo long-term preservation or extensive preparation,
 529 including, but not limited to, removal of the head, arms, legs,
 530 hands, feet, spine, organs, tissues, or fluids.

531 (3) A person, institution, or organization may not offer in
 532 exchange for human remains any monetary inducement or other
 533 valuable consideration, including goods or services, to a donor,
 534 a legally authorized person, the donor's estate, or any other
 535 third party. As used in this subsection, the term "valuable
 536 consideration" does not include, and this subsection does not
 537 prohibit, payment or reimbursement of the reasonable costs
 538 associated with the removal, storage, and transportation of
 539 human remains, including payment or reimbursement of a funeral
 540 establishment or removal service licensed under chapter 497 or
 541 the reasonable costs after use, including payment or
 542 reimbursement for the disposition of human remains pursuant to
 543 s. 406.60.

544 ~~(4)(2) An~~ Any entity accredited by the American Association
 545 of Museums may convey plastinated human remains bodies or any
 546 part thereof within, parts of bodies into, or outside ~~out of~~ the
 547 state for exhibition and public educational purposes without the
 548 consent of the anatomical board if the accredited entity:

549 (a) Notifies the anatomical board of the conveyance and the
 550 duration and location of the exhibition at least 30 days before
 551 the intended conveyance.

Page 19 of 24

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

580-02033-13

2013370c1

552 (b) Submits to the anatomical board a description of the
 553 remains bodies or any part thereof parts of bodies and the name
 554 and address of the company providing the remains bodies or any
 555 part thereof parts of bodies.

556 (c) Submits to the anatomical board documentation that the
 557 remains or each part thereof body was donated by the decedent or
 558 his or her next of kin for purposes of plastination and public
 559 exhibition, or, in lieu of such documentation, an affidavit
 560 stating that the remains or each part thereof body was donated
 561 directly by the decedent or his or her next of kin for such
 562 purposes to the company providing the remains body and that such
 563 company has a donation form on file for the remains body.

564 ~~(3) Notwithstanding paragraph (2)(c) and in lieu of the~~
 565 ~~documentation or affidavit required under paragraph (2)(c), for~~
 566 ~~a plastinated body that, before July 1, 2009, was exhibited in~~
 567 ~~this state by any entity accredited by the American Association~~
 568 ~~of Museums, such an accredited entity may submit an affidavit to~~
 569 ~~the board stating that the body was legally acquired and that~~
 570 ~~the company providing the body has acquisition documentation on~~
 571 ~~file for the body. This subsection expires January 1, 2012.~~

572 Section 17. Subsection (32) of section 497.005, Florida
 573 Statutes, is amended to read:

574 497.005 Definitions.—As used in this chapter, the term:

575 (32) "Final disposition" means the final disposal of a dead
 576 human body by earth interment, aboveground interment, cremation,
 577 burial at sea, anatomical donation, or delivery to a medical
 578 institution for lawful dissection if the medical institution or
 579 entity receiving the anatomical donation assumes responsibility
 580 for disposition after use pursuant to s. 406.60 disposal. ~~The~~

Page 20 of 24

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

580-02033-13 2013370c1

581 ~~term "Final disposition"~~ does not include the disposal or
582 distribution of cremated remains and residue of cremated
583 remains.

584 Section 18. Section 497.382, Florida Statutes, is amended
585 to read:

586 497.382 Reports of cases embalmed and bodies handled.—

587 (1) Each funeral establishment, direct disposal
588 establishment, cinerator facility, and centralized embalming
589 facility shall record monthly report on a form prescribed and
590 furnished by the licensing authority the name of the deceased
591 and such other information as may be required by rule with
592 respect to each dead human body embalmed or otherwise handled by
593 the establishment or facility. Such forms shall be signed
594 monthly by the embalmer who performs the embalming, if the body
595 is embalmed, and the funeral director in charge of the
596 establishment or facility or by the direct disposer who disposes
597 of the body and shall be maintained at the business premises of
598 the establishment or facility for inspection by division staff.
599 The licensing authority shall prescribe by rule the procedures
600 for preparing and retaining in submitting such forms
601 documentation. Reports required by this subsection shall be
602 filed by the 20th day of each month for final dispositions
603 handled the preceding month.

604 (2) Funeral directors performing disinterments shall record
605 monthly on the form specified in subsection (1) and pursuant to
606 report, using a form and procedures prescribed specified by
607 rule, the name of the deceased and such other information as may
608 be required by rule with respect to each dead human body
609 disinterred.

580-02033-13 2013370c1

610 Section 19. Subsection (2) of section 497.607, Florida
611 Statutes, is amended to read:

612 497.607 Cremation; procedure required.—

613 (2) (a) With respect to any person who intends to provide
614 for the cremation of the deceased, if, after a period of 120
615 days from the time of cremation the cremated remains have not
616 been claimed, the funeral or direct disposal establishment may
617 dispose of the cremated remains. Such disposal shall include
618 scattering them at sea or placing them in a licensed cemetery
619 scattering garden or pond or in a church columbarium or
620 otherwise disposing of the remains as provided by rule.

621 (b) A reasonable effort shall be made before such disposal
622 to determine whether the cremated remains are those of a veteran
623 of the United States Armed Forces, United States Reserve Forces,
624 or National Guard eligible for burial in a national cemetery or
625 a spouse or dependent child of a veteran eligible for burial in
626 a national cemetery.

627 (c) If the unclaimed cremated remains are those of an
628 eligible veteran or the spouse or dependent child of an eligible
629 veteran, the funeral or direct disposal establishment shall
630 arrange for the interment of the cremated remains in a national
631 cemetery. A funeral or direct disposal establishment may use the
632 assistance of a veterans' service organization for this purpose.
633 A funeral or direct disposal establishment or veterans' service
634 organization acting in good faith is not liable for any damages
635 resulting from the release of required information to determine
636 eligibility for interment.

637 (d) This subsection does not require a funeral or direct
638 disposal establishment to:

580-02033-13

2013370c1

639 1. Determine whether the cremated remains are those of a
 640 veteran if the funeral or direct disposal establishment is
 641 informed by a legally authorized person that the decedent was
 642 not a veteran.

643 2. Relinquish possession of the cremated remains to a
 644 veterans' service organization if the funeral or direct disposal
 645 establishment is informed by a legally authorized person that
 646 the decedent did not desire any funeral, ceremony, or interment-
 647 related services recognizing the decedent's service as a
 648 veteran.

649 (e) For purposes of this subsection, the term:

650 1. "Reasonable effort" includes contacting the National
 651 Cemetery Scheduling Office, the county veterans service office,
 652 the regional office of the United States Department of Veterans
 653 Affairs, or a veterans' service organization.

654 2. "Veterans' service organization" means an association,
 655 corporation, or other entity that qualifies under s. 501(c)(3)
 656 or s. 501(c)(19) of the Internal Revenue Code as a tax-exempt
 657 organization, that is organized for the benefit of veterans'
 658 burial and interment, and that is recognized by the Memorial
 659 Affairs Division of the United States Department of Veterans
 660 Affairs. The term includes a member or employee of an eligible
 661 nonprofit veterans' corporation, association, or entity that
 662 specifically assists in facilitating the identification,
 663 recovery, and interment of the unclaimed cremated remains of
 664 veterans.

665 Section 20. Subsection (1) of section 765.513, Florida
 666 Statutes, is amended to read:

667 765.513 Donees; purposes for which anatomical gifts may be

580-02033-13

2013370c1

668 made.-

669 (1) The following persons or entities may become donees of
 670 anatomical gifts of bodies or parts of them for the purposes
 671 stated:

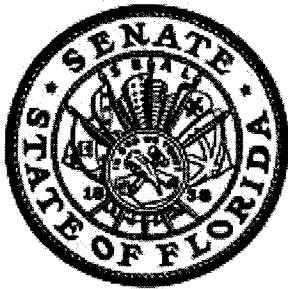
672 (a) Any procurement organization or accredited medical or
 673 dental school, college, or university for education, research,
 674 therapy, or transplantation.

675 (b) Any individual specified by name for therapy or
 676 transplantation needed by him or her.

677 (c) The anatomical board or a nontransplant anatomical
 678 donation organization, as defined in s. 406.49, for donation of
 679 the whole body for medical or dental education or research.

680 Section 21. Section 406.54, Florida Statutes, is repealed.

681 Section 22. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Senator Maria Lorts Sachs
Minority Leader Pro Tempore
District 34

Committees:

- Gaming Vice Chair
Agriculture
Education
Appropriations Subcommittee on Education
Appropriations Subcommittee on Finance and Tax
Military Affairs, Space, and Domestic Security
Regulated Industries
STAFF:
Matthew Damsky Legislative Assistant
Joshua Freeman Legislative Assistant
Caitlin Lewis Legislative Assistant

March 7, 2013

The Office of Senator Bean
302 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Bean:

I am writing to request that Senate Bill 370 (Disposition of Human Remains) be heard during the Health Policy Committee Meeting on Thursday March 14th. If you have any questions feel free to contact me or my staff. Thank you for your consideration.

Very truly yours,

[Handwritten signature of Maria Sachs]

Sen. Maria Sachs,
District 34

Cc: Sandra Stovell
Celia Georgides
Dean Alexander
James Kotas
Rebecca Stagg



ENTERED

THE FLORIDA SENATE
APPEARANCE RECORD



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

3/14/13
Meeting Date

Topic Disposition of Human Remains

Bill Number SB 370
(if applicable)

Name Evan White

Amendment Barcode _____
(if applicable)

Job Title Legislative Administrator

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Department of Veterans' Affairs

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)



10/14/2013

Meeting Date

Topic Disposition of Human Remains

Bill Number SB 370 (if applicable)

Name Charles W. Swain

Amendment Barcode (if applicable)

Job Title CEO FFCCA

Address 1006 Isadora Vela Drive Street

Phone 850.567.2541

TH FL 32304 City State Zip

E-mail

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

Representing Florid Funera Cemetery Consumer Advocacy, Inc.

Appearing at request of Chair: [] Yes [] 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.

THE FLORIDA SENATE
APPEARANCE RECORD

[Handwritten signature] ✓

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

03 14 2013
Meeting Date

Topic disposition of HUMAN REMAINS

Bill Number 370
(if applicable)

Name ROSS A. McVOY

Amendment Barcode _____
(if applicable)

Job Title GENERAL COUNSEL

Address 66 E Jefferson St #202
Street

Phone 850 567 1064 (cell)

TALLAHASSEE FL 32301
City State Zip

E-mail VMCVOY@SSCLAWfirm.COM

Speaking: For Against Information

Representing FLORIDA CEMETERY CREMATION & FUNERAL 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.

APPEARANCE RECORD

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

Meeting Date _____

Topic Funeral

Bill Number 370
(if applicable)

Name Johan Nixon

Amendment Barcode _____
(if applicable)

Job Title Consultant

Address 119 E Park Ave
Street

Phone 222 2591

Tall FL 32309
City State Zip

E-mail _____

Speaking: For Against Information

Representing Independant Funeral Dir of FL

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)

3/13

Meeting Date

Topic Disp. Human Remains

Bill Number 370  
*(if applicable)*

Name Susan Harbin

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Leg Advocate

Address 110 S. Monroe

Phone 850 922-4360

Street

Tallahassee FL

City

State

Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing FL Ass'n of Counties (FAC)

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 (10/20/11)

**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 462

**INTRODUCER:** Health Policy Committee and Senator Thompson

**SUBJECT:** Death Certificates

**DATE:** March 14, 2013      **REVISED:** \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|---------|----------------|-----------|---------------|
| 1. | Looke   | Stovall        | HP        | <b>Fav/CS</b> |
| 2. |         |                | CA        |               |
| 3. |         |                | AHS       |               |
| 4. |         |                | AP        |               |
| 5. |         |                |           |               |
| 6. |         |                |           |               |

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

- |                              |                                     |                                         |
|------------------------------|-------------------------------------|-----------------------------------------|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

CS/SB 462 amends the Florida Statutes to require the clerk of the circuit court, or local recording entity, to record permanent death certificates for local deaths which they receive electronically from the State Registrar. Any fees associated with recording such death certificates must be waived.

This bill substantially amends section 382.008, F.S.

**II. Present Situation:**

In 2012, the Department of Health (DOH) implemented a statewide Electronic Death Registration System (EDRS) and presently 98 percent of all Florida death records are filed electronically. The EDRS allows funeral directors and physicians to complete and certify death records online through a secure internet site. Funeral directors complete the demographic information on the decedent within EDRS once they have met with the family, after which the physician receives an email notification and the physician logs on to the EDRS to complete the

medical information.<sup>1</sup> Before the EDRS, the process of registering and recording a death was a slow and laborious paper process, requiring travel to and from the local county health department along with the record having to pass through multiple units within the county and state offices.<sup>2</sup>

Once on file with the DOH's Bureau of Vital Statistics (Bureau), certified copies of registered death and fetal death records are issued by the Bureau upon request. These records may be needed for families to close out estates, to claim social security benefits, to be aware of any medical issues that need to be noted for future generations, or for tracing one's family roots, etc.<sup>3</sup> Certified death records issued by the Bureau may also be delivered to the county clerk's office to be officially recorded.

In 2012, there were 405,600 requests received for certified death and fetal death records, but only a small percentage of certified death certificates issued were delivered to their respective county clerk's office by citizens who wished them recorded.<sup>4</sup> The Bureau also transmits an electronic copy of all Florida death records to the Florida Association of Clerks of Court on a bi-weekly basis. However, the information in the electronic copy is not officially recorded by the clerks of court.<sup>5</sup>

### III. Effect of Proposed Changes:

**Section 1** amends 382.008, F.S., to require:

- The State Registrar to submit an electronic file of each permanent death certificate to the Florida Association of Court Clerks and Comptrollers (Association), Inc., twice a month.
- The Association to submit that file to the clerk of the circuit court, or recording entity, for each county.
- The clerk of the circuit court, or recording entity, to record into the public record the permanent certificate of death for each death that occurred in their respective county.
- The clerk of the circuit court, or recording entity, to waive any fees associated with recording those death certificates.

**Section 2** creates an effective date of July 1, 2013.

### IV. Constitutional Issues:

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

None.

---

<sup>1</sup> Electronic Death Registration System Brochure, found at:

[http://www.doh.state.fl.us/Planning\\_eval/Vital\\_Statistics/EDRS/EDRSBrochure4web.pdf](http://www.doh.state.fl.us/Planning_eval/Vital_Statistics/EDRS/EDRSBrochure4web.pdf), last visited on Mar. 11, 2013.

<sup>2</sup> Electronic Death Registration System, found at:

[http://www.doh.state.fl.us/Planning\\_eval/Vital\\_Statistics/EDRS/index.html](http://www.doh.state.fl.us/Planning_eval/Vital_Statistics/EDRS/index.html), last visited Mar. 11, 2013.

<sup>3</sup> The Bureau of Vital Statistics, found at: [http://www.doh.state.fl.us/planning\\_eval/vital\\_statistics/index.html](http://www.doh.state.fl.us/planning_eval/vital_statistics/index.html), last visited on Mar. 8, 2013.

<sup>4</sup> Department of Health, Bill Analysis for SB 462, on file with the Senate Health Policy Committee, *Note: In Miami-Dade County in 2011 only 4,300 of 18,723, or 23 percent, of death certificates issued were recorded.*

<sup>5</sup> *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 462 may create an indeterminate fiscal impact on local clerks of the court stemming from an extra workload generated by recording the death certificates mandated by this bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

**CS by Health Policy on March 14, 2013:**

The CS substantially amends SB 462 to:

- Require the State Registrar to submit an electronic file of each permanent death certificate to the Florida Association of Court Clerks and Comptrollers (Association), Inc., twice a month.
- Require the Association to submit that file to the clerk of the circuit court, or recording entity, for each county.
- Require the clerk of the circuit court, or recording entity, to record into the public record the permanent certificate of death for each death that occurred in their respective county.
- Require the clerk of the circuit court, or recording entity, to waive any fees associated with recording those death certificates.

- Delete provisions requiring counties to pay fees associated with filing permanent death certificates.
- Delete provisions requiring the local registrar to record each issued permanent death certificate.

B. Amendments:

None.

---

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

---



LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 03/14/2013 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (7) is added to section 382.008, Florida Statutes, to read:

382.008 Death and fetal death registration.-

(7) The State Registrar shall electronically submit twice each month to the Florida Association of Court Clerks and Comptrollers, Inc., a data file of each permanent certificate of death or fetal death that is filed in each county, excluding any information that is confidential and exempt from s. 119.07(1).



The Florida Association of Court Clerks and Comptrollers, Inc., shall electronically submit the data file to the clerk of the circuit court, or the local entity that records documents in the public record, for each county. The clerk of the circuit court, or the local recording entity, shall record the permanent death certificate for each death that occurred within their respective county. The clerk of the circuit court shall waive all fees and service charges associated with recording any permanent death certificates mandated by this paragraph.

Section 2. This act shall take effect July 1, 2013.

===== 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 death certificates; amending s. 382.008, F.S.; requiring the State Registrar to electronically transfer a data file of permanent death certificates to the Florida Association of Court Clerks and Comptrollers, Inc.; requiring the Association to submit that data file to the clerk of the circuit court, or local recording entity, for each county; requiring the clerk of the circuit court, or local recording entity, to record the permanent death certificate for each death that occurred within their respective county; requiring the clerk of the circuit court, or local recording entity, to waive associated fees; providing an effective date.

By Senator Thompson

12-00709-13

2013462\_\_

1 A bill to be entitled  
 2 An act relating to death certificates; amending s.  
 3 28.222, F.S.; providing for a service charge for the  
 4 recording of certain death certificates; amending s.  
 5 382.008, F.S.; requiring each permanent certificate of  
 6 death or fetal death, excluding any information that  
 7 is confidential and exempt from public records  
 8 requirements, to be recorded in the public records of  
 9 the county in which it is issued; providing an  
 10 effective date.

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

13  
 14 Section 1. Paragraph (g) of subsection (3) of section  
 15 28.222, Florida Statutes, is amended to read:

16 28.222 Clerk to be county recorder.-

17 (3) The clerk of the circuit court shall record the  
 18 following kinds of instruments presented to him or her for  
 19 recording, upon payment of the service charges prescribed by  
 20 law:

21 (g) Certified copies of death certificates authorized for  
 22 issuance by the Department of Health which exclude the  
 23 information that is confidential under s. 382.008, and certified  
 24 copies of death certificates issued by another state whether or  
 25 not they exclude the information described as confidential in s.  
 26 382.008. For each death certificate automatically recorded as  
 27 required by s. 382.008, the clerk shall receive from the board  
 28 of county commissioners or other governing body of the county  
 29 the service charge prescribed by law for the recording.

Page 1 of 2

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

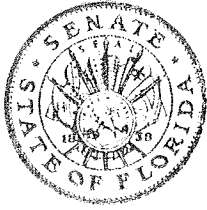
12-00709-13

2013462\_\_

30 Section 2. Subsection (7) is added to section 382.008,  
 31 Florida Statutes, to read:  
 32 382.008 Death and fetal death registration.-  
 33 (7) Each permanent certificate of death or fetal death,  
 34 excluding any information that is confidential and exempt from  
 35 s. 119.07(1), shall, upon issuance, be recorded by the local  
 36 registrar in the public records of the county in which it is  
 37 issued as provided in chapter 28.  
 38 Section 3. This act shall take effect July 1, 2013.

Page 2 of 2

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



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR GERALDINE F. THOMPSON**  
12th District

**COMMITTEES:**  
Appropriations Subcommittee on General  
Government, *Vice Chair*  
Community Affairs, *Vice Chair*  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Children, Families, and Elder Affairs  
Commerce and Tourism  
Transportation

**JOINT COMMITTEE:**  
Joint Administrative Procedures Committee

February 8, 2013

The Honorable Aaron Bean  
302 Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Dear Chair Bean:

I respectfully request SB 462—Death Certificates be placed on the agenda of the Health Policy Committee as soon as possible.

Florida has no legal requirements for local governments to automatically record death certificates. This has created problems such as properties receiving homestead exemptions after the owner's death.

This bill will require each certificate of death to be recorded by the local registrar in the public records of the county. The Clerk of Courts shall receive a service charge from their county commission to cover the cost of the recording.

Thank you for your consideration.

Sincerely,

Senator Geraldine Thompson, District 12  
GT:dr

cc: Sandra Stovall

**REPLY TO:**

511 W. South Street, Suite 204, Orlando, Florida 32805 (407) 245-1511 FAX: (407) 245-1513  
 224 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

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

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



THE FLORIDA SENATE  
**APPEARANCE RECORD**



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

3/14/2013

*Meeting Date*

Topic \_\_\_\_\_

Bill Number 462

*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_

*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

*Street*

SAINT PETERSBURG      FLORIDA      33705

E-mail JUSTICE2JESUS@YAHOO.COM

*City*

*State*

*Zip*

Speaking:     For     Against     Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

**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 966

**INTRODUCER:** Health Policy Committee and Senator Bean

**SUBJECT:** Health Care

**DATE:** March 14, 2013      **REVISED:** \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|---------|----------------|-----------|---------------|
| 1. | Looke   | Stovall        | HP        | <b>Fav/CS</b> |
| 2. |         |                | AP        |               |
| 3. |         |                |           |               |
| 4. |         |                |           |               |
| 5. |         |                |           |               |
| 6. |         |                |           |               |

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

- |                              |                                     |                                         |
|------------------------------|-------------------------------------|-----------------------------------------|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

CS/SB 966 amends various sections of the Florida Statutes to:

- Update those sections with the most current names for CARF International and the Joint Commission and add the American Osteopathic Association/Healthcare Facilities Accreditation Program to those organizations specifically recognized as accrediting organizations.
- Designate the Florida Hospital Sanford-Burnham Translational Research Institute for Metabolism and Diabetes (Institute) as a resource for research in the prevention and treatment of diabetes.
- Strike language requiring drug-testing laboratories to submit a monthly report to the Agency for Health Care Administration (AHCA).
- Allow hospitals, ambulatory surgical centers, and mobile surgical facilities to pay inspection fees at times other than the time of inspection.
- Repeal s. 395.1046, F.S., which grants the AHCA duplicative authority to investigate complaints related to access to emergency services and care;
- Strike obsolete language regarding the AHCA’s list of primary and comprehensive stroke centers.

- Exempt all state operated hospitals, rather than only hospitals run by the Department of Corrections (DOC), from the annual assessments on net operating revenues for inpatient and outpatient services to fund public medical assistance required by s. 395.701, F.S.
- Repeal the Public Medical Assistance Trust Fund (PMATF) assessment on healthcare entities which was found to be unconstitutional.
- Exempt state operated hospitals from filing the Florida Hospital Uniform Reporting System (FHURS) report.
- Exempt state operated hospitals from an assessment used to fund the data collection and analysis activities of the AHCA.
- Create the Standardized Credentials Collection and Verification Program for physicians.
- Exclude the transfer of prescription drugs from a hospital's supplier to a prescription drug repackager from the definition of the term wholesale distribution.
- Require any person located outside of the state that repackages and delivers prescription drugs into Florida obtain a prescription drug repackager permit.
- Require that the pedigree paper for prescription drugs transferred to and from a repackager contain the specified information.

This bill substantially amends sections 112.0455, 154.11, 394.741, 395.0161, 395.3038, 395.701, 395.7016, 397.403, 400.925, 400.9935, 402.7306, 408.061, 408.20, 409.966, 409.967, 430.80, 440.102, 440.13, 499.003, 499.01, 499.01212, 627.645, 627.668, 627.669, 627.736, 641.495, and 766.1015, F.S., creates sections 385.2035 and 456.0125, F.S., and repeals sections 395.1046 and 395.7015, F.S.

## II. Present Situation:

### **Accrediting Organizations**

In 2012, the Legislature enacted 2012-66, L.O.F., which substantially amended the definition of "accrediting organizations" in s. 395.002, F.S. Prior to the passage of 2012-66, L.O.F., the statutes defined "accrediting organizations" as the Joint Commission on Accreditation of Healthcare Organizations, the American Osteopathic Association, the Commission on Accreditation of Rehabilitation Facilities, and the Accreditation Association for Ambulatory Health Care, Inc. Currently, the definition includes any national accreditation organizations that are approved by the Centers for Medicare and Medicaid Services and whose standards incorporate comparable licensure regulations required by the state.

### ***The Joint Commission***

The Joint Commission is a non-profit organization that accredits and certifies more than 20,000 health care organizations and programs in the United States.<sup>1</sup> The Joint Commission was established in 1951 as the Joint Commission on Accreditation of Hospitals. In 1987, the organization changed its name to the Joint Commission on Accreditation of Healthcare Organizations in order to reflect an expanded scope of activities. In 2007, the Joint Commission on Accreditation of Healthcare Organizations shortened its name to the Joint Commission in order

---

<sup>1</sup> About the Joint Commission, found at: [http://www.jointcommission.org/about\\_us/about\\_the\\_joint\\_commission\\_main.aspx](http://www.jointcommission.org/about_us/about_the_joint_commission_main.aspx), last visited on Mar. 4, 2013.

to refresh its brand identity.<sup>2</sup> Currently, the Florida Statutes refer to the Joint Commission on Accreditation of Healthcare Organizations.

### ***CARF International***

What is now known as CARF International was founded in 1966 as the Commission on Accreditation of Rehabilitation Facilities when the National Association of Sheltered Workshops and Homebound Programs and the Association of Rehabilitation Centers agreed to pool their interests.<sup>3</sup> The CARF International is a nonprofit accreditor of health and human services providers in multiple areas including aging services, behavioral health, and medical rehabilitation. The CARF family of organizations currently accredits close to 50,000 programs in countries across the globe.<sup>4</sup> Currently, the Florida Statutes still refer to CARF - the Commission on Accreditation of Rehabilitation Facilities or something similar.

### ***The American Osteopathic Association / Healthcare Facilities Accreditation Program***

The Healthcare Facilities Accreditation Program (HFAP) is a program that is authorized by the Centers for Medicare and Medicaid Services (CMS) to survey hospitals for compliance with the Medicare Conditions of Participation. HFAP has maintained its authority to survey hospitals for compliance with the Medicare Conditions of Participation and Coverage since 1965 and meets or exceeds the standards required by CMS/Medicare to provide accreditation to hospitals, ambulatory care/surgical facilities, mental health facilities, physical rehabilitation facilities, clinical laboratories and critical access hospitals. The HFAP also provides certification reviews for Primary Stroke Centers.<sup>5</sup> The HFAP facility accreditation process consists of five basic steps including application, survey, reporting deficiencies, creating a plan of corrections/correct action response, and accreditation.<sup>6</sup>

### **Forensic Toxicology Laboratory Monthly Statistical Report**

Florida law requires licensed forensic toxicology laboratories to submit monthly statistical reports<sup>7</sup> to the AHCA. These reports include information including the lab's name, license number, address, the total number of specimens received for testing, the total number of specimens received but not tested, and the total number of confirmed positive reports for various listed drugs. A laboratory that fails to submit the monthly report is subject to administrative action under 59A-24.006(12)(a), F.A.C.

### **The Florida Hospital Sanford-Burnham Translational Research Institute for Metabolism and Diabetes**

The Institute focuses on translational research and has established advanced technology resources and formed clinical and pharmaceutical research partnerships to drive their discoveries

---

<sup>2</sup> The Joint Commission History, found at: [http://www.jointcommission.org/assets/1/6/Joint\\_Commission\\_History.pdf](http://www.jointcommission.org/assets/1/6/Joint_Commission_History.pdf), last visited on Mar. 4, 2013

<sup>3</sup> History of CARF International, found at: <http://www.carf.org/About/History/>, last visited on Mar. 4, 2013.

<sup>4</sup> CARF International, found at: <http://www.carf.org/About/WhoWeAre/>, last visited on Mar. 4, 2013.

<sup>5</sup> HFAP Overview, found at <http://www.hfap.org/about/overview.aspx>, last visited on Mar. 14, 2013.

<sup>6</sup> Accreditation by HFAP, found at <http://www.hfap.org/WhyHfap/workingwithhfap.aspx>, last visited on Mar. 14, 2013.

<sup>7</sup> The report form can be found at [http://ahca.myflorida.com/MCHO/Health\\_Facility\\_Regulation/Laboratory\\_Licensure/docs/tox%20monthly%20report%20form.pdf](http://ahca.myflorida.com/MCHO/Health_Facility_Regulation/Laboratory_Licensure/docs/tox%20monthly%20report%20form.pdf), last visited on Mar. 14, 2013.

toward patient application.<sup>8</sup> The Institute was designated as a resource for research in the prevention and treatment of diabetes in the 2012 Appropriations Act<sup>9</sup> but has not been permanently designated as such in the Florida Statutes. According to Sanford-Burnham and Florida Hospital, such a designation will provide a competitive advantage for the Institute over research facilities in other states when applying for federal grants.<sup>10</sup>

### **Complaint Investigation for Access to Emergency Services and Care**

Section 395.1046, F.S., requires the AHCA to investigate any complaint against a hospital for violation of provisions relating to access to emergency services and care which the AHCA deems to be legally sufficient. The section also specifies that the AHCA must prepare an investigative report with findings and recommendations concerning the existence of probable cause and that the complaint and all information obtained by the AHCA during the investigation are exempt from public records laws for specified periods of time. The section does not define the terms legally sufficient or probable cause. Presently, the AHCA is also granted authority to investigate all complaints against a hospital by s. 408.811, F.S.

### **Standardized Credentials Collection and Verification Program for Physicians**

Currently, the Division of Medical Quality Assurance (MQA or division) within the DOH presently licenses and regulates medical doctors (ch. 458, F.S.) and osteopathic physicians (ch. 459, F.S.). Proof of state licensure as a physician is one of several credentials health care entities evaluate when deciding whether to grant staff appointments, reappointments, clinical privileges, etc., or enter into other contractual relationships with physicians. The division verifies licensure and disciplinary history, but does not credential physicians. Section 456.077, F.S., provides that citations may be issued when authorized by rule of the board<sup>11</sup> or the DOH. Rules are promulgated by the board or the DOH through the rule making process to identify violations that may be resolved by citation, including fines or other penalties to be imposed.

A similar credentialing program was created by legislative mandate in 1998.<sup>12</sup> The development of the program, which became known as the CoreSTAT Credentialing program, began in 1998 and was repealed and no longer required practitioners to report core credentials data on July 1, 2002.<sup>13</sup> The CoreSTAT program was created as an internal MQA program, and a work unit was established to manage the program. Contracted vendors were also solicited to implement the statutory requirements. Over the four years it operated, the total cost of the CoreSTAT Credentialing program was \$14,712,566 and the total revenues collected for the program was \$173,815. The CoreSTAT program was funded by the MQA Trust Fund.<sup>14</sup>

---

<sup>8</sup> About the Diabetes and Obesity Center, found at: <http://www.sanfordburnham.org/research/diabetes/Pages/doc.aspx>, last visited on Mar. 4, 2013.

<sup>9</sup> 2012-118, L.O.F.

<sup>10</sup> According to telephone conversations with Elizabeth Gianini, representing Sanford-Burnham, and Amy Christian, representing Florida Hospital, on Mar. 4, 2013.

<sup>11</sup> The term "board" is defined in s. 456.001(1), F.S.

<sup>12</sup> 98-226, L.O.F.

<sup>13</sup> Changes to CoreSTAT, found at: <http://www.doh.state.fl.us/mqa/corestat/index.htm>, last visited on Mar. 14, 2013.

<sup>14</sup> Department of Health bill analysis for amendment 373656 for SB 966, dated Mar. 13, 2013, on file with the Senate Health Policy Committee.

## Prescription Drug Repackaging

The Department of Business and Professional Regulation's (DBPR) Division of Drugs, Devices and Cosmetics regulates and permits prescription drug repackaging in the state of Florida. The term repackaging when applied to prescription drugs includes repacking or otherwise changing the container, wrapper or labeling to further the distribution of the drug, device, or cosmetic.<sup>15</sup> Some examples of repackaging include:

- Altering a packaging component that is or may be in direct contact with the drug, device, or cosmetic. For example, repackaging from bottles of 1,000 to bottles of 100.
- Altering a manufacturer's package for sale under a label different from the manufacturer. For example, a kit that contains an injectable vaccine from manufacturer A; a syringe from manufacturer B; alcohol from manufacturer C; and sterile gauze from manufacturer D packaged together and marketed as an immunization kit under a label of manufacturer Z.
- Altering a package of multiple-units, which the manufacturer intended to be distributed as one unit, for sale or transfer to a person engaged in the further distribution of the product.<sup>16</sup>

Prescription drug repackagers that are located in Florida<sup>17</sup> must be permitted by the DBPR. In order to obtain a permit an applicant must have an FDA establishment registration number, pass an onsite inspection (unless the applicant holds a Prescription Drug Manufacturer permit), and pay a fee of \$1,500 for a two year permit and a one-time \$150 pre-permit inspection fee.<sup>18</sup>

Prescription drug repackagers must comply with all the requirements of, and rules and regulations promulgated under, part I of ch. 499, F.S., that apply to wholesale distributors as well as all appropriate state and federal good manufacturing procedures.<sup>19</sup>

### III. Effect of Proposed Changes:

**Sections 2, 4, 11-14, 17-19, 21, and 26-31** amend ss. 154.11, 394.741, 397.403, 400.925, 400.9935, 402.7306, 409.966, 409.967, 430.80, 440.13, 627.645, 627.668, 627.669, 627.736, 641.495, and 766.1015, F.S., respectively, to update those sections with the most current names for CARF International and the Joint Commission, add the American Osteopathic Association/Healthcare Facilities Accreditation Program to those organizations specifically recognized as accrediting organizations (except for s. 409.967, F.S.), and to make other technical revisions.

**Section 1** amends s. 112.0455, F.S., to strike language requiring drug-testing laboratories to submit a monthly report with statistical information regarding the testing of employees and job applicants to the AHCA and detailing what information must be included in the report.

<sup>15</sup> Prescription Drug Repackager, found at: <http://www.myfloridalicense.com/dbpr/ddc/PrescriptionDrugRepackager.html>, last visited on Mar. 14, 2013.

<sup>16</sup> Supra, n. 14

<sup>17</sup> s. 499.01(b), F.S.

<sup>18</sup> Supra, n. 14

<sup>19</sup> s. 499.01(b)(1) and (2), F.S.

**Section 3** creates s. 385.2035, F.S., to designate the Florida Hospital Sanford-Burnham Translational Research Institute for Metabolism and Diabetes as a resource for research in the prevention and treatment of diabetes.

**Section 5** amends s. 395.0161, F.S., to allow hospitals, ambulatory surgical centers, and mobile surgical facilities to pay inspection fees at times other than the time of inspection.

**Section 6** repeals s. 395.1046, F.S., which grants the AHCA duplicative authority to investigate complaints related to access to emergency services and care which it finds to be legally sufficient. This section also details the AHCA's duties when investigating such complaints and details what information, under what circumstances, and for how long information related to the complaint and investigation is exempt from public records.

**Section 7** amends s. 395.3038, F.S., to update those sections with the most current names for CARF International and the Joint Commission, add the American Osteopathic Association/Healthcare Facilities Accreditation Program to those organizations specifically recognized as accrediting organizations, and to strike obsolete language regarding the AHCA's list of primary and comprehensive stroke centers.

**Section 8** amends s. 395.701, F.S., to exempt all state operated hospitals, rather than only hospitals run by the DOC, from the annual assessments on net operating revenues for inpatient and outpatient services, required by s. 395.701, F.S., which fund public medical assistance.

**Section 9** repeals s. 395.7015, F.S., which levies the PMATF assessment on healthcare entities. The PMATF was found to be unconstitutional by Florida 1st District Court of Appeal in 2003 but the language remains in the Florida Statutes.<sup>20</sup>

**Section 10** amends s. 395.7016, F.S., to conform this section to changes made by section 9 of the bill.

**Section 15** amends s. 408.061, F.S., to exempt state operated hospitals from filing the FHURS report which the AHCA uses to assess the amount required for the annual assessments on net operating revenues for inpatient and outpatient services required. State operated hospitals are made exempt from that assessment by section 8 of the bill.

**Section 16** amends s. 408.20, F.S., to exempt state operated hospitals, rather than only hospitals run by the Department of Children and Families, the DOH, and the DOC, from an assessment used to fund the data collection and analysis activities of the AHCA.

**Section 20** amends s. 440.102, F.S., to strike language requiring drug-testing laboratories to submit a monthly report to conform this section to changes made in section 1 of the bill. This section also strikes language requiring laboratories that analyze initial drug testing specimens comply with certain requirements to conform to changes made to the statutes in 2009.<sup>21</sup>

---

<sup>20</sup> A full summary of the case law finding the PMATF unconstitutional is on file with the Senate Health Policy Committee.

<sup>21</sup> Ch. 2009-127, L.O.F., removed the requirement for initial drug-free workplace testing to be performed by a licensed forensic toxicology laboratory from s. 440.102(5)(d), F.S.

**Section 22** creates s. 456.0125, F.S., which establishes the Standardized Credentials Collection and Verification Program for physicians. This section:

- Establishes legislative intent to establish a repository for physician core credentials data<sup>22</sup> to ensure that such data is collected only once, unless a correction, update, or modification is required and that the credentials collection and verification entity,<sup>23</sup> the DOH, health care entities, and physicians work cooperatively to ensure the integrity and accuracy of the program;
- Mandates that all physicians, certain insurance companies,<sup>24</sup> health maintenance organizations as defined in s. 641.19, F.S., entities licenses under ch. 395, F.S.,<sup>25</sup> and accredited medical schools in the state must participate in the program;
- Defines terms;
- Requires physicians to report all core credentials data to the credentials collection and verification entity (CCVE) under contract with the DOH and sets penalties for failing to do so.<sup>26</sup>
- Requires physicians to update their core credentials data within 45 days after any corrections, updates, or modifications are made to the data.
- Requires, by January 1, 2014, the DOH to contract with one CCVE that must be fully accredited or certified<sup>27</sup> by a national accrediting organization<sup>28</sup> and allows the DOH to terminate the contract if the CCVE fails to maintain accreditation, or provide data authorized by a physician. The CCVE must also maintain liability insurance.
- Requires the CCVE to maintain a complete current file of all core credentials data on each physician and must develop standardized forms for physicians to report and authorize the release of their credentials.
- Allows the CCVE to release any confidential or exempt data to a health care entity, if authorized by the physician.
- Mandates that health care entities receive all physician core credentials data from the CCVE, including corrections, updates, and modifications.
- Restricts healthcare entities from requesting core credentials from physicians.
- States that the section does not restrict health care entities from approving or denying an application for hospital staff membership, clinical privileges, or participation in managed care networks and that a health care entity may rely upon the data it receives from the CCVE to meet primary source requirements of national accrediting organizations.
- Allows the DOH to adopt rules to develop and implement the program.

<sup>22</sup> As defined in paragraph (2)(b) of section 22 of the bill and as modified by DOH rule.

<sup>23</sup> As defined in paragraph (2)(d) of section 22 of the bill.

<sup>24</sup> Insurance companies that operate in accordance with ch. 624, F.S., that offer health insurance coverage under part VI of ch. 627, F.S.

<sup>25</sup> Including hospitals, ambulatory surgical centers, and mobile surgical facilities, and trauma centers.

<sup>26</sup> Failure to report initial core credentials data and updated data is grounds for disciplinary action under the physician's licensing chapter. If a licensee or person applying for initial licensure fails to report the DOH or the board may refuse to issue a license or issue a citation pursuant to s. 456.077, F.S., and assess a fine.

<sup>27</sup> As defined in paragraph (2)(a) of section 22 of the bill.

<sup>28</sup> As defined in paragraph (2)(g) of section 22 of the bill.

**Section 23** amends s. 499.003, F.S., to exempt the transfer of prescription drugs from a hospital's supplier to a prescription drug repackager from the definition of the term wholesale distribution and make conforming changes.

**Section 24** amends s. 499.01, F.S., to require any person located outside of the state who repackages and delivers prescription drugs into Florida pursuant to the provisions in section 23 of the bill to obtain a prescription drug repackager permit.

**Section 25** amends s. 499.01212, F.S., to require that the pedigree paper for prescription drugs transferred to a repackager pursuant to section 23 of the bill include:

- A statement that the distributor purchased the prescription drug directly from the manufacturer;
- The manufacturer's national drug code identifier;
- The name and address of the distributor and purchaser of the prescription drug;
- The name of the drug as it appears on the label; and
- The quantity, dosage form, and strength of the drug.

This section also requires the pedigree paper for prescription drugs transferred from a repackager to a hospital or health care entity pursuant to section 23 of the bill include:

- A statement that the distributor purchased the prescription drug directly from the manufacturer;
- The lot numbers of the prescription drugs;
- The name and address of the repackager;
- The repackager's signature;
- The date of receipt; and
- The name and address of the person authorized by law to purchase prescription drugs for the purpose of administering or dispensing the drugs.

**Section 32** provides an effective date of July 1, 2013.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

**B. Private Sector Impact:**

CS/SB 966 will have an indeterminate positive fiscal impact on various private health care organizations and practitioners.

Many of the bill's provisions, such as reducing various reports certain hospitals and forensic toxicology laboratories must file, will reduce the overall regulatory burden on Florida's health care system.

Creating the Standardized Credentials Collection and Verification Program will streamline the process of finding and obtaining physician's credentials which will likely have a positive fiscal impact on physicians who will only be required to submit their information one time. However, the program language makes no mention of any fees the CCVE will be allowed to charged to physicians and health care facilities for submitting and obtaining credentials.

Also, provisions in the bill allow hospitals and health care entities to use out of state prescription drug repackagers and to send drugs directly from their supplier to the repackager. These provisions will likely have a positive fiscal impact by streamlining the prescription drug repackaging process and allow hospitals to maximize potential savings in drug pricing.

**C. Government Sector Impact:**

The DOH has indicated that it will require additional resources to implement the Standardized Credentials Collection and Verification Program.<sup>29</sup> A similar program (the CoreSTAT program) which the DOH operated from 1998 to 2002, cost the state \$14,712,566 over that time period and only generated \$173,815. However, the program implemented by CS/SB 966 will likely differ in cost from the CoreSTAT program. CS/SB 966 will likely cost less than the CoreSTAT program due to the requirement in CS/SB 966 that the DOH must contract with a CCVE (rather than creating the program in house) and due to advances in electronic filing and storage technology since 1998. Also, adding language to section 22 of the bill specifying how much the DOH will pay to the CCVE and the fees that the CCVE may charge could further reduce the cost to the DOH.

**VI. Technical Deficiencies:**

The language added to the flush-left text in section 25 of this bill creates requirements for what must be included in the pedigree paper when drugs are transferred from a prescription drug repackager to a hospital or health care entity pursuant to s. 499.003(54)(b)7, F.S. However, the

---

<sup>29</sup> Supra, n. 14

referenced section only pertains to prescription drugs transferred from a hospital or health care entity (or their distributor) to the prescription drug repackager, and not in the reverse. This language in the bill could be clarified by adding additional language so that it would read:

When a repackager further distributes prescription drugs to the hospital or other health care entity from which it received the drugs pursuant to s. 499.003(54)(b)7,...

## VII. Related Issues:

The provisions created in section 22 of this bill require the DOH to contract with a CCVE to collect physician credentials data, but do not state who must pay for collecting such data or if the CCVE may collect any fees related to its activities. Adding these provisions in might reduce any potential fiscal impact to the DOH from this bill.

## VIII. Additional Information:

### A. Committee Substitute – Statement of Substantial Changes:

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

#### **CS by Health Policy on March 14, 2013:**

The CS substantially amends SB 966 to:

- Add the American Osteopathic Association/Healthcare Facilities Accreditation Program to those organizations specifically recognized as accrediting organizations in ss. 154.11, 394.741, 395.3038, 397.403, 400.925, 400.9935, 402.7306, 409.966, 430.80, 440.13, 627.645, 627.668, 627.669, 627.736, 641.495, and 766.1015, F.S.;
- Strike language requiring drug-testing laboratories to submit a monthly report to the AHCA;
- Allow hospitals, ambulatory surgical centers, and mobile surgical facilities to pay inspection fees at times other than the time of inspection;
- Repeal s. 395.1046, F.S., which grants the AHCA duplicative authority to investigate complaints related to access to emergency services and care;
- Strike obsolete language regarding the AHCA's list of primary and comprehensive stroke centers;
- Exempt all state operated hospitals, rather than only hospitals run by the DOC, from the annual assessments on net operating revenues for inpatient and outpatient services to fund public medical assistance required by s. 395.701, F.S.;
- Repeal an annual assessment on healthcare entities which was found to be unconstitutional;
- Exempt state operated hospitals from filing the FHURS report which the AHCA uses to assess the amount required for the annual assessments on net operating revenues for inpatient and outpatient services required; State operated hospitals are made exempt from that assessment by section 8 of the bill;
- Exempt state operated hospitals from an assessment used to fund the data collection and analysis activities of the AHCA; and
- Create the Standardized Credentials Collection and Verification Program for physicians.
- Restricts healthcare entities from requesting core credentials from physicians.

- Exempt the transfer of prescription drugs from a hospital's supplier to a prescription drug repackager from the definition of the term wholesale distribution and make conforming changes.
- Require any person located outside of the state who repackages and delivers prescription drugs into Florida to obtain a prescription drug repackager permit.
- Require that the pedigree paper for prescription drugs transferred to a repackager and from a repackager contain the specified information.

B. Amendments:

None.



LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 03/15/2013 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraphs (d) and (e) of subsection (12) of  
section 112.0455, Florida Statutes, are amended to read:

112.0455 Drug-Free Workplace Act.—

(12) DRUG-TESTING STANDARDS; LABORATORIES.—

~~(d) The laboratory shall submit to the Agency for Health  
Care Administration a monthly report with statistical  
information regarding the testing of employees and job  
applicants. The reports shall include information on the methods  
of analyses conducted, the drugs tested for, the number of~~



~~positive and negative results for both initial and confirmation  
tests, and any other information deemed appropriate by the  
Agency for Health Care Administration. No monthly report shall  
identify specific employees or job applicants.~~

~~(d)(e)~~ Laboratories shall provide technical assistance to  
the employer, employee, or job applicant for the purpose of  
interpreting any positive confirmed test results which could  
have been caused by prescription or nonprescription medication  
taken by the employee or job applicant.

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

154.11 Powers of board of trustees.—

(1) The board of trustees of each public health trust shall  
be deemed to exercise a public and essential governmental  
function of both the state and the county and in furtherance  
thereof it shall, subject to limitation by the governing body of  
the county in which such board is located, have all of the  
powers necessary or convenient to carry out the operation and  
governance of designated health care facilities, including, but  
without limiting the generality of, the foregoing:

(n) To appoint originally the staff of physicians to  
practice in a any designated facility owned or operated by the  
board and to approve the bylaws and rules to be adopted by the  
medical staff of a any designated facility owned and operated by  
the board, such governing regulations to be in accordance with  
the standards of the Joint Commission, the American Osteopathic  
Association/Healthcare Facilities Accreditation Program, or a  
national accrediting organization that is approved by the  
Centers for Medicare and Medicaid Services and whose standards



373656

43 incorporate comparable licensure regulations required by the  
44 state on the Accreditation of Hospitals which provide, among  
45 other things, for the method of appointing additional staff  
46 members and for the removal of staff members.

47 Section 3. Section 385.2035, Florida Statutes, is created  
48 to read:

49 385.2035 Resource for research in the prevention and  
50 treatment of diabetes.—The Florida Hospital Sanford-Burnham  
51 Translational Research Institute for Metabolism and Diabetes is  
52 designated as a resource in this state for research in the  
53 prevention and treatment of diabetes.

54 Section 4. Subsection (2) of section 394.741, Florida  
55 Statutes, is amended to read:

56 394.741 Accreditation requirements for providers of  
57 behavioral health care services.—

58 (2) Notwithstanding any provision of law to the contrary,  
59 accreditation shall be accepted by the agency and department in  
60 lieu of the agency's and department's facility licensure onsite  
61 review requirements and shall be accepted as a substitute for  
62 the department's administrative and program monitoring  
63 requirements, except as required by subsections (3) and (4),  
64 for:

65 (a) An ~~Any~~ organization from which the department purchases  
66 behavioral health care services ~~which~~ that is accredited by the  
67 Joint Commission, American Osteopathic Association/the  
68 Healthcare Facilities Accreditation Program, a national  
69 accrediting organization that is approved by the Centers for  
70 Medicare and Medicaid Services and whose standards incorporate  
71 comparable licensure regulations required by the state, ~~on~~



373656

72 ~~Accreditation of Healthcare Organizations~~ or the Council on  
73 Accreditation for Children and Family Services, or CARF  
74 International for the ~~has those~~ services that are being  
75 purchased by the department ~~accredited by CARF—the~~  
76 ~~Rehabilitation Accreditation Commission.~~

77 (b) A ~~Any~~ mental health facility licensed by the agency or  
78 a ~~any~~ substance abuse component licensed by the department ~~which~~  
79 that is accredited by the Joint Commission, the American  
80 Osteopathic Association/Healthcare Facilities Accreditation  
81 Program, a national accrediting organization that is approved by  
82 the Centers for Medicare and Medicaid Services and whose  
83 standards incorporate comparable licensure regulations required  
84 by the state, ~~CARF International on Accreditation of Healthcare~~  
85 Organizations, ~~CARF—the Rehabilitation Accreditation Commission,~~  
86 or the Council on Accreditation of Children and Family Services.

87 (c) A ~~Any~~ network of providers from which the department or  
88 the agency purchases behavioral health care services accredited  
89 by the Joint Commission, the American Osteopathic  
90 Association/Healthcare Facilities Accreditation Program, a  
91 national accrediting organization that is approved by the  
92 Centers for Medicare and Medicaid Services and whose standards  
93 incorporate comparable licensure regulations required by the  
94 state, ~~CARF International on Accreditation of Healthcare~~  
95 Organizations, ~~CARF—the Rehabilitation Accreditation Commission,~~  
96 the Council on Accreditation of Children and Family Services, or  
97 the National Committee for Quality Assurance. A provider  
98 organization ~~that~~, ~~which~~ is part of an accredited network, is  
99 afforded the same rights under this part.

100 Section 5. Subsection (3) of section 395.0161, Florida



101 Statutes, is amended to read:  
102 395.0161 Licensure inspection.—  
103 (3) In accordance with s. 408.805, an applicant or licensee  
104 shall pay a fee for each license application submitted under  
105 this part, part II of chapter 408, and applicable rules. With  
106 the exception of state-operated licensed facilities, each  
107 facility licensed under this part shall pay to the agency, ~~at~~  
108 ~~the time of inspection,~~ the following fees:  
109 (a) *Inspection for licensure.*—A fee shall be paid which is  
110 not less than \$8 per hospital bed, nor more than \$12 per  
111 hospital bed, except that the minimum fee shall be \$400 per  
112 facility.  
113 (b) *Inspection for lifesafety only.*—A fee shall be paid  
114 which is not less than 75 cents per hospital bed, nor more than  
115 \$1.50 per hospital bed, except that the minimum fee shall be \$40  
116 per facility.  
117 Section 6. Section 395.1046, Florida Statutes, is repealed.  
118 Section 7. Section 395.3038, Florida Statutes, is amended  
119 to read:  
120 395.3038 State-listed primary stroke centers and  
121 comprehensive stroke centers; notification of hospitals.—  
122 (1) The agency shall make available on its website and to  
123 the department a list of the name and address of each hospital  
124 that meets the criteria for a primary stroke center and the name  
125 and address of each hospital that meets the criteria for a  
126 comprehensive stroke center. The list of primary and  
127 comprehensive stroke centers must ~~shall~~ include only those  
128 hospitals that attest in an affidavit submitted to the agency  
129 that the hospital meets the named criteria, or those hospitals



130 that attest in an affidavit submitted to the agency that the  
131 hospital is certified as a primary or a comprehensive stroke  
132 center by the Joint Commission, the American Osteopathic  
133 Association/Healthcare Facilities Accreditation Program, or a  
134 national accrediting organization that is approved by the  
135 Centers for Medicare and Medicaid Services and whose standards  
136 incorporate comparable licensure regulations required by the  
137 state on Accreditation of Healthcare Organizations.  
138 (2) (a) If a hospital no longer chooses to meet the criteria  
139 for a primary or comprehensive stroke center, the hospital shall  
140 notify the agency and the agency shall immediately remove the  
141 hospital from the list.  
142 (b)1. This subsection does not apply if the hospital is  
143 unable to provide stroke treatment services for a period of time  
144 not to exceed 2 months. The hospital shall immediately notify  
145 all local emergency medical services providers when the  
146 temporary unavailability of stroke treatment services begins and  
147 when the services resume.  
148 2. If stroke treatment services are unavailable for more  
149 than 2 months, the agency shall remove the hospital from the  
150 list of primary or comprehensive stroke centers until the  
151 hospital notifies the agency that stroke treatment services have  
152 been resumed.  
153 ~~(3) The agency shall notify all hospitals in this state by~~  
154 ~~February 15, 2005, that the agency is compiling a list of~~  
155 ~~primary stroke centers and comprehensive stroke centers in this~~  
156 ~~state. The notice shall include an explanation of the criteria~~  
157 ~~necessary for designation as a primary stroke center and the~~  
158 ~~criteria necessary for designation as a comprehensive stroke~~



373656

159 center. The notice shall also advise hospitals of the process by  
160 which a hospital might be added to the list of primary or  
161 comprehensive stroke centers.

162 (3)(4) The agency shall adopt by rule criteria for a  
163 primary stroke center which are substantially similar to the  
164 certification standards for primary stroke centers of the Joint  
165 Commission, the American Osteopathic Association/Healthcare  
166 Facilities Accreditation Program, or a national accrediting  
167 organization that is approved by the Centers for Medicare and  
168 Medicaid Services and whose standards incorporate comparable  
169 licensure regulations required by the state on Accreditation of  
170 Healthcare Organizations.

171 (4)(5) The agency shall adopt by rule criteria for a  
172 comprehensive stroke center. However, if the Joint Commission,  
173 the American Osteopathic Association/Healthcare Facilities  
174 Accreditation Program, or a national accrediting organization  
175 that is approved by the Centers for Medicare and Medicaid  
176 Services and whose standards incorporate comparable licensure  
177 regulations required by the state on Accreditation of Healthcare  
178 Organizations establishes criteria for a comprehensive stroke  
179 center, the agency shall establish criteria for a comprehensive  
180 stroke center which are substantially similar to those criteria  
181 established by the Joint Commission, the American Osteopathic  
182 Association/Healthcare Facilities Accreditation Program, or such  
183 national accrediting organization on Accreditation of Healthcare  
184 Organizations.

185 (5)(6) This act is not a medical practice guideline and may  
186 not be used to restrict the authority of a hospital to provide  
187 services for which it is licensed has received a license under



373656

188 chapter 395. The Legislature intends that all patients be  
189 treated individually based on each patient's needs and  
190 circumstances.

191 Section 8. Paragraph (c) of subsection (1) of section  
192 395.701, Florida Statutes, is amended to read:

193 395.701 Annual assessments on net operating revenues for  
194 inpatient and outpatient services to fund public medical  
195 assistance; administrative fines for failure to pay assessments  
196 when due; exemption.—

197 (1) For the purposes of this section, the term:

198 (c) "Hospital" means a health care institution as defined  
199 in s. 395.002(12), but does not include any hospital operated by  
200 a state the agency or the Department of Corrections.

201 Section 9. Section 395.7015, Florida Statutes, is repealed.

202 Section 10. Section 395.7016, Florida Statutes, is amended  
203 to read:

204 395.7016 Annual appropriation.—The Legislature shall  
205 appropriate each fiscal year from either the General Revenue  
206 Fund or the Agency for Health Care Administration Tobacco  
207 Settlement Trust Fund an amount sufficient to replace the funds  
208 lost due to reduction by chapter 2000-256, Laws of Florida, of  
209 the assessment on other health care entities under s. 395.7015,  
210 and the reduction by chapter 2000-256 in the assessment on  
211 hospitals under s. 395.701, and to maintain federal approval of  
212 the reduced amount of funds deposited into the Public Medical  
213 Assistance Trust Fund under s. 395.701, as state match for the  
214 state's Medicaid program.

215 Section 11. Subsection (3) of section 397.403, Florida  
216 Statutes, is amended to read:



217 397.403 License application.-  
218 (3) The department shall accept proof of accreditation by  
219 CARF International, the Commission on Accreditation of  
220 Rehabilitation Facilities (CARF) or the Joint Commission, the  
221 American Osteopathic Association/Healthcare Facilities  
222 Accreditation Program, or a national accrediting organization  
223 that is approved by the Centers for Medicare and Medicaid  
224 Services and whose standards incorporate comparable licensure  
225 regulations required by the state; or through ~~another any other~~  
226 nationally recognized certification process that is acceptable  
227 to the department and meets the minimum licensure requirements  
228 under this chapter, in lieu of requiring the applicant to submit  
229 the information required by paragraphs (1) (a)-(c).

230 Section 12. Subsection (1) of section 400.925, Florida  
231 Statutes, is amended to read:

232 400.925 Definitions.-As used in this part, the term:

233 (1) "Accrediting organizations" means the Joint Commission,  
234 the American Osteopathic Association/Healthcare Facilities  
235 Accreditation Program, a national accrediting organization that  
236 is approved by the Centers for Medicare and Medicaid Services  
237 and whose standards incorporate comparable licensure regulations  
238 required by the state, ~~on Accreditation of Healthcare~~  
239 Organizations or other national accrediting accreditation  
240 agencies whose standards for accreditation are comparable to  
241 those required by this part for licensure.

242 Section 13. Paragraph (g) of subsection (1) and subsection  
243 (7) of section 400.9935, Florida Statutes, are amended to read:

244 400.9935 Clinic responsibilities.-

245 (1) Each clinic shall appoint a medical director or clinic



246 director who shall agree in writing to accept legal  
247 responsibility for the following activities on behalf of the  
248 clinic. The medical director or the clinic director shall:

249 (g) Conduct systematic reviews of clinic billings to ensure  
250 that the billings are not fraudulent or unlawful. Upon discovery  
251 of an unlawful charge, the medical director or clinic director  
252 shall take immediate corrective action. If the clinic performs  
253 only the technical component of magnetic resonance imaging,  
254 static radiographs, computed tomography, or positron emission  
255 tomography, and provides the professional interpretation of such  
256 services, in a fixed facility that is accredited by the Joint  
257 Commission, the American Osteopathic Association/Healthcare  
258 Facilities Accreditation Program, ~~on Accreditation of Healthcare~~  
259 Organizations or the Accreditation Association for Ambulatory  
260 Health Care, Inc., or a national accrediting organization that  
261 is approved by the Centers for Medicare and Medicaid Services  
262 and whose standards incorporate comparable licensure regulations  
263 required by the state; and the American College of Radiology;  
264 and if, in the preceding quarter, the percentage of scans  
265 performed by that clinic which was billed to all personal injury  
266 protection insurance carriers was less than 15 percent, the  
267 chief financial officer of the clinic may, in a written  
268 acknowledgment provided to the agency, assume the responsibility  
269 for the conduct of the systematic reviews of clinic billings to  
270 ensure that the billings are not fraudulent or unlawful.

271 (7) (a) Each clinic engaged in magnetic resonance imaging  
272 services must be accredited by the Joint Commission, the  
273 American Osteopathic Association/Healthcare Facilities  
274 Accreditation Program, a national accrediting organization that



275 is approved by the Centers for Medicare and Medicaid Services  
276 and whose standards incorporate comparable licensure regulations  
277 required by the state, on Accreditation of Healthcare  
278 Organizations, the American College of Radiology, or the  
279 Accreditation Association for Ambulatory Health Care, Inc.,  
280 within 1 year after licensure. A clinic that is accredited by  
281 the American College of Radiology or that is within the original  
282 1-year period after licensure and replaces its core magnetic  
283 resonance imaging equipment shall be given 1 year after the date  
284 on which the equipment is replaced to attain accreditation.  
285 However, a clinic may request a single, 6-month extension if it  
286 provides evidence to the agency establishing that, for good  
287 cause shown, such clinic cannot be accredited within 1 year  
288 after licensure, and that such accreditation will be completed  
289 within the 6-month extension. After obtaining accreditation as  
290 required by this subsection, each such clinic must maintain  
291 accreditation as a condition of renewal of its license. A clinic  
292 that files a change of ownership application must comply with  
293 the original accreditation timeframe requirements of the  
294 transferor. The agency shall deny a change of ownership  
295 application if the clinic is not in compliance with the  
296 accreditation requirements. When a clinic adds, replaces, or  
297 modifies magnetic resonance imaging equipment and the  
298 accrediting accreditation agency requires new accreditation, the  
299 clinic must be accredited within 1 year after the date of the  
300 addition, replacement, or modification but may request a single,  
301 6-month extension if the clinic provides evidence of good cause  
302 to the agency.

303 (b) The agency may deny the application or revoke the



304 license of an any entity formed for the purpose of avoiding  
305 compliance with the accreditation provisions of this subsection  
306 and whose principals were previously principals of an entity  
307 that was unable to meet the accreditation requirements within  
308 the specified timeframes. The agency may adopt rules as to the  
309 accreditation of magnetic resonance imaging clinics.

310 Section 14. Subsections (1) and (2) of section 402.7306,  
311 Florida Statutes, are amended to read:

312 402.7306 Administrative monitoring of child welfare  
313 providers, and administrative, licensure, and programmatic  
314 monitoring of mental health and substance abuse service  
315 providers.—The Department of Children and Family Services, the  
316 Department of Health, the Agency for Persons with Disabilities,  
317 the Agency for Health Care Administration, community-based care  
318 lead agencies, managing entities as defined in s. 394.9082, and  
319 agencies who have contracted with monitoring agents shall  
320 identify and implement changes that improve the efficiency of  
321 administrative monitoring of child welfare services, and the  
322 administrative, licensure, and programmatic monitoring of mental  
323 health and substance abuse service providers. For the purpose of  
324 this section, the term "mental health and substance abuse  
325 service provider" means a provider who provides services to this  
326 state's priority population as defined in s. 394.674. To assist  
327 with that goal, each such agency shall adopt the following  
328 policies:

329 (1) Limit administrative monitoring to once every 3 years  
330 if the child welfare provider is accredited by the Joint  
331 Commission, a national accrediting organization that is approved  
332 by the Centers for Medicare and Medicaid Services and whose



333 standards incorporate comparable licensure regulations required  
334 by the state, CARF International ~~the Commission on Accreditation~~  
335 ~~of Rehabilitation Facilities~~, or the Council on Accreditation.  
336 If the accrediting body does not require documentation that the  
337 state agency requires, that documentation shall be requested by  
338 the state agency and may be posted by the service provider on  
339 the data warehouse for the agency's review. Notwithstanding the  
340 survey or inspection of an accrediting organization specified in  
341 this subsection, an agency specified in and subject to this  
342 section may continue to monitor the service provider as  
343 necessary with respect to:

344 (a) Ensuring that services for which the agency is paying  
345 are being provided.

346 (b) Investigating complaints or suspected problems and  
347 monitoring the service provider's compliance with ~~any~~ resulting  
348 negotiated terms and conditions, including provisions relating  
349 to consent decrees that are unique to a specific service and are  
350 not statements of general applicability.

351 (c) Ensuring compliance with federal and state laws,  
352 federal regulations, or state rules if such monitoring does not  
353 duplicate the accrediting organization's review pursuant to  
354 accreditation standards.

355  
356 Medicaid certification and precertification reviews are exempt  
357 from this subsection to ensure Medicaid compliance.

358 (2) Limit administrative, licensure, and programmatic  
359 monitoring to once every 3 years if the mental health or  
360 substance abuse service provider is accredited by the Joint  
361 Commission, the American Osteopathic Association/Healthcare



362 Facilities Accreditation Program, a national accrediting  
363 organization that is approved by the Centers for Medicare and  
364 Medicaid Services and whose standards incorporate comparable  
365 licensure regulations required by the state, CARF International  
366 ~~the Commission on Accreditation of Rehabilitation Facilities~~, or  
367 the Council on Accreditation. If the services being monitored  
368 are not the services for which the provider is accredited, the  
369 limitations of this subsection do not apply. If the accrediting  
370 body does not require documentation that the state agency  
371 requires, that documentation, except documentation relating to  
372 licensure applications and fees, must be requested by the state  
373 agency and may be posted by the service provider on the data  
374 warehouse for the agency's review. Notwithstanding the survey or  
375 inspection of an accrediting organization specified in this  
376 subsection, an agency specified in and subject to this section  
377 may continue to monitor the service provider as necessary with  
378 respect to:

379 (a) Ensuring that services for which the agency is paying  
380 are being provided.

381 (b) Investigating complaints, identifying problems that  
382 would affect the safety or viability of the service provider,  
383 and monitoring the service provider's compliance with ~~any~~  
384 resulting negotiated terms and conditions, including provisions  
385 relating to consent decrees that are unique to a specific  
386 service and are not statements of general applicability.

387 (c) Ensuring compliance with federal and state laws,  
388 federal regulations, or state rules if such monitoring does not  
389 duplicate the accrediting organization's review pursuant to  
390 accreditation standards.



391  
392 Federal certification and precertification reviews are exempt  
393 from this subsection to ensure Medicaid compliance.  
394 Section 15. Subsection (4) of section 408.061, Florida  
395 Statutes, is amended to read:  
396 408.061 Data collection; uniform systems of financial  
397 reporting; information relating to physician charges;  
398 confidential information; immunity.-  
399 (4) Within 120 days after the end of its fiscal year, each  
400 health care facility, excluding continuing care facilities,  
401 hospitals operated by state agencies, and nursing homes as  
402 defined in s. 408.07(14) and (37), shall file with the agency,  
403 on forms adopted by the agency and based on the uniform system  
404 of financial reporting, its actual financial experience for that  
405 fiscal year, including expenditures, revenues, and statistical  
406 measures. Such data may be based on internal financial reports  
407 which are certified to be complete and accurate by the provider.  
408 However, hospitals' actual financial experience shall be their  
409 audited actual experience. Every nursing home shall submit to  
410 the agency, in a format designated by the agency, a statistical  
411 profile of the nursing home residents. The agency, in  
412 conjunction with the Department of Elderly Affairs and the  
413 Department of Health, shall review these statistical profiles  
414 and develop recommendations for the types of residents who might  
415 more appropriately be placed in their homes or other  
416 noninstitutional settings.  
417 Section 16. Subsection (4) of section 408.20, Florida  
418 Statutes, is amended to read:  
419 408.20 Assessments; Health Care Trust Fund.-



420 (4) Hospitals operated by state agencies ~~the Department of~~  
421 ~~Children and Family Services, the Department of Health, or the~~  
422 ~~Department of Corrections~~ are exempt from the assessments  
423 required under this section.  
424 Section 17. Paragraph (a) of subsection (3) of section  
425 409.966, Florida Statutes, is amended to read:  
426 409.966 Eligible plans; selection.-  
427 (3) QUALITY SELECTION CRITERIA.-  
428 (a) The invitation to negotiate must specify the criteria  
429 and the relative weight of the criteria that will be used for  
430 determining the acceptability of the reply and guiding the  
431 selection of the organizations with which the agency negotiates.  
432 In addition to criteria established by the agency, the agency  
433 shall consider the following factors in the selection of  
434 eligible plans:  
435 1. Accreditation by the National Committee for Quality  
436 Assurance, the Joint Commission, the American Osteopathic  
437 Association/Healthcare Facilities Accreditation Program, a  
438 national accrediting organization that is approved by the  
439 Centers for Medicare and Medicaid Services and whose standards  
440 incorporate comparable licensure regulations required by the  
441 state, or another nationally recognized accrediting body.  
442 2. Experience serving similar populations, including the  
443 organization's record in achieving specific quality standards  
444 with similar populations.  
445 3. Availability and accessibility of primary care and  
446 specialty physicians in the provider network.  
447 4. Establishment of community partnerships with providers  
448 that create opportunities for reinvestment in community-based



449 services.

450 5. Organization commitment to quality improvement and  
451 documentation of achievements in specific quality improvement  
452 projects, including active involvement by organization  
453 leadership.

454 6. Provision of additional benefits, particularly dental  
455 care and disease management, and other initiatives that improve  
456 health outcomes.

457 7. Evidence that an eligible plan has written agreements or  
458 signed contracts or has made substantial progress in  
459 establishing relationships with providers before the plan  
460 submitting a response.

461 8. Comments submitted in writing by an any enrolled  
462 Medicaid provider relating to a specifically identified plan  
463 participating in the procurement in the same region as the  
464 submitting provider.

465 9. Documentation of policies and procedures for preventing  
466 fraud and abuse.

467 10. The business relationship an eligible plan has with  
468 another any other eligible plan that responds to the invitation  
469 to negotiate.

470 Section 18. Paragraph (e) of subsection (2) of section  
471 409.967, Florida Statutes, is amended to read:

472 409.967 Managed care plan accountability.—

473 (2) The agency shall establish such contract requirements  
474 as are necessary for the operation of the statewide managed care  
475 program. In addition to any other provisions the agency may deem  
476 necessary, the contract must require:

477 (e) *Continuous improvement.*—The agency shall establish



478 specific performance standards and expected milestones or  
479 timelines for improving performance over the term of the  
480 contract.

481 1. Each managed care plan shall establish an internal  
482 health care quality improvement system, including enrollee  
483 satisfaction and disenrollment surveys. The quality improvement  
484 system must include incentives and disincentives for network  
485 providers.

486 2. Each plan must collect and report the Health Plan  
487 Employer Data and Information Set (HEDIS) measures, as specified  
488 by the agency. These measures must be published on the plan's  
489 website in a manner that allows recipients to reliably compare  
490 the performance of plans. The agency shall use the HEDIS  
491 measures as a tool to monitor plan performance.

492 3. Each managed care plan must be accredited by the  
493 National Committee for Quality Assurance, the Joint Commission,  
494 a national accrediting organization that is approved by the  
495 Centers for Medicare and Medicaid Services and whose standards  
496 incorporate comparable licensure regulations required by the  
497 state, or another nationally recognized accrediting body, or  
498 have initiated the accreditation process, within 1 year after  
499 the contract is executed. The agency shall suspend automatic  
500 assignment under ss. 409.977 and 409.984 for a any plan not  
501 accredited within 18 months after executing the contract,~~the~~  
502 ~~agency shall suspend automatic assignment under s. 409.977 and~~  
503 ~~409.984.~~

504 4. By the end of the fourth year of the first contract  
505 term, the agency shall issue a request for information to  
506 determine whether cost savings could be achieved by contracting



507 for plan oversight and monitoring, including analysis of  
508 encounter data, assessment of performance measures, and  
509 compliance with other contractual requirements.  
510 Section 19. Paragraph (b) of subsection (3) of section  
511 430.80, Florida Statutes, is amended to read:  
512 430.80 Implementation of a teaching nursing home pilot  
513 project.—  
514 (3) To be designated as a teaching nursing home, a nursing  
515 home licensee must, at a minimum:  
516 (b) Participate in a nationally recognized accrediting  
517 ~~accreditation~~ program and hold a valid accreditation, such as  
518 the accreditation awarded by the Joint Commission ~~on~~  
519 ~~Accreditation of Healthcare Organizations, a national~~  
520 accrediting organization that is approved by the Centers for  
521 Medicare and Medicaid Services and whose standards incorporate  
522 comparable licensure regulations required by the state, or, at  
523 the time of initial designation, possess a Gold Seal Award as  
524 conferred by the state on its licensed nursing home;  
525 Section 20. Paragraphs (b) and (d) of subsection (9) of  
526 section 440.102, Florida Statutes, are amended to read:  
527 440.102 Drug-free workplace program requirements.—The  
528 following provisions apply to a drug-free workplace program  
529 implemented pursuant to law or to rules adopted by the Agency  
530 for Health Care Administration:  
531 (9) DRUG-TESTING STANDARDS FOR LABORATORIES.—  
532 (b) A laboratory may analyze ~~initial or~~ confirmation test  
533 specimens only if:  
534 1. The laboratory obtains a license under part II of  
535 chapter 408 and s. 112.0455(17). Each applicant for licensure



536 and each licensee must comply with all requirements of this  
537 section, part II of chapter 408, and applicable rules.  
538 2. The laboratory has written procedures to ensure the  
539 chain of custody.  
540 3. The laboratory follows proper quality control  
541 procedures, including, but not limited to:  
542 a. The use of internal quality controls, including the use  
543 of samples of known concentrations which are used to check the  
544 performance and calibration of testing equipment, and periodic  
545 use of blind samples for overall accuracy.  
546 b. An internal review and certification process for drug  
547 test results, conducted by a person qualified to perform that  
548 function in the testing laboratory.  
549 c. Security measures implemented by the testing laboratory  
550 to preclude adulteration of specimens and drug test results.  
551 d. Other necessary and proper actions taken to ensure  
552 reliable and accurate drug test results.  
553 ~~(d) The laboratory shall submit to the Agency for Health~~  
554 ~~Care Administration a monthly report with statistical~~  
555 ~~information regarding the testing of employees and job~~  
556 ~~applicants. The report must include information on the methods~~  
557 ~~of analysis conducted, the drugs tested for, the number of~~  
558 ~~positive and negative results for both initial tests and~~  
559 ~~confirmation tests, and any other information deemed appropriate~~  
560 ~~by the Agency for Health Care Administration. A monthly report~~  
561 ~~must not identify specific employees or job applicants.~~  
562 Section 21. Paragraph (a) of subsection (2) of section  
563 440.13, Florida Statutes, is amended to read:  
564 440.13 Medical services and supplies; penalty for



565 violations; limitations.—  
566 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—  
567 (a) Subject to the limitations specified elsewhere in this  
568 chapter, the employer shall furnish to the employee such  
569 medically necessary remedial treatment, care, and attendance for  
570 such period as the nature of the injury or the process of  
571 recovery may require, which is in accordance with established  
572 practice parameters and protocols of treatment as provided for  
573 in this chapter, including medicines, medical supplies, durable  
574 medical equipment, orthoses, prostheses, and other medically  
575 necessary apparatus. Remedial treatment, care, and attendance,  
576 including work-hardening programs or pain-management programs  
577 accredited by CARF International, the ~~Commission on~~  
578 ~~Accreditation of Rehabilitation Facilities~~ or Joint Commission,  
579 the American Osteopathic Association/Healthcare Facilities  
580 Accreditation Program, or a national accrediting organization  
581 that is approved by the Centers for Medicare and Medicaid  
582 Services and whose standards incorporate comparable licensure  
583 regulations required by the state, ~~on the Accreditation of~~  
584 ~~Health Organizations~~ or pain-management programs affiliated with  
585 medical schools, shall be considered as covered treatment only  
586 when such care is given based on a referral by a physician as  
587 defined in this chapter. Medically necessary treatment, care,  
588 and attendance does not include chiropractic services in excess  
589 of 24 treatments or rendered 12 weeks beyond the date of the  
590 initial chiropractic treatment, whichever comes first, unless  
591 the carrier authorizes additional treatment or the employee is  
592 catastrophically injured.  
593



594 Failure of the carrier to timely comply with this subsection  
595 shall be a violation of this chapter and the carrier shall be  
596 subject to penalties as provided for in s. 440.525.  
597 Section 22. Section 456.0125, Florida Statutes, is created  
598 to read:  
599 456.0125 Standardized Credentials Collection and  
600 Verification Program for physicians.—  
601 (1) It is the intent of the Legislature to establish the  
602 Standardized Credentials Collection and Verification Program to  
603 designate an entity to act as a repository for the core  
604 credentials data of physicians and to ensure that this  
605 information is collected only once unless a correction, update,  
606 or modification is required. The Legislature further intends  
607 that the credentials collection and verification entity, the  
608 department, health care entities, and physicians work  
609 cooperatively to ensure the integrity and accuracy of the  
610 program. A physician, an insurance company operating in  
611 accordance with chapter 624 which offers health insurance  
612 coverage under part VI of chapter 627, a health maintenance  
613 organization as defined in s. 641.19, or an entity licensed  
614 under chapter 395 must participate in the program.  
615 (2) As used in this section, the term:  
616 (a) "Accredited" or "certified" means approved by a  
617 national accrediting organization as defined in this subsection,  
618 another nationally recognized and accepted organization  
619 authorized by the department to assess and certify a credentials  
620 collection and verification program, or another entity or  
621 organization that verifies the credentials of a physician.  
622 (b) "Core credentials data" means data that are verified by



623 a primary source as defined in this subsection and that include  
624 professional education, professional training, licensure,  
625 current Drug Enforcement Administration certification, specialty  
626 board certification, Educational Commission for Foreign Medical  
627 Graduates certification, and final disciplinary action reported  
628 pursuant to s. 456.039(1)(a)8.

629 (c) "Credential" or "credentialing" means the process by  
630 which the qualifications of a licensed physician or an applicant  
631 for licensure as a physician are assessed and verified.

632 (d) "Credentials collection and verification entity" or  
633 "CCVE" means an organization controlled by a statewide  
634 association of physicians of all specialties licensed pursuant  
635 to chapter 458 or chapter 459 which has been in existence since  
636 July 1, 2003, and was selected by the department to collect and  
637 store credentialing data, documents, and information.

638 (e) "Drug Enforcement Administration certification" means  
639 certification issued by the Drug Enforcement Administration for  
640 purposes of administration or prescription of controlled  
641 substances. Submission of such certification under this section  
642 must include evidence that the certification is current and must  
643 also include all current addresses to which the certification is  
644 issued.

645 (f) "Health care entity" means:

- 646 1. A health care facility licensed pursuant to chapter 395;
- 647 2. An entity licensed by the Department of Insurance as a  
648 prepaid health care plan, a health maintenance organization, or  
649 an insurer that provides coverage for health care services  
650 through a network of health care providers or similar  
651 organizations licensed under chapter 627, chapter 636, chapter



652 641, or chapter 651; or

653 3. An accredited medical school in the state.

654 (g) "National accrediting organization" means an  
655 organization that awards accreditation or certification to  
656 hospitals, managed care organizations, CCVEs, or other health  
657 care entities, including, but not limited to, the Joint  
658 Commission, the American Osteopathic Association/Healthcare  
659 Facilities Accreditation Program, URAC, and the National  
660 Committee for Quality Assurance (NCQA).

661 (h) "Physician" means a person licensed or, for  
662 credentialing purposes only, a person applying for licensure  
663 pursuant to chapter 458 or chapter 459.

664 (i) "Primary source verification" means verification of  
665 professional qualifications based on evidence obtained directly  
666 from the issuing source of the applicable qualification, any  
667 other source deemed as a primary source for verification by the  
668 department, or an accrediting organization as defined in this  
669 subsection approved by the department.

670 (j) "Professional training" means an internship, residency,  
671 or fellowship related to the profession for which the physician  
672 is licensed or seeking licensure.

673 (k) "Specialty board certification" means certification in  
674 a specialty issued by a specialty board that is recognized by a  
675 board as defined in s. 456.001 and that regulates the profession  
676 for which the physician is licensed or seeking licensure.

677 (3) The Standardized Credentials Collection and  
678 Verification Program is established and shall be administered by  
679 the department, as follows:

680 (a) Each physician shall report all core credentials data



681 to the CCVE and notify the CCVE within 45 days after any  
682 corrections, updates, or modifications are made to the core  
683 credentials data. Failure to report and update information as  
684 required under this paragraph constitutes a ground for  
685 disciplinary action under the respective licensing chapter and  
686 s. 456.072(1)(k). If a licensee or person applying for initial  
687 licensure fails to report and update information as required  
688 under this paragraph, the department or board, as appropriate,  
689 may:  
690 1. For a person applying for initial licensure, refuse to  
691 issue a license.  
692 2. For a licensee, issue a citation pursuant to s. 456.077  
693 and assess a fine, as determined by rule by the board or the  
694 department.  
695 (b) The department:  
696 1. By January 1, 2014, shall contract with one CCVE to  
697 collect and store credentialing data, documents, and  
698 information. The CCVE must be fully accredited or certified by a  
699 national accrediting organization. If a CCVE fails to maintain  
700 full accreditation or certification or to provide data  
701 authorized by a physician, the department may terminate the  
702 contract with the CCVE.  
703 2. Shall require the CCVE to maintain liability insurance  
704 sufficient to meet the certification or accreditation  
705 requirements established under this section.  
706 3. May designate by rule additional elements of the core  
707 credentials data required under this section.  
708 (c) The CCVE shall:  
709 1. Maintain a complete current file of applicable core



710 credentials data on each physician.  
711 2. If authorized by the physician, release the core  
712 credentials data and any corrections, updates, and modifications  
713 to the data that are otherwise confidential or exempt from the  
714 provisions of s. 119.07(1) and s. 24(a), Art. I of the State  
715 Constitution to a health care entity.  
716 3. Develop standardized forms on which a physician may  
717 initially report and authorize the release of core credentials  
718 data and subsequently report corrections, updates, and  
719 modifications to that data.  
720 (d) A health care entity:  
721 1. Shall use the CCVE to obtain core credentials data,  
722 including corrections, updates, and modifications, on any  
723 physician being considered for or renewing membership in,  
724 privileges with, or participation in any plan or program with  
725 the health care entity.  
726 2. May not request core credentials data from the  
727 physician.  
728 (4) This section does not restrict the authority of a  
729 health care entity to credential, approve, or deny an  
730 application for hospital staff membership, clinical privileges,  
731 or participation in a managed care network.  
732 (5) A health care entity may rely upon any data that has  
733 been verified by the CCVE to meet the primary source  
734 verification requirements of a national accrediting  
735 organization.  
736 (6) The department shall adopt rules necessary to develop  
737 and implement the program established under this section.  
738 Section 23. Subsection (1) of section 627.645, Florida



373656

739 Statutes, is amended to read:

740 627.645 Denial of health insurance claims restricted.—  
741 (1) ~~A~~ No claim for payment under a health insurance policy  
742 or self-insured program of health benefits for treatment, care,  
743 or services in a licensed hospital ~~that which~~ is accredited by  
744 the Joint Commission, the American Osteopathic  
745 Association/Healthcare Facilities Accreditation Program, a  
746 national accrediting organization that is approved by the  
747 Centers for Medicare and Medicaid Services and whose standards  
748 incorporate comparable licensure regulations required by the  
749 state, on the Accreditation of Hospitals, the American  
750 Osteopathic Association, or CARF International may not the  
751 Commission on the Accreditation of Rehabilitative Facilities  
752 ~~shall~~ be denied because such hospital lacks major surgical  
753 facilities and is primarily of a rehabilitative nature, if such  
754 rehabilitation is specifically for treatment of physical  
755 disability.

756 Section 24. Paragraph (c) of subsection (2) of section  
757 627.668, Florida Statutes, is amended to read:

758 627.668 Optional coverage for mental and nervous disorders  
759 required; exception.—

760 (2) Under group policies or contracts, inpatient hospital  
761 benefits, partial hospitalization benefits, and outpatient  
762 benefits consisting of durational limits, dollar amounts,  
763 deductibles, and coinsurance factors shall not be less favorable  
764 than for physical illness generally, except that:

765 (c) Partial hospitalization benefits shall be provided  
766 under the direction of a licensed physician. For purposes of  
767 this part, the term "partial hospitalization services" is



373656

768 defined as those services offered by a program that is  
769 accredited by the Joint Commission, the American Osteopathic  
770 Association/Healthcare Facilities Accreditation Program, or a  
771 national accrediting organization approved by the Centers for  
772 Medicare and Medicaid Services and whose standards incorporate  
773 comparable licensure regulations required by the state; ~~on~~  
774 ~~Accreditation of Hospitals (JCAH)~~ or that is in compliance with  
775 equivalent standards. Alcohol rehabilitation programs accredited  
776 by the Joint Commission ~~on Accreditation of Hospitals~~ or  
777 approved by the state and licensed drug abuse rehabilitation  
778 programs shall also be qualified providers under this section.  
779 In a given any benefit year, if partial hospitalization services  
780 or a combination of inpatient and partial hospitalization are  
781 used utilized, the total benefits paid for all such services may  
782 ~~shall~~ not exceed the cost of 30 days after of inpatient  
783 hospitalization for psychiatric services, including physician  
784 fees, which prevail in the community in which the partial  
785 hospitalization services are rendered. If partial  
786 hospitalization services benefits are provided beyond the limits  
787 set forth in this paragraph, the durational limits, dollar  
788 amounts, and coinsurance factors thereof need not be the same as  
789 those applicable to physical illness generally.

790 Section 25. Subsection (3) of section 627.669, Florida  
791 Statutes, is amended to read:

792 627.669 Optional coverage required for substance abuse  
793 impaired persons; exception.—

794 (3) The benefits provided under this section are shall be  
795 applicable only if treatment is provided by, or under the  
796 supervision of, or is prescribed by, a licensed physician or



797 licensed psychologist and if services are provided in a program  
798 that is accredited by the Joint Commission, the American  
799 Osteopathic Association/Healthcare Facilities Accreditation  
800 Program, or a national accrediting organization that is approved  
801 by the Centers for Medicare and Medicaid Services and whose  
802 standards incorporate comparable licensure regulations required  
803 by the state ~~on Accreditation of Hospitals~~ or that is approved  
804 by the state.

805 Section 26. Paragraph (a) of subsection (1) of section  
806 627.736, Florida Statutes, is amended to read:

807 627.736 Required personal injury protection benefits;  
808 exclusions; priority; claims.-

809 (1) REQUIRED BENEFITS.-An insurance policy complying with  
810 the security requirements of s. 627.733 must provide personal  
811 injury protection to the named insured, relatives residing in  
812 the same household, persons operating the insured motor vehicle,  
813 passengers in the motor vehicle, and other persons struck by the  
814 motor vehicle and suffering bodily injury while not an occupant  
815 of a self-propelled vehicle, subject to subsection (2) and  
816 paragraph (4) (e), to a limit of \$10,000 in medical and  
817 disability benefits and \$5,000 in death benefits resulting from  
818 bodily injury, sickness, disease, or death arising out of the  
819 ownership, maintenance, or use of a motor vehicle as follows:

820 (a) *Medical benefits.*-Eighty percent of all reasonable  
821 expenses for medically necessary medical, surgical, X-ray,  
822 dental, and rehabilitative services, including prosthetic  
823 devices and medically necessary ambulance, hospital, and nursing  
824 services if the individual receives initial services and care  
825 pursuant to subparagraph 1. within 14 days after the motor



826 vehicle accident. The medical benefits provide reimbursement  
827 only for:

828 1. Initial services and care that are lawfully provided,  
829 supervised, ordered, or prescribed by a physician licensed under  
830 chapter 458 or chapter 459, a dentist licensed under chapter  
831 466, or a chiropractic physician licensed under chapter 460 or  
832 that are provided in a hospital or in a facility that owns, or  
833 is wholly owned by, a hospital. Initial services and care may  
834 also be provided by a person or entity licensed under part III  
835 of chapter 401 which provides emergency transportation and  
836 treatment.

837 2. Upon referral by a provider described in subparagraph  
838 1., followup services and care consistent with the underlying  
839 medical diagnosis rendered pursuant to subparagraph 1. which may  
840 be provided, supervised, ordered, or prescribed only by a  
841 physician licensed under chapter 458 or chapter 459, a  
842 chiropractic physician licensed under chapter 460, a dentist  
843 licensed under chapter 466, or, to the extent permitted by  
844 applicable law and under the supervision of such physician,  
845 osteopathic physician, chiropractic physician, or dentist, by a  
846 physician assistant licensed under chapter 458 or chapter 459 or  
847 an advanced registered nurse practitioner licensed under chapter  
848 464. Followup services and care may also be provided by ~~any of~~  
849 the following persons or entities:

850 a. A hospital or ambulatory surgical center licensed under  
851 chapter 395.

852 b. An entity wholly owned by one or more physicians  
853 licensed under chapter 458 or chapter 459, chiropractic  
854 physicians licensed under chapter 460, or dentists licensed



855 under chapter 466 or by such practitioners and the spouse,  
856 parent, child, or sibling of such practitioners.  
857 c. An entity that owns or is wholly owned, directly or  
858 indirectly, by a hospital or hospitals.  
859 d. A physical therapist licensed under chapter 486, based  
860 upon a referral by a provider described in this subparagraph.  
861 e. A health care clinic licensed under part X of chapter  
862 400 which is accredited by the Joint Commission, the American  
863 Osteopathic Association/Healthcare Facilities Accreditation  
864 Program, a national accrediting organization that is approved by  
865 the Centers for Medicare and Medicaid Services and whose  
866 standards incorporate comparable licensure regulations required  
867 by the state, ~~on Accreditation of Healthcare Organizations, the~~  
868 American Osteopathic Association, CARF International the  
869 Commission on Accreditation of Rehabilitation Facilities, or the  
870 Accreditation Association for Ambulatory Health Care, Inc., or  
871 (I) Has a medical director licensed under chapter 458,  
872 chapter 459, or chapter 460;  
873 (II) Has been continuously licensed for more than 3 years  
874 or is a publicly traded corporation that issues securities  
875 traded on an exchange registered with the United States  
876 Securities and Exchange Commission as a national securities  
877 exchange; and  
878 (III) Provides at least four of the following medical  
879 specialties:  
880 (A) General medicine.  
881 (B) Radiography.  
882 (C) Orthopedic medicine.  
883 (D) Physical medicine.



884 (E) Physical therapy.  
885 (F) Physical rehabilitation.  
886 (G) Prescribing or dispensing outpatient prescription  
887 medication.  
888 (H) Laboratory services.  
889 3. Reimbursement for services and care provided in  
890 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician  
891 licensed under chapter 458 or chapter 459, a dentist licensed  
892 under chapter 466, a physician assistant licensed under chapter  
893 458 or chapter 459, or an advanced registered nurse practitioner  
894 licensed under chapter 464 has determined that the injured  
895 person had an emergency medical condition.  
896 4. Reimbursement for services and care provided in  
897 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a any  
898 provider listed in subparagraph 1. or subparagraph 2. determines  
899 that the injured person did not have an emergency medical  
900 condition.  
901 5. Medical benefits do not include massage as defined in s.  
902 480.033 or acupuncture as defined in s. 457.102, regardless of  
903 the person, entity, or licensee providing massage or  
904 acupuncture, and a licensed massage therapist or licensed  
905 acupuncturist may not be reimbursed for medical benefits under  
906 this section.  
907 6. The Financial Services Commission shall adopt by rule  
908 the form that must be used by an insurer and a health care  
909 provider specified in sub-subparagraph 2.b., sub-subparagraph  
910 2.c., or sub-subparagraph 2.e. to document that the health care  
911 provider meets the criteria of this paragraph. Such ~~which~~ rule  
912 must include a requirement for a sworn statement or affidavit.



913  
 914 Only insurers writing motor vehicle liability insurance in this  
 915 state may provide the required benefits of this section, and  
 916 such insurer may not require the purchase of any other motor  
 917 vehicle coverage other than the purchase of property damage  
 918 liability coverage as required by s. 627.7275 as a condition for  
 919 providing such benefits. Insurers may not require that property  
 920 damage liability insurance in an amount greater than \$10,000 be  
 921 purchased in conjunction with personal injury protection. Such  
 922 insurers shall make benefits and required property damage  
 923 liability insurance coverage available through normal marketing  
 924 channels. An insurer writing motor vehicle liability insurance  
 925 in this state who fails to comply with such availability  
 926 requirement as a general business practice violates part IX of  
 927 chapter 626, and such violation constitutes an unfair method of  
 928 competition or an unfair or deceptive act or practice involving  
 929 the business of insurance. An insurer committing such violation  
 930 is subject to the penalties provided under that part, as well as  
 931 those provided elsewhere in the insurance code.

932 Section 27. Subsection (12) of section 641.495, Florida  
 933 Statutes, is amended to read:

934 641.495 Requirements for issuance and maintenance of  
 935 certificate.—

936 (12) The provisions of part I of chapter 395 do not apply  
 937 to a health maintenance organization that, on or before January  
 938 1, 1991, provides not more than 10 outpatient holding beds for  
 939 short-term and hospice-type patients in an ambulatory care  
 940 facility for its members, provided that such health maintenance  
 941 organization maintains current accreditation by the Joint



942 ~~Commission on Accreditation of Health Care Organizations, , a~~  
 943 ~~national accrediting organization that is approved by the~~  
 944 ~~Centers for Medicare and Medicaid Services and whose standards~~  
 945 ~~incorporate comparable licensure regulations required by the~~  
 946 ~~state, the Accreditation Association for Ambulatory Health Care,~~  
 947 ~~Inc., or the National Committee for Quality Assurance.~~

948 Section 28. Subsection (2) of section 766.1015, Florida  
 949 Statutes, is amended to read:

950 766.1015 Civil immunity for members of or consultants to  
 951 certain boards, committees, or other entities.—

952 (2) Such committee, board, group, commission, or other  
 953 entity must be established in accordance with state law, ~~or~~ in  
 954 accordance with requirements of the Joint Commission, the  
 955 American Osteopathic Association/Healthcare Facilities  
 956 Accreditation Program, or a national accrediting organization  
 957 that is approved by the Centers for Medicare and Medicaid  
 958 Services and whose standards incorporate comparable licensure  
 959 regulations required by the state ~~on Accreditation of Healthcare~~  
 960 ~~Organizations~~, established and duly constituted by one or more  
 961 public or licensed private hospitals or behavioral health  
 962 agencies, or established by a governmental agency. To be  
 963 protected by this section, the act, decision, omission, or  
 964 utterance may not be made or done in bad faith or with malicious  
 965 intent.

966 Section 29. This act shall take effect July 1, 2013.

967  
 968 ===== T I T L E A M E N D M E N T =====

969 And the title is amended as follows:

970 Delete everything before the enacting clause



373656

971 and insert:

972 A bill to be entitled

973 An act relating to health care; amending s. 112.0455,  
974 F.S.; deleting a monthly reporting requirement for  
975 laboratories; amending s. 154.11, F.S.; revising  
976 references to certain accrediting organizations to  
977 conform to changes made by the act; creating s.  
978 385.2035, F.S.; designating the Florida Hospital  
979 Sanford-Burnham Translational Research Institute for  
980 Metabolism and Diabetes as a resource for diabetes  
981 research in this state; amending s. 394.741, F.S.;  
982 revising references to certain accrediting  
983 organizations to conform to changes made by the act;  
984 amending s. 395.0161, F.S.; deleting a requirement  
985 that hospitals pay certain inspection fees at the time  
986 of the inspection; repealing s. 395.1046, F.S.,  
987 relating to the investigation by the Agency for Health  
988 Care Administration of certain complaints against  
989 hospitals; amending s. 395.3038, F.S.; deleting an  
990 obsolete provision relating to stroke centers;  
991 revising references to certain accrediting  
992 organizations to conform; amending s. 395.701, F.S.;  
993 revising the definition of the term "hospital" for  
994 purposes of annual assessments on net operating  
995 revenues for inpatient and outpatient services to fund  
996 public medical assistance; repealing s. 395.7015,  
997 F.S., relating to annual assessments on health care  
998 entities; amending s. 397.7016, F.S.; revising a  
999 cross-reference to conform to changes made by the act;



373656

1000 amending ss. 397.403, 400.925, 400.9935, and 402.7306,  
1001 F.S.; revising references to certain accrediting  
1002 organizations to conform to changes made by the act;  
1003 amending s. 408.061, F.S.; exempting hospitals  
1004 operated by state agencies from certain annual fiscal  
1005 experience reporting requirements; amending s. 408.20,  
1006 F.S.; exempting hospitals operated by state agencies  
1007 from certain assessments; amending ss. 409.966,  
1008 409.967, and 430.80, F.S.; revising references to  
1009 certain accrediting organizations to conform to  
1010 changes made by the act; amending s. 440.102, F.S.;  
1011 revising certain drug-testing standards for  
1012 laboratories; deleting a requirement that a laboratory  
1013 must comply with certain criteria to conduct an  
1014 initial analysis of test specimens; deleting a monthly  
1015 reporting requirement for laboratories; amending s.  
1016 440.13, F.S.; revising references to certain  
1017 accrediting organizations to conform to changes made  
1018 by the act; creating s. 456.0125, F.S.; providing  
1019 legislative intent; providing definitions; creating  
1020 the Standardized Credentials Collection and  
1021 Verification Program for physicians; providing  
1022 procedures and requirements with respect to the  
1023 program; authorizing the Department of Health to adopt  
1024 rules to develop and implement the program; amending  
1025 ss. 627.645, 627.668, 627.669, 627.736, 641.495, and  
1026 766.1015, F.S.; revising references to certain  
1027 accrediting organizations to conform to changes made  
1028 by the act; providing an effective date.



LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 03/15/2013 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

**Senate Amendment to Amendment (373656) (with title amendment)**

Between lines 737 and 738  
insert:

Section 23. Paragraph (b) of subsection (54) of section 499.003, Florida Statutes, is amended to read:

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

(54) "Wholesale distribution" means distribution of prescription drugs to persons other than a consumer or patient, but does not include:

(b) Any of the following activities, which is not a



violation of s. 499.005(21) if such activity is conducted in accordance with rules established by the department:

1. The sale, purchase, or trade of a prescription drug among federal, state, or local government health care entities that are under common control and are authorized to purchase such prescription drug.

2. The sale, purchase, or trade of a prescription drug or an offer to sell, purchase, or trade a prescription drug for emergency medical reasons. For purposes of this subparagraph, the term "emergency medical reasons" includes transfers of prescription drugs by a retail pharmacy to another retail pharmacy to alleviate a temporary shortage.

3. The transfer of a prescription drug acquired by a medical director on behalf of a licensed emergency medical services provider to that emergency medical services provider and its transport vehicles for use in accordance with the provider's license under chapter 401.

4. The revocation of a sale or the return of a prescription drug to the person's prescription drug wholesale supplier.

5. The donation of a prescription drug by a health care entity to a charitable organization that has been granted an exemption under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and that is authorized to possess prescription drugs.

6. The transfer of a prescription drug by a person authorized to purchase or receive prescription drugs to a person licensed or permitted to handle reverse distributions or destruction under the laws of the jurisdiction in which the person handling the reverse distribution or destruction receives



541434

43 the drug.

44 7. The transfer of a prescription drug by a hospital or  
45 other health care entity, either directly or through the  
46 hospital's or health care entity's supplier, to a person  
47 licensed under this part to repackaging prescription drugs for the  
48 purpose of repackaging the prescription drug for use by that  
49 hospital, or other health care entity and other health care  
50 entities that are under common control, if ownership of the  
51 prescription drugs remains with the hospital or other health  
52 care entity at all times. In addition to the recordkeeping  
53 requirements of s. 499.0121(6) and the requirements for  
54 repackagers in s. 499.01212(2), the hospital or health care  
55 entity that transfers prescription drugs pursuant to this  
56 subparagraph must reconcile all drugs transferred and returned  
57 and resolve any discrepancies in a timely manner.

58 Section 24. Paragraph (b) of subsection (2) of section  
59 499.01, Florida Statutes, is amended to read  
60 499.01 Permits.—

61 (2) The following permits are established:

62 (b) *Prescription drug repackager permit*.—A prescription  
63 drug repackager permit is required for any person that  
64 repackages a prescription drug in this state or any person  
65 located in another state that repackages and distributes  
66 prescription drugs in or into this state that are received in a  
67 transfer pursuant to s. 499.003(54)(b)7.

68 1. A person that operates an establishment permitted as a  
69 prescription drug repackager may engage in wholesale  
70 distribution of prescription drugs repackaged at that  
71 establishment and must comply with all the provisions of this



541434

72 part and the rules adopted under this part that apply to a  
73 wholesale distributor.

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

76 Section 25. Paragraph (a) of subsection (2) of section  
77 499.01212, Florida Statutes, is amended to read:

78 499.01212 Pedigree paper.—

79 (2) FORMAT.—A pedigree paper must contain the following  
80 information:

81 (a) For the wholesale distribution of a prescription drug  
82 within the normal distribution chain or pursuant to a transfer  
83 described in s. 499.003(54)(b)7:

84 1. The following statement: "This wholesale distributor  
85 purchased the specific unit of the prescription drug directly  
86 from the manufacturer."

87 2. The manufacturer's national drug code identifier and the  
88 name and address of the wholesale distributor and the purchaser  
89 of the prescription drug.

90 3. The name of the prescription drug as it appears on the  
91 label.

92 4. The quantity, dosage form, and strength of the  
93 prescription drug.

94  
95 The wholesale distributor must also maintain and make  
96 available to the department, upon request, the point of origin  
97 of the prescription drugs, including intracompany transfers, the  
98 date of the shipment from the manufacturer to the wholesale  
99 distributor, the lot numbers of such drugs, and the invoice  
100 numbers from the manufacturer. When a repackager further



541434

101 distributes prescription drugs to a hospital or other health  
102 care entity pursuant to s. 499.003(54)(b)7, the pedigree paper  
103 must contain the statement from the wholesale distributor in  
104 this subsection, along with the lot numbers of the prescription  
105 drugs, the name and address of the repackager and his or her  
106 signature, the date of receipt, and the name and address of the  
107 person authorized by law to purchase prescription drugs for the  
108 purpose of administering or dispensing the drug, as defined in  
109 s. 465.003.

110

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

112 And the title is amended as follows:

113 Delete line 1024

114 and insert:

115 Rules to develop and implement the program; amending  
116 s. 499.003, F.S.; exempting prescription drugs  
117 transferred either directly or through a hospital's or  
118 health care entity's supplier for the purpose of  
119 repackaging from the definition of "wholesale  
120 distribution"; amending s. 499.01, F.S.; requiring a  
121 permit for prescription drug repackagers located in  
122 other states that repackage and distribute drugs for  
123 limited purposes into this state; amending s.  
124 499.01212, F.S.; requiring pedigree papers for  
125 transfers pursuant to s. 499.03(54)(b)7, F.S., to  
126 include specified information; amending

By Senator Bean

4-00271A-13

2013966

1 A bill to be entitled  
 2 An act relating to health care; amending ss. 154.11,  
 3 394.741, 395.3038, 397.403, 400.925, 400.9935,  
 4 402.7306, 408.05, 409.966, 409.967, 430.80, 440.13,  
 5 627.645, 627.668, 627.669, 627.736, 641.495, and  
 6 766.1015, F.S.; conforming provisions to a  
 7 redefinition of the term "accrediting organizations"  
 8 in s. 395.002, F.S., relating to hospital licensing  
 9 and regulation; creating s. 385.2035, F.S.;  
 10 designating the Florida Hospital Sanford-Burnham  
 11 Translational Research Institute for Metabolism and  
 12 Diabetes as a resource for diabetes research in this  
 13 state; providing an effective date.  
 14  
 15 Be It Enacted by the Legislature of the State of Florida:  
 16  
 17 Section 1. Paragraph (n) of subsection (1) of section  
 18 154.11, Florida Statutes, is amended to read:  
 19 154.11 Powers of board of trustees.-  
 20 (1) The board of trustees of each public health trust shall  
 21 be deemed to exercise a public and essential governmental  
 22 function of both the state and the county and in furtherance  
 23 thereof it shall, subject to limitation by the governing body of  
 24 the county in which such board is located, have all of the  
 25 powers necessary or convenient to carry out the operation and  
 26 governance of designated health care facilities, including, but  
 27 without limiting the generality of, the foregoing:  
 28 (n) To appoint originally the staff of physicians to  
 29 practice in a ~~any~~ designated facility owned or operated by the

Page 1 of 28

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

4-00271A-13

2013966

30 board and to approve the bylaws and rules to be adopted by the  
 31 medical staff of ~~a any~~ designated facility owned and operated by  
 32 the board, such governing regulations to be in accordance with  
 33 the standards of the Joint Commission or a national accrediting  
 34 organization that is approved by the Centers for Medicare and  
 35 Medicaid Services and whose standards incorporate comparable  
 36 licensure regulations required by the state ~~on the Accreditation~~  
 37 ~~of Hospitals~~ which provide, among other things, for the method  
 38 of appointing additional staff members and for the removal of  
 39 staff members.  
 40 Section 2. Subsection (2) of section 394.741, Florida  
 41 Statutes, is amended to read:  
 42 394.741 Accreditation requirements for providers of  
 43 behavioral health care services.-  
 44 (2) Notwithstanding any provision of law to the contrary,  
 45 accreditation shall be accepted by the agency and department in  
 46 lieu of the agency's and department's facility licensure onsite  
 47 review requirements and shall be accepted as a substitute for  
 48 the department's administrative and program monitoring  
 49 requirements, except as required by subsections (3) and (4),  
 50 for:  
 51 (a) ~~An Any~~ organization from which the department purchases  
 52 behavioral health care services ~~which that~~ is accredited by the  
 53 Joint Commission, a national accrediting organization that is  
 54 approved by the Centers for Medicare and Medicaid Services and  
 55 whose standards incorporate comparable licensure regulations  
 56 required by the state, ~~on Accreditation of Healthcare~~  
 57 ~~Organizations~~ or the Council on Accreditation ~~for Children and~~  
 58 ~~Family Services,~~ or which obtains accreditation from CARF

Page 2 of 28

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

4-00271A-13

2013966\_\_

59 ~~International for the~~ ~~has these~~ services that are being  
60 purchased by the department ~~accredited by CARF the~~  
61 ~~Rehabilitation Accreditation Commission.~~

62 (b) A ~~Any~~ mental health facility licensed by the agency or  
63 ~~a any~~ substance abuse component licensed by the department which  
64 ~~that~~ is accredited by the Joint Commission, a national  
65 accrediting organization that is approved by the Centers for  
66 Medicare and Medicaid Services and whose standards incorporate  
67 comparable licensure regulations required by the state, CARF  
68 International on Accreditation of Healthcare Organizations,  
69 ~~CARF the Rehabilitation Accreditation Commission, or the Council~~  
70 ~~on Accreditation of Children and Family Services.~~

71 (c) A ~~Any~~ network of providers from which the department or  
72 the agency purchases behavioral health care services accredited  
73 by the Joint Commission, a national accrediting organization  
74 that is approved by the Centers for Medicare and Medicaid  
75 Services and whose standards incorporate comparable licensure  
76 regulations required by the state, CARF International ~~on~~  
77 ~~Accreditation of Healthcare Organizations, CARF the~~  
78 ~~Rehabilitation Accreditation Commission, the Council on~~  
79 ~~Accreditation of Children and Family Services, or the National~~  
80 ~~Committee for Quality Assurance. A provider organization ~~that~~ ~~r~~~~  
81 ~~which~~ is part of an accredited network, is afforded the same  
82 rights under this part.

83 Section 3. Section 395.3038, Florida Statutes, is amended  
84 to read:

85 395.3038 State-listed primary stroke centers and  
86 comprehensive stroke centers; notification of hospitals.-

87 (1) The agency shall make available on its website and to

4-00271A-13

2013966\_\_

88 the department a list of the name and address of each hospital  
89 that meets the criteria for a primary stroke center and the name  
90 and address of each hospital that meets the criteria for a  
91 comprehensive stroke center. The list of primary and  
92 comprehensive stroke centers must ~~shall~~ include only those  
93 hospitals that attest in an affidavit submitted to the agency  
94 that the hospital meets the named criteria, or those hospitals  
95 that attest in an affidavit submitted to the agency that the  
96 hospital is certified as a primary or a comprehensive stroke  
97 center by the Joint Commission or a national accrediting  
98 organization that is approved by the Centers for Medicare and  
99 Medicaid Services and whose standards incorporate comparable  
100 licensure regulations required by the state ~~on Accreditation of~~  
101 ~~Healthcare Organizations.~~

102 (2) (a) If a hospital no longer chooses to meet the criteria  
103 for a primary or comprehensive stroke center, the hospital shall  
104 notify the agency and the agency shall immediately remove the  
105 hospital from the list.

106 (b)1. This subsection does not apply if the hospital is  
107 unable to provide stroke treatment services for a period of time  
108 not to exceed 2 months. The hospital shall immediately notify  
109 all local emergency medical services providers when the  
110 temporary unavailability of stroke treatment services begins and  
111 when the services resume.

112 2. If stroke treatment services are unavailable for more  
113 than 2 months, the agency shall remove the hospital from the  
114 list of primary or comprehensive stroke centers until the  
115 hospital notifies the agency that stroke treatment services have  
116 been resumed.

4-00271A-13

2013966

117 (3) The agency shall notify all hospitals in this state by  
 118 February 15, 2005, that the agency is compiling a list of  
 119 primary stroke centers and comprehensive stroke centers in this  
 120 state. The notice ~~must shall~~ include an explanation of the  
 121 criteria necessary for designation as a primary stroke center  
 122 and the criteria necessary for designation as a comprehensive  
 123 stroke center. The notice ~~must shall~~ also advise hospitals of  
 124 the process by which a hospital might be added to the list of  
 125 primary or comprehensive stroke centers.

126 (4) The agency shall adopt by rule criteria for a primary  
 127 stroke center which are substantially similar to the  
 128 certification standards for primary stroke centers of the Joint  
 129 Commission or a national accrediting organization that is  
 130 approved by the Centers for Medicare and Medicaid Services and  
 131 whose standards incorporate comparable licensure regulations  
 132 required by the state ~~on Accreditation of Healthcare~~  
 133 ~~Organizations.~~

134 (5) The agency shall adopt by rule criteria for a  
 135 comprehensive stroke center. However, if the Joint Commission or  
 136 a national accrediting organization that is approved by the  
 137 Centers for Medicare and Medicaid Services and whose standards  
 138 incorporate comparable licensure regulations required by the  
 139 state ~~on Accreditation of Healthcare Organizations~~ establishes  
 140 criteria for a comprehensive stroke center, the agency shall  
 141 establish criteria for a comprehensive stroke center which are  
 142 substantially similar to those criteria established by the Joint  
 143 Commission or such national accrediting organization ~~on~~  
 144 ~~Accreditation of Healthcare Organizations.~~

145 (6) This act is not a medical practice guideline and may

Page 5 of 28

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

4-00271A-13

2013966

146 not be used to restrict the authority of a hospital to provide  
 147 services for which it is licensed ~~has received a license~~ under  
 148 chapter 395. The Legislature intends that all patients be  
 149 treated individually based on each patient's needs and  
 150 circumstances.

151 Section 4. Subsection (3) of section 397.403, Florida  
 152 Statutes, is amended to read:

153 397.403 License application.-

154 (3) The department shall accept proof of accreditation by  
 155 CARF International, the Commission on Accreditation of  
 156 Rehabilitation Facilities(CARF) ~~or the Joint Commission, a~~  
 157 national accrediting organization that is approved by the  
 158 Centers for Medicare and Medicaid Services and whose standards  
 159 incorporate comparable licensure regulations required by the  
 160 state, or through another ~~any other~~ nationally recognized  
 161 certification process that is acceptable to the department and  
 162 meets the minimum licensure requirements under this chapter, in  
 163 lieu of requiring the applicant to submit the information  
 164 required by paragraphs (1)(a)-(c).

165 Section 5. Subsection (1) of section 400.925, Florida  
 166 Statutes, is amended to read:

167 400.925 Definitions.-As used in this part, the term:

168 (1) "Accrediting organizations" means the Joint Commission,  
 169 a national accrediting organization that is approved by the  
 170 Centers for Medicare and Medicaid Services and whose standards  
 171 incorporate comparable licensure regulations required by the  
 172 state, on Accreditation of Healthcare Organizations or other  
 173 national accrediting ~~accreditation~~ agencies whose standards for  
 174 accreditation are comparable to those required by this part for

Page 6 of 28

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

4-00271A-13

2013966

175 licensure.

176 Section 6. Paragraph (g) of subsection (1) and subsection  
177 (7) of section 400.9935, Florida Statutes, are amended to read:  
178 400.9935 Clinic responsibilities.—

179 (1) Each clinic shall appoint a medical director or clinic  
180 director who shall agree in writing to accept legal  
181 responsibility for the following activities on behalf of the  
182 clinic. The medical director or the clinic director shall:

183 (g) Conduct systematic reviews of clinic billings to ensure  
184 that the billings are not fraudulent or unlawful. Upon discovery  
185 of an unlawful charge, the medical director or clinic director  
186 shall take immediate corrective action. If the clinic performs  
187 only the technical component of magnetic resonance imaging,  
188 static radiographs, computed tomography, or positron emission  
189 tomography, and provides the professional interpretation of such  
190 services, in a fixed facility that is accredited by the Joint  
191 Commission ~~on Accreditation of Healthcare Organizations~~ or, the  
192 Accreditation Association for Ambulatory Health Care, Inc., a  
193 national accrediting organization that is approved by the  
194 Centers for Medicare and Medicaid Services and whose standards  
195 incorporate comparable licensure regulations required by the  
196 state, and the American College of Radiology; and if, in the  
197 preceding quarter, the percentage of scans performed by that  
198 clinic which was billed to all personal injury protection  
199 insurance carriers was less than 15 percent, the chief financial  
200 officer of the clinic may, in a written acknowledgment provided  
201 to the agency, assume the responsibility for the conduct of the  
202 systematic reviews of clinic billings to ensure that the  
203 billings are not fraudulent or unlawful.

Page 7 of 28

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

4-00271A-13

2013966

204 (7) (a) Each clinic engaged in magnetic resonance imaging  
205 services must be accredited by the Joint Commission, a national  
206 accrediting organization that is approved by the Centers for  
207 Medicare and Medicaid Services and whose standards incorporate  
208 comparable licensure regulations required by the state, ~~or~~  
209 ~~Accreditation of Healthcare Organizations,~~ the American College  
210 of Radiology, or the Accreditation Association for Ambulatory  
211 Health Care, Inc., within 1 year after licensure. A clinic that  
212 is accredited by the American College of Radiology or that is  
213 within the original 1-year period after licensure and replaces  
214 its core magnetic resonance imaging equipment shall be given 1  
215 year after the date on which the equipment is replaced to attain  
216 accreditation. However, a clinic may request a single, 6-month  
217 extension if it provides evidence to the agency establishing  
218 that, for good cause shown, such clinic cannot be accredited  
219 within 1 year after licensure, and that such accreditation will  
220 be completed within the 6-month extension. After obtaining  
221 accreditation as required by this subsection, each such clinic  
222 must maintain accreditation as a condition of renewal of its  
223 license. A clinic that files a change of ownership application  
224 must comply with the original accreditation timeframe  
225 requirements of the transferor. The agency shall deny a change  
226 of ownership application if the clinic is not in compliance with  
227 the accreditation requirements. When a clinic adds, replaces, or  
228 modifies magnetic resonance imaging equipment and the  
229 accrediting ~~accreditation~~ agency requires new accreditation, the  
230 clinic must be accredited within 1 year after the date of the  
231 addition, replacement, or modification but may request a single,  
232 6-month extension if the clinic provides evidence of good cause

Page 8 of 28

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

4-00271A-13 2013966  
 233 to the agency.

234 (b) The agency may deny the application or revoke the  
 235 license of ~~an any~~ entity formed for the purpose of avoiding  
 236 compliance with the accreditation provisions of this subsection  
 237 and whose principals were previously principals of an entity  
 238 that was unable to meet the accreditation requirements within  
 239 the specified timeframes. The agency may adopt rules as to the  
 240 accreditation of magnetic resonance imaging clinics.

241 Section 7. Subsections (1) and (2) of section 402.7306,  
 242 Florida Statutes, are amended to read:

243 402.7306 Administrative monitoring of child welfare  
 244 providers, and administrative, licensure, and programmatic  
 245 monitoring of mental health and substance abuse service  
 246 providers.—The Department of Children and Family Services, the  
 247 Department of Health, the Agency for Persons with Disabilities,  
 248 the Agency for Health Care Administration, community-based care  
 249 lead agencies, managing entities as defined in s. 394.9082, and  
 250 agencies who have contracted with monitoring agents shall  
 251 identify and implement changes that improve the efficiency of  
 252 administrative monitoring of child welfare services, and the  
 253 administrative, licensure, and programmatic monitoring of mental  
 254 health and substance abuse service providers. For the purpose of  
 255 this section, the term “mental health and substance abuse  
 256 service provider” means a provider who provides services to this  
 257 state’s priority population as defined in s. 394.674. To assist  
 258 with that goal, each such agency shall adopt the following  
 259 policies:

260 (1) Limit administrative monitoring to once every 3 years  
 261 if the child welfare provider is accredited by the Joint

4-00271A-13 2013966

262 Commission, a national accrediting organization that is approved  
 263 by the Centers for Medicare and Medicaid Services and whose  
 264 standards incorporate comparable licensure regulations required  
 265 by the state, CARF International ~~the Commission on Accreditation~~  
 266 ~~of Rehabilitation Facilities~~, or the Council on Accreditation.

267 If the accrediting body does not require documentation that the  
 268 state agency requires, that documentation shall be requested by  
 269 the state agency and may be posted by the service provider on  
 270 the data warehouse for the agency’s review. Notwithstanding the  
 271 survey or inspection of an accrediting organization specified in  
 272 this subsection, an agency specified in and subject to this  
 273 section may continue to monitor the service provider as  
 274 necessary with respect to:

275 (a) Ensuring that services for which the agency is paying  
 276 are being provided.

277 (b) Investigating complaints or suspected problems and  
 278 monitoring the service provider’s compliance with ~~any~~ resulting  
 279 negotiated terms and conditions, including provisions relating  
 280 to consent decrees that are unique to a specific service and are  
 281 not statements of general applicability.

282 (c) Ensuring compliance with federal and state laws,  
 283 federal regulations, or state rules if such monitoring does not  
 284 duplicate the accrediting organization’s review pursuant to  
 285 accreditation standards.

286 Medicaid certification and precertification reviews are exempt  
 287 from this subsection to ensure Medicaid compliance.

288 (2) Limit administrative, licensure, and programmatic  
 289 monitoring to once every 3 years if the mental health or

4-00271A-13 2013966

291 substance abuse service provider is accredited by the Joint  
 292 Commission, a national accrediting organization that is approved  
 293 by the Centers for Medicare and Medicaid Services and whose  
 294 standards incorporate comparable licensure regulations required  
 295 by the state, CARE International ~~the Commission on Accreditation~~  
 296 ~~of Rehabilitation Facilities~~, or the Council on Accreditation.  
 297 If the services being monitored are not the services for which  
 298 the provider is accredited, the limitations of this subsection  
 299 do not apply. If the accrediting body does not require  
 300 documentation that the state agency requires, that  
 301 documentation, except documentation relating to licensure  
 302 applications and fees, must be requested by the state agency and  
 303 may be posted by the service provider on the data warehouse for  
 304 the agency's review. Notwithstanding the survey or inspection of  
 305 an accrediting organization specified in this subsection, an  
 306 agency specified in and subject to this section may continue to  
 307 monitor the service provider as necessary with respect to:

308 (a) Ensuring that services for which the agency is paying  
 309 are being provided.

310 (b) Investigating complaints, identifying problems that  
 311 would affect the safety or viability of the service provider,  
 312 and monitoring the service provider's compliance with ~~any~~  
 313 resulting negotiated terms and conditions, including provisions  
 314 relating to consent decrees that are unique to a specific  
 315 service and are not statements of general applicability.

316 (c) Ensuring compliance with federal and state laws,  
 317 federal regulations, or state rules if such monitoring does not  
 318 duplicate the accrediting organization's review pursuant to  
 319 accreditation standards.

4-00271A-13 2013966

320  
 321 Federal certification and precertification reviews are exempt  
 322 from this subsection to ensure Medicaid compliance.

323 Section 8. Paragraph (k) of subsection (3) of section  
 324 408.05, Florida Statutes, is amended to read:

325 408.05 Florida Center for Health Information and Policy  
 326 Analysis.—

327 (3) COMPREHENSIVE HEALTH INFORMATION SYSTEM.—In order to  
 328 produce comparable and uniform health information and statistics  
 329 for the development of policy recommendations, the agency shall  
 330 perform the following functions:

331 (k) Develop, in conjunction with the State Consumer Health  
 332 Information and Policy Advisory Council, and implement a long-  
 333 range plan for making available health care quality measures and  
 334 financial data that will allow consumers to compare health care  
 335 services. The health care quality measures and financial data  
 336 the agency must make available includes ~~shall include~~, but is  
 337 not limited to, pharmaceuticals, physicians, health care  
 338 facilities, and health plans and managed care entities. The  
 339 agency shall update the plan and report on the status of its  
 340 implementation annually. The agency shall also make the plan and  
 341 status report available to the public on its Internet website.  
 342 As part of the plan, the agency shall identify the process and  
 343 timeframes for implementation, ~~any~~ barriers to implementation,  
 344 and recommendations of changes in the law that may be enacted by  
 345 the Legislature to eliminate the barriers. As preliminary  
 346 elements of the plan, the agency shall:

347 1. Make available patient-safety indicators, inpatient  
 348 quality indicators, and performance outcome and patient charge

4-00271A-13 2013966

349 data collected from health care facilities pursuant to s.  
 350 408.061(1)(a) and (2). The terms "patient-safety indicators" and  
 351 "inpatient quality indicators" have the same meaning as that  
 352 ~~ascribed shall be as defined~~ by the Centers for Medicare and  
 353 Medicaid Services, the National Quality Forum, the Joint  
 354 ~~Commission on Accreditation of Healthcare Organizations, a~~  
 355 national accrediting organization that is approved by the  
 356 Centers for Medicare and Medicaid Services and whose standards  
 357 incorporate comparable licensure regulations required by the  
 358 state, the Agency for Healthcare Research and Quality, the  
 359 Centers for Disease Control and Prevention, or a similar  
 360 national entity that establishes standards to measure the  
 361 performance of health care providers, or by other states. The  
 362 agency shall determine which conditions, procedures, health care  
 363 quality measures, and patient charge data to disclose based upon  
 364 input from the council. When determining which conditions and  
 365 procedures are to be disclosed, the council and the agency shall  
 366 consider variation in costs, variation in outcomes, and  
 367 magnitude of variations and other relevant information. When  
 368 determining which health care quality measures to disclose, the  
 369 agency:

370 a. Shall consider such factors as volume of cases; average  
 371 patient charges; average length of stay; complication rates;  
 372 mortality rates; and infection rates, among others, which shall  
 373 be adjusted for case mix and severity, if applicable.

374 b. May consider such additional measures that are adopted  
 375 by the Centers for Medicare and Medicaid Studies, National  
 376 Quality Forum, the Joint ~~Commission on Accreditation of~~  
 377 ~~Healthcare Organizations, a national accrediting organization~~

4-00271A-13 2013966

378 that is approved by the Centers for Medicare and Medicaid  
 379 Services and whose standards incorporate comparable licensure  
 380 regulations required by the state, the Agency for Healthcare  
 381 Research and Quality, Centers for Disease Control and  
 382 Prevention, or a similar national entity that establishes  
 383 standards to measure the performance of health care providers,  
 384 or by other states.

385

386 When determining which patient charge data to disclose, the  
 387 agency shall include such measures as the average of  
 388 undiscounted charges on frequently performed procedures and  
 389 preventive diagnostic procedures, the range of procedure charges  
 390 from highest to lowest, average net revenue per adjusted patient  
 391 day, average cost per adjusted patient day, and average cost per  
 392 admission, among others.

393 2. Make available performance measures, benefit design, and  
 394 premium cost data from health plans licensed pursuant to chapter  
 395 627 or chapter 641. The agency shall determine which health care  
 396 quality measures and member and subscriber cost data to  
 397 disclose, based upon input from the council. When determining  
 398 which data to disclose, the agency shall consider information  
 399 that may be required by either individual or group purchasers to  
 400 assess the value of the product, which may include membership  
 401 satisfaction, quality of care, current enrollment or membership,  
 402 coverage areas, accreditation status, premium costs, plan costs,  
 403 premium increases, range of benefits, copayments and  
 404 deductibles, accuracy and speed of claims payment, credentials  
 405 of physicians, number of providers, names of network providers,  
 406 and hospitals in the network. Health plans shall make available

4-00271A-13 2013966

407 to the agency ~~any~~ such data or information that is not currently  
408 reported to the agency or the office.

409 3. Determine the method and format for public disclosure of  
410 data reported pursuant to this paragraph. The agency shall make  
411 its determination based upon input from the State Consumer  
412 Health Information and Policy Advisory Council. At a minimum,  
413 the data shall be made available on the agency's Internet  
414 website in a manner that allows consumers to conduct an  
415 interactive search that allows them to view and compare the  
416 information for specific providers. The website must include  
417 such additional information as is determined necessary to ensure  
418 that the website enhances informed decisionmaking among  
419 consumers and health care purchasers, which shall include, at a  
420 minimum, appropriate guidance on how to use the data and an  
421 explanation of why the data may vary from provider to provider.

422 4. Publish on its website undiscounted charges for no fewer  
423 than 150 of the most commonly performed adult and pediatric  
424 procedures, including outpatient, inpatient, diagnostic, and  
425 preventative procedures.

426 Section 9. Paragraph (a) of subsection (3) of section  
427 409.966, Florida Statutes, is amended to read:

428 409.966 Eligible plans; selection.—

429 (3) QUALITY SELECTION CRITERIA.—

430 (a) The invitation to negotiate must specify the criteria  
431 and the relative weight of the criteria that will be used for  
432 determining the acceptability of the reply and guiding the  
433 selection of the organizations with which the agency negotiates.  
434 In addition to criteria established by the agency, the agency  
435 shall consider the following factors in the selection of

4-00271A-13 2013966

436 eligible plans:

437 1. Accreditation by the National Committee for Quality  
438 Assurance, the Joint Commission, a national accrediting  
439 organization that is approved by the Centers for Medicare and  
440 Medicaid Services and whose standards incorporate comparable  
441 licensure regulations required by the state, or another  
442 nationally recognized accrediting body.

443 2. Experience serving similar populations, including the  
444 organization's record in achieving specific quality standards  
445 with similar populations.

446 3. Availability and accessibility of primary care and  
447 specialty physicians in the provider network.

448 4. Establishment of community partnerships with providers  
449 that create opportunities for reinvestment in community-based  
450 services.

451 5. Organization commitment to quality improvement and  
452 documentation of achievements in specific quality improvement  
453 projects, including active involvement by organization  
454 leadership.

455 6. Provision of additional benefits, particularly dental  
456 care and disease management, and other initiatives that improve  
457 health outcomes.

458 7. Evidence that an eligible plan has written agreements or  
459 signed contracts or has made substantial progress in  
460 establishing relationships with providers before the plan  
461 submitting a response.

462 8. Comments submitted in writing by an ~~any~~ enrolled  
463 Medicaid provider relating to a specifically identified plan  
464 participating in the procurement in the same region as the

4-00271A-13

2013966

465 submitting provider.

466 9. Documentation of policies and procedures for preventing  
467 fraud and abuse.

468 10. The business relationship an eligible plan has with  
469 ~~another any other~~ eligible plan that responds to the invitation  
470 to negotiate.

471 Section 10. Paragraph (e) of subsection (2) of section  
472 409.967, Florida Statutes, is amended to read:

473 409.967 Managed care plan accountability.—

474 (2) The agency shall establish such contract requirements  
475 as are necessary for the operation of the statewide managed care  
476 program. In addition to any other provisions the agency may deem  
477 necessary, the contract must require:

478 (e) *Continuous improvement.*—The agency shall establish  
479 specific performance standards and expected milestones or  
480 timelines for improving performance over the term of the  
481 contract.

482 1. Each managed care plan shall establish an internal  
483 health care quality improvement system, including enrollee  
484 satisfaction and disenrollment surveys. The quality improvement  
485 system must include incentives and disincentives for network  
486 providers.

487 2. Each plan must collect and report the Health Plan  
488 Employer Data and Information Set (HEDIS) measures, as specified  
489 by the agency. These measures must be published on the plan's  
490 website in a manner that allows recipients to reliably compare  
491 the performance of plans. The agency shall use the HEDIS  
492 measures as a tool to monitor plan performance.

493 3. Each managed care plan must be accredited by the

4-00271A-13

2013966

494 National Committee for Quality Assurance, the Joint Commission,  
495 a national accrediting organization that is approved by the  
496 Centers for Medicare and Medicaid Services and whose standards  
497 incorporate comparable licensure regulations required by the  
498 state, or another nationally recognized accrediting body, or  
499 have initiated the accreditation process, within 1 year after  
500 the contract is executed. The agency shall suspend automatic  
501 assignment under s. 409.977 and 409.984 for a ~~any~~ plan not  
502 accredited within 18 months after executing the contract,~~the~~  
503 ~~agency shall suspend automatic assignment under s. 409.977 and~~  
504 ~~409.984.~~

505 4. By the end of the fourth year of the first contract  
506 term, the agency shall issue a request for information to  
507 determine whether cost savings could be achieved by contracting  
508 for plan oversight and monitoring, including analysis of  
509 encounter data, assessment of performance measures, and  
510 compliance with other contractual requirements.

511 Section 11. Paragraph (b) of subsection (3) of section  
512 430.80, Florida Statutes, is amended to read:

513 430.80 Implementation of a teaching nursing home pilot  
514 project.—

515 (3) To be designated as a teaching nursing home, a nursing  
516 home licensee must, at a minimum:

517 (b) Participate in a nationally recognized accrediting  
518 ~~accreditation~~ program and hold a valid accreditation, such as  
519 the accreditation awarded by the Joint Commission ~~on~~  
520 ~~Accreditation of Healthcare Organizations~~, a national  
521 accrediting organization that is approved by the Centers for  
522 Medicare and Medicaid Services and whose standards incorporate

4-00271A-13 2013966

523 comparable licensure regulations required by the state, or, at  
524 the time of initial designation, possess a Gold Seal Award as  
525 conferred by the state on its licensed nursing home;

526 Section 12. Paragraph (a) of subsection (2) of section  
527 440.13, Florida Statutes, is amended to read:

528 440.13 Medical services and supplies; penalty for  
529 violations; limitations.—

530 (2) MEDICAL TREATMENT; DUTY OF EMPLOYER TO FURNISH.—

531 (a) Subject to the limitations specified elsewhere in this  
532 chapter, the employer shall furnish to the employee such  
533 medically necessary remedial treatment, care, and attendance for  
534 such period as the nature of the injury or the process of  
535 recovery may require, which is in accordance with established  
536 practice parameters and protocols of treatment as provided for  
537 in this chapter, including medicines, medical supplies, durable  
538 medical equipment, orthoses, prostheses, and other medically  
539 necessary apparatus. Remedial treatment, care, and attendance,  
540 including work-hardening programs or pain-management programs  
541 accredited by CARF International, ~~the Commission on~~  
542 ~~Accreditation of Rehabilitation Facilities~~ the ~~or~~ Joint  
543 Commission, a national accrediting organization that is approved  
544 by the Centers for Medicare and Medicaid Services and whose  
545 standards incorporate comparable licensure regulations required  
546 by the state, on the Accreditation of Health Organizations or  
547 pain-management programs affiliated with medical schools, shall  
548 be considered ~~as~~ covered treatment only when such care is given  
549 based on a referral by a physician as defined in this chapter.  
550 Medically necessary treatment, care, and attendance does not  
551 include chiropractic services in excess of 24 treatments or

4-00271A-13 2013966

552 rendered 12 weeks beyond the date of the initial chiropractic  
553 treatment, whichever comes first, unless the carrier authorizes  
554 additional treatment or the employee is catastrophically  
555 injured.

556  
557 Failure of the carrier to timely comply with this subsection  
558 shall be a violation of this chapter and the carrier shall be  
559 subject to penalties as provided for in s. 440.525.

560 Section 13. Subsection (1) of section 627.645, Florida  
561 Statutes, is amended to read:

562 627.645 Denial of health insurance claims restricted.—

563 (1) A ~~NE~~ claim for payment under a health insurance policy  
564 or self-insured program of health benefits for treatment, care,  
565 or services in a licensed hospital that ~~which~~ is accredited by  
566 the Joint Commission, a national accrediting organization that  
567 is approved by the Centers for Medicare and Medicaid Services  
568 and whose standards incorporate comparable licensure regulations  
569 required by the state, on the Accreditation of Hospitals, the  
570 American Osteopathic Association, or CARF International ~~the~~  
571 ~~Commission on the Accreditation of Rehabilitative Facilities~~ may  
572 not ~~shall~~ be denied because such hospital lacks major surgical  
573 facilities and is primarily of a rehabilitative nature, if such  
574 rehabilitation is specifically for treatment of physical  
575 disability.

576 Section 14. Paragraph (c) of subsection (2) of section  
577 627.668, Florida Statutes, is amended to read:

578 627.668 Optional coverage for mental and nervous disorders  
579 required; exception.—

580 (2) Under group policies or contracts, inpatient hospital

4-00271A-13

2013966

581 benefits, partial hospitalization benefits, and outpatient  
 582 benefits consisting of durational limits, dollar amounts,  
 583 deductibles, and coinsurance factors shall not be less favorable  
 584 than for physical illness generally, except that:

585 (c) Partial hospitalization benefits shall be provided  
 586 under the direction of a licensed physician. For purposes of  
 587 this part, the term "partial hospitalization services" is  
 588 defined as those services offered by a program accredited by the  
 589 Joint Commission or a national accrediting organization that is  
 590 approved by the Centers for Medicare and Medicaid Services and  
 591 whose standards incorporate comparable licensure regulations  
 592 required by the state, on Accreditation of Hospitals (JCAH) or  
 593 in compliance with equivalent standards. Alcohol rehabilitation  
 594 programs accredited by the Joint Commission ~~on Accreditation of~~  
 595 Hospitals or approved by the state and licensed drug abuse  
 596 rehabilitation programs shall also be qualified providers under  
 597 this section. In a given ~~any~~ benefit year, if partial  
 598 hospitalization services or a combination of inpatient and  
 599 partial hospitalization are used ~~utilized~~, the total benefits  
 600 paid for all such services may ~~shall~~ not exceed the cost of 30  
 601 days after ~~of~~ inpatient hospitalization for psychiatric  
 602 services, including physician fees, which prevail in the  
 603 community in which the partial hospitalization services are  
 604 rendered. If partial hospitalization services benefits are  
 605 provided beyond the limits set forth in this paragraph, the  
 606 durational limits, dollar amounts, and coinsurance factors  
 607 thereof need not be the same as those applicable to physical  
 608 illness generally.

609 Section 15. Subsection (3) of section 627.669, Florida

Page 21 of 28

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

4-00271A-13

2013966

610 Statutes, is amended to read:

611 627.669 Optional coverage required for substance abuse  
 612 impaired persons; exception.-

613 (3) The benefits provided under this section are ~~shall be~~  
 614 applicable only if treatment is provided by, or under the  
 615 supervision of, or is prescribed by, a licensed physician or  
 616 licensed psychologist and if services are provided in a program  
 617 accredited by the Joint Commission or a national accrediting  
 618 organization that is approved by the Centers for Medicare and  
 619 Medicaid Services and whose standards incorporate comparable  
 620 licensure regulations required by the state, ~~on Accreditation of~~  
 621 Hospitals or approved by the state.

622 Section 16. Paragraph (a) of subsection (1) of section  
 623 627.736, Florida Statutes, is amended to read:

624 627.736 Required personal injury protection benefits;  
 625 exclusions; priority; claims.-

626 (1) REQUIRED BENEFITS.-An insurance policy complying with  
 627 the security requirements of s. 627.733 must provide personal  
 628 injury protection to the named insured, relatives residing in  
 629 the same household, persons operating the insured motor vehicle,  
 630 passengers in the motor vehicle, and other persons struck by the  
 631 motor vehicle and suffering bodily injury while not an occupant  
 632 of a self-propelled vehicle, subject to subsection (2) and  
 633 paragraph (4) (e), to a limit of \$10,000 in medical and  
 634 disability benefits and \$5,000 in death benefits resulting from  
 635 bodily injury, sickness, disease, or death arising out of the  
 636 ownership, maintenance, or use of a motor vehicle as follows:

637 (a) *Medical benefits.*-Eighty percent of all reasonable  
 638 expenses for medically necessary medical, surgical, X-ray,

Page 22 of 28

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

4-00271A-13 2013966  
 639 dental, and rehabilitative services, including prosthetic  
 640 devices and medically necessary ambulance, hospital, and nursing  
 641 services if the individual receives initial services and care  
 642 pursuant to subparagraph 1. within 14 days after the motor  
 643 vehicle accident. The medical benefits provide reimbursement  
 644 only for:

645 1. Initial services and care that are lawfully provided,  
 646 supervised, ordered, or prescribed by a physician licensed under  
 647 chapter 458 or chapter 459, a dentist licensed under chapter  
 648 466, or a chiropractic physician licensed under chapter 460 or  
 649 that are provided in a hospital or in a facility that owns, or  
 650 is wholly owned by, a hospital. Initial services and care may  
 651 also be provided by a person or entity licensed under part III  
 652 of chapter 401 which provides emergency transportation and  
 653 treatment.

654 2. Upon referral by a provider described in subparagraph  
 655 1., followup services and care consistent with the underlying  
 656 medical diagnosis rendered pursuant to subparagraph 1. which may  
 657 be provided, supervised, ordered, or prescribed only by a  
 658 physician licensed under chapter 458 or chapter 459, a  
 659 chiropractic physician licensed under chapter 460, a dentist  
 660 licensed under chapter 466, or, to the extent permitted by  
 661 applicable law and under the supervision of such physician,  
 662 osteopathic physician, chiropractic physician, or dentist, by a  
 663 physician assistant licensed under chapter 458 or chapter 459 or  
 664 an advanced registered nurse practitioner licensed under chapter  
 665 464. Followup services and care may also be provided by ~~any of~~  
 666 the following persons or entities:

667 a. A hospital or ambulatory surgical center licensed under

4-00271A-13 2013966  
 668 chapter 395.  
 669 b. An entity wholly owned by one or more physicians  
 670 licensed under chapter 458 or chapter 459, chiropractic  
 671 physicians licensed under chapter 460, or dentists licensed  
 672 under chapter 466 or by such practitioners and the spouse,  
 673 parent, child, or sibling of such practitioners.

674 c. An entity that owns or is wholly owned, directly or  
 675 indirectly, by a hospital or hospitals.

676 d. A physical therapist licensed under chapter 486, based  
 677 upon a referral by a provider described in this subparagraph.

678 e. A health care clinic licensed under part X of chapter  
 679 400 which is accredited by the Joint Commission ~~on Accreditation~~  
 680 ~~of Healthcare Organizations~~, a national accrediting organization  
 681 that is approved by the Centers for Medicare and Medicaid  
 682 Services and whose standards incorporate comparable licensure  
 683 regulations required by the state, the American Osteopathic  
 684 Association, CARF International ~~the Commission on Accreditation~~  
 685 ~~of Rehabilitation Facilities~~, or the Accreditation Association  
 686 for Ambulatory Health Care, Inc., or

687 (I) Has a medical director licensed under chapter 458,  
 688 chapter 459, or chapter 460;

689 (II) Has been continuously licensed for more than 3 years  
 690 or is a publicly traded corporation that issues securities  
 691 traded on an exchange registered with the United States  
 692 Securities and Exchange Commission as a national securities  
 693 exchange; and

694 (III) Provides at least four of the following medical  
 695 specialties:

696 (A) General medicine.

4-00271A-13

2013966\_\_

697 (B) Radiography.  
 698 (C) Orthopedic medicine.  
 699 (D) Physical medicine.  
 700 (E) Physical therapy.  
 701 (F) Physical rehabilitation.  
 702 (G) Prescribing or dispensing outpatient prescription  
 703 medication.  
 704 (H) Laboratory services.

705 3. Reimbursement for services and care provided in  
 706 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician  
 707 licensed under chapter 458 or chapter 459, a dentist licensed  
 708 under chapter 466, a physician assistant licensed under chapter  
 709 458 or chapter 459, or an advanced registered nurse practitioner  
 710 licensed under chapter 464 has determined that the injured  
 711 person had an emergency medical condition.

712 4. Reimbursement for services and care provided in  
 713 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a any  
 714 provider listed in subparagraph 1. or subparagraph 2. determines  
 715 that the injured person did not have an emergency medical  
 716 condition.

717 5. Medical benefits do not include massage as defined in s.  
 718 480.033 or acupuncture as defined in s. 457.102, regardless of  
 719 the person, entity, or licensee providing massage or  
 720 acupuncture, and a licensed massage therapist or licensed  
 721 acupuncturist may not be reimbursed for medical benefits under  
 722 this section.

723 6. The Financial Services Commission shall adopt by rule  
 724 the form that must be used by an insurer and a health care  
 725 provider specified in sub-subparagraph 2.b., sub-subparagraph

4-00271A-13

2013966\_\_

726 2.c., or sub-subparagraph 2.e. to document that the health care  
 727 provider meets the criteria of this paragraph. Such, ~~which~~ rule  
 728 must include a requirement for a sworn statement or affidavit.  
 729

730 Only insurers writing motor vehicle liability insurance in this  
 731 state may provide the required benefits of this section, and  
 732 such insurer may not require the purchase of any other motor  
 733 vehicle coverage other than the purchase of property damage  
 734 liability coverage as required by s. 627.7275 as a condition for  
 735 providing such benefits. Insurers may not require that property  
 736 damage liability insurance in an amount greater than \$10,000 be  
 737 purchased in conjunction with personal injury protection. Such  
 738 insurers shall make benefits and required property damage  
 739 liability insurance coverage available through normal marketing  
 740 channels. An insurer writing motor vehicle liability insurance  
 741 in this state who fails to comply with such availability  
 742 requirement as a general business practice violates part IX of  
 743 chapter 626, and such violation constitutes an unfair method of  
 744 competition or an unfair or deceptive act or practice involving  
 745 the business of insurance. An insurer committing such violation  
 746 is subject to the penalties provided under that part, as well as  
 747 those provided elsewhere in the insurance code.

748 Section 17. Subsection (12) of section 641.495, Florida  
 749 Statutes, is amended to read:

750 641.495 Requirements for issuance and maintenance of  
 751 certificate.—

752 (12) The provisions of part I of chapter 395 do not apply  
 753 to a health maintenance organization that, on or before January  
 754 1, 1991, provides not more than 10 outpatient holding beds for

4-00271A-13 2013966  
 755 short-term and hospice-type patients in an ambulatory care  
 756 facility for its members, provided that such health maintenance  
 757 organization maintains current accreditation by the Joint  
 758 Commission ~~on Accreditation of Health Care Organizations, a~~  
 759 national accrediting organization that is approved by the  
 760 Centers for Medicare and Medicaid Services and whose standards  
 761 incorporate comparable licensure regulations required by the  
 762 state, the Accreditation Association for Ambulatory Health Care,  
 763 Inc., or the National Committee for Quality Assurance.

764 Section 18. Subsection (2) of section 766.1015, Florida  
 765 Statutes, is amended to read:

766 766.1015 Civil immunity for members of or consultants to  
 767 certain boards, committees, or other entities.—

768 (2) Such committee, board, group, commission, or other  
 769 entity must be established in accordance with state law, ~~or~~ in  
 770 accordance with requirements of the Joint Commission or a  
 771 national accrediting organization that is approved by the  
 772 Centers for Medicare and Medicaid Services and whose standards  
 773 incorporate comparable licensure regulations required by the  
 774 state ~~on Accreditation of Healthcare Organizations~~, established  
 775 and duly constituted by one or more public or licensed private  
 776 hospitals or behavioral health agencies, or established by a  
 777 governmental agency. To be protected by this section, the act,  
 778 decision, omission, or utterance may not be made or done in bad  
 779 faith or with malicious intent.

780 Section 19. Section 385.2035, Florida Statutes, is created  
 781 to read:

782 385.2035 Resource for research in the prevention and  
 783 treatment of diabetes.—The Florida Hospital Sanford-Burnham

4-00271A-13 2013966  
 784 Translational Research Institute for Metabolism and Diabetes is  
 785 designated as a resource in this state for research in the  
 786 prevention and treatment of diabetes.

787 Section 20. This act shall take effect July 1, 2013.  
 788

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-14-13

Meeting Date

Topic Credentialing Verification

Bill Number 966  
*(if applicable)*

Name Rebecca O'Hara

Amendment Barcode 373656  
*(if applicable)*

Job Title VP Govt Affairs

Address 113 E College Ave  
*Street*

Phone 339 6211

Tallahassee FL 32301  
*City State Zip*

E-mail rohara@flmedical.org

Speaking:  For  Against  Information

Representing Fla Medical Ass'n

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)

3/14/13  
Meeting Date

Topic Wholesale distribution chain Bill Number SB 966  
Name Larry Gonzalez Amendment Barcode \_\_\_\_\_ (if applicable)  
Job Title General Counsel, Florida Society of Health-System Pharmacists (if applicable)  
Address 223 S. Gadsden Phone 222-0465  
Tallahassee, FL 32301 E-mail \_\_\_\_\_  
City State Zip

Speaking:  For  Against  Information

Representing Florida Society of Health-System Pharmacists

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

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

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

412-K  
8:00 AM

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-14-2013  
Meeting Date

Topic HEALTH CARE

Bill Number SB 966  
*(if applicable)*

Name STEPHEN R. WINN

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title EXECUTIVE DIRECTOR

Address 2007 APALACHEE PARKWAY

Phone 878-7463

Tallahassee FL 32301  
City State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

**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 1130

**INTRODUCER:** Health Policy Committee and Senator Garcia

**SUBJECT:** Examination of Dentists

**DATE:** March 14, 2013      **REVISED:** \_\_\_\_\_

|    | ANALYST   | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|-----------|----------------|-----------|---------------|
| 1. | Davlantes | Stovall        | HP        | <b>Fav/CS</b> |
| 2. | _____     | _____          | AHS       | _____         |
| 3. | _____     | _____          | AP        | _____         |
| 4. | _____     | _____          | _____     | _____         |
| 5. | _____     | _____          | _____     | _____         |
| 6. | _____     | _____          | _____     | _____         |

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

- |                              |                                     |                                         |
|------------------------------|-------------------------------------|-----------------------------------------|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

CS/SB 1130 amends educational requirements for dental licensure concerning graduates of schools not accredited by the Commission on Dental Accreditation (CODA) of the American Dental Association (ADA). The bill clarifies that such graduates who choose to complete at least two consecutive academic years in a full-time supplemental general dentistry program at a CODA-accredited institution to become eligible for licensure must pursue specific types of training. Specialty dental training programs no longer fulfill this requirement; only two-year advanced education in general dentistry programs or two-year general practice residency programs will be accepted.

In addition, the bill adds that dental licensure applicants who were enrolled in ADA-recognized dental specialty programs as of March 23, 2012, will be eligible for licensure if they have:

- Maintained continuous, full-time enrollment in the specialty program until its completion;
- Participated in a specialty training program accredited by CODA in a specialty area recognized by the ADA; and
- Presented an official transcript and a certificate of completion from the specialty program to the Board of Dentistry.

This provision concerning dental specialty programs expires on January 15, 2015, and all applicants eligible for licensure under this provision must be licensed by that date.

This bill is effective upon becoming a law.

This bill substantially amends s. 466.066(3), F.S.

## **II. Present Situation:**

### **Licensure of Dentists from Accredited Schools or Colleges**

A person seeking licensure as a dentist in Florida must fulfill the following requirements:

- Be 18 years of older;
- Graduate from a school accredited by CODA or its successor agency, or any other dental program accredited by an accrediting agency recognized by the United States Department of Education;
- Pass the American Dental Licensing Examination (ADLEX) produced by the American Board of Dental Examiners, Inc. Special rules apply to those who completed the ADLEX in another state or jurisdiction more than a year ago or before October 1, 2011.
- Pass the National Board of Dental Examiners Written Examination; or possess an active health access dental license in the state, complete a certain number of hours of clinical practice experience, and be free of certain disciplinary actions against him or her;
- Pass a written examination on the laws and rules of Florida regulating the practice of dentistry;
- Submit an application for licensure to the Department of Health (the department);
- Pay appropriate examination and application fees.<sup>1</sup>

### **Licensure of Dentists from Non-Accredited Schools or Colleges**

CODA is the nation's premier accrediting agency for dental training programs. It accredits more than 60 programs in the United States and has a reciprocal agreement with the Commission on Dental Accreditation of Canada to recognize their 10 programs.<sup>2</sup> Applicants who are graduates of schools not accredited by CODA must follow special procedures to be licensed as dentists in Florida.

Such applicants must:

- Complete a general dental program (either D.D.S., Doctor of Dental Surgery, or D.M.D., Doctor of Dental Medicine) at an accredited American dental school. The program may consist of either four years of dental subjects or two years of pre-dental education followed by three years of dental subjects; or

---

<sup>1</sup> Section 466.006, F.S., and Rule 64B5-2.014(2), F.A.C.

<sup>2</sup> ADA, *Search DMS/DMD Programs*, <http://www.ada.org/267.aspx>. Last visited March 12, 2013.

- Complete at least two consecutive academic years at a full-time, CODA-accredited supplementary dental program. The program must provide didactic and clinical education at the level of a D.D.S. or D.M.D. program.<sup>3</sup>

These applicants must also:

- Submit an Application for Credentials Review for Graduates from Non-Accredited Dental Colleges of Schools to the department;
- Provide transcripts demonstrating completion of coursework requirements for the CODA-accredited dental program and a copy of any dental degrees. Special conditions apply for applicants who are unable to supply all their credentials due to political instability in the country where education was received;
- Pass the ADLEX examination;
- Pass a written examination on the laws and rules of the state regulating the practice of dentistry;
- Submit an application for licensure to the department; and
- Pay appropriate examination and application fees.<sup>4</sup>

Special provisions apply to applicants from non-accredited dental schools who passed the ADEX in a jurisdiction other than Florida more than a year ago. Such applicants must:

- Have taken the ADEX after October 1, 2011;
- Have completed at least two consecutive academic years at a full-time, CODA-accredited supplemental general dentistry program. The program must provide didactic and clinical education at the level of a D.D.S. or D.M.D. program;
- Currently hold a dental license in good standing from another United States jurisdiction;
- Have no history of discipline against the dental license;
- Submit proof of never having been reported to the National Practitioner Data Bank, the Healthcare Integrity and Protection Data Bank, or the American Association of Dental Boards Clearinghouse;
- Submit proof of engagement in full-time practice in another United States jurisdiction for the past five years or since the date of initial licensure;
- Complete continuing education equivalent to Florida's requirements for the previous licensure cycle;
- Pass a written examination on the laws and rules of the state regulating the practice of dentistry;
- Pass a computer-based diagnostic skills examination; and
- Submit proof of passage of the National Board of Dental Examiners' dental examination.<sup>5</sup>

---

<sup>3</sup> While Rule 64B5-2.0146(2)(a), F.A.C., states that applicants may complete a CODA-accredited dental specialty education program for credit towards licensure, s. 466.006(3)(b), F.S., only mentions general dentistry programs as being accepted.

<sup>4</sup> Section 466.006(3) and (4), F.S., and Rule 64B5-2.0146, F.A.C.

<sup>5</sup> Section 466.006(4)(b)3., F.S.

## Recent Changes in Licensure Requirements for Dentists from Non-Accredited Schools

SB 1040, passed in 2012, deleted the provision allowing graduates of CODA-accredited dental *specialty* education programs to be eligible for licensure if they had not received a D.D.S. or a D.M.D. from a CODA-accredited dental school.<sup>6</sup> Previously, these graduates could complete two years of training in any of the nine ADA-recognized specialties or two one-year training programs in different specialties.<sup>7</sup> As the law now reads, only graduates of non-accredited dental schools who have trained in CODA-accredited supplemental *general* dentistry programs will be eligible for licensure. SB 1040 provided no grandfather clause or other redress for students currently enrolled in dental specialty education programs for the purpose of fulfilling licensure requirements.

## CODA-Accredited Supplemental Dentistry Programs

CODA accredits hundreds of postgraduate dental education programs in specialties from dental anesthesiology to orthodontics. It accredits 80, one-year advanced education in general dentistry programs, six of which are in Florida, and 184, one-year general practice residency programs, three of which are in Florida.

However, there are only three civilian, two-year advanced education in general dentistry programs and five two-year general practice residency programs. Only one program, the Advanced Education in General Dentistry program at the University of Florida- Hialeah, is located in Florida.<sup>8</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 466.006(3), F.S., to revise educational requirements for licensure of dentists trained at non-CODA accredited schools. The bill clarifies that such graduates who choose to complete at least two consecutive academic years in a full-time supplemental general dentistry program at a CODA-accredited institution to become eligible for licensure must pursue specific types of training. Specialty dental training programs no longer fulfill this requirement; only two-year advanced education in general dentistry programs or two-year general practice residency programs will be accepted, and only if those programs are specifically designed as supplemental general dentistry programs providing didactic and clinical education at the level of a D.D.S. or D.M.D. program.

However, dentists who were enrolled in ADA-recognized dental specialty programs as of March 23, 2012, will be eligible for licensure if they have:

- Maintained continuous, full-time enrollment in the specialty program until its completion;
- Participated in a specialty training program accredited by CODA in a specialty area recognized by the ADA; and
- Presented an official transcript and a certificate of completion from the specialty program to the Board of Dentistry.

---

<sup>6</sup> Ch. 2012-14, L.O.F.

<sup>7</sup> Department of Health, *Bill Analysis for SB 1130*. A copy is on file with the Senate Health Policy Committee.

<sup>8</sup> ADA, *Search Advanced Programs*, <http://www.ada.org/5502.aspx>. Last accessed March 12, 2013.

This provision concerning dental specialty programs expires on January 15, 2015, and all applicants eligible for licensure under this provision must be licensed by that date.

**Section 2** provides that the bill will become effective upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals who were enrolled in a dental specialty program when the 2012 statutory changes went into effect will be eligible to sit for the examination for dental licensure. Specialty dental programs may experience some decrease in applications, as completion of a specialty degree will no longer be accepted for licensure of dental graduates from non-accredited schools.

C. Government Sector Impact:

No fiscal impact.<sup>9</sup>

**VI. Technical Deficiencies:**

None.

---

<sup>9</sup> *Supra* fn. 7

**VII. Related Issues:**

There is only one supplemental general dentistry program in Florida which fits the requirements of this bill to provide licensure eligibility to graduates of non-CODA accredited dental schools. After expiration of the bill's provision to accept completion of a specialty training program for dental licensure, there are unlikely to be enough positions available in Florida schools to train all the graduates of non-CODA accredited schools who wish to become licensed in the state.

**VIII. Additional Information:**

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

**CS by Health Policy on March 14, 2013:**

The CS for SB 1130 extends the deadline until which students may use completion of dental specialty programs towards licensure to January 15, 2015. The CS also requires that all students who plan to seek licensure this way must be licensed before that date.

- B. **Amendments:**

None.



LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 03/14/2013 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

---

---

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

**Senate Amendment**

Delete line 53  
and insert:

2. All eligible applicants for licensure under this paragraph must be licensed on or before January 15, 2015.

3. This paragraph expires January 15, 2015.

By Senator Garcia

38-00629-13

20131130\_\_

A bill to be entitled

An act relating to examination of dentists; amending s. 466.006, F.S.; revising the eligibility requirements for taking examinations required to practice dentistry; authorizing applicants enrolled in a recognized dental specialty program on a specified date to take the examinations if specified conditions are met; providing for future expiration of such authorization; providing an effective date.

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

Section 1. Subsection (3) of section 466.006, Florida Statutes, is amended to read:

466.006 Examination of dentists.—

(3) If an applicant is a graduate of a dental college or school not accredited in accordance with paragraph (2)(b) or of a dental college or school not approved by the board, the applicant is not entitled to take the examinations required in this section to practice dentistry unless the applicant until she or he satisfies one of the following requirements:

(a) Completes a program of study, as defined by the board by rule, at an accredited American dental school and demonstrates receipt of a D.D.S. or D.M.D. from that said school; ~~or~~

(b) Submits proof of having successfully completed at least 2 consecutive academic years in at a full-time supplemental general dentistry program taught at an institution accredited by the ~~American Dental Association~~ Commission on Dental

Page 1 of 2

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

38-00629-13

20131130\_\_

Accreditation. This program must provide didactic and clinical education at the level of a D.D.S. or D.M.D. program ~~accredited by the American Dental Association Commission on Dental Accreditation~~. For purposes of this paragraph, a supplemental general dentistry program does not include dental specialty programs. A supplemental general dentistry program may include a 2-year advanced education in general dentistry program or a 2-year general practice residency program if the program is specifically designed as a supplemental general dentistry program that provides didactic and clinical education at the level of a D.D.S. or D.M.D. program; or

(c)1. Was enrolled on March 23, 2012, in a dental specialty program recognized by the American Dental Association, maintained continuous enrollment until successfully completing the program, and meets the following requirements:

a. Completes a full-time matriculated specialty training program accredited by the Commission on Dental Accreditation in a specialty area recognized by the American Dental Association; and

b. Presents to the board official transcripts that verify completion of all didactic and clinical requirements and an official certificate from the sponsoring institution indicating successful completion of the program.

2. This paragraph expires October 1, 2014.

Section 2. This act shall take effect upon becoming a law.

Page 2 of 2

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



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR RENE GARCIA**  
40th District

**COMMITTEES:**  
Communications, Energy, and Public Utilities, Vice  
Chair  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on Health and Human  
Services  
Transportation  
Health Policy  
Agriculture  
Transportation

**JOINT COMMITTEE:**  
Joint Committee on Administrative Procedures

March 4, 2013

The Honorable Aaron Bean  
Chair, Health Policy Committee  
302 Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Bean:

This letter should serve as a request to have my bill *SB 1130 Examination of Dentists* heard at the next possible committee meeting. If there is any other information needed please do not hesitate to contact me. Thank you.

Sincerely,

State Senator René García  
District 38

RG:dm

CC: Sandra Stovall, Staff Director

**REPLY TO:**

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



THE FLORIDA SENATE  
**APPEARANCE RECORD**

*Waive in Support*

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

3/14/13

Meeting Date

Topic Examination of Dentist

Bill Number SB 1130

Name Ron Watson

Amendment Barcode 131408  
(if applicable)

Job Title Lobbyist

(if applicable)

Address 118 E Jefferson St

Phone 850 224-1089

Tallahassee FL 32301  
Street City State Zip

E-mail watson@florida.dentl.org

Speaking:  For  Against  Information

Representing Florida Dental Association FDA

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)

3/14/2013

Meeting Date

Topic \_\_\_\_\_

Bill Number 1130

(if applicable)

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

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 (10/20/11)



## II. Present Situation:

Chapter 458, F.S., provides for the regulation of the practice of medicine by the Board of Medicine. Any person who wishes to practice as a medical physician must be licensed and meet specified criteria which include<sup>1</sup>:

- Be at least 21 years of age;
- 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 pursuant to s. 458.331, F.S.;
- Completion of the equivalent of 2 academic years of pre-professional, postsecondary education with certain minimum courses prior to entering medical school;
- Meet certain medical education and post graduate training requirements;
- Submit fingerprints and a background check to the Department of Health (DOH); and,
- Obtain a passing score on a specified medical licensure examination.

Section 458.3145(6), F.S., provides requirements for a distinguished scholar to be issued a temporary medical faculty certificate to teach for a time-limited period at a medical school or teaching hospital. The certificate may be issued to a physician who has been requested by the dean of an accredited medical school or the medical director of a statutory teaching hospital within the state to practice only within that facility or its affiliated clinical facilities. The certificate-holder must demonstrate financial responsibility by either having medical malpractice insurance, holding an escrow account or a letter of credit in the specified amounts required by s. 458.320, F.S., or be exempt from the financial responsibility requirements as an officer, employee, or agent of the federal or state government.

Section 458.3135, F.S., provides a mechanism for the issuance of temporary certificates to visiting international physicians who may practice in board-approved cancer centers. Such visiting physicians are under training under the direct supervision of a physician or under contract with an approved cancer center for a period of no more than 1 year. To be issued a temporary certificate without an examination, the visiting international physician must be an individual who:

- Is a graduate of an accredited medical school or its equivalent, or is a graduate of a foreign medical school listed with the World Health Organization;
- Holds a valid, unencumbered license to practice medicine in another country;
- Has completed the application form and remitted the nonrefundable fee;
- Meets the financial responsibility requirements of s. 458.320, F.S.; and,
- Has been accepted for a course of training by a cancer center approved by the Board of Medicine.

A recipient of a temporary certificate is exempt from the practitioner profiling requirements, but all other provisions of ch. 456 or ch. 458, F.S. apply. The maximum number of temporary certificates that may be issued by the board may not exceed 10 per each cancer center.

---

<sup>1</sup> See Section 458.311, F.S.

### **Grounds for Physician Discipline**

Chapter 456, F.S., contains the general regulatory provisions for health care professions and occupations under the Division of Medical Quality Assurance in the DOH. Section 456.072, F.S., specifies 40 acts that constitute grounds for which disciplinary actions may be taken against a health care practitioner. The various disciplinary actions that may be taken are also specified in this section. Section 458.331, F.S., identifies 43 acts that constitute grounds for which disciplinary actions may be taken against a medical physician.

### **Financial Responsibility**

Section 458.320, F.S., requires Florida-licensed allopathic physicians to maintain professional liability insurance or other financial responsibility to cover potential claims for medical malpractice as a condition of licensure, with specified exemptions. Under s. 458.320(2), F.S., physicians who perform surgeries in a certain setting or have hospital privileges must maintain professional liability insurance or other financial responsibility to cover an amount not less than \$250,000 per claim. Physicians without hospital privileges, under s. 458.320(1), F.S., must carry sufficient insurance or other financial responsibility in coverage amounts of not less than \$100,000 per claim. Physicians who do not carry professional liability insurance must provide notice to their patients. A physician is said to be “going bare” when that physician has elected not to carry professional liability insurance. Physicians who go bare must either provide notice by posting a sign which is prominently displayed in the reception area and clearly noticeable by all parties or provide a written statement to each patient. Under s. 458.320(5), F.S., such sign or statement must specifically state:

Under Florida law, physicians are generally required to carry medical malpractice insurance or otherwise demonstrate financial responsibility to cover potential claims for medical malpractice. However, certain part-time physicians who meet state requirements are exempt from the financial responsibility law. YOUR DOCTOR MEETS THESE REQUIREMENTS AND HAS DECIDED NOT TO CARRY MEDICAL MALPRACTICE INSURANCE. This notice is provided pursuant to Florida law.

Florida-licensed osteopathic physicians have similar financial responsibility requirements under s. 459.0085, F.S. With specified exceptions, the DOH must suspend on an emergency basis, any licensed allopathic or osteopathic physician who fails to satisfy a medical malpractice claim against him or her within specified time frames.

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

**Section 1** amends s. 458.3137, F.S. to modify the conditions under which a temporary certificate for visiting physicians for instructional purposes may be granted. The bill expands the type of training programs eligible for temporary certificates to include other medical and surgical training programs, not just plastic surgery educational symposiums.

The bill amends the types of training programs a physician can be invited to and provides an expanded list of acceptable affiliations that the training programs may be associated with,

including the following: a medical or surgical training program associated with a medical school in this state that is accredited by the American Council for Graduate Medical Education, the American Osteopathic Association, or one that is part of a teaching hospital as defined in s. 408.07, F.S. The bill expands the types of symposiums a physician could be invited to by providing that a physician could be invited to an event cosponsored by the American Society of Plastic Surgeons, the Plastic Surgery Educational Foundation, the American Society for Aesthetic Plastic Surgery, or any other medical or surgical society in conjunction with a medical school or teaching hospital. Currently, only symposiums related to plastic surgery are covered under the temporary certificates.

The bill amends Subsection (2) to authorize the temporary certificate without examination for educational purposes to help teach plastic surgery or other medical and surgical procedures in training programs affiliated with medical schools that are accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association or that is part of a teaching hospital, or to residents of a state medical school, or if part of an educational symposium held by a state medical school or teaching hospital. This modification expands the type of procedures and the accrediting organizations for the educational symposiums covered under the temporary certificates.

The bill modifies the requirement that the individual be an expert in plastic surgery or another field of medicine or surgery to conform to other changes in the statute. The individual physician seeking the temporary certificate must also be applying in connection with one of the training programs covered by this section of law.

The bill authorizes the DOH to issue up to 12 temporary certificates for a single educational symposium. Each temporary certificate is valid for up to 5 days. Current law limits the DOH to issuing 6 certificates per year with each certificate valid for no more than 3 days per year. Certificates expire 1 year after issuance.

The bill modifies the requirements for proof of financial responsibility for medical malpractice for physicians holding a temporary certificate by providing as an additional option for physicians not licensed in this country proof that the physician is covered under a teaching hospital's or a medical school's medical malpractice insurance. The amount of the bond, certificate of deposit, or guaranteed letter of credit continues to be at least \$250,000.

**Section 2** provides an effective date of July 1, 2013.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

Applicants for the temporary certificate to practice medicine to help teach plastic surgery, other medical or surgical training programs in conjunction with a nationally sponsored educational symposium will be required to pay an application fee of no more than \$300.

B. Private Sector Impact:

By expanding the temporary certificates to other medical and surgical training programs, additional educational symposiums may choose Florida as their location for their next conference.

C. Government Sector Impact:

The DOH implemented the original bill in 2003. While this bill expands the number of certificates that could be issued per year, the DOH's fiscal analysis indicates that impact is indeterminate as the number of applications that could be received is unknown.<sup>2</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill includes training programs affiliated with a medical school that is accredited by the American Osteopathic Association; however, only ch. 458, F.S., related to the allopathic medical act is included in the bill. Additionally, references to disciplinary action and financial responsibility only include ch. 458, F.S. Osteopathic physicians are specifically regulated under ch. 459, F.S.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

None.

---

<sup>2</sup> Florida Department of Health, *Senate Bill 1302 Bill Analysis* (Mar. 5, 2013) (on file with the Senate Health Policy Committee).

B. Amendments:

**Barcode 516098 by Health Policy on March 14, 2013:**

The amendment authorizes medical schools to provide medical malpractice insurance for visiting foreign physicians who are seeking a temporary certificate.

---

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

---



516098

LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: FAV  | . |       |
| 03/14/2013 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

---

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

**Senate Amendment**

Delete line 91

and insert:

that the physician is covered under a teaching hospital's or  
medical school's

By Senator Garcia

38-01205A-13

20131302\_\_

A bill to be entitled

An act relating to temporary certificates for visiting physicians; amending s. 458.3137, F.S.; providing that a physician who has been invited by certain medical or surgical training programs or educational symposiums may be issued a temporary certificate for limited privileges solely to provide educational training; modifying criteria; revising the requirements for proof of medical malpractice insurance; providing an effective date.

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

Section 1. Section 458.3137, Florida Statutes, is amended to read:

458.3137 Temporary certificate for visiting physicians to obtain medical privileges for instructional purposes in conjunction with certain plastic surgery or other medical or surgical training programs and ~~plastic surgery~~ educational symposiums.—

(1) ~~A~~ any physician who has been invited by ~~both~~:

(a) A plastic surgery or other medical or surgical training program ~~that is~~ affiliated with a medical school ~~in within~~ this state ~~which that~~ is accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association or which is part of a teaching hospital as defined in s. 408.07; or and

(b) An educational symposium cosponsored by the American Society of Plastic Surgeons, the Plastic Surgery Educational

Page 1 of 4

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

38-01205A-13

20131302\_\_

Foundation, ~~or~~ the American Society for Aesthetic Plastic Surgery, or any other medical or surgical society in conjunction with a medical school or teaching hospital as defined in s. 408.07,

may be issued a temporary certificate for limited privileges solely for purposes of providing educational training in plastic surgery or other medical or surgical procedures, as appropriate, in accordance with the restrictions set forth in this section.

(2) A temporary certificate to practice medicine for educational purposes to help teach plastic surgery or other medical or surgical procedures to residents in a training program affiliated with a medical school that is accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association or that is part of a teaching hospital, or to residents of a medical school within this state in conjunction with a nationally sponsored educational symposium or an educational symposium held by a state medical school or teaching hospital, may be issued without examination, upon verification by the board that the individual ~~meets all of the following requirements:~~

(a) Is a graduate of an accredited medical school or its equivalent or is a graduate of a foreign medical school listed with the World Health Organization.

(b) Holds a valid and unencumbered license to practice medicine in another state or country.

(c) Is a recognized expert in a specific area of plastic surgery or another field of medicine or surgery, as demonstrated by peer-reviewed publications, invited lectureships, and

Page 2 of 4

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

38-01205A-13

20131302\_\_

59 academic affiliations.

60 (d) Has completed an application form adopted by the board  
61 and remitted a nonrefundable application fee not to exceed \$300.

62 (e) Has not committed an act in this or any other  
63 jurisdiction that would constitute a basis for disciplining a  
64 physician under s. 456.072 or s. 458.331.

65 (f) Meets the financial responsibility requirements of s.  
66 458.320(1) or (2).

67 (g) Is applying only in connection with a training program  
68 or an educational symposium as described in subsection (1) both  
69 a medical school within this state that is accredited by the  
70 Accreditation Council for Graduate Medical Education and an  
71 educational symposium sponsored by the American Society of  
72 Plastic Surgeons, the Plastic Surgery Educational Foundation, or  
73 the American Society for Aesthetic Plastic Surgery.

74 (3) A temporary certificate issued under this section is  
75 valid for up to 5 no more than 3 days per year, and ~~such~~  
76 ~~certificate~~ expires 1 year after issuance.

77 (4) The department may shall not issue more than 12 six  
78 temporary certificates for a single educational symposium under  
79 this section per calendar year.

80 (5) In order for a physician who is a graduate of a foreign  
81 medical school and holds a valid and unencumbered license to  
82 practice medicine in another country but does not hold a license  
83 to practice medicine in this or another state to obtain a  
84 temporary certificate under this section, the organization  
85 sponsoring the educational symposium must pay for any medical  
86 judgments incurred by that physician by obtaining a surety bond  
87 issued by a surety company authorized to do business in this

38-01205A-13

20131302\_\_

88 state, by ~~or~~ establishing a certificate of deposit or a  
89 guaranteed letter of credit with a licensed and insured bank or  
90 savings institution located in the state, or by providing proof  
91 that the physician is covered under a teaching hospital's  
92 medical malpractice insurance. The amount of the bond,  
93 certificate of deposit, or guaranteed letter of credit must  
94 shall be at least an amount not less than \$250,000.

95 (6) A physician applying under this section is exempt from  
96 the requirements of ss. 456.039-456.046. All other provisions of  
97 chapter 456 and this chapter apply.

98 (7) The board may shall not issue a temporary certificate  
99 for practice to any physician who is under investigation in  
100 another jurisdiction for an act that would constitute a  
101 violation of this chapter or chapter 456 until such time as the  
102 investigation is complete and the physician is found innocent of  
103 all charges.

104 Section 2. This act shall take effect July 1, 2013.



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**

Communications, Energy, and Public Utilities, Vice  
Chair  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on Health and Human  
Services  
Transportation  
Health Policy  
Agriculture  
Transportation

**JOINT COMMITTEE:**

Joint Committee on Administrative Procedures

**SENATOR RENE GARCIA**  
40th District

March 6, 2013

The Honorable Aaron Bean  
Chair, Health policy Committee  
318 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Bean:

This letter should serve as a request to have my bill *SB 1302 Temporary Certificates for Visiting Physicians* heard at the next possible committee meeting. If there is any other information needed please do not hesitate to contact me. Thank you.

Sincerely,

State Senator René García  
District 38

RG:dm

CC: Sandra Stovall, Staff Director



**REPLY TO:**

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore





THE FLORIDA SENATE

APPEARANCE RECORD

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

3/14/13

Meeting Date

Topic medical temporary license

Bill Number 1302  
*(if applicable)*

Name Amy Christian

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

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

Address 537 E. Park Ave.

Phone \_\_\_\_\_

Street

Tallahassee

E-mail \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

Association

Representing Florida Hospital

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

**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 896

**INTRODUCER:** Health Policy Committee; and Senators Garcia and Flores

**SUBJECT:** Prepaid Dental Plans

**DATE:** March 14, 2013      **REVISED:** \_\_\_\_\_

|    | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION        |
|----|---------|----------------|-----------|---------------|
| 1. | Lloyd   | Stovall        | HP        | <b>Fav/CS</b> |
| 2. |         |                | AHS       |               |
| 3. |         |                | AP        |               |
| 4. |         |                |           |               |
| 5. |         |                |           |               |
| 6. |         |                |           |               |

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

- |                              |                                     |                                         |
|------------------------------|-------------------------------------|-----------------------------------------|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

CS/SB 896 postpones the scheduled repeal of a provision which requires the Agency for Health Care Administration (AHCA) to contract separately with prepaid dental health plans on a pre-paid or fixed sum basis for Medicaid recipients. The bill also permits the AHCA to provide a Medicaid prepaid dental program in Miami-Dade on a permanent basis. Provisions requiring the AHCA to allow other qualified dental providers to participate in the Medicaid dental program on a fee for service reimbursement basis are removed.

The bill also requires the AHCA to provide an annual report to the Governor and Legislature which compares the utilization, benefit and cost data from Medicaid dental contractors as well as compliance reports and access to care to the state's overall Medicaid dental population. The report is due by January 15.

This bill substantially amends section 409.912 of the Florida Statutes.

## II. Present Situation:

Medicaid is a joint federal and state funded program that provides health care for low income Floridians. The program is administered by the AHCA and financed with federal and state funds. Over 3.3 million Floridians are currently enrolled in Medicaid and the program is expected to have more than \$22 billion in expenditures for fiscal year 2012-2013.<sup>1</sup> The statutory authority for the Medicaid program is contained in ch. 409, F.S.

Federal law establishes the minimum benefit levels to be covered in order to receive federal matching funds. Benefit requirements can vary by eligibility category. For example, more benefits are required for children than for the adult population. Florida's mandatory and optional benefits are prescribed in state law under ss. 409.905, and 409.906 F.S., respectively.

Florida Medicaid recipients receive their benefits through a number of different delivery systems. Florida has at least 15 different managed care models,<sup>2</sup> including the model being used for the delivery of dental services, licensed, prepaid dental health plans (PDHP). The PDHPs are classified as prepaid ambulatory health plans by 42 CFR Part 438.<sup>3</sup> Prepaid plans are further defined in state law under s. 409.962, F.S., as:

A managed care plan that is licensed or certified as a risk-bearing entity, or qualified pursuant to s. 409.912(4)(d), F.S., in the state and is paid a prospective per-member, per-month payment by the agency.

### Prepaid Dental Health Plans – Florida Medicaid

In 2001, proviso language in the General Appropriations Act (GAA) authorized the AHCA to initiate a PDHP pilot program in Miami-Dade County.<sup>4</sup> The 2003 Legislature directed the AHCA to contract on prepaid or fixed sum basis for dental services for Medicaid-eligible recipients using PDHPs.<sup>5</sup> Through a competitive process, the AHCA executed its first PDHP contract in 2004 to serve children under age 21 in Miami-Dade County.<sup>6</sup> Comprehensive dental benefit coverage is a mandatory service in Medicaid only for children in Florida. The PDHPs are paid on a capitated basis for all covered dental services meaning that the plan receives a single rate per individual member enrolled for all dental costs associated with that member.

---

<sup>1</sup> Agency for Health Care Administration, *Statewide Medicaid Managed Care Overview, Presentation to House Health Care Subcommittee*, (Jan. 15, 2013), [http://ahca.myflorida.com/Medicaid/recent\\_presentations/SMMC\\_Overview\\_House\\_HHS\\_Approps.pdf](http://ahca.myflorida.com/Medicaid/recent_presentations/SMMC_Overview_House_HHS_Approps.pdf) (last visited Mar. 8, 2013).

<sup>2</sup> Comm. on Health Regulation, Fla. Senate, *Overview of Medicaid Managed Care Programs in Florida*, p.1, (Issue Brief 2011-221) (November 2010).

<sup>3</sup> See Agency for Health Care Administration, *Model Statewide Prepaid Dental Health Plan (SPDHP) Contract, Attachment II-Core Contract Provisions*, p. 17, [http://ahca.myflorida.com/medicaid/pdhp/docs/120120\\_Attachment\\_II\\_Core.pdf](http://ahca.myflorida.com/medicaid/pdhp/docs/120120_Attachment_II_Core.pdf) (last visited Mar. 8, 2013).

<sup>4</sup> See Specific Proviso 135A, General Appropriations Act 2001-2002 (Conference Report on CS/SB 2C).

<sup>5</sup> Chapter 2003-405, s. 18.

<sup>6</sup> Agency for Health Care Administration, *Senate Bill 896 Bill Analysis and Economic Impact Statement*, (Mar. 11, 2013) (on file with the Senate Health Policy Committee).

The AHCA implemented the program in Miami-Dade County in July 2004 to Medicaid children age 21 years of age or younger.<sup>7</sup> In the 2010-2011 GAA, the Legislature directed the AHCA to provide enrollees with a choice of at least two licensed plans in Miami-Dade County and updated this number to three in the 2011-2012 GAA. Currently, two PDHPs serve Medicaid members in Miami-Dade County.<sup>8</sup>

The 2010-2011 GAA proviso directed the AHCA to contract separately on prepaid or fixed sum basis with prepaid dental plans on either a regional or statewide basis to achieve better outcomes for Medicaid recipients.<sup>9</sup> The contract was not to exceed 2 years. The directive excluded Miami-Dade County from this contracting process but did permit the AHCA the option of including the Medicaid reform counties in the procurement.<sup>10</sup> The AHCA elected not to include those counties in the procurement process. Children enrolled in managed care plans in the Reform counties receive their dental benefits through their health care plans and not directly through these PDHPs.<sup>11</sup> The proviso language for the statewide effort was repeated in the 2011-2012 GAA.<sup>12</sup> Additionally, statutory changes made it mandatory, rather than discretionary, for the AHCA to contract on a prepaid or fixed sum basis for dental services.<sup>13</sup> An expiration date on the statutory subsection was added for October 1, 2014, to coincide with other non-managed care related statutory sunset provisions concerning the Medicaid program and to align with the implementation of the Statewide Medicaid Managed Care (SMMC) program.<sup>14</sup>

Changes made during the 2012 Legislative Session as part of the appropriations implementing bill modified the Statewide Prepaid Dental Program to reinstate the fee for service reimbursement option providing Medicaid recipients the option of either a prepaid dental plan or coverage through the traditional fee for service network of providers in all but Miami-Dade County. This subsection has a sunset date of July 1, 2013.

According to the AHCA website, two vendors were selected for the statewide program and it has been implemented in 61 counties as of December 1, 2012. Medicaid recipients in these counties may select one of the two PDHPs in their county or opt out and receive their dental care through Medicaid fee for service providers.<sup>15</sup>

---

<sup>7</sup> Agency for Health Care Administration, *Statewide Prepaid Dental Program*, <http://ahca.myflorida.com/Medicaid/index.shtml#pdhp> (last visited: Mar. 7, 2013).

<sup>8</sup> Ibid.

<sup>9</sup> See Specific Proviso 204, General Appropriations Act 2010-2011 (Conference Report on HB 5001).

<sup>10</sup> In 2005, the Legislature enacted laws to reform the delivery and payment of services through the Medicaid program and directed AHCA to seek a federal waiver for a Medicaid managed care pilot program over five years. The program began in Broward and Duval counties in 2006 and later expanded to Baker, Clay and Nassau counties in 2007, as authorized in statute. The five year waiver was set to expire June 30, 2011, but has been renewed through June 30, 2014.

<sup>11</sup> Agency for Health Care Administration, *Capitated Health Plan Contract, Scope of Services, Attachment I*, [http://ahca.myflorida.com/mchq/Managed\\_Health\\_Care/MHMO/docs/contract/1215\\_Contract/2012-2015/Sept1-Versions/2012-15\\_HP-ContractAtt-I-CAP-CLEAN-SEPT2012.pdf](http://ahca.myflorida.com/mchq/Managed_Health_Care/MHMO/docs/contract/1215_Contract/2012-2015/Sept1-Versions/2012-15_HP-ContractAtt-I-CAP-CLEAN-SEPT2012.pdf) (last visited: Mar. 7, 2013).

<sup>12</sup> See Chapter 2011-69; Specific Proviso for Line Item 192, General Appropriations Act 2011-2012, (Conference Report on SB 2000).

<sup>13</sup> Chapter 2011-135, s. 17.

<sup>14</sup> Ibid.

<sup>15</sup> Agency for Health Care Administration, *Statewide Prepaid Dental Program*, <http://ahca.myflorida.com/Medicaid/index.shtml#mc> (last visited: Mar. 7, 2013).

### Statewide Medicaid Managed Care

In 2011, the Legislature also passed HB 7107 creating the SMMC program as part IV of ch. 409, F.S. The SMMC requires the AHCA to create an integrated managed care program for Medicaid enrollees that incorporates all of the minimum benefits, for the delivery of primary and acute care, including dental.<sup>16</sup> Instead of being delivered as a separate benefit under a separate contract, dental services would be incorporated by and be the responsibility of the managed care organization. Medicaid recipients who are enrolled in the SMMC program will receive their dental services through the fully integrated managed care plans as the plans are implemented.<sup>17</sup>

The AHCA began implementing the SMMC in January 2012 and recently released an Invitation to Negotiate (ITN) to competitively procure managed care plans on a statewide basis. Plans can supplement the minimum benefits in their bids and offer enhanced options.<sup>18</sup> Statewide implementation of SMMC is expected to be completed by October 1, 2014. Final approval of the necessary Medicaid waiver by the federal government has not yet been received; however on February 20, 2013, the AHCA and the Centers for Medicare and Medicaid Services reached an “Agreement in Principle” on the proposed plan.<sup>19</sup> The integrated Medicaid plans would cover both children and adults. The current dental plan contracts held by the AHCA cover only Medicaid recipients under age 21.

Overall, prepaid dental plans operate in 62 counties today and Medicaid recipients have the ability to opt out of the prepaid dental plan in all but Miami-Dade County. In the five Medicaid Reform counties, dental services are delivered through the Medicaid recipient’s managed care health plan.

### III. Effect of Proposed Changes:

**Section 1** amends s. 409.912, F.S., relating to the cost effective purchasing of health care under the Medicaid program. The bill amends Subsection (41)(a) to postpone the scheduled repeal of the provision that currently requires the AHCA to contract on a fixed-sum or prepaid basis with licensed prepaid dental health plans to provide dental services to Medicaid recipients. The modification extends the repeal date from October 1, 2014 to October 1, 2017, keeping the provision in statute for an additional 3 years.

Extending the requirement that the AHCA contract on a fixed-sum or pre-paid basis for dental services to October 1, 2017, may result in the possible overlap of dental services contracts between those contracts executed under this section and those procured under SMMC. Dental benefits are a required benefit under s. 409.973(1)(e), F.S., and the integrated managed care model.

---

<sup>16</sup> Health and Human Services Committee, Fla. House of Representatives, *PCB HHSC 11-01 Staff Analysis*, p.25, (Mar. 25, 2011).

<sup>17</sup> AHCA, *supra* note 6, at 2.

<sup>18</sup> *Ibid.*

<sup>19</sup> See Correspondence between Agency for Health Care Administration and the Centers for Medicare and Medicaid Services, [http://ahca.myflorida.com/Medicaid/statewide\\_mc/pdf/mma/Letter\\_from\\_CMS\\_re\\_Agreement\\_in\\_Principal\\_2013-02-20.pdf](http://ahca.myflorida.com/Medicaid/statewide_mc/pdf/mma/Letter_from_CMS_re_Agreement_in_Principal_2013-02-20.pdf) (last visited Mar. 11, 2013).

Under Subsection (41)(b), the bill deletes the current fiscal year reference which will become obsolete and authorizes the AHCA to provide a Medicaid prepaid dental program in Miami-Dade County on a permanent basis. This action would allow the AHCA to continue to provide a separate Medicaid prepaid dental plan in Miami-Dade County.

Provisions requiring a fee for service dental benefit reimbursement option are deleted. A reference to a sunset provision of July 1, 2013, for this subsection is also removed.

The AHCA is directed to provide the Governor, President of the Senate and Speaker of the House of Representatives with a report that compares benefits, utilization and costs of the contracted dental plans and the extent to which the prepaid plans are in compliance with their contract terms, including statistical trends with indicators of good oral health, in comparison to the overall Medicaid dental population. The report is due by January 15, each year.

**Section 2** provides an effective date of June 30, 2013.

**Other Potential Implications:**

Making determinations from year to year whether or not services should be delivered through fee for service or capitated contracts can also be disruptive to the provider network that serves Medicaid recipients and to the private vendors that may or may not participate in the process.

The AHCA analysis indicates that if the sunset provision is removed and the changes result in modifications to the dental service delivery under the SMMC, there is the possibility of a protest under the Managed Medical Assistance ITN procurement that is currently underway. Dental services are currently incorporated in that ITN.

The AHCA also identifies a potential conflict between the modifications proposed in CS/SB 896 and the provisions of ss. 409.961 through 409.977, F.S., relating to Managed Medical Assistance and the requirement that managed care plans provide comprehensive Medicaid services, including all Medicaid covered dental services to their enrollees.<sup>20</sup>

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

---

<sup>20</sup> AHCA, *supra* note 6, at 1 and 3.

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

None.

**B. Private Sector Impact:**

CS/SB 896 has limited private sector impact. The bill obsoletes a provision that will sunset July 1, 2014, relating to the fee for service reimbursement and extends the contracts of the separate PDHP contracts to October 1, 2017, from October 1, 2014. These contracts cover the same benefits that will be incorporated through those being procured now under the SMMC program. The proposed contract extension period overlaps with those SMMC contracts.

**C. Government Sector Impact:**

The bill extends the length of time that the AHCA would contract separately with private vendors to deliver dental services to Medicaid recipients under prepaid dental contracts rather than through consolidated managed health care contracts that cover all services to Medicaid enrollees.

There can be a cost differential between services delivered under the fee for service model that pays claims as services are delivered and enrollment of Medicaid recipients in capitated plans where the health plan assumes the risk for all dental services for a set premium rate per member per month.

The AHCA's fiscal analysis indicates that the impact would be minimal and indeterminate at this time. Any potential savings which might occur if the fee for service option is eliminated would become only a minor component of a capitation rate calculation under SMMC.<sup>21</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The AHCA has released an ITN covering all Medicaid services as part of the SMMC. This ITN includes dental services as part of those comprehensive medical services and requires the managed care organizations to cover all benefits. Extending the time frame for the existing prepaid dental health plan contracts for Medicaid enrollees under the age of 21 would overlap with the dental services proposed under that procurement document and other statutory direction.

---

<sup>21</sup> AHCA, *supra* note 6, at 2.

Section 409.961, F.S., provides that if any conflict exists between provisions contained in the Medicaid Managed Care part (part IV) and in other parts of the chapter, the provisions of part IV would control.

**VIII. Additional Information:**

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

**CS by Health Policy on March 14, 2013:**

CS for SB 896 adds a requirement directing AHCA to provide the Governor, President of the Senate and Speaker of the House of Representatives with a report that compares benefits, utilization and costs of the contracted dental plans and the extent to which the prepaid plans are in compliance with their contract terms, including statistical trends with indicators of good oral health, in comparison to the overall Medicaid dental population. The report is due by January 15, each year.(WITH TITLE AMENDMENT)

- B. **Amendments:**

None.



LEGISLATIVE ACTION

|            |   |       |
|------------|---|-------|
| Senate     | . | House |
| Comm: RCS  | . |       |
| 03/14/2013 | . |       |
|            | . |       |
|            | . |       |
|            | . |       |

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

**Senate Amendment (with title amendment)**

Delete line 83

and insert:

Medicaid prepaid dental health program in Miami-Dade County. The agency shall provide an annual report by January 15 to the Governor, the President of the Senate, and the Speaker of the House of Representatives which compares the combined reported annual benefits utilization and encounter data from all contractors, along with the agency's findings as to projected and budgeted annual program costs, the extent to which each contracting entity is complying with all contract terms and



13 conditions, the effect that each entity's operation is having on  
 14 access to care for Medicaid recipients in the contractor's  
 15 service area, and the statistical trends associated with  
 16 indicators of good oral health among all recipients served in  
 17 comparison with the state's population as a whole. ~~For~~

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

And the title is amended as follows:

Delete line 9

and insert:

basis; requiring an annual report to the Governor and  
 Legislature; providing an effective date.

By Senator Garcia

38-01015-13

2013896\_\_

1                                   A bill to be entitled  
 2       An act relating to prepaid dental plans; amending s.  
 3       409.912, F.S.; postponing the scheduled repeal of a  
 4       provision requiring the Agency for Health Care  
 5       Administration to contract with dental plans for  
 6       dental services on a prepaid or fixed-sum basis;  
 7       authorizing the agency to provide a prepaid dental  
 8       health program in Miami-Dade County on a permanent  
 9       basis; providing an effective date.

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

12  
 13       Section 1. Subsection (41) of section 409.912, Florida  
 14       Statutes, is amended to read:

15       409.912 Cost-effective purchasing of health care.—The  
 16       agency shall purchase goods and services for Medicaid recipients  
 17       in the most cost-effective manner consistent with the delivery  
 18       of quality medical care. To ensure that medical services are  
 19       effectively utilized, the agency may, in any case, require a  
 20       confirmation or second physician's opinion of the correct  
 21       diagnosis for purposes of authorizing future services under the  
 22       Medicaid program. This section does not restrict access to  
 23       emergency services or poststabilization care services as defined  
 24       in 42 C.F.R. part 438.114. Such confirmation or second opinion  
 25       shall be rendered in a manner approved by the agency. The agency  
 26       shall maximize the use of prepaid per capita and prepaid  
 27       aggregate fixed-sum basis services when appropriate and other  
 28       alternative service delivery and reimbursement methodologies,  
 29       including competitive bidding pursuant to s. 287.057, designed

Page 1 of 4

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

38-01015-13

2013896\_\_

30 to facilitate the cost-effective purchase of a case-managed  
 31 continuum of care. The agency shall also require providers to  
 32 minimize the exposure of recipients to the need for acute  
 33 inpatient, custodial, and other institutional care and the  
 34 inappropriate or unnecessary use of high-cost services. The  
 35 agency shall contract with a vendor to monitor and evaluate the  
 36 clinical practice patterns of providers in order to identify  
 37 trends that are outside the normal practice patterns of a  
 38 provider's professional peers or the national guidelines of a  
 39 provider's professional association. The vendor must be able to  
 40 provide information and counseling to a provider whose practice  
 41 patterns are outside the norms, in consultation with the agency,  
 42 to improve patient care and reduce inappropriate utilization.  
 43 The agency may mandate prior authorization, drug therapy  
 44 management, or disease management participation for certain  
 45 populations of Medicaid beneficiaries, certain drug classes, or  
 46 particular drugs to prevent fraud, abuse, overuse, and possible  
 47 dangerous drug interactions. The Pharmaceutical and Therapeutics  
 48 Committee shall make recommendations to the agency on drugs for  
 49 which prior authorization is required. The agency shall inform  
 50 the Pharmaceutical and Therapeutics Committee of its decisions  
 51 regarding drugs subject to prior authorization. The agency is  
 52 authorized to limit the entities it contracts with or enrolls as  
 53 Medicaid providers by developing a provider network through  
 54 provider credentialing. The agency may competitively bid single-  
 55 source-provider contracts if procurement of goods or services  
 56 results in demonstrated cost savings to the state without  
 57 limiting access to care. The agency may limit its network based  
 58 on the assessment of beneficiary access to care, provider

Page 2 of 4

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

38-01015-13 2013896\_\_  
 59 availability, provider quality standards, time and distance  
 60 standards for access to care, the cultural competence of the  
 61 provider network, demographic characteristics of Medicaid  
 62 beneficiaries, practice and provider-to-beneficiary standards,  
 63 appointment wait times, beneficiary use of services, provider  
 64 turnover, provider profiling, provider licensure history,  
 65 previous program integrity investigations and findings, peer  
 66 review, provider Medicaid policy and billing compliance records,  
 67 clinical and medical record audits, and other factors. Providers  
 68 are not entitled to enrollment in the Medicaid provider network.  
 69 The agency shall determine instances in which allowing Medicaid  
 70 beneficiaries to purchase durable medical equipment and other  
 71 goods is less expensive to the Medicaid program than long-term  
 72 rental of the equipment or goods. The agency may establish rules  
 73 to facilitate purchases in lieu of long-term rentals in order to  
 74 protect against fraud and abuse in the Medicaid program as  
 75 defined in s. 409.913. The agency may seek federal waivers  
 76 necessary to administer these policies.

77 (41) (a) The agency shall contract on a prepaid or fixed-sum  
 78 basis with appropriately licensed prepaid dental health plans to  
 79 provide dental services. This paragraph expires October 1, 2017  
 80 2014.

81 (b) Notwithstanding paragraph (a) ~~and for the 2012-2013~~  
 82 ~~fiscal year only~~, the agency may ~~is authorized to~~ provide a  
 83 Medicaid prepaid dental health program in Miami-Dade County. ~~For~~  
 84 ~~all other counties, the agency may not limit dental services to~~  
 85 ~~prepaid plans and must allow qualified dental providers to~~  
 86 ~~provide dental services under Medicaid on a fee-for-service~~  
 87 ~~reimbursement methodology. The agency may seek any necessary~~

38-01015-13 2013896\_\_  
 88 ~~revisions or amendments to the state plan or federal waivers in~~  
 89 ~~order to implement this paragraph. The agency shall terminate~~  
 90 ~~existing contracts as needed to implement this paragraph. This~~  
 91 ~~paragraph expires July 1, 2013.~~

92 Section 2. This act shall take effect June 30, 2013.



**THE FLORIDA SENATE**

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Communications, Energy, and Public Utilities, Vice  
Chair  
Appropriations Subcommittee on Criminal and  
Civil Justice  
Appropriations Subcommittee on Health and Human  
Services  
Transportation  
Health Policy  
Agriculture  
Transportation

**JOINT COMMITTEE:**  
Joint Committee on Administrative Procedures

**SENATOR RENE GARCIA**  
40th District

February 19, 2013

The Honorable Aaron Bean  
Chair, Health Policy Committee  
302 Senate Office Building  
404 S. Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Bean:

This letter should serve as a request to have my bill SB 896 Prepaid Dental Plans heard at the next possible committee meeting. If there is any other information needed please do not hesitate to contact me. Thank you.

Sincerely,

State Senator René García  
District 38

RG:dm

CC: Sandra Stovall, Staff Director

**REPLY TO:**

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

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

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

**ENTERED**





THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/14/13

Meeting Date

Topic Prepaid Dental Plans

Bill Number SB 896

Name Joe Annett

Amendment Barcode 604532  
(if applicable)

Job Title Director of Governmental Affairs

(if applicable)

Address 118 E Jefferson St

Phone \_\_\_\_\_

City

State

Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing FL 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.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3 11 4 2013

*Meeting Date*

Topic \_\_\_\_\_

Bill Number 896  
*(if applicable)*

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

*Street*

SAINT PETERSBURG      FLORIDA      33705

E-mail JUSTICE2JESUS@YAHOO.COM

*City*

*State*

*Zip*

Speaking:     For     Against     Information

Representing JUSTICE-2-JESUS

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 (10/20/11)

# CourtSmart Tag Report

Room: KN 412

Caption: Senate Health Policy Committee

Case:

Judge:

Type:

Started: 3/14/2013 8:01:30 AM

Ends: 3/14/2013 9:32:42 AM

Length: 01:31:13

8:01:35 AM Meeting called to order  
8:01:45 AM Roll call  
8:02:06 AM Opening remarks by chair Bean  
8:02:37 AM SB 370 by Sen. Sachs  
8:03:30 AM Sen. Joyner inquires about the amendment on the bill  
8:03:56 AM Sen. Flores responds to Sen. Joyner's question  
8:05:12 AM Chair Bean  
8:05:26 AM Sen. Flores w comments  
8:06:05 AM Sen. Sachs w comments  
8:07:12 AM Sen. Flores withdraws her amendment  
8:07:25 AM Sen. Bean passes the chair to Sen. Sobel  
8:07:34 AM Chair Sobel  
8:07:52 AM Sen. Sachs explains the bill  
8:08:53 AM Chair Sobel  
8:08:57 AM Evan White, Department of Veterans' Affairs, waives in support  
8:09:19 AM Charlie Swain, Florida Funeral Cemetery Consumer Advocacy, Inc.  
8:09:42 AM Juhan Mixon, Independent Funeral Directors of Florida -left the room  
8:09:53 AM Susan Harbin, Florida Association of Counties -waives in support  
8:10:13 AM Chair Sobel  
8:10:17 AM Sen. Sachs closes on her bill  
8:10:59 AM Roll call on SB 370 reported favorably  
8:11:03 AM Senator Sobel  
8:11:23 AM Senator Hays to  
8:11:26 AM SB 1016 by Sen. Hays  
8:11:41 AM Sen. Hays presents his bill  
8:13:38 AM Sen. Joyner w question  
8:14:11 AM Sen. Hays to answer  
8:14:41 AM Sen. Joyner w follow-up  
8:15:24 AM Sen. Hays to answer  
8:16:02 AM Sen. Flores w question re: lab fees  
8:16:43 AM Sen. Hays to answer  
8:17:18 AM Sen. Flores w follow-up  
8:17:54 AM Sen. Hays w comments  
8:18:13 AM Chair Sobel  
8:18:19 AM AM 163784 - Strike All Amendment  
8:18:48 AM Chair Sobel  
8:19:15 AM AM adopted  
8:19:24 AM JoeAnn Hart, Florida Dental Association -waive in support  
8:19:30 AM Brian Pitts - Justice 2 Jesus  
8:23:39 AM Sen. Joyner in debate  
8:24:37 AM Sen. Hays closes on bill  
8:26:22 AM Chair Sobel  
8:26:28 AM Roll call SB 1016 reported favorably  
8:26:56 AM Chair Sobel  
8:27:03 AM SB 462 by Sen. Thompson  
8:27:19 AM Sen. Thompson presents her bill  
8:27:54 AM Chair Sobel  
8:27:58 AM AM 529960  
8:28:15 AM Sen. Thompson explains the AM  
8:28:29 AM Chair Sobel  
8:28:34 AM Brian Pitts, Justice-2-Jesus -waives in support  
8:28:46 AM Chair Sobel

8:29:09 AM Roll call on SB 462  
8:29:32 AM Chair Sobel  
8:30:01 AM SB 1066 by Sen. Richter  
8:30:20 AM Sen. Richter's aide explains the bill  
8:30:48 AM Chair Sobel  
8:30:51 AM Casey Stoutamire, Florida Dental Association -waives in support  
8:31:01 AM Brian Pitts - Justice 2 Jesus  
8:33:02 AM Sen. Joyner w comments  
8:33:16 AM Sen. Richter's aide  
8:33:33 AM Chair Sobel  
8:33:39 AM Roll call on SB 1066  
8:34:00 AM Chair Sobel  
8:34:10 AM SB 144 by Sen. Altman  
8:34:28 AM Sen. Altman's aide explains the bill  
8:34:54 AM Chair Sobel  
8:34:57 AM Sen. Joyner w question  
8:35:21 AM Sen. Altman's aide  
8:35:41 AM Carole Green - Florida Psychological Association  
8:36:38 AM Chair Sobel  
8:36:51 AM Connie Galietti, Florida Psychological Association -waives in support  
8:37:10 AM Roll call on SB 144  
8:37:35 AM Chair Sobel  
8:37:37 AM SB 938 by Sen. Dean  
8:38:03 AM Sen. Dean's aide explains the bill  
8:38:37 AM Chair Sobel  
8:38:55 AM AM 511592 - Courtesy amendment  
8:39:24 AM Chair Sobel  
8:39:29 AM AM 197434  
8:40:00 AM Chair Sobel  
8:40:19 AM Marc Dunbar, Florida Association of RV Parks & Campgrounds/FL RV Trade Assoc. -waives in support  
8:40:33 AM Brian Pitts - Justice 2 Jesus  
8:42:26 AM Sen. Dean's aide closes on the bill  
8:42:59 AM Chair Sobel  
8:43:00 AM Roll call on SB 938  
8:43:18 AM Chair Sobel  
8:43:27 AM SB 248 by Sen. Thrasher  
8:44:04 AM Sen. Bean explains the bill  
8:44:49 AM Sen. Joyner w question  
8:45:20 AM Chair Sobel  
8:45:32 AM Brian Pitts -waives in support  
8:45:32 AM Rebecca O'Hara, Florida Medical Association -waives in support  
8:45:44 AM Matthew Farrar, Intervention Project for Nurses -waives in support  
8:46:00 AM Robert Watson, PRN Board of Directors -waives in support  
8:46:00 AM Dr. Martha Brown, Professionals Resource Network, PRN -waives in support  
8:46:17 AM Stephen Winn, Florida Osteopathic Medical Association -waives in support  
8:46:28 AM Chair Sobel  
8:46:49 AM Roll call on SB 248  
8:47:06 AM SB 966 by Sen. Bean  
8:47:22 AM Sen. Bean presents his bill  
8:48:03 AM Sen. Bean explains the strike all amendment  
8:48:58 AM Chair Sobel  
8:49:11 AM Sen. Joyner w question  
8:49:38 AM Senator Bean to answer  
8:49:40 AM Sen. Sobel  
8:50:18 AM Sen. Bean explains amendment to amendment  
8:51:08 AM Chair Sobel  
8:51:32 AM Senator Sobel w question  
8:51:33 AM Senator Bean to answer  
8:52:08 AM Rebecca O'Hara, Florida Medical Association -waives in support  
8:52:13 AM Larry Gonzalez, Florida Society of Health System Pharmacists -waives in support  
8:52:29 AM Stephen Winn, Florida Osteopathic Medical Association -waives in support  
8:52:31 AM Chair Sobel

8:52:51 AM Roll call on SB 966  
8:53:26 AM Chair Sobel passes the chair to Sen. Bean  
8:53:51 AM Chair Bean  
8:53:56 AM SB 1660 by Sen. Flores  
8:54:12 AM Sen. Flores explains her bill  
8:56:13 AM Chair Bean  
8:56:19 AM Sen. Joyner w question  
8:56:37 AM Sen. Flores w answer  
8:57:18 AM Sen. Joyner w follow-up  
8:57:27 AM Sen. Flores w comments  
8:57:57 AM Sen. Sobel w question  
8:58:35 AM Sen. Flores to answer  
9:01:16 AM Senator Flores w follow-up  
9:01:37 AM Sen. Sobel w follow-up  
9:01:49 AM Sen. Flores to answer  
9:02:51 AM Sen. Sobel w follow-up  
9:02:52 AM Senator Flores to answer  
9:02:58 AM Senator Garcia w question  
9:04:00 AM Chair Bean  
9:04:03 AM Sen. Joyner w follow-up  
9:05:32 AM Senator Bean  
9:06:00 AM Shira Kastan - Sylvester Cancer Center at U of Miami  
9:06:45 AM Sen. Sobel w question  
9:07:15 AM Shira Kastan to answer  
9:07:45 AM Senator Bean  
9:08:03 AM James Mosteller - American Heart Assc  
9:09:09 AM Senator Sobel w question  
9:09:16 AM James Mosteller to answer  
9:09:34 AM Jamie Wilson - Moffitt Cancer Center  
9:09:38 AM Senator Bean  
9:14:13 AM Layne Smith, Mayo Clinic -waives in support  
9:15:27 AM Brian Pitts - Justice 2 Jesus  
9:16:11 AM Heather Wildermuth - American Cancer Society Cancer Action Network  
9:17:35 AM Chair Bean  
9:19:05 AM Sen. Flores closes on her bill  
9:20:04 AM Roll call on SB 1660  
9:20:26 AM Chair Bean  
9:20:29 AM SB 1130 by Sen. Garcia  
9:20:47 AM Chair Bean explains AM 131408  
9:21:16 AM Ron Watson, Florida Dental Association -waives in support  
9:21:32 AM Brian Pitts - Justice 2 Jesus  
9:23:23 AM Chair Bean  
9:23:51 AM Roll call on SB 1130  
9:24:15 AM Chair Bean  
9:24:19 AM SB 1302 by Sen. Garcia  
9:25:05 AM Sen. Joyner w question  
9:25:48 AM Sen. Garcia  
9:26:24 AM Chair Bean  
9:26:33 AM Amy Christian, Florida Hospital -waives in support  
9:27:21 AM Chair Bean  
9:27:28 AM Roll call on SB 1302  
9:27:48 AM Chair Bean  
9:27:52 AM SB 896 by Sen. Garcia  
9:28:29 AM Chair Bean  
9:28:45 AM JoeAnne Hart - Florida Dental Assc  
9:29:07 AM Brian Pitts -waives in support  
9:29:51 AM Chair Bean  
9:30:28 AM Sen. Garcia closes on his bill  
9:31:34 AM Chair Bean  
9:31:38 AM Roll call on SB 896  
9:32:01 AM Chair Bean  
9:32:26 AM Meeting Adjourned

9:32:27 AM Sen. Flores moves we rise