

Tab 1	CS/SB 1138 by CF, Clemens ; (Compare to CS/H 0823) Ethical Marketing Practices for Substance Abuse Services					
Tab 2	CS/SB 750 by CF, Hutson, Bean ; (Compare to CS/CS/H 0563) Temporary Cash Assistance Program					
286946	A	S	RCS	AHS, Benacquisto	Delete L.48 - 51:	02/24 03:26 PM
968620	A	S	WD	AHS, Sobel	Delete L.48 - 52:	02/24 03:26 PM
Tab 3	CS/SB 1250 by CF, Latvala ; (Similar to CS/H 0977) Behavioral Health Workforce					
163046	A	S	RCS	AHS, Grimsley	btw L.372 - 373:	02/24 03:26 PM
221126	A	S	WD	AHS, Grimsley	Delete L.924:	02/24 03:26 PM
Tab 4	SB 236 by Grimsley (CO-INTRODUCERS) Gaetz ; Certificates of Need for Rural Hospitals					
357004	D	S	RCS	AHS, Grimsley	Delete everything after	02/24 03:30 PM
Tab 5	CS/SB 1378 by HP, Garcia ; (Similar to H 1329) Drug Safety					
705210	D	S	RCS	AHS, Garcia	Delete everything after	02/24 03:31 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND
HUMAN SERVICES
Senator Garcia, Chair
Senator Smith, Vice Chair

MEETING DATE: Wednesday, February 24, 2016

TIME: 1:30—3:30 p.m.

PLACE: James E. "Jim" King, Jr. Committee Room, 401 Senate Office Building

MEMBERS: Senator Garcia, Chair; Senator Smith, Vice Chair; Senators Abruzzo, Bean, Benacquisto, Grimsley, Richter, and Sobel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 1138 Children, Families, and Elder Affairs / Clemens (Compare CS/H 823)	Ethical Marketing Practices for Substance Abuse Services; Prohibiting substance abuse treatment providers and operators of recovery residences from engaging in certain marketing practices; providing that the violation of the prohibition against certain unethical marketing practices by a provider or operator is a violation of the Florida Deceptive and Unfair Trade Practices Act; expanding the Florida Deceptive and Unfair Trade Practices Act to include protections for people with diagnosable substance abuse disorders and other disabling conditions and civil penalties for those who commit violations against such people, etc. CF 01/20/2016 Fav/CS AHS 02/24/2016 Favorable AP	Favorable Yeas 8 Nays 0
2	CS/SB 750 Children, Families, and Elder Affairs / Hutson / Bean (Compare CS/CS/H 563)	Temporary Cash Assistance Program; Revising the consideration of income from illegal noncitizen or ineligible noncitizen family members in determining eligibility for temporary cash assistance, etc. CF 01/14/2016 Temporarily Postponed CF 02/17/2016 Fav/CS AHS 02/24/2016 Fav/CS AP	Fav/CS Yeas 7 Nays 1
3	CS/SB 1250 Children, Families, and Elder Affairs / Latvala (Similar CS/H 977, Compare H 423, S 210, S 428, CS/CS/CS/S 676)	Behavioral Health Workforce; Expanding the categories of persons who may prescribe brand name drugs under the prescription drug program when medically necessary; authorizing procedures for recommending admission of a patient to a treatment facility; limiting the authority to prescribe a controlled substance in a pain-management clinic only to a physician licensed under chapter 458 or chapter 459, F.S.; specifying acts that constitute grounds for denial of a license or for disciplinary action against an advanced registered nurse practitioner, etc. CF 02/10/2016 Fav/CS AHS 02/24/2016 Fav/CS AP	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Health and Human Services
Wednesday, February 24, 2016, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 236 Grimsley	Certificates of Need for Rural Hospitals; Revising the criteria for exempting a rural hospital or the not-for-profit operator of rural hospitals from the requirement to obtain a certificate of need for the construction of a new or replacement facility within the primary service area, etc. HP 02/09/2016 Favorable AHS 02/24/2016 Fav/CS FP	Fav/CS Yeas 8 Nays 0
5	CS/SB 1378 Health Policy / Garcia (Similar H 1329)	Drug Safety; Citing this act as "Victoria's Law"; requiring pharmacies to offer for sale prescription lock boxes; requiring the Department of Health to develop and distribute a pamphlet; prohibiting a pharmacy from charging a fee for the pamphlet, etc. HP 02/01/2016 Fav/CS AHS 02/24/2016 Fav/CS FP	Fav/CS Yeas 7 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: CS/SB 1138

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Clemens

SUBJECT: Ethical Marketing Practices for Substance Abuse Services

DATE: February 23, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.	Shettle	Pigott	AHS	Recommend: Favorable
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1138 creates a prohibition of unethical marketing practices by substance abuse treatment providers and operators of recovery residences. The bill provides that a violation of the unethical marketing practices is also a violation of the prohibition on patient brokering and subject to criminal penalties under s. 817.505, F.S.

Additionally, the bill provides that a violation of the prohibition against certain unethical marketing practices by a provider or operator is a violation of the Florida Deceptive and Unfair Trade Practices Act. Violations are subject to criminal penalties.

The bill has no fiscal impact to state funds.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Florida's Patient Brokering Act of 1996¹

Florida's Patient Brokering Act of 1996 (the "Brokering Act") is a criminal statute which makes it unlawful for any person, including any health care provider or health care facility, to offer, pay, solicit or receive any commission, bonus, rebate, kickback or bribe, directly or indirectly, in

¹ Section 817.505, F.S.

cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in exchange for patient referrals to a health care provider or health care facility.² The Brokering Act also prohibits any person, including any health care provider or health care facility, from aiding, abetting, advising or otherwise participating in a prohibited referral scheme.³ Violations of the Brokering Act are punishable as a third degree felony.⁴

The Brokering Act provides certain exceptions to the referral prohibition.⁵ Some of the exceptions include: payments to a health care provider or health care facility for professional consultation services;⁶ commissions, fees or other remuneration lawfully paid to insurance agents as provided under the insurance code;⁷ any discount, payment, waiver of payment or payment practice not prohibited by the Federal Anti-Kickback Statute (or regulations promulgated thereunder);⁸ and any payment, compensation or financial arrangement within a group practice as defined in the Florida Patient Self-Referral Act.⁹

Florida's Anti-Kickback Statute¹⁰

Florida's anti-kickback statute ("AKS") prohibits any health care provider or any provider of health care services from offering, paying, soliciting or receiving a kickback, directly or indirectly, overtly or covertly, in cash or in kind, for referring or soliciting patients.¹¹ "Kickback" is defined as remuneration or payment back pursuant to an investment interest, compensation arrangement, or otherwise, by or on behalf of a provider of health care services or items, to any person for a portion of the charges for services rendered to a referring health care provider as an incentive or inducement to refer patients for future services or items, when the payment is not tax deductible as an ordinary and necessary expense.¹² Violation of this statute is considered a criminal violation and is punished under the terms of the Brokering Act¹³

Florida's Patient Self-Referral Act of 1992¹⁴

Florida's Patient Self-Referral Act of 1992 (the "Act") prohibits a health care provider from referring a patient for the provision of certain designated health services, or any other health care item or service, to an entity in which the health care provider is an investor or has an investment interest.¹⁵ The Act defines "designated health services" as: clinical laboratory services, physical therapy services, comprehensive rehabilitative services, diagnostic-imaging services and radiation therapy services.¹⁶

² Section 817.505(1)(a), F.S.

³ Section 817.505(1)(d), F.S.

⁴ Section 817.505(4), F.S.

⁵ Section 817.505(3), F.S.

⁶ Section 817.505(3)(c), F.S.

⁷ Section 817.505(3)(d), F.S.

⁸ Section 817.505(3)(a), F.S.

⁹ Section 817.505(3)(a), F.S.

¹⁰ Section 456.054, F.S.

¹¹ Section 456.054(2), F.S.

¹² Section 456.054(1), F.S.

¹³ Section 456.054(3), F.S.

¹⁴ Section 456.053, F.S.

¹⁵ Section 456.053(5)(a), F.S.

¹⁶ Section 456.053(3)(c), F.S.

The Act provides certain exceptions to the self-referral prohibition for orders, recommendations or plans of care that do not constitute a referral. Some of these exceptions include, services furnished by a sole provider or group practice; lithotripsy services by a urologist; services provided by an ambulatory surgery center licensed under ch. 395, F.S.; renal dialysis services and supplies by a nephrologist; and diagnostic-imaging services by a radiologist.¹⁷ There are civil penalties for violations of this statute.¹⁸

Florida's Fee-Splitting Statute (the "FSS") prohibits a physician from paying or receiving any commission, bonus, kickback, or rebate, or engaging in any split-fee arrangement in any form whatsoever with another physician, organization, agency, or person, either directly or indirectly, for patients referred to providers of health care goods and services (this includes, but not limited to, hospitals, nursing homes, clinical laboratories, ambulatory surgical centers, or pharmacies).¹⁹ Penalties for violating this statute include a fine and possible medical license revocation. There are civil penalties for violations of this statute.²⁰

Clinical Labs Rebates²¹

Section 483.245, F.S., prohibits any person to pay or receive any commission, bonus, kickback, or rebate or engage in any split-fee arrangement in any form whatsoever with any dialysis facility, physician, surgeon, organization, agency, or person, either directly or indirectly, for patients referred to a clinical laboratory licensed under Part I of ch. 483, F.S. In addition, s. 483.245, F.S., also prohibits a clinical laboratory from, directly or indirectly, providing through employees, contractors, an independent staffing company, lease agreement, or otherwise, personnel to perform any functions or duties in a physician's office, or any part of a physician's office, for any purpose whatsoever, including for the collection or handling of specimens, unless the laboratory and the physician's office are wholly owned and operated by the same entity. A clinical laboratory is also prohibited from leasing space within any part of a physician's office for any purpose, including for the purpose of establishing a collection station.²² There are civil penalties for violations of this statute.²³

Voluntary Certification of Recovery Residences and Recovery Residence Administrators

In June 2015, CS/CS/HB 21 (Substance Abuse Services) was signed into law creating ss. 397.487, 397.4871, and 397.4872, F.S., to establish voluntary certification programs and requirements for recovery residences and recovery residence administrators.²⁴ As it specifically relates to these voluntary certification programs, the term "recovery residence" means a residential dwelling unit, or other form of group housing, that is offered or advertised through any means, including oral, written, electronic, or printed means, by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.²⁵

¹⁷ Section 456.053(o)3, F.S.

¹⁸ Section 456.053((5)(f), F.S.

¹⁹ Section 458.331(1)(i), F.S.

²⁰ Section 458.331(1)(t)3, F.S.

²¹ Section 483.245, F.S.

²² Section 483.245(1), F.S.

²³ Section 483.245(2), F.S.

²⁴ Ch. 2015-100, L.O.F.

²⁵ Section 397.311(33), F.S.

Additionally, a “recovery residence administrator” is defined to mean to the person responsible for overall management of the recovery residence, including, but not limited to, the supervision of residents and staff employed by, or volunteering for, the residence.²⁶

The Department of Children and Families (DCF) is required to approve at least one credentialing entity by December 1, 2015, for the development and administration of each certification program. To date, the department has approved the Florida Association of Recovery Residences to be a credentialing entity for the voluntary certification of recovery residences and the Florida Certification Board to be a credentialing entity for the voluntary certification of recovery residence administrators.

A certified recovery residence must be actively managed by a certified recovery residence administrator; however, a certified recovery residence administrator may actively manage no more than three recovery residences at any given time. In addition, all owners, directors and chief financial officers of a recovery residence, as well as individuals seeking certification as an administrator, are subject to Level 2 background screening as provided under ch. 435, F.S. The department may exempt an individual from the disqualifying offenses of a Level 2 background screening²⁷ if the individual meets certain criteria and the recovery residence attests that it is in the best interest of the program.

Effective July 1, 2016, a service provider licensed under ch. 397, F.S., may not refer a current or discharged patient to a recovery residence unless the recovery residence holds a valid certificate of compliance as provided in s. 397.487, F.S., and is actively managed by a certified recovery residence administrator as provided in s. 397.4871, F.S., or the recovery residence is owned and operated by a licensed service provider or a licensed service provider’s wholly owned subsidiary. For purposes of this subsection, the term “refer” means to inform a patient by any means about the name, address, or other details of the recovery residence.

A person may not advertise himself or herself to the public, in any way or by any medium whatsoever, as a “certified recovery residence” or a “certified recovery residence administrator” unless he or she has first secured a certificate of compliance under s. 397.487, F.S., or 397.4871, F.S. A person who violates this provision commits a misdemeanor of the first degree, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 397.305, F.S., to update the legislative intent to provide that treatment and recovery support for individuals with substance abuse impairment are offered in an ethical and professional manner that includes ethical marketing practices.

Section 2 amends s. 397.311, F.S., to add and define new terms. A definition for disabling conditions is created to mean a diagnosable substance abuse disorder, serious mental illness, developmental disability, specific learning disability, or chronic physical illness or disability, or the co-occurrence of two or more of these conditions. This new definition also includes an

²⁶ Section 397.311(34), F.S.

²⁷ The disqualifying offenses are listed in s. 435.04(2), F.S.

educational deficiency that substantially affects a person's ability to read and comprehend the terms of a contractual agreement to which he or she is a party. This definition is inconsistent with the definition of "disability" under the Americans with Disabilities Act (ADA).

This section also adds and defines the term "marketing practices" and "substance abuse lead generator".

Section 3 creates s. 397.335, F.S., to prohibit substance abuse treatment providers licensed under ch. 397, F.S. and operators of recovery residences from engaging in specific marketing practices considered unethical. Specifically, the bill prohibits substance abuse treatment providers and operators of recovery residences from engaging in the following marketing practices:

- Making false or misleading statements or providing false or misleading information about their products, goods, services, or geographical location in marketing or advertising materials or media or on their respective websites;
- Including on their respective websites coding that provides false information or surreptitiously directs the reader to another website;
- Soliciting or receiving a commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engaging or making an attempt to engage in a split-fee arrangement in return for an acceptance or acknowledgment of treatment from a health care provider, health care facility, or recovery residence. Referrals from recovery residences to another recovery residence are not applicable to this part; or
- Entering into a marketing contract with a substance abuse lead generator that engages in marketing through a call center, unless the call center discloses certain information to the caller.

The bill also prohibits a substance abuse treatment provider licensed under ch. 397, F.S., which is operating as an outpatient, a partial hospitalization or intensive outpatient program from offering a prospective patient free or reduced rent at a recovery residence to induce the prospective patient to choose it as the patient's provider. The provider may not make a direct or an indirect payment to a recovery residence for a patient's housing or other housing-related services.

A violation of this section is a violation of the Florida Deceptive and Unfair Trade Practices Act under Part II of ch. 501, F.S. The DCF is required to submit copies related to violations by entities licensed and regulated under ch. 397, F.S. to the Department of Legal Affairs.

Additionally, a violation under this section for soliciting, receiving, or making an attempt to solicit or receive a commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engaging or making an attempt to engage in a split-fee arrangement in return for an acceptance or acknowledgment of treatment from a health care provider, health care facility, or recovery residence is considered patient brokering and subject to criminal penalties under s. 817.505, F.S.

As written, the terms "substance abuse treatment providers" and "operators of recovery residences" are not currently defined in ch. 397, F.S., or in the bill. In addition, the term "recovery residence administrator" is currently defined in s. 397.311, F.S., as it specifically relates to the voluntary certification program for recovery residence administrators under s.

397.4871, F.S. Clarification is needed to determine whether the prohibition applies to all “operators of recovery residences” or only recovery residence administrators voluntarily certified pursuant to s. 397.4871, F.S., as well as whether the prohibition applies to “recovery residences” that are voluntarily certified pursuant to s. 397.487, F.S.

Section 4 amends s. 397.501, F.S., to provide each individual receiving treatment services in a residential treatment facility or living in a recovery residence the right to a safe living environment free from drugs, alcohol, harassment, abuse, and harm.

Section 5 amends s. 456.053(3), F.S., to add the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling to the list of health care providers and providers of health care services to the definition of “Board” in this section.

Additionally, the term “recovery residence” is defined in this section to mean a residential dwelling unit or other form of group housing offered or advertised through any means of communication, by any person or entity, as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.

The bill amends s. 456.053(5), F.S., which prohibits referrals and claims for payment, to include substance abuse providers licensed under ch. 397, F.S. found in violation of this section and makes such action grounds for disciplinary action.

Additionally, a substance abuse treatment provider licensed under ch. 397, F.S. which is operating as an outpatient, a partial hospitalization or intensive outpatient program may not offer a prospective patient free or reduced rent at a recovery residence to induce the prospective patient to choose it as the patient’s provider.

The bill amends s. 456.053(6), F.S., to provide an exemption to the prohibitions under this section for referrals made by a substance abuse treatment provider, health care service entities owned by such providers or in which the providers have a financial interest, or subsidiaries of those health care service entities to which such subsidiaries have a financial interest if the financial interest is clearly stated in writing to patients, clients, consumers, and facility residences; on marketing and advertising materials; and on a posted notice that can be easily read by patients in a common area at the substance abuse treatment facility.

Section 6 amends s. 501.2077, F.S., to add the definition of “disabling condition” as set forth in s. 397.311(12), F.S.

Section 7 amends s. 817.505(1), F.S., to add the definition of recovery residences to the section and to provide that it is unlawful for recovery residences to participate in patient brokering. However, referrals by recovery residences to other recovery residences are not subject to this prohibition.

Section 8 amends s. 212.055, F.S., to correct a cross-reference.

Section 9 amends s. 397.416, F.S., to correct a cross-reference.

Section 10 amends s. 440.102, F.S., to correct a cross-reference.

Section 11 provides an effective date for the bill of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Substance abuse treatment providers and operators of recovery residences who engage in prohibited marketing practices in violation of s. 397.335, F.S., may be in violation of patient brokering and subject to criminal penalties under s. 817.505, F.S. Substance abuse treatment providers and operators of recovery residences who are found to be in violation of prohibited marketing practices under s. 397.335, F.S., will also be in violation of the Florida Deceptive and Unfair Practices Act under s. 501.2077(2), F.S.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The new definition of “disabling condition” added to s. 397.311, F.S., in Section 2 of the bill conflicts with the definition of “disabling” under the ADA. The ADA includes individuals with substance use disorders that are in recovery, as well as individuals participating in substance abuse treatment. However, disability under the ADA excludes people who continue to abuse substances, or have been convicted or manufacture or distribution of a controlled substance.

VII. Related Issues:

Clarification is needed to determine whether the prohibition of unethical marketing practices applies to all “operators of recovery residences” or only recovery residence administrators voluntarily certified pursuant to s. 397.4871, F.S., and whether the

prohibition applies to “recovery residences” that are voluntarily certified pursuant to s. 397.487, F.S.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 397.305, 397.311, 397.501, 456.053, 501.2077, 817.505, 212.055, 397.416, and 440.102.

This bill creates section 397.335 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Children, Families, and Elder Affairs on January 20, 2016:

- Provides that referrals from recovery residences to recovery residences are not included in the prohibition on patient brokering.
- Removes the requirement for civil penalties to be assessed for violations of the Florida Deceptive and Unfair Trade Practices Act. Directs the DCF to submit copies of findings related to violations of this Act to the Department of Legal Affairs (DLA).

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs; and
Senator Clemens

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A bill to be entitled

An act relating to ethical marketing practices for substance abuse services; amending s. 397.305, F.S.; providing legislative intent; amending s. 397.311, F.S.; defining terms; creating s. 397.335, F.S.; prohibiting substance abuse treatment providers and operators of recovery residences from engaging in certain marketing practices; providing applicability; providing that the violation of the prohibition against certain unethical marketing practices by a provider or operator is a violation of the Florida Deceptive and Unfair Trade Practices Act; requiring the Department of Children and Families to submit certain findings to the Department of Legal Affairs; amending s. 397.501, F.S.; providing a right to a safe living environment for certain individuals; amending s. 456.053, F.S.; defining terms; providing applicability; providing penalties for violations of prohibitions against certain referrals; prohibiting a substance abuse treatment provider from making certain offers; providing an exemption to the prohibition against referrals; amending s. 501.2077, F.S.; defining the term "disabling condition"; expanding the Florida Deceptive and Unfair Trade Practices Act to include protections for people with diagnosable substance abuse disorders and other disabling conditions and civil penalties for those who commit violations against such people; revising definitions; amending s. 817.505, F.S.; adding recovery residences as entities prohibited from patient brokering; providing that it is unlawful for a person to solicit

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or receive benefits under certain circumstances; providing applicability; defining the term "recovery residence"; amending ss. 212.055, 397.416, and 440.102, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Subsection (10) is added to section 397.305, Florida Statutes, to read:

397.305 Legislative findings, intent, and purpose.—

(10) It is the intent of the Legislature to ensure that treatment and recovery support for individuals who are impaired by substance abuse disorders are offered in an ethical and professional manner that includes the use of ethical marketing practices to ensure the protection of this vulnerable population.

Section 2. Present subsections (12) through (20) of section 397.311, Florida Statutes, are redesignated as subsections (13) through (21), respectively, present subsection (21) of that section is redesignated as subsection (23), present subsection (23) of that section is redesignated as subsection (26), present subsection (24) of that section is redesignated as subsection (25), present subsections (25) through (42) of that section are redesignated as subsections (27) through (44), respectively, present subsections (43) through (45) of that section are redesignated as subsections (46) through (48), respectively, and new subsections (12), (24), and (45) are added to that section, to read:

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

(12) "Disabling condition" means:

(a) A diagnosable substance abuse disorder, serious mental illness, developmental disability, specific learning disability, or chronic physical illness or disability, or the co-occurrence of two or more of these conditions.

(b) An educational deficiency that substantially affects a person's ability to read and comprehend the terms of a contractual agreement to which he or she is a party.

(24) "Marketing practices" means all statements made or information disseminated to the public, whether oral, written, printed, or otherwise, which are intended to market, advertise, or entice an individual toward a particular substance abuse treatment or recovery support program licensed under this chapter.

(45) "Substance abuse lead generator" means a call center or similar marketing entity that is contractually engaged by a substance abuse treatment provider licensed under this chapter to identify and cultivate prospective patient interest in a particular substance abuse treatment program or recovery residence.

Section 3. Section 397.335, Florida Statutes, is created to read:

397.335 Prohibition of unethical marketing practices.—The Legislature recognizes that individuals with substance abuse disorders have disabling conditions that put them at risk of being vulnerable to fraudulent marketing practices. To protect the health, safety, and welfare of this vulnerable population,

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substance abuse treatment providers licensed under this chapter and operators of recovery residences may not engage in the following marketing practices:

(1) Making false or misleading statements or providing false or misleading information about their products, goods, services, or geographical location in their marketing, advertising materials, or media or on their respective websites.

(2) Including on their respective websites coding that provides false information or surreptitiously directs the reader to another website.

(3) Soliciting or receiving a commission, benefit, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engaging or making an attempt to engage in a split-fee arrangement in return for a referral or an acceptance or acknowledgment of treatment from a health care provider, health care facility, or recovery residence. A violation of this subsection is a violation of the prohibition on patient brokering and is subject to criminal penalties under s. 817.505. This subsection does not apply to referrals from recovery residences to other recovery residences.

(4) Entering into a marketing contract with a substance abuse lead generator that engages in marketing through a call center, unless the call center discloses the following to the caller so that he or she can make an informed health care decision:

(a) The substance abuse treatment programs it represents.

(b) Clear and concise instructions that allow the caller to easily access a list of licensed substance abuse treatment agencies, both public and private, on the department website.

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A substance abuse treatment provider licensed under this chapter which is operating as a partial hospitalization or an outpatient program, including an intensive outpatient program, may not offer a prospective patient free or reduced rent at a recovery residence to induce the prospective patient to choose it as the patient's provider and may not make a direct or an indirect payment to a recovery residence for a patient's housing or other housing-related services. A provider or operator that violates this section commits a violation of the Florida Deceptive and Unfair Trade Practices Act under s. 501.2077(2). The Department of Children and Families shall submit copies of findings related to violations by entities licensed and regulated under this chapter to the Department of Legal Affairs.

Section 4. Present subsections (9) and (10) of section 397.501, Florida Statutes, are redesignated as subsections (10) and (11), respectively, and a new subsection (9) is added to that section, to read:

397.501 Rights of individuals.—Individuals receiving substance abuse services from any service provider are guaranteed protection of the rights specified in this section, unless otherwise expressly provided, and service providers must ensure the protection of such rights.

(9) RIGHT TO SAFE LIVING ENVIRONMENT.—Each individual receiving treatment services in a residential treatment facility or living in a recovery residence has the right to a safe living environment free from drugs, alcohol, harassment, abuse, and harm.

Section 5. Paragraphs (a) and (i) of subsection (3) of

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section 456.053, Florida Statutes, are amended, present paragraph (o) of that subsection is redesignated as paragraph (q), present paragraph (p) of that subsection is redesignated as paragraph (o), present paragraphs (q) and (r) of that subsection are redesignated as paragraphs (r) and (s), respectively, a new paragraph (p) is added to that subsection, paragraph (g) of subsection (5) of that section is amended, a new paragraph (k) is added to that subsection, and subsection (6) is added to that section, to read:

456.053 Financial arrangements between referring health care providers and providers of health care services.—

(3) DEFINITIONS.—For the purpose of this section, the word, phrase, or term:

(a) "Board" means any of the following boards relating to the respective professions: the Board of Medicine as created in s. 458.307; the Board of Osteopathic Medicine as created in s. 459.004; the Board of Chiropractic Medicine as created in s. 460.404; the Board of Podiatric Medicine as created in s. 461.004; the Board of Optometry as created in s. 463.003; the Board of Pharmacy as created in s. 465.004; ~~and~~ the Board of Dentistry as created in s. 466.004; and the Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling as created in s. 491.004.

(i) "Health care provider" means any physician licensed under chapter 458, chapter 459, chapter 460, or chapter 461, or any health care provider licensed under chapter 463, ~~or~~ chapter 466, or chapter 491.

(p) "Recovery residence" means a residential dwelling unit or other form of group housing that is offered or advertised

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177 through any means, including oral, written, electronic, or
 178 printed means, and by any person or entity as a residence that
 179 provides a peer-supported, alcohol-free, and drug-free living
 180 environment.

181 (5) PROHIBITED REFERRALS AND CLAIMS FOR PAYMENT.—Except as
 182 provided in this section:

183 (g) A violation of this section by a health care provider
 184 constitutes ~~shall constitute~~ grounds for disciplinary action ~~to~~
 185 ~~be taken~~ by the applicable board pursuant to s. 458.331(2), s.
 186 459.015(2), s. 460.413(2), s. 461.013(2), s. 463.016(2), ~~or~~ s.
 187 466.028(2), or s. 491.009(2). Any hospital licensed under
 188 chapter 395 found in violation of this section is ~~shall be~~
 189 subject to s. 395.0185(2). A substance abuse treatment provider
 190 licensed under chapter 397 found in violation of this section is
 191 subject to the penalties imposed under ss. 397.415 and 397.461.

192 (k) A substance abuse treatment provider licensed under
 193 chapter 397 which is operating as a partial hospitalization or
 194 an outpatient program, including an intensive outpatient
 195 program, may not offer a prospective patient free or reduced
 196 rent at a recovery residence to induce the prospective patient
 197 to choose it as the patient's provider.

198 (6) EXCEPTIONS TO PROHIBITED REFERRALS.—The prohibitions in
 199 paragraphs (5) (a) and (b) do not apply to referrals made by
 200 substance abuse treatment providers licensed under chapter 397,
 201 any health care service entities owned by such providers or in
 202 which such providers have a financial interest, or subsidiaries
 203 of those health care service entities, to recovery residences or
 204 laboratory testing services in which any of such providers,
 205 entities or subsidiaries have a financial interest if the

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206 financial interest is clearly stated:

207 (a) In writing to patients, clients, consumers, and
 208 facility residents.

209 (b) On marketing or advertising materials, including any
 210 information disseminated to the public, whether oral, written,
 211 printed, or otherwise, which is intended to market or advertise
 212 substance abuse treatment services or recovery support.

213 (c) On a posted notice that can be easily read by patients
 214 in a common area at the substance abuse treatment facility in
 215 which the referring provider has a financial interest.

216 Section 6. Section 501.2077, Florida Statutes, is amended
 217 to read:

218 501.2077 Violations involving senior citizen, person who
 219 has a disabling condition ~~disability~~, military servicemember, or
 220 the spouse or dependent child of a military servicemember; civil
 221 penalties; presumption.—

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

223 (a) "Disabling condition" means:

224 1. A diagnosable substance abuse disorder, serious mental
 225 illness, developmental disability, specific learning disability,
 226 or chronic physical illness or disability, or the co-occurrence
 227 of two or more of these conditions.

228 2. An educational deficiency that substantially affects a
 229 person's ability to read and comprehend the terms of a
 230 contractual agreement to which he or she is a party.

231 (b) "Major life activities" means functions associated with
 232 the normal activities of independent daily living, such as
 233 caring for one's self, performing manual tasks, walking, seeing,
 234 hearing, speaking, breathing, learning, and working.

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~~(b) "Mental or educational impairment" means:~~

~~1. A mental or psychological disorder or specific learning disability.~~

~~2. An educational deficiency that substantially affects a person's ability to read and comprehend the terms of any contractual agreement entered into.~~

(c) "Military servicemember" means a person who is on active duty in, or a veteran of, the United States Armed Forces.

1. "Active duty" has the same meaning as provided in s. 250.01.

2. "Veteran" has the same meaning as provided in s. 1.01.

(d) "Person who has a disabling condition ~~disability~~" means a person who has a mental or educational impairment that substantially limits one or more major life activities.

(e) "Senior citizen" means a person who is 60 years of age or older.

(2) A person who is willfully using, or has willfully used, a method, act, or practice in violation of this part which victimizes or attempts to victimize a senior citizen or a person who has a disabling condition ~~disability~~ is liable for a civil penalty of not more than \$15,000 for each such violation if she or he knew or should have known that her or his conduct was unfair or deceptive.

(3) A person who is willfully using, or has willfully used, a method, act, or practice in violation of this part directed at a military servicemember or the spouse or dependent child of a military servicemember is liable for a civil penalty of not more than \$15,000 for each such violation if she or he knew or should have known that her or his conduct was unfair or deceptive.

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(4) An order of restitution or reimbursement based on a violation of this part committed against a senior citizen, a person who has a disabling condition ~~disability~~, a military servicemember, or the spouse or dependent child of a military servicemember has priority over the imposition of civil penalties for such violations pursuant to this section.

(5) Civil penalties collected pursuant to this section shall be deposited into the Legal Affairs Revolving Trust Fund of the Department of Legal Affairs and allocated solely to the Department of Legal Affairs for the purpose of preparing and distributing consumer education materials, programs, and seminars to benefit senior citizens, persons who have a disabling condition ~~disability~~, and military servicemembers or to further enforcement efforts.

Section 7. Subsection (1) of section 817.505, Florida Statutes, is amended, and paragraph (d) is added to subsection (2) of that section, to read:

817.505 Patient brokering prohibited; exceptions; penalties.—

(1) It is unlawful for any person, including any health care provider, ~~or~~ health care facility, or recovery residence, to:

(a) Offer or pay any commission, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, to induce the referral of patients or patronage to or from a health care provider, ~~or~~ health care facility, or recovery residence;

(b) Solicit or receive any commission, benefit, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or

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in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for referring patients or patronage to or from a health care provider, ~~or~~ health care facility, or recovery residence;

(c) Solicit or receive any commission, benefit, bonus, rebate, kickback, or bribe, directly or indirectly, in cash or in kind, or engage in any split-fee arrangement, in any form whatsoever, in return for the acceptance or acknowledgment of treatment from a health care provider, ~~or~~ health care facility, or recovery residence; or

(d) Aid, abet, advise, or otherwise participate in the conduct prohibited under paragraph (a), paragraph (b), or paragraph (c).

This subsection does not apply to referrals from recovery residences to other recovery residences.

(2) For the purposes of this section, the term:

(d) "Recovery residence" means a residential dwelling unit or other form of group housing that is offered or advertised through any means, including oral, written, electronic, or printed means, and by any person or entity as a residence that provides a peer-supported, alcohol-free, and drug-free living environment.

Section 8. Paragraph (e) of subsection (5) of section 212.055, Florida Statutes, is amended to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a

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subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

(e) A governing board, agency, or authority shall be chartered by the county commission upon this act becoming law. The governing board, agency, or authority shall adopt and implement a health care plan for indigent health care services. The governing board, agency, or authority shall consist of no more than seven and no fewer than five members appointed by the county commission. The members of the governing board, agency, or authority shall be at least 18 years of age and residents of the county. No member may be employed by or affiliated with a health care provider or the public health trust, agency, or

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351 authority responsible for the county public general hospital.
 352 The following community organizations shall each appoint a
 353 representative to a nominating committee: the South Florida
 354 Hospital and Healthcare Association, the Miami-Dade County
 355 Public Health Trust, the Dade County Medical Association, the
 356 Miami-Dade County Homeless Trust, and the Mayor of Miami-Dade
 357 County. This committee shall nominate between 10 and 14 county
 358 citizens for the governing board, agency, or authority. The
 359 slate shall be presented to the county commission and the county
 360 commission shall confirm the top five to seven nominees,
 361 depending on the size of the governing board. Until such time as
 362 the governing board, agency, or authority is created, the funds
 363 provided for in subparagraph (d)2. shall be placed in a
 364 restricted account set aside from other county funds and not
 365 disbursed by the county for any other purpose.

366 1. The plan shall divide the county into a minimum of four
 367 and maximum of six service areas, with no more than one
 368 participant hospital per service area. The county public general
 369 hospital shall be designated as the provider for one of the
 370 service areas. Services shall be provided through participants'
 371 primary acute care facilities.

372 2. The plan and subsequent amendments to it shall fund a
 373 defined range of health care services for both indigent persons
 374 and the medically poor, including primary care, preventive care,
 375 hospital emergency room care, and hospital care necessary to
 376 stabilize the patient. For the purposes of this section,
 377 "stabilization" means stabilization as defined in s. 397.311(43)
 378 ~~s. 397.311(41)~~. Where consistent with these objectives, the plan
 379 may include services rendered by physicians, clinics, community

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380 hospitals, and alternative delivery sites, as well as at least
 381 one regional referral hospital per service area. The plan shall
 382 provide that agreements negotiated between the governing board,
 383 agency, or authority and providers shall recognize hospitals
 384 that render a disproportionate share of indigent care, provide
 385 other incentives to promote the delivery of charity care to draw
 386 down federal funds where appropriate, and require cost
 387 containment, including, but not limited to, case management.
 388 From the funds specified in subparagraphs (d)1. and 2. for
 389 indigent health care services, service providers shall receive
 390 reimbursement at a Medicaid rate to be determined by the
 391 governing board, agency, or authority created pursuant to this
 392 paragraph for the initial emergency room visit, and a per-member
 393 per-month fee or capitation for those members enrolled in their
 394 service area, as compensation for the services rendered
 395 following the initial emergency visit. Except for provisions of
 396 emergency services, upon determination of eligibility,
 397 enrollment shall be deemed to have occurred at the time services
 398 were rendered. The provisions for specific reimbursement of
 399 emergency services shall be repealed on July 1, 2001, unless
 400 otherwise reenacted by the Legislature. The capitation amount or
 401 rate shall be determined prior to program implementation by an
 402 independent actuarial consultant. ~~In no event shall such~~
 403 Reimbursement rates may not exceed the Medicaid rate. The plan
 404 must also provide that any hospitals owned and operated by
 405 government entities on or after the effective date of this act
 406 must, as a condition of receiving funds under this subsection,
 407 afford public access equal to that provided under s. 286.011 as
 408 to any meeting of the governing board, agency, or authority the

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subject of which is budgeting resources for the retention of charity care, as that term is defined in the rules of the Agency for Health Care Administration. The plan shall also include innovative health care programs that provide cost-effective alternatives to traditional methods of service and delivery funding.

3. The plan's benefits shall be made available to all county residents currently eligible to receive health care services as indigents or medically poor as defined in paragraph (4) (d).

4. Eligible residents who participate in the health care plan shall receive coverage for a period of 12 months or the period extending from the time of enrollment to the end of the current fiscal year, per enrollment period, whichever is less.

5. At the end of each fiscal year, the governing board, agency, or authority shall prepare an audit that reviews the budget of the plan, and the delivery of services, and quality of services, and makes recommendations to increase the plan's efficiency. The audit shall take into account participant hospital satisfaction with the plan and assess the amount of poststabilization patient transfers requested, and accepted or denied, by the county public general hospital.

Section 9. Section 397.416, Florida Statutes, is amended to read:

397.416 Substance abuse treatment services; qualified professional.—Notwithstanding any other provision of law, a person who was certified through a certification process recognized by the former Department of Health and Rehabilitative Services before January 1, 1995, may perform the duties of a

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qualified professional with respect to substance abuse treatment services as defined in this chapter, and need not meet the certification requirements contained in s. 397.311(32) ~~s. 397.311(30)~~.

Section 10. Paragraphs (d) and (g) of subsection (1) of section 440.102, Florida Statutes, are amended to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(1) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(d) "Drug rehabilitation program" means a service provider, established pursuant to s. 397.311(41) ~~s. 397.311(39)~~, that provides confidential, timely, and expert identification, assessment, and resolution of employee drug abuse.

(g) "Employee assistance program" means an established program capable of providing expert assessment of employee personal concerns; confidential and timely identification services with regard to employee drug abuse; referrals of employees for appropriate diagnosis, treatment, and assistance; and followup services for employees who participate in the program or require monitoring after returning to work. If, in addition to the above activities, an employee assistance program provides diagnostic and treatment services, these services shall in all cases be provided by service providers pursuant to s. 397.311(41) ~~s. 397.311(39)~~.

Section 11. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Transportation,
Tourism, and Economic Development, *Vice Chair*
Banking and Insurance
Criminal Justice
Education Pre-K-12
Ethics and Elections
Fiscal Policy

SENATOR JEFF CLEMENS

27th District

January 20, 2016

Senator René García, Chair
Appropriations Subcommittee on
Health and Human Services
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair García:

I respectfully request that SB 1138 – Ethical Marketing Practices for Substance Abuse Services be added to the agenda for the next Appropriations Subcommittee on Health and Human Services.

SB 1138 will ensure that treatment and recovery support for individuals who are impaired by substance disorders are offered in an ethical and professional manner that includes the use of ethical marketing practices to ensure the protection of this vulnerable population. The legislation prohibits certain marketing practices and provide criminal penalties for violations of those prohibitions.

Please feel free to contact me with any questions. Thank you, in advance, for your consideration.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jeff Clemens", written in a cursive style.

Senator Jeff Clemens
Florida Senate District 27

REPLY TO:

- ☐ 508 Lake Avenue, Unit C, Lake Worth, Florida 33460 (561) 540-1140 FAX: (561) 540-1143
- ☐ 226 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5027

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: PCS/CS/SB 750 (743014)

INTRODUCER: Appropriations Subcommittee on Health and Human Services; Children, Families, and Elder Affairs Committee; and Senators Hutson and Bean

SUBJECT: Temporary Cash Assistance Program

DATE: February 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	Fav/CS
2.	Brown	Pigott	AHS	Recommend: Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 750 makes changes to the state's main economic assistance program for families in poverty, Temporary Assistance for Needy Families (TANF), administered by the Department of Children and Families (DCF). The program supports families in poverty by providing cash assistance. The bill changes the way income from noncitizen parents is counted in determining eligibility.

The bill is estimated to have a positive fiscal impact to the state.

The bill has an effective date of July 1, 2016.

II. Present Situation:

The TANF is a block grant that provides federal funding to states for a wide range of benefits and activities to support needy families. It is best known for providing cash assistance to needy families with children. The TANF program was created in the 1996 welfare reform law as part of the Personal Responsibility and Work Opportunity Reconciliation Act.¹ In Florida, the 1996 Legislature passed the Work and Gain Economic Self-Sufficiency Act in anticipation of passage of federal welfare reform.

¹ Temporary Assistance for Needy Families, An Overview of Program Requirements. January 2016. Department of Children and Families, see <http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf> (last visited Feb. 18, 2016).

The purpose of TANF is to:

- Provide assistance to needy families with children so that they can live in their own home or the homes of relatives;
- End the dependency of needy parents on government benefits through work, job preparation, and marriage;
- Reduce the incidence of out-of-wedlock pregnancies; and
- Promote the formation and maintenance of two-parent families.²

Eligibility

Florida law specifies two major categories of families that are eligible for TANF cash assistance: families that are work-eligible and those with child-only cases.³ While many of the basic eligibility requirements apply to both of these categories, there are some distinctions in terms of requirements and restrictions.

Work-Eligible Cases

Within TANF work-eligible cases, there are single-parent families and two-parent families. Single-parent families can receive cash assistance for the parent and the children. The parent is subject to all of the financial and non-financial requirements described below, including the work requirements and time limits. Single parents with a child under age six are required to meet the participation rate with 20 hours of work participation per week.

Two-parent families with children are eligible on the same basis as single-parent families except the work requirement for two-parent families includes a higher number of hours of participation per week (35 hours, or 55 hours if child care is subsidized) than what is required for single-parent families (30 hours).

Child-Only Cases

There are two types of child-only TANF cases. The first is where the child is living with a relative or situations where a custodial parent is not eligible to be included in the eligibility group.⁴ In the majority of situations, the child is living with a grandparent or other relative. Child-only families also include situations where a parent is receiving federal Supplemental Security Income (SSI) payments and situations where the parent is not a U.S. citizen and is ineligible due to immigration status. Grandparents or other relatives receiving child-only payments are not subject to the TANF work requirement or the TANF time limit.

The second type of child-only TANF case is called the relative caregiver case, in which the child has been adjudicated dependent due to the original parents' inability to care for the child and the

² U.S. Department of Health and Human Services, see <http://www.acf.hhs.gov/programs/ofa/programs/tanf/about> (last visited Dec. 18, 2015).

³ Section 414.045(1), Florida Statutes.

⁴ Department of Children and Families, *Temporary Assistance for Needy Families, An Overview of Program Requirements*, June 2015, available at <http://www.dcf.state.fl.us/programs/access/docs/TANF%20101%20final.pdf> (last visited Dec. 18, 2015).

child has been placed with relatives by a court. These relatives are eligible for a payment that is higher than the typical child-only payment but less than the payment for licensed foster care. As with other child-only families, grandparents or relatives receiving relative caregiver payments are not subject to the TANF work requirements or time limits.

To be eligible for TANF, families must meet both financial and non-financial requirements established in state law. In general, families must include a child (or a pregnant woman) and be residents of Florida. Children under age 5 must be current with childhood immunizations, and children age 6 to 18 must attend school and their parents or caretakers must participate in school conferences. Countable assets must be \$2,000 or less, and licensed vehicles needed for individuals subject to the work requirement may not exceed \$8,500.⁵

Noncitizens

Florida law currently excludes a pro-rata share of the income from a parent who is an “illegal noncitizen or ineligible noncitizen.”⁶ This means that a portion of the income that an illegal noncitizen parent contributes to the family is not counted toward the family’s income for TANF eligibility.

Work requirements

Adults in families receiving cash assistance must work or participate in work-related activities for a specified number of hours per week, depending on the number of work-eligible adults in the family and the age of children.⁷

Type of Family	Work participation Hours Required
Other single parent families or two-parent families where one parent is disabled	30 hours weekly with at least 20 hours in core activities
Married teen or teen head of household under age 20	Maintains satisfactory attendance at secondary school or the equivalent or participates in education related to employment for at least 20 hours weekly
Two-parent families who do not receive subsidized child care	35 hours per week (total among both parents) with at least 30 hours in core activities
Two-parent families who receive subsidized child care	55 hours per week with at least 50 hours in core activities

Federal law includes 12 work activities, nine of which are “core” activities in that they may be used to satisfy any of the average weekly participation requirements and three of which are “supplemental” in that they may only be used to satisfy the work activity requirement after the “core” requirement is met.

Core activities include:

- Unsubsidized employment;
- Subsidized private sector employment;

⁵ *Id.*

⁶ Section 414.095(3)(d), F.S.

⁷ *Id.*

- Subsidized public sector employment;
- Job search and job readiness (limited to not more than six weeks in a federal fiscal year with not more than four weeks consecutive);
- Community service;
- Work experience;
- On-the-job training;
- Vocational educational training (limited to 12 months for an individual); and
- Caring for a child of a recipient in community service.⁸

Supplemental Activities include:

- Job skills training directly related to employment;
- Education directly related to employment (for those without a high school or equivalent degree); and
- Completion of a secondary school program.⁹

The DCF works with CareerSource Florida, Inc., which is Florida's statewide workforce policy board, and local workforce development boards, to serve the families defined as work-eligible. Local workforce boards assist clients with employment training and securing employment. The boards also document whether clients meet the work requirements under TANF and report this information to the DCF. If a client does not meet his or her work requirements, the DCF will sanction the client by reducing or eliminating cash assistance.

Amount of Assistance

The amount of temporary cash assistance received by a family depends on family size and whether the family must pay for housing each month. The following monthly amounts are specified in s. 414.095(10), F.S.

Family Size	Amount If There Is No Obligation to Pay for Shelter	Amount If Shelter Costs Are Less than \$50	Amount If Shelter Costs Are Greater than \$50
1	\$95	\$153	\$180
2	\$158	\$205	\$241
3	\$198	\$258	\$303
4	\$254	\$309	\$364
5	\$289	\$362	\$426

Time Limits

Federal law restricts receipt of federal TANF benefits to not more than 60 months of assistance. States may exempt up to 20 percent of the caseload from the time limit due to state-defined hardship. Florida law limits receipt of assistance to not more than 48 cumulative months of assistance with exemptions to the time limit provided for hardships.

⁸ Id

⁹ Id

III. Effect of Proposed Changes:

Section 1 amends s. 414.095, F.S., to make changes to the eligibility standards for TANF. The bill deletes the requirement that the DCF pro-rate a share of income provided by a parent that is an illegal noncitizen or an ineligible noncitizen in determining family income eligibility for TANF, applicable to new TANF applicants or to persons reapplying for TANF benefits. This would allow the DCF to consider the total family income regardless of whether one parent is a noncitizen but will not be applied to persons and families currently receiving TANF benefits. The bill also clarifies the age for children whose income is not included in the family income for eligibility for TANF if they are students under the age of 19. This matches the definition in s. 414.0252(8), F.S.

Section 2 reenacts s. 445.045, F.S., relating to TANF, to incorporate the bill's amendments to s. 414.095, F.S.

Section 3 provides an effective date of July 1, 2016.

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:

Fewer families would be eligible for Temporary Assistance for Needy Families (TANF) under PCS/CS/SB 750.

C. Government Sector Impact:

The bill would have a positive fiscal impact on the state due to fewer clients receiving TANF benefits. For CS/SB 750, the Department of Children and Families (DCF) estimated that, considering all the income of noncitizen parents in determining TANF eligibility, the bill would reduce program costs by \$239,518 in recurring general

revenue.¹⁰ Under the PCS, the cost savings would likely be somewhat less than the original estimate by an unknown amount.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 414.095, 414.105, and 445.024.

This bill reenacts the following sections of the Florida Statutes: 414.045, 414.065, and 445.051.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on February 24, 2016:

The proposed CS applies the bill's new TANF eligibility criteria to new applicants and to persons reapplying for TANF benefits, not to persons currently receiving benefits.

CS by Children, Families, and Elder Affairs on February 17, 2016:

- The committee substitute removes language that would have required TANF participants to apply for three jobs prior to receiving benefits.
- The committee substitute removes language that would have reduced the lifetime limit on the number of months of TANF benefits from 48 to 30.

B. Amendments:

None.

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

¹⁰ Department of Children and Families Bill Analysis for SB 750, dated Nov. 5, 2015. On file with the Senate Committee on Children, Families, and Elder Affairs.



286946

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
	.	
	.	
	.	

Appropriations Subcommittee on Health and Human Services
(Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Delete lines 48 - 51

and insert:

(d) Effective July 1, 2016, the income of an illegal noncitizen or ineligible noncitizen who is a mandatory member of a family, ~~less a pro rata share for the illegal noncitizen or ineligible noncitizen,~~ counts in full for a new applicant or for a person reapplying in determining a family's eligibility to



286946

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

And the title is amended as follows:

Delete lines 4 - 6

and insert:

consideration of income from certain illegal
noncitizen or ineligible noncitizen family members in
determining the family's eligibility for temporary
cash assistance on or after a specified date; revising
the age of a child whose earned income is disregarded;
reenacting



968620

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/24/2016	.	
	.	
	.	
	.	

Appropriations Subcommittee on Health and Human Services (Sobel)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 48 - 52
and insert:

(d) Effective July 1, 2016, the income of an illegal
noncitizen or ineligible noncitizen who is a mandatory member of
a family, less a pro rata share for the illegal noncitizen or
ineligible noncitizen, counts in full for a new applicant or for
a person reapplying, after the application of disregarded earned



968620

income, in determining a family's eligibility to participate in
the program.

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

And the title is amended as follows:

Delete lines 4 - 6

and insert:

consideration of income from certain illegal
noncitizen or ineligible noncitizen family members in
determining the family's eligibility for temporary
cash assistance on or after a specified date; revising
the age of a child whose earned income is disregarded;
reenacting

By the Committee on Children, Families, and Elder Affairs; and
Senators Hutson and Bean

586-03746A-16

2016750c1

A bill to be entitled

An act relating to the temporary cash assistance program; amending s. 414.095, F.S.; revising the consideration of income from illegal noncitizen or ineligible noncitizen family members in determining eligibility for temporary cash assistance; reenacting s. 414.045(1)(b), F.S., relating to the cash assistance program, to incorporate the amendment made to s. 414.095, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (d) of subsection (3), and subsection (11) of section 414.095, Florida Statutes, are amended to read:

414.095 Determining eligibility for temporary cash assistance.—

(3) ELIGIBILITY FOR NONCITIZENS.—A “qualified noncitizen” is an individual who is admitted to the United States as a refugee under s. 207 of the Immigration and Nationality Act or who is granted asylum under s. 208 of the Immigration and Nationality Act; a noncitizen whose deportation is withheld under s. 243(h) or s. 241(b)(3) of the Immigration and Nationality Act; a noncitizen who is paroled into the United States under s. 212(d)(5) of the Immigration and Nationality Act, for at least 1 year; a noncitizen who is granted conditional entry pursuant to s. 203(a)(7) of the Immigration and Nationality Act as in effect prior to April 1, 1980; a Cuban or Haitian entrant; or a noncitizen who has been admitted as a permanent resident. In addition, a “qualified noncitizen” includes an individual who, or an individual whose child or

Page 1 of 5

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

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parent, has been battered or subject to extreme cruelty in the United States by a spouse, a parent, or other household member under certain circumstances, and has applied for or received protection under the federal Violence Against Women Act of 1994, Pub. L. No. 103-322, if the need for benefits is related to the abuse and the batterer no longer lives in the household. A “nonqualified noncitizen” is a nonimmigrant noncitizen, including a tourist, business visitor, foreign student, exchange visitor, temporary worker, or diplomat. In addition, a “nonqualified noncitizen” includes an individual paroled into the United States for less than 1 year. A qualified noncitizen who is otherwise eligible may receive temporary cash assistance to the extent permitted by federal law. The income or resources of a sponsor and the sponsor’s spouse shall be included in determining eligibility to the maximum extent permitted by federal law.

(d) The income of an illegal noncitizen or ineligible noncitizen who is a mandatory member of a family, ~~less a pre-rata share for the illegal noncitizen or ineligible noncitizen,~~ counts in full in determining a family’s eligibility to participate in the program.

(11) DISREGARDS.—

(a) As an incentive to employment, the first \$200 plus one-half of the remainder of earned income shall be disregarded. In order to be eligible for earned income to be disregarded, the individual must be:

1. A current participant in the program; or
2. Eligible for participation in the program without the earnings disregard.

Page 2 of 5

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

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(b) A child's earned income shall be disregarded if the child is a family member, attends high school or the equivalent, and is less than 19 years of age ~~or younger~~.

Section 2. For the purpose of incorporating the amendment made by this act to section 414.095, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 414.045, Florida Statutes, is reenacted to read:

414.045 Cash assistance program.—Cash assistance families include any families receiving cash assistance payments from the state program for temporary assistance for needy families as defined in federal law, whether such funds are from federal funds, state funds, or commingled federal and state funds. Cash assistance families may also include families receiving cash assistance through a program defined as a separate state program.

(1) For reporting purposes, families receiving cash assistance shall be grouped into the following categories. The department may develop additional groupings in order to comply with federal reporting requirements, to comply with the data-reporting needs of the board of directors of CareerSource Florida, Inc., or to better inform the public of program progress.

(b) *Child-only cases*.—Child-only cases include cases that do not have an adult or teen head of household as defined in federal law. Such cases include:

1. Children in the care of caretaker relatives, if the caretaker relatives choose to have their needs excluded in the calculation of the amount of cash assistance.

2. Families in the Relative Caregiver Program as provided

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in s. 39.5085.

3. Families in which the only parent in a single-parent family or both parents in a two-parent family receive supplemental security income (SSI) benefits under Title XVI of the Social Security Act, as amended. To the extent permitted by federal law, individuals receiving SSI shall be excluded as household members in determining the amount of cash assistance, and such cases shall not be considered families containing an adult. Parents or caretaker relatives who are excluded from the cash assistance group due to receipt of SSI may choose to participate in work activities. An individual whose ability to participate in work activities is limited who volunteers to participate in work activities shall be assigned to work activities consistent with such limitations. An individual who volunteers to participate in a work activity may receive child care or support services consistent with such participation.

4. Families in which the only parent in a single-parent family or both parents in a two-parent family are not eligible for cash assistance due to immigration status or other limitation of federal law. To the extent required by federal law, such cases shall not be considered families containing an adult.

5. To the extent permitted by federal law and subject to appropriations, special needs children who have been adopted pursuant to s. 409.166 and whose adopting family qualifies as a needy family under the state program for temporary assistance for needy families. Notwithstanding any provision to the contrary in s. 414.075, s. 414.085, or s. 414.095, a family shall be considered a needy family if:

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119 a. The family is determined by the department to have an
120 income below 200 percent of the federal poverty level;

121 b. The family meets the requirements of s. 414.095(2) and
122 (3) related to residence, citizenship, or eligible noncitizen
123 status; and

124 c. The family provides any information that may be
125 necessary to meet federal reporting requirements specified under
126 Part A of Title IV of the Social Security Act.

127
128 Families described in subparagraph 1., subparagraph 2., or
129 subparagraph 3. may receive child care assistance or other
130 supports or services so that the children may continue to be
131 cared for in their own homes or in the homes of relatives. Such
132 assistance or services may be funded from the temporary
133 assistance for needy families block grant to the extent
134 permitted under federal law and to the extent funds have been
135 provided in the General Appropriations Act.

136 Section 3. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Rene Garcia, Chair
Appropriations Subcommittee on Health and Human Services

Subject: Committee Agenda Request

Date: February 18, 2016

I respectfully request that **Senate Bill #750**, relating to Temporary Cash Assistance Program, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Travis Hutson".

Senator Travis Hutson
Florida Senate, District 6

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/24/16

Meeting Date

750

Bill Number (if applicable)

Topic Information

Amendment Barcode (if applicable)

Name Michael Wickersheim

Job Title Director of legislative Affairs

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Florida Department of Children + Families

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/23/2016

Meeting Date

CS/SB 750
Bill Number (if applicable)

Topic Cash Assistance

Amendment Barcode (if applicable)

Name Gaby Garcia-Vera

Job Title FL Field Coordinator

Address 8330 Biscayne Blvd

Phone (786) 664-8310

Street

Miami

City

FL

State

33138

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing National Latina Institute for Reproductive Justice

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/24/16

Meeting Date

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

SB 750

Bill Number (if applicable)

Topic Temporary Cash Assistance Program

Amendment Barcode (if applicable)

Name William Lawson

Job Title FIELD REPRESENTATIVE

Address 20 S. LAKEWOOD DR.
Street

Phone 407-257-6081

ORLANDO
City

FL
State

32803
Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing CENTRAL FL AFL-CIO

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/23/16
Meeting Date

CS/SA 750
Bill Number (if applicable)

Topic Cash Assistance / TANF

Amendment Barcode (if applicable)

Name Karen Woodell

Job Title Executive Director

Address 579 E. Call St.

Phone 850 - 321-9386

Street

Tallahassee

State

FL

Zip

32301

Email kw@tallygaol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Center for Fiscal + Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/23/16

Meeting Date

CS/SB 750
Bill Number (if applicable)

286946

Amendment Barcode (if applicable)

Topic Cash Assistance / TANF

Name Karen Woodall

Job Title Executive Director

Address 579 E. Call St.

Street

Tallahassee FL 32301

City

State

Zip

Phone 850-321-9386

Email kwoodall@jacob.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/23/2016

Meeting Date

CB/SB 750
Bill Number (if applicable)

Topic Cash Assistance

Amendment Barcode (if applicable)

Name Jose Palacios

Job Title _____

Address 5208 Wiliput Ln
Street

Phone _____

Seffner
City

FL
State

33584
Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/23/2016

Meeting Date

CS/SB 750

Bill Number (if applicable)

Topic Cash Assistance / TANF

Amendment Barcode (if applicable)

Name Pamela Gomez

Job Title Central FL Community Organizer

Address 800 Biscayne Blvd

Phone 813-850-1076

Street

Miami

FL

City

State

Zip

Email pamela@floridaimmigrant.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Immigrant Coalition

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
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 Appropriations Subcommittee on Health and Human Services

BILL: PCS/CS/SB 1250 (760580)

INTRODUCER: Appropriations Subcommittee on Health and Human Services; Children, Families, and Elder Affairs Committee; and Senator Latvala

SUBJECT: Behavioral Health Workforce

DATE: February 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.	Brown	Pigott	AHS	Recommend: Fav/CS
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1250 expands the behavioral health workforce, recognizes the need for additional psychiatrists is of critical state concern, integrates primary care and psychiatry, and allows persons with disqualifying offenses that occurred five or more years ago to work under the supervision of certain qualified personnel until a final determination regarding the request for an exemption from disqualification is made.

The bill authorizes physician assistants (PAs) and advanced registered nurse practitioners (ARNPs) to prescribe controlled substances with certain limitations.

The bill requires a PA or an ARNP who prescribes any controlled substance for the treatment of chronic, nonmalignant pain, to register with the Department of Health (DOH) as a controlled substance prescribing practitioner. This new requirement also subjects PAs and ARNPs who are registered as controlled substance prescribing practitioners to meet the statutory practice standards for such prescribing practitioners. Additionally, the bill provides that only a physician may dispense medication or prescribe a controlled substance on the premises of a registered pain management clinic.

The bill makes the process of retaining a patient in a receiving facility, or placing a patient in a treatment facility under the Baker Act, more efficient by allowing the psychiatrist providing the first opinion and the psychiatrist or clinical psychologist providing a second opinion to examine

the patient through electronic means. Currently, only the psychiatrist or clinical psychologist providing a second opinion may perform an examination electronically.

The bill provides that persons employed directly or under contract with the Department of Corrections (DOC) in an inmate substance abuse program are exempt from a fingerprinting and background check requirement unless they have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled.

The bill expands who is eligible to be a service provider in a substance abuse program by allowing persons who have had a disqualifying offense that occurred five or more years ago and who have requested an exemption from disqualification to work with adults with substance abuse disorders.

The bill requires a hospital to provide advance notice to certain obstetrical physicians within 90 days before it closes its obstetrical department or ceases to provide obstetrical services.

The bill adds human trafficking to the required continuing medical education (CE) requirements for allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, and marriage and family therapists. Such licensees must complete two hours of CE courses on domestic violence *and human trafficking*, approved by the respective board, every third biennial re-licensure or recertification cycle.

The bill has an indeterminate fiscal impact.

The bill, except as otherwise expressly provided, takes effect upon becoming law.

II. Present Situation:

Behavioral Health Workforce Shortage

The Institute of Medicine (IOM) has chronicled efforts, beginning as early as the 1970s, to deal with workforce issues regarding mental and substance abuse disorders, but notes that most have not been sustained long enough or have not been comprehensive enough to remedy the problems.¹ Shortages of qualified workers, recruitment and retention of staff, and an aging workforce have long been cited as problems.² Lack of workers in rural areas and the need for a

¹ U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, *Report to Congress on the Nation's Substance Abuse and Mental Health Workforce Issues*, January 24, 2013, pg. r, citing the following Institute of Medicine reports: Institute of Medicine, (2006), *Improving the quality of health care for mental and substance-use conditions.*, Washington, DC, National Academies Press; Institute of Medicine, (2003), Greiner, A., & Knebel, E. (Eds.), *Health professions education: A bridge to quality.*, Washington, DC, National Academies Press; Institute of Medicine, (2004), Smedley, B. D., Butler, A. S., Bristow, L. R. (Eds.), *In the nation's compelling interest: Ensuring diversity in the health-care workforce.*, Washington, DC, National Academies Press; and Institute of Medicine, & Eden, J., (2012), *The mental health and substance use workforce for older adults: In whose hands?*, Washington, DC, National Academies Press; available at <https://store.samhsa.gov/shin/content/PEP13-RTC-BHWORK/PEP13-RTC-BHWORK.pdf> (last accessed on February 18, 2016).

² U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, *Report to Congress on the Nation's Substance Abuse and Mental Health Workforce Issues*, January 24, 2013, pg. 4, available at

workforce more reflective of the racial and ethnic composition of the U.S. population create additional barriers to accessing care for many.³ Recruitment and retention efforts are hampered by inadequate compensation, which discourages many from entering or remaining in the field.⁴ In addition, the misperceptions and prejudice surrounding mental and substance use disorders and those who experience them may be imputed to those who work in the field.⁵

Of additional concern, the IOM found that the workforce is unprepared to meet the mental and substance use disorder treatment needs of the rapidly growing population of older adults. The IOM data indicate that 5.6 to 8 million older adults have one or more mental health and substance use conditions which compound the care they need. However, there is a shortage of mental health or substance abuse practitioners who are trained with this population.⁶

The IOM projects that by 2020, there will be 12,625 child and adolescent psychologists needed, but a supply of only 8,312 is anticipated.⁷ In 2010, the Substance Abuse and Mental Health Services Administration (SAMHSA) reported that more than two-thirds of primary care physicians who tried to obtain outpatient mental health services for their patients reported they were unsuccessful because of shortages in mental health care providers, health plan barriers, and lack of coverage or inadequate coverage.

As of January 2016, the Health Resources and Services Administration has designed 4,362 Mental Health Professional Shortage Areas, including at least one in each state, the District of Columbia, and each of the territories.⁸

Behavioral Health Practice

In the U.S., states generally require a person to achieve higher levels of education to become a mental health counselor compared to that of a substance abuse counselor. As of 2011, 49 states required a master's degree to qualify as a mental health counselor but 23 states did not require any college degree to qualify as a substance abuse counselor. For behavioral health care disciplines, independent practice requires a master's degree in most states; however, for addiction counselors, data available a decade ago indicated that about 50-55 percent of those certified or practicing in the field held at least a master's degree, 75 percent held a bachelor's degree, and the remainder had either completed some college or held a high school diploma or equivalent degree.⁹

Because of major changes to the field of behavioral health, including the integration of behavioral health and primary care, behavioral health workers are in need of additional pre-

<https://store.samhsa.gov/shin/content/PEP13-RTC-BHWORK/PEP13-RTC-BHWORK.pdf> (last accessed on February 18, 2016).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* At 10.

⁸ Health Resources and Services Administration, *Data Warehouse, Health Professional Shortage Areas (HPSA) and Medically Underserved Areas/Populations (MUA/P)*, available at <http://datawarehouse.hrsa.gov/topics/shortageAreas.aspx> (last accessed on February 6, 2016).

⁹ *Supra* note 2.

service training and continuing education.¹⁰ Behavioral health has moved to a chronic care, public health model to define needed services. This model recognizes the importance of prevention, the primacy of long-term recovery as its key construct, and is shaped by those with experience of recovery.¹¹ This new care model will require a diverse, skilled, and trained workforce that employs a range of workers, including people in recovery, recovery specialists, case workers, and highly trained specialists.¹² In fact, the movement to include primary care providers in the field of behavioral health has led to a lack of consensus as to which health care provider types make up the workforce.¹³ Generally, however, the workforce is made up of professionals practicing psychiatry, clinical psychology, clinical social work, advanced practice psychiatric nursing, marriage and family therapy, substance abuse counseling, and counseling¹⁴

Involuntary Examination and Inpatient Placement under the Baker Act

In 1971, the Legislature passed the Florida Mental Health Act, also known as the Baker Act¹⁵, codified in part I of ch. 394, F.S., to address mental health needs in the state.¹⁶ The Baker Act provides the authority and process for the voluntary and involuntary examination of persons with evidence of a mental illness and the subsequent inpatient or outpatient placement of such individuals for treatment.

The Department of Children and Families (DCF) administers the Baker Act through receiving facilities that examine persons with evidence of mental illness. Receiving facilities are designated by the DCF and may be public or private facilities that provide the examination and short-term treatment of persons who meet the criteria under the Baker Act.¹⁷ Subsequent to examination at a receiving facility, a person who requires further treatment may be transported to a treatment facility. Treatment facilities designated by the DCF are state hospitals (e.g. Florida State Hospital) which provide extended treatment and hospitalization beyond what is provided in a receiving facility.¹⁸

¹⁰ *Id.* at 4-5.

¹¹ *Id.* at 6.

¹² *Id.*

¹³ Congressional Research Service, *The Mental Health Workforce: A Primer*, April 16, 2015, available at http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=3&cad=rja&uact=8&ved=0ahUKEwjK9voubzKAhVCVYyKHYx5DHYQFggUMAI&url=http%3A%2F%2Ffas.org%2Fsgp%2Fcrs%2Fmisc%2FR43255.pdf&usg=AFQjCNHkmHp_4SMtmCWS7gImwEWxhPG1lg&sig2=5JBwSXTV1PHBeGZJGig0Xw (last accessed on February 6, 2016).

¹⁴ *Id.* At 2 (using the Substance Abuse and Mental Health Services Administration definition).

¹⁵ “The Baker Act” is named for its sponsor, Representative Maxine E. Baker, one of the first two women from Dade County elected to office in the Florida Legislature. As chair of the House Committee on Mental Health, she championed the treatment of mental illness in a manner that would not sacrifice a patient's rights and dignity. Baker served five terms as a member of the Florida House of Representatives from 1963-1972 and was instrumental in the passage of the Florida Mental Health Act. See University of Florida Smathers Libraries, *A Guide to the Maxine E. Baker Papers*, available at <http://www.library.ufl.edu/spec/pkyonge/baker.htm> (last accessed January 21, 2016), and Department of Children and Families and University of South Florida, Department of Mental Health and Law, *Baker Act Handbook and User Reference Guide 2014 (2014)*, available at <http://myflfamilies.com/service-programs/mentalhealth/baker-act> (select “2014 Baker Act Manual”) (last accessed January 21, 2016).

¹⁶ Chapter 71-131, s. 1, Laws of Fla.

¹⁷ Section 394.455(32), F.S.

¹⁸ Section 394.463(1), F.S.

Current law provides that an involuntary examination may be initiated if there is reason to believe a person has a mental illness, and, because of the illness:¹⁹

- The person has refused a voluntary examination after explanation of the purpose of the exam or is unable to determine for himself or herself that an examination is needed; and
- The person is likely to suffer from self-neglect or substantial harm to her or his well-being, or be a danger to himself or herself or others.

Courts, law enforcement officers, and certain health care practitioners are authorized to initiate such involuntary examinations.²⁰ A circuit court may enter an ex parte order stating a person meets the criteria for involuntary examination. A law enforcement officer²¹ may take a person into custody who appears to meet the criteria for involuntary examination and transport them to a receiving facility for examination. Health care practitioners may initiate an involuntary examination by executing the Certificate of a Professional Initiating an Involuntary Examination, an official form adopted in DCF rule.²² The health care practitioner must have examined the person within the preceding 48 hours and must state that the person meets the criteria for involuntary examination.²³ The Baker Act currently authorizes the following health care practitioners to initiate an involuntary examination by certificate:²⁴

- A physician licensed under ch. 458, F.S., or ch. 459, F.S., who has experience in the diagnosis and treatment of mental and nervous disorders;
- A clinical psychologist, as defined in s. 490.003(7), F.S., with three years of postdoctoral experience in the practice of clinical psychology, inclusive of the experience required for licensure;
- A physician or psychologist employed by a facility operated by the U.S. Department of Veterans Affairs that qualifies as a receiving or treatment facility;
- A psychiatric nurse licensed under part I of ch. 464, F.S., who has a master's degree or a doctorate in psychiatric nursing, holds a national advanced practice certification as a psychiatric mental health advance practice nurse, and has two years of post-master's clinical experience under the supervision of a physician;
- A mental health counselor licensed under ch. 491, F.S.;
- A marriage and family therapist licensed under ch. 491, F.S.; and

¹⁹ Section 394.463(2)(a)1.-3., F.S.

²⁰ "Law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. s. 943.10(1), F.S.

²¹ The Certificate of a Professional Initiating an Involuntary Examination is a form created by the DCF which must be executed by health care practitioners initiating an involuntary examination under the Baker Act. The form contains information related to the person's diagnosis and the health care practitioner's personal observations of statements and behaviors that support the involuntary examination of such person. See Florida Department of Children and Families, CF-MH 3052b, incorporated by reference in Rule 65E-.280, F.A.C., and available at <http://www.dcf.state.fl.us/programs/samh/MentalHealth/laws/3052b.pdf>. (last visited February 6, 2016).

²² Section 394.463(2)(a)3., F.S.

²³ *Id.*

²⁴ *Id.*

- A clinical social worker licensed under ch. 491, F.S.

In 2014, there were 181,471 involuntary examinations initiated in the state. Law enforcement initiated half of the involuntary examinations (50.18 percent), followed closely by mental health professionals (47.86 percent), with the remaining initiated pursuant to ex parte orders by judges (1.96 percent).²⁵

Background Screening of Substance Abuse Treatment Provider Staff

Substance abuse treatment programs are licensed by the DCF Substance Abuse Program Office under authority granted in s. 397.401, F.S., which provides that it is unlawful for any person to act as a substance abuse service provider unless he or she is licensed or exempt from licensure. In order to obtain a license, a provider must apply to the DCF and submit “sufficient information to conduct background screening as provided in s. 397.451, F.S.”²⁶ According to administrative rule, the required documentation is verification that fingerprinting and background checks have been completed as required by ch. 397, F.S., and ch. 435, F.S.²⁷

Section 397.451, F.S., requires that “all owners, directors, and chief financial officers of service providers are subject to level 2 background screening as provided under chapter 435, F.S.” All service provider personnel who have direct contact with children receiving services or with adults who are developmentally disabled receiving services are subject to level 2 background screening as provided under chapter 435, F.S. Church or nonprofit religious organizations that are exempt from licensure as substance abuse treatment programs must also comply with personnel screening requirements.

Exemptions from personnel screening requirements include:

- Persons who volunteer at a program for less than 40 hours per month and who are under direct and constant supervision by persons who meet all screening requirements;
- Service providers who are exempt from licensing; and
- Persons employed by the Department of Corrections (DOC) in a substance abuse service program who have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled.²⁸

The requirements for level 1 and level 2 screening are found in ch. 435, F.S. Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE), a check of the Dru Sjodin National Sex Offender Public Website,²⁹ and may include criminal records checks through local law enforcement agencies. Level 2 screening is required for all employees in positions

²⁵ Annette Christy & Christina Guenther, Baker Act Reporting Center, College of Behavioral & Community Sciences, University of South Florida, *Annual Report of Baker Act Data: summary of 2014 Data*, available at http://bakeract.fmhi.usf.edu/document/BA_Annual_2014.pdf (last visited February 6, 2016).

²⁶ Section 397.403, F.S.

²⁷ Rule 65D-30.003(6)(s), F.A.C.

²⁸ Section 397.451(2)(c), F.S.

²⁹ The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. The website is available at <https://www.nsopw.gov/> (last visited February 6, 2016).

designated by law as positions of trust or responsibility, and it includes security background investigations which consist of at least fingerprinting, statewide criminal and juvenile records checks through FDLE, and federal criminal records checks through the Federal Bureau of Investigation (FBI) and may include local criminal records checks through local law enforcement agencies.³⁰

Under certain circumstances, the DCF may grant an exemption from disqualification as provided in s. 435.07, F.S. These circumstances are:

- Felonies committed more than three years prior to the date of disqualification;
- Misdemeanors prohibited under any of specified Florida Statutes or under similar statutes of other jurisdictions;
- Offenses that were felonies when committed but are now misdemeanors;
- Findings of delinquency; or
- Commissions of acts of domestic violence as defined in s. 741.30, F.S.

Under s. 435.07, F.S., employees bear the burden of proving, by clear and convincing evidence, they should not be disqualified and have administrative hearing rights under ch. 120, F.S., for denials.³¹ However, the DCF may not remove a disqualification for or grant an exemption to an individual who is found guilty of, regardless of adjudication, or who has entered a plea of nolo contendere or guilty to, any felony covered by s. 435.03, F.S., solely by pardon, executive clemency, or restoration of civil rights.³²

Substance Abuse Treatment Provider Staff

Since many substance abuse treatment programs employ persons who are themselves in recovery, the DCF is authorized to grant additional exemptions from disqualification for employees of substance abuse treatment programs.³³ Employees must submit a request for an exemption for disqualification within 30 days after being notified of a pending disqualification. Pending disposition of the exemption request, an employee's employment may not be adversely affected. However, upon disapproval of a request for an exemption the service provider must immediately dismiss the employee from employment.³⁴

Physician Assistants

A physician assistant (PA) is a person who has completed an approved medical training program and is licensed to perform medical services, as delegated by a supervising physician.³⁵ Chapter 458, F.S., sets forth the provisions for the regulation of the practice of allopathic medicine by the

³⁰ Section 435.04(1), F.S.

³¹ The employee must set forth sufficient evidence of rehabilitation, such as the circumstances surrounding the criminal incident, the time period that has elapsed since the incident, the nature of the harm to the victim, and the history of the employee since the incident.

³² Section 435.07(4), F.S.

³³ Section 397.451(4)(b), F.S., provides exemptions for crimes under ss. 817.563, 893.13, and 893.147, F.S. These exemptions only apply to providers who treat adolescents age 13 and older; as well as personnel who work exclusively with adults.

³⁴ Section 397.451(1)(f), F.S.

³⁵ Sections 458.347(2)(e) and 459.022(2)(e), F.S.

Board of Medicine (BOM). Chapter 459, F.S., similarly sets forth the provisions for the regulation of the practice of osteopathic medicine by the Board of Osteopathic Medicine (BOOM). PAs are regulated by both boards. Licensure of PAs is overseen jointly by the boards through the Council on Physician Assistants.³⁶ During the 2014-2015 state fiscal year, there were 6,744 in-state, actively licensed PAs in Florida.³⁷

Physician Assistants are trained and required by statute to work under the supervision and control of allopathic or osteopathic physicians.³⁸ The BOM and the BOOM have adopted rules that set out the general principles a supervising physician must use in developing the scope of practice of the PA under both direct³⁹ and indirect⁴⁰ supervision. A supervising physician's decision to permit a PA to perform a task or procedure under direct or indirect supervision must be based on reasonable medical judgment regarding the probability of morbidity and mortality to the patient. The supervising physician must be certain that the PA is knowledgeable and skilled in performing the tasks and procedures assigned.⁴¹ Each physician, or group of physicians supervising a licensed PA, must be qualified in the medical areas in which the PA is to work and is individually or collectively responsible and liable for the performance and the acts and omissions of the PA.⁴²

Current law allows a supervisory physician to delegate authority to prescribe or dispense any medication used in the physician's practice, except controlled substances, general anesthetics, and radiographic contrast materials.⁴³ However, the law allows a supervisory physician to delegate authority to a PA to order any medication, including controlled substances, general anesthetics, and radiographic contrast materials, for a patient during the patient's stay in a facility licensed under ch. 395, F.S.⁴⁴

Licenses are renewed biennially.⁴⁵ At the time of renewal, a PA must demonstrate that he or she has met the continuing medical education requirements of 100 hours and must submit a sworn statement that he or she has not been convicted of any felony in the previous two years.⁴⁶ If a PA

³⁶ The council consists of three physicians who are members of the Board of Medicine; one physician who is a member of the Board of Osteopathic Medicine; and a physician assistant appointed by the State Surgeon General. (s. 458.348(9), F.S. and s. 459.022(9), F.S.)

³⁷ Florida Dep't of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2014-2015*, p. 11, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1415.pdf>, (last visited Feb. 1, 2016).

³⁸ Sections 458.347(4), and 459.022(4), F.S.

³⁹ "Direct supervision" requires the physician to be on the premises and immediately available. (See Rules 64B8-30.001(4) and 64B15-6.001(4), F.A.C.).

⁴⁰ "Indirect supervision" requires the physician to be within reasonable physical proximity. (Rules 64B8-30.001(5) and 64B15-6.001(5), F.A.C.).

⁴¹ Rules 64B8-30.012(2) and 64B15-6.010(2), F.A.C.

⁴² Sections 458.347(3) and (15) and 459.022(3) and (15), F.S.

⁴³ Sections 458.347(4)(e) and (f)1., and 459.022(4)(e), F.S.

⁴⁴ See s. 395.002(16), F.S. The facilities licensed under chapter 395 are hospitals, ambulatory surgical centers, and mobile surgical facilities.

⁴⁵ For timely renewed licenses, the renewal fee is \$275 and the prescribing registration fee is \$150. Additionally, at the time of renewal, the PA must pay an unlicensed activity fee of \$5. See Rules 64B8-30.019 and 64B15-6.013, F.A.C. ⁴³ Sections 458.347(7)(c)-(d) and 459.022(7)(c)-(d), F.S.

⁴⁶ Sections 458.347(7)(c)-(d) and 459.022(7)(c)-(d), F.S.

is licensed as a prescribing PA, an additional 10 hours of continuing medical education in the specialty areas of his or her supervising physician must be completed.⁴⁷

According to the American Academy of Physician Assistants, all accredited PA educational programs include pharmacology courses, and the average amount of formal classroom instruction in pharmacology is 75 hours.⁴⁸ Course topics, include pharmacokinetics, drug interactions, adverse effects, contraindications, indications, and dosage, generally by doctoral-level pharmacologists or clinical pharmacists.⁴⁹ Additionally, pharmacology education occurs on all clinical clerkships or rotations.⁵⁰

A PA may only practice under the delegated authority of a supervising physician. A physician may not supervise more than four PAs at any time.⁵¹

Advanced Registered Nurse Practitioners

Part I of ch. 464, F.S., governs the licensure and regulation of advanced registered nurse practitioners (ARNPs) in Florida. Nurses are licensed by the Department of Health (DOH) and are regulated by the Board of Nursing (BON).⁵² There are 22,003 actively licensed ARNPs in Florida.⁵³

In Florida, an ARNP is a licensed nurse who is certified in advanced or specialized nursing practice and may practice as a certified registered nurse anesthetist, a certified nurse midwife, or a nurse practitioner.⁵⁴ Section 464.003(2), F.S., defines “advanced or specialized nursing practice” to include the performance of advanced-level nursing acts approved by the BON, which by virtue of post-basic specialized education, training, and experience are appropriately performed by an ARNP.⁵⁵

Pursuant to s. 464.012(3), F.S., ARNPs may only perform nursing practices delineated in an established protocol filed with the BON that is filed within 30 days of entering into a supervisory relationship with a physician and upon biennial license renewal.⁵⁶ Florida law allows a primary care physician to supervise ARNPs in up to four offices, in addition to the physician’s primary practice location.⁵⁷ If the physician provides specialty health care services, then only two medical offices, in addition to the physician’s primary practice location, may be supervised.

⁴⁷ Rules 64B8-30.005(6) and 64B15-6.0035(6), F.A.C.

⁴⁸ American Academy of Physician Assistants, *PAs as Prescribers of Controlled Medications, Professional Issues – Issue Brief* (Dec. 2013), (on file with the staff of the Senate Committee on Children, Families & Elder Affairs).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ Sections 458.347(3) and 459.022(3), F.S.

⁵² Section 464.004, F.S.

⁵³ E-mail correspondence with the Department of Health (Nov. 9, 2015). This number includes all active licenses, including out of state practitioners.

⁵⁴ Section 464.003(3), F.S.

⁵⁵ Section 464.003(2), F.S.

⁵⁶ Physicians are also required to provide notice of the written protocol and the supervisory relationship to the Board of Medicine or Board of Osteopathic Medicine, respectively. See ss. 458.348 and 459.025, F.S.

⁵⁷ Sections 458.348(4) and 459.025(3), F.S.

The supervision limitations do not apply in the following facilities:

- Hospitals;
- Colleges of medicine or nursing;
- Nonprofit family-planning clinics;
- Rural and federally qualified health centers;
- Nursing homes;
- Assisted living facilities;
- Student health care centers or school health clinics; or
- Other government facilities.⁵⁸

To ensure appropriate medical care, the number of ARNPs a supervising physician may supervise is limited based on consideration of the following factors:

- Risk to the patient;
- Educational preparation, specialty, and experience in relation to the supervising physician's protocol;
- Complexity and risk of the procedures;
- Practice setting; and
- Availability of the supervising physician or dentist.⁵⁹

Controlled Substances

Controlled substances are drugs with the potential for abuse. Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act (Act) and classifies controlled substances into five categories, known as schedules.⁶⁰ The distinguishing factors between the different drug schedules are the “potential for abuse” of the substance and whether there is a currently accepted medical use for the substance. Schedules are used to regulate the manufacture, distribution, preparation and dispensing of the substances. The Act provides requirements for the prescribing and administering of controlled substances by health care practitioners and proper dispensing by pharmacists and health care practitioners.⁶¹

As of January 1, 2012, every physician, podiatrist, or dentist, who prescribes controlled substances in the state for the treatment of chronic nonmalignant pain,⁶² must register as a controlled substance prescribing practitioner and comply with certain practice standards specified in statute and rule.⁶³

Patients being treated with controlled substances for chronic nonmalignant pain must be seen by their prescribing practitioners at least once every three months to monitor progress and compliance, and detailed medical records relating to such treatment must be maintained.⁶⁴

⁵⁸ Sections 458.348(4)(e) and 459.025(3)(e), F.S.

⁵⁹ Rule 64B9-4.010, F.A.C.

⁶⁰ See s. 893.03, F.S.

⁶¹ Sections 893.04 and 893.05, F.S.

⁶² “Chronic nonmalignant pain” is defined as pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery. Section 456.44(1)(e), F.S.

⁶³ Chapter 2011-141, s. 3, Laws of Fla. (creating ss. 456.44, F.S., effective July 1, 2011).

⁶⁴ Section 465.44(3)(d), F.S.

Patients at special risk for drug abuse or diversion may require consultation with or a referral to an addiction medicine physician or a psychiatrist.⁶⁵ Anyone with signs or symptoms of substance abuse must be immediately referred to a pain-management physician, an addiction medicine specialist, or an addiction medicine facility.⁶⁶

Obstetrical Departments in Hospitals

Hospitals are required to report the services which will be provided by the hospital as a requirement of licensure. These services are listed on the hospital's license. A hospital must notify the Agency for Health Care Administration (AHCA) of any change of service that affects information on the hospital's license by submitting a revised licensure application between 60 and 120 days in advance of the change.⁶⁷ The list of services is also used for the AHCA's inventory of hospital emergency services. According to the AHCA website, there are currently 143 hospitals in Florida that offer emergency obstetrical services.⁶⁸

Provider Hospitals

Section 383.336, F.S., defines the term "provider hospital" and creates certain requirements for such hospitals. A provider hospital is defined as a hospital in which 30 or more births occur annually that are paid for partly or fully by state funds or federal funds administered by the state.⁶⁹ Physicians in such hospitals are required to comply with additional practice parameters⁷⁰ designed to reduce the number of unnecessary cesarean sections performed within the hospital. These parameters must be followed by physicians when performing cesarean sections partially or fully paid for by the state.

The statute also requires provider hospitals to establish a peer review board consisting of obstetric physicians and other persons with credentials to perform cesarean sections within the hospital. The board is required to review, on a monthly basis, all cesarean sections performed within the hospital that were partially or fully funded by the state.

These provisions are not currently being implemented, and DOH rules regarding provider hospitals were repealed by ss. 9-10 of ch. 2012-31, Laws of Florida.

⁶⁵ Section 465.44(3)(e), F.S.

⁶⁶ Section 456.44(3)(g), F.S.

⁶⁷ AHCA, *Senate Bill 380 Analysis* (December 20, 2013) (on file with Senate Committee on Health Policy). See also ss. 408.806(2)(c) and 395.1041(2), F.S.

⁶⁸ Report generated by <http://www.floridahealthfinder.gov/index.html> on Nov. 24, 2015 (on file with the Senate Committee on Health Policy).

⁶⁹ Section 383.336 (1), F.S.

⁷⁰ These parameters are established by the Office of the State Surgeon General in consultation with the Board of Medicine and the Florida Obstetric and Gynecologic Society and are required to address, at a minimum, the feasibility of attempting a vaginal delivery, dystocia, fetal distress, and fetal malposition.

Closure of an Obstetrical Department in Bartow, Florida

In June of 2007, Bartow Regional Medical Center in Polk County announced to patients and physicians that it would close its obstetrics department at the end of July of the same year.⁷¹ Although many obstetrical physicians could continue to see patients in their offices, they would no longer be able to deliver babies at the hospital.⁷² Physicians and the local community protested the short timeframe for ceasing to offer obstetrical services. According to the Florida Medical Association and several physicians who worked at the hospital, the short notice “endangered pregnant women who [were] too close to delivery for obstetricians at other hospitals to want them as patients.”⁷³

Continuing Education (CE) for Health Care Practitioners

Section 456.031, F.S., requires allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, and marriage and family therapists licensed under chs. 458, 459, Part I of chs. 464, 466, 490 and 491, F.S., to obtain two hours of CE on domestic violence every third biennium, or every six years. The law allows each board to approve equivalent courses to satisfy this requirement. Reporting of CE hours is mandatory for these professions through the licensee’s CE Broker account.

Florida law defines “domestic violence” as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.⁷⁴

Section 456.031, F.S., sets out the required CE course content for domestic violence, as follows:

- Data and information on the number of patients in that professional’s practice who are likely to be victims of domestic violence;
- The number who are likely to be perpetrators of domestic violence;
- Screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence; and
- Instruction on how to provide patients with information on resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services.

Florida law defines “human trafficking” to mean transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.⁷⁵

⁷¹ Jennifer Starling, *Community Unites Against OB Closure*, THE POLK DEMOCRAT, July 12, 2007, available at <http://ufdc.ufl.edu/UF00028292/00258/1x?vo=12>, (last visited Nov. 24, 2015).

⁷² Robin W. Adams, *Bartow Hospital Plan Criticized*, THE LEDGER, July 11, 2007, available at <http://www.theledger.com/article/20070711/NEWS/707110433?p=1&tc=pg&tc=ar>, (last visited Nov. 24, 2015).

⁷³ Id.

⁷⁴ See s. 741.28, F.S.

⁷⁵ See s. 787.06(2)(d), F.S.

Currently there is no requirement for allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, or marriage and family therapists, to complete any CEs on human trafficking, either at initial licensure or renewal.

According to the Department of Health's Division of Medical Quality Assurance (MQA) Annual Report and Long Range Plan for Fiscal Year 2014-2015, there are 48,941 in-state allopathic physicians,⁷⁶ 6,216 osteopathic physicians,⁷⁷ 6,744 physician assistants, 197 anesthesiologist assistants, 304,666 nurses,⁷⁸ 10,981 dentists, 11,589 dental hygienists, 1,023 dental lab personnel, 5,086 psychologists, 7,971 social workers, 9,054 mental health counselors and 1,667 marriage and family therapists holding active licenses in Florida.⁷⁹

III. Effect of Proposed Changes:

Section 1 amends s. 110.12315, F.S., to allow advanced registered nurse practitioners and physician assistants to write prescriptions under the state employees' prescription drug program for brand name drugs under certain conditions.

Section 2 amends s. 310.071, F.S., to allow applicants for certification as a deputy pilot of a watercraft or vessel to meet certain requirements and minimum standards for passing a physical examination. Such standards must include zero tolerance for any controlled substance unless the applicant is under the care of, and the controlled substance was prescribed by, a physician, advanced registered nurse practitioner (ARNP), or physician assistant (PA).

Section 3 amends s. 310.073, F.S., to require applicants for state licensure as a pilot of a watercraft or vessel to meet certain minimum standards for physical and mental capabilities necessary to carry out their professional duties. Such minimum standards must include zero tolerance for any controlled substance unless the applicant is under the care of, and the controlled substance was prescribed by, a physician, ARNP, or PA.

Section 4 amends s. 310.081, F.S., to allow licensed pilots to hold their licenses so long as they meet certain minimum standards. Such standards include zero tolerance for any controlled substance unless the applicant is under the care of, and the controlled substance was prescribed by, a physician, advanced registered nurse practitioner or physician assistant.

Section 5 amends 394.453, F.S., to provide legislative intent to address a behavioral health workforce shortage in the state. The bill finds that there is a need for additional psychiatrists and

⁷⁶ Florida Dep't of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2014-2015*, p. 11-13, available at <http://www.floridahealth.gov/licensing-and-regulation/reports-and-publications/documents/annual-report-1415.pdf>, (last visited Jan. 26, 2016). The 48,941 active allopathic physicians includes: 226 house physicians; 146 limited license physicians; 335 critical need physicians; 8 medical expert physicians, 1 Mayo Clinic limited license physician; 40 medical facility physicians; 2 public health physicians; and 1 public psychiatry physician.

⁷⁷ *Id.* The 7216 osteopathic physicians includes 5,264 osteopathic physicians, 5 osteopathic limited license physicians, and 2 osteopathic expert physicians.

⁷⁸ *Id.* The 304,566 nurses includes 18,250 ARNPs, 26 ARNP/CNS, 131 CNS, 217,315 RNs, and 68,844 LPNs,

⁷⁹ See *supra* note 3.

recommends the establishment of an additional psychiatry program to be offered by one of Florida's medical schools, which shall seek to integrate primary care and psychiatry, and other evolving models of care for persons with mental health and substance use disorders. Additionally, the bill finds that the use of telemedicine for patient evaluation, case management, and ongoing care will improve management of patient care and reduce costs of transportation.

Section 6 amends s. 394.467, F.S., to allow a psychiatrist providing the first opinion and a psychiatrist or clinical psychologist providing a second opinion about the patient's placement, to examine the patient electronically.

Section 7 amends s. 395.1051, F.S., to require hospitals to notify physicians within 90 days before the hospital closes its obstetrical department or ceases to provide obstetrical services.

Section 8 amends s. 397.451, F.S., to clarify that persons employed with the Department of Corrections (DOC) in an inmate substance abuse program are exempt from fingerprinting and background check requirement, unless they have direct contact with unmarried inmates under the age of 18 or with inmates who are developmentally disabled. The current law erroneously states the inverse.

The bill also provides that a person who has had a disqualifying offense that occurred five or more years ago and who has requested an exemption from disqualification to work with adults with substance abuse disorders, must work under the supervision of qualified professionals under chapter 490 or chapter 491 or a master's level certified addiction professional until "the agency" makes a final determination regarding the request for an exemption from disqualification.

Section 9 amends s. 456.031, F.S., to require allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, and marriage and family therapists to complete two hours of Continuing Education (CE) on domestic violence and human trafficking as part of every third biennial license renewal, which is every six years. The course content for domestic violence remains unchanged.

The bill sets out the required course content for the human trafficking portion of the course as follows:

- Data and information on the types and extent of labor and sex trafficking;
- Factors that place a person at greater risk of being a trafficking victim;
- Patient safety and security;
- Management of medical records of patients who are trafficking victims;
- Public and private social services available for rescue, food, clothing, and shelter referrals;
- Hotlines for reporting human trafficking maintained by the National Human Trafficking Resource Center and the U.S. Department of Homeland Security;
- Validated assessment tools for the identification of trafficking victims;
- General indicators that a person may be a victim of human trafficking;
- Procedures for sharing information related to human trafficking with a patient; and
- Referral options for legal and social services as appropriate.

Confirmation of completing the CE hours is due when submitting fees for every third biennial re-licensure or recertification. The form of the confirmation is left to the discretion of the respective board.⁸⁰ The board may approve equivalent courses to satisfy this statute's requirements. The two CE hours on domestic violence and human trafficking may be included in the total CE hours required by the profession, unless the CE requirement for the profession is less than 30 hours biennially. A person holding two or more licenses under this section may satisfy the CE requirements for each license upon proof of completion of one, two-hour, course during the time frame.

The bill provides for disciplinary action under s. 456.072(1)(k), F.S., for failure to comply with the CE requirements and requires the respective board to include completion of a board-approved course as part of any discipline imposed. The bill allows each board to adopt rules to carry out this statute.

Section 10 amends s. 456.072, F.S., to provide that an ARNP who prescribed or dispensed in a manner that violates the standards of practice is subject to disciplinary action.

Section 11 amends s. 456.44, F.S., to increase access to behavioral health treatment by allowing PAs licensed under chapters 458 or 459, F.S., and ARNPs certified under part I of ch. 464, F.S., to prescribe controlled substances listed in Schedule II, Schedule III, or Schedule IV as defined in s. 893.03, F.S., for the treatment of chronic nonmalignant pain under certain conditions.

Section 12 amends s. 458.3265, F.S., to allow only physicians licensed under chapters 458 or 459, F.S., to dispense medication or prescribe controlled substance regulated under ch. 893 on the premises of a registered pain-management clinic.

Section 13 amends s. 459.0137, F.S., to allow only physicians licensed under chapters or 458 or 459, F.S., to dispense medication or prescribe controlled substance regulated under ch. 893 on the premises of a registered pain-management clinic.

Section 14 amends s. 458.347, F.S., to provide that three of the ten continuing medical education hours required for a PA must consist of a continuing education course on the safe and effective prescribing of controlled substance medications. The continuing education must be offered by a statewide professional association of physicians in this state accredited to provide educational activities designated by the American Medical Association Physician's Recognition Award Category I Credit or designated by the American Academy of Physician Assistants as a Category I Credit.

Section 15 amends s. 458.347, F.S., to direct the establishment of a formulary of medicinal drugs that a fully licensed PA may not prescribe. The formulary must include certain drugs and must limit the prescription of Schedule II controlled substance to a seven-day supply and restrict the

⁸⁰ See The Department of Health, *Continuing Education – CE*, <http://www.floridahealth.gov/licensing-and-regulation/ce.html>, (last visited Jan. 22, 2016). Currently, the DOH requires all licensees to report all CEs at the time of renewal through the department's electronic tracking system. It happens automatically when a licensee attempts to renew his or her license. If the licensee's CE records are complete, they will be able to renew without interruption. If the licensee's CE records are not complete, they will be prompted to enter their remaining CE hours before proceeding with their license renewal.

prescribing of psychiatric mental health controlled substances to children under 18 years of age, effective January 1, 2017.

Section 16 amends s. 464.003, F.S., to provide that an ARNP may perform certain acts of medical diagnosis and treatment, prescription, and operation as authorized within the framework of an established supervisory protocol.

Section 17 amends s. 464.012, F.S., to direct the Board of Nursing to establish a committee to recommend a formulary of controlled substances that an ARNP may not prescribe or may prescribe only for specific uses or in limited quantities. The bill sets out who will be members of the committee and that the committee's initial recommendation is to be adopted no later than October 31, 2016.

Section 18 amends s. 464.012, F.S., to allow ARNPs to prescribe, dispense, administer, or order any drug but may only prescribe or dispense a controlled substance if the ARNP meets specified education and training requirements, effective January 1, 2017.

Section 19 amends s. 464.013, F.S., to provide that ARNPs must meet certain continuing education requirements and participate in at least three hours of continuing education requirements on the safe and effective prescription of controlled substances.

Section 20 amends 2. 464.018, F.S., to specify the acts that constitute grounds for denial of a license or disciplinary actions for ARNPs.

Section 21 amends s. 893.02, F.S., to include ARNPs and PAs in the definition of practitioner.

Section 22 amends s. 948.03, F.S., to provide that a probationer is prohibited from using intoxicants or possessing any drugs or narcotics unless prescribed by a physician, ARNP, or PA.

Section 23 amends s. 458.348, F.S., to correct cross-referencing.

Section 24 amends s. 459.025, F.S., to correct cross-referencing.

Section 25 reenacts s. 458.331, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 26 reenacts s. 458.347, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 27 reenacts s. 459.015, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 28 reenacts s. 459.022, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 29 reenacts s. 459.0158, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.072, F.S.

Section 30 reenacts s. 456.072(1)(mm), F.S., for the purpose of incorporating the amendment made by the bill to s. 456.44, F.S.

Section 31 reenacts s. 459.02751, F.S., for the purpose of incorporating the amendment made by the bill to s. 456.44, F.S.

Section 32 reenacts s. 458.303, F.S., for the purpose of incorporating the amendment made by the bill to s. 458.347, F.S.

Section 33 reenacts s. 458.3475, F.S., for the purpose of incorporating the amendment made by the bill to s. 458.347, F.S.

Section 34 reenacts s. 459.022, F.S., for the purpose of incorporating the amendment made by the bill to s. 458.347 F.S.

Section 35 reenacts s. 459.023, F.S., for the purpose of incorporating the amendment made by the bill to s. 458.347, F.S.

Section 36 reenacts s. 456.041, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.012, F.S.

Section 37 reenacts s. 458.348, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.012, F.S.

Section 38 reenacts s. 464.0205, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.013, F.S.

Section 39 reenacts s. 320.0848, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.018, F.S.

Section 40 reenacts s. 464.008, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.018, F.S.

Section 41 reenacts s. 464.009, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.018, F.S.

Section 42 reenacts s. 464.0205, F.S., for the purpose of incorporating the amendment made by the bill to s. 464.018, F.S.

Section 43 reenacts s. 775.051, F.S., for the purpose of incorporating the amendment made by the bill to s. 893.02, F.S.

Section 44 reenacts s. 944.17, F.S., for the purpose of incorporating the amendment made by this the bill to s. 948.03, F.S.

Section 45 reenacts s. 948.101, F.S., for the purpose of incorporating the amendment made by the bill to s. 948.03, F.S.

Section 46 reenacts s. 948.101, F.S., for the purpose of incorporating the amendment made by the bill to s. 948.03, F.S.

Section 47 provides that except as otherwise expressly provided, the act shall take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other:

PCS/CS/SB 1250 is a bill relating to the “behavioral health workforce.” Article III, section 6 of the Florida Constitution requires that [e]very law shall embrace but one subject and matter properly connected therewith and the subject shall be briefly expressed in the title.” The bill in section 7, requires hospitals to provide physicians with notice before a hospital closes its obstetrical department or ceases to provide obstetrical services. Consideration should be given to revising the “relating to” clause in the bill’s title or whether certain provisions of the bill constitute more than “one subject and matter properly connected therewith.”

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under PCS/CS/SB 1250, health care entities may experience some cost savings by allowing additional practitioners to provide treatment and care. Cost savings may be passed on to patients.

C. Government Sector Impact:

The Department of Health may experience an indeterminate workload impact for handling additional complaints and conducting additional investigations due to the expanded scope of practice for advanced registered nurse practitioners (ARNPs) and physician assistants (PAs).

VI. Technical Deficiencies:

The bill amends s. 397.451, F.S., to provide that a person who has had a disqualifying offense that occurred five or more years ago and who has requested an exemption from disqualification to work with adults with substance abuse disorders, must work under the supervision of qualified professionals under chapter 490, F.S. or chapter 491, F.S. or a master's level certified addiction professional until "the agency" makes a final determination regarding the request for an exemption from disqualification. Chapter 391, F.S., refers to several different types of agencies, and it is unclear which agency is being referenced under the bill.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 110.12315, 310.071, 310.073, 310.081, 394.453, 394.467, 395.1051, 397.451, 456.031, 456.072, 456.44, 458.3265, 459.0137, 458.347, 464.003, 464.012, 464.013, 464.018, 893.02, 948.03, 458.348, and 459.025.

This bill reenacts the following sections of the Florida Statutes: 458.331, 458.347, 459.015, 459.022, 464.0205, 465.0158, 456.072, 466.02751, 458.303, 458.3475, 459.022, 459.023, 456.041, 458.348, 464.0205, 320.0848, 464.008, 464.009, 464.0205, 775.051, 944.17, 948.001, and 948.101.

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

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on February 24, 2016:

The proposed CS adds human trafficking to the required continuing medical education (CE) requirements for allopathic and osteopath physicians, physician assistants, anesthesiology assistants, nurses, dentists, dental hygienists, dental lab personnel, psychologists, social workers, mental health counselors, and marriage and family therapists. Under the bill, such licensees must complete two hours of CE courses on domestic violence and human trafficking, approved by the respective board, every third biennial re-licensure or recertification cycle.

CS by Children, Families, and Elder Affairs on February 10, 2016:

- Removes language expanding the Statewide Medicaid Residency Program to include psychiatry in the list of primary care specialty programs included in the program.
- Requires hospitals notify physicians within 90 days of the closing of an obstetrical department.
- Provides grounds for disciplinary actions for advanced registered nurse practitioners (ARNPs) and physician assistants.
- Provides required hours for continuing education credits for ARNPs and physician assistants prescribing controlled substances.
- Directs the Board of Nursing (BON) to establish a formulary of controlled substances that ARNPs cannot prescribe.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
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	.	

Appropriations Subcommittee on Health and Human Services
(Grimsley) recommended the following:

Senate Amendment (with title amendment)

Between lines 372 and 373
insert:

Section 9. Effective July 1, 2016, section 456.031, Florida
Statutes, is amended to read:

456.031 Requirement for instruction on domestic violence
and human trafficking.—

(1)(a) The appropriate board shall require each person
licensed or certified under chapter 458, chapter 459, part I of



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chapter 464, chapter 466, chapter 467, chapter 490, or chapter 491 to complete a 2-hour continuing education course, approved by the board, on domestic violence, as defined in s. 741.28, and on human trafficking, as defined in s. 787.06(2), as part of every third biennial relicensure or recertification.

1. The domestic violence section of the course must ~~shall~~ consist of data and information on the number of patients in that professional's practice who are likely to be victims of domestic violence and the number who are likely to be perpetrators of domestic violence, screening procedures for determining whether a patient has any history of being either a victim or a perpetrator of domestic violence, and instruction on how to provide such patients with information on, or how to refer such patients to, resources in the local community, such as domestic violence centers and other advocacy groups, that provide legal aid, shelter, victim counseling, batterer counseling, or child protection services.

2. The human trafficking section of the course must consist of data and information on the types of human trafficking, such as labor and sex, and the extent of human trafficking; factors that place a person at greater risk for being a victim of human trafficking; management of medical records of patients who are human trafficking victims; patient safety and security; public and private social services available for rescue, food, clothing, and shelter referrals; hotlines for reporting human trafficking maintained by the National Human Trafficking Resource Center and the United States Department of Homeland Security; validated assessment tools for identifying human trafficking victims and general indicators that a person may be



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a victim of human trafficking; procedures for sharing
information related to human trafficking with a patient; and
referral options for legal and social services.

(b) Each ~~such~~ licensee or certificateholder shall submit confirmation of having completed the continuing education ~~such~~ course, on a form provided by the board, when submitting fees for every third biennial relicensure or recertification ~~renewal~~.

(c) The board may approve additional equivalent courses that may be used to satisfy the requirements of paragraph (a). Each licensing board that requires a licensee to complete a continuing education ~~an educational~~ course pursuant to this subsection may include the hour required for completion of the course in the total hours of continuing education required by law for the ~~such~~ profession, unless the continuing education requirements for the ~~such~~ profession consist of fewer than 30 hours of continuing education biennially.

(d) Any person holding two or more licenses subject to ~~the provisions of~~ this subsection must ~~shall~~ be permitted to show proof of completion of ~~having taken~~ one board-approved course on domestic violence and human trafficking, for purposes of relicensure or recertification for additional licenses.

(e) Failure to comply with the requirements of this subsection shall constitute grounds for disciplinary action under each respective practice act and under s. 456.072(1)(k). In addition to discipline by the board, the licensee shall be required to complete the board-approved ~~such~~ course under this subsection.

(2) Each board may adopt rules to carry out the provisions of this section.



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

And the title is amended as follows:

 Delete lines 2 - 22

and insert:

 An act relating to the health care workforce; amending
 s. 110.12315, F.S.; expanding the categories of
 persons who may prescribe brand name drugs under the
 prescription drug program when medically necessary;
 amending ss. 310.071, 310.073, and 310.081, F.S.;
 exempting controlled substances prescribed by an
 advanced registered nurse practitioner or a physician
 assistant from the disqualifications for certification
 or licensure, and for continued certification or
 licensure, as a deputy pilot or state pilot; amending
 s. 394.453, F.S.; revising legislative intent;
 amending s. 394.467, F.S.; authorizing procedures for
 recommending admission of a patient to a treatment
 facility; amending s. 395.1051, F.S.; requiring a
 hospital to provide specified advance notice to
 certain obstetrical physicians before it closes its
 obstetrical department or ceases to provide
 obstetrical services; amending s. 397.451, F.S.;
 revising provisions relating to exemptions from
 disqualification for certain service provider
 personnel; amending s. 456.031, F.S.; providing that
 certain licensing boards must require specified
 licensees to complete a specified continuing education
 course that includes a section on human trafficking as



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98 a condition of relicensure or recertification;
99 providing requirements and procedures related to the
100 course; amending s. 456.072, F.S.; providing



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/24/2016	.	
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Appropriations Subcommittee on Health and Human Services
(Grimsley) recommended the following:

Senate Amendment

Delete line 924
and insert:
recommendation no later than January 1, 2017.

By the Committee on Children, Families, and Elder Affairs; and
Senator Latvala

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1 A bill to be entitled
2 An act relating to behavioral health workforce;
3 amending s. 110.12315, F.S.; expanding the categories
4 of persons who may prescribe brand name drugs under
5 the prescription drug program when medically
6 necessary; amending ss. 310.071, 310.073, and 310.081,
7 F.S.; exempting controlled substances prescribed by an
8 advanced registered nurse practitioner or a physician
9 assistant from the disqualifications for certification
10 or licensure, and for continued certification or
11 licensure, as a deputy pilot or state pilot; amending
12 s. 394.453, F.S.; revising legislative intent;
13 amending s. 394.467, F.S.; authorizing procedures for
14 recommending admission of a patient to a treatment
15 facility; amending s. 395.1051, F.S.; requiring a
16 hospital to provide specified advance notice to
17 certain obstetrical physicians before it closes its
18 obstetrical department or ceases to provide
19 obstetrical services; amending s. 397.451, F.S.;
20 revising provisions relating to exemptions from
21 disqualification for certain service provider
22 personnel; amending s. 456.072, F.S.; providing
23 mandatory administrative penalties for certain
24 violations relating to prescribing or dispensing a
25 controlled substance; amending s. 456.44, F.S.;
26 providing a definition; deleting an obsolete date;
27 requiring advanced registered nurse practitioners and
28 physician assistants who prescribe controlled
29 substances for certain pain to make a certain
30 designation, comply with registration requirements,
31 and follow specified standards of practice; providing

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32 applicability; amending ss. 458.3265 and 459.0137,
33 F.S.; limiting the authority to prescribe a controlled
34 substance in a pain-management clinic only to a
35 physician licensed under chapter 458 or chapter 459,
36 F.S.; amending s. 458.347, F.S.; revising the required
37 continuing education requirements for a physician
38 assistant; requiring that a specified formulary limit
39 the prescription of certain controlled substances by
40 physician assistants as of a specified date; amending
41 s. 464.003, F.S.; redefining the term "advanced or
42 specialized nursing practice"; deleting the joint
43 committee established in the definition; amending s.
44 464.012, F.S.; requiring the Board of Nursing to
45 establish a committee to recommend a formulary of
46 controlled substances that may not be prescribed, or
47 may be prescribed only on a limited basis, by an
48 advanced registered nurse practitioner; specifying the
49 membership of the committee; providing parameters for
50 the formulary; requiring that the formulary be adopted
51 by board rule; specifying the process for amending the
52 formulary and imposing a burden of proof; limiting the
53 formulary's application in certain instances;
54 requiring the board to adopt the committee's initial
55 recommendations by a specified date; authorizing an
56 advanced registered nurse practitioner to prescribe,
57 dispense, administer, or order drugs, including
58 certain controlled substances under certain
59 circumstances, as of a specified date; amending s.
60 464.013, F.S.; revising continuing education

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61 requirements for renewal of a license or certificate;
 62 amending s. 464.018, F.S.; specifying acts that
 63 constitute grounds for denial of a license or for
 64 disciplinary action against an advanced registered
 65 nurse practitioner; amending s. 893.02, F.S.;
 66 redefining the term "practitioner" to include advanced
 67 registered nurse practitioners and physician
 68 assistants under the Florida Comprehensive Drug Abuse
 69 Prevention and Control Act for the purpose of
 70 prescribing controlled substances if a certain
 71 requirement is met; amending s. 948.03, F.S.;
 72 providing that possession of drugs or narcotics
 73 prescribed by an advanced registered nurse
 74 practitioner or a physician assistant does not violate
 75 a prohibition relating to the possession of drugs or
 76 narcotics during probation; amending ss. 458.348 and
 77 459.025, F.S.; conforming provisions to changes made
 78 by the act; reenacting ss. 458.331(10), 458.347(7)(g),
 79 459.015(10), 459.022(7)(f), and 465.0158(5)(b), F.S.,
 80 relating to grounds for disciplinary action against
 81 certain licensed health care practitioners or
 82 applicants, physician assistant licensure, the
 83 imposition of penalties upon physician assistants by
 84 the Board of Osteopathic Medicine, and nonresident
 85 sterile compounding permits, respectively, to
 86 incorporate the amendment made by the act to s.
 87 456.072, F.S., in references thereto; reenacting ss.
 88 456.072(1)(mm) and 466.02751, F.S., relating to
 89 grounds for discipline of certain licensed health care

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90 practitioners or applicants and dentist practitioner
 91 profiles, respectively, to incorporate the amendment
 92 made by the act to s. 456.44, F.S., in references
 93 thereto; reenacting ss. 458.303, 458.3475(7)(b),
 94 459.022(4)(e) and (9)(c), and 459.023(7)(b), F.S.,
 95 relating to the nonapplicability of certain provisions
 96 to specified health care practitioners, and the duties
 97 of the Board of Medicine and the Board of Osteopathic
 98 Medicine with respect to anesthesiologist assistants,
 99 respectively, to incorporate the amendment made by the
 100 act to s. 458.347, F.S., in references thereto;
 101 reenacting ss. 456.041(1)(a) and 458.348(1) and (2),
 102 F.S., relating to practitioner profiles and notice and
 103 standards for formal supervisory relationships,
 104 respectively, to incorporate the amendment made by the
 105 act to s. 464.012, F.S., in references thereto;
 106 reenacting s. 464.0205(7), F.S., relating to
 107 certification as a retired volunteer nurse to
 108 incorporate the amendment made by the act to s.
 109 464.013, F.S., in a reference thereto; reenacting ss.
 110 320.0848(11), 464.008(2), 464.009(5), and
 111 464.0205(1)(b), (3), and (4)(b), F.S., relating to
 112 violations of provisions for disability parking,
 113 licensure by examination of registered nurses and
 114 licensed practical nurses, licensure by endorsement to
 115 practice professional or practical nursing,
 116 disciplinary actions against nursing applicants or
 117 licensees, and retired volunteer nurse certifications,
 118 respectively, to incorporate the amendment made by the

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119 act to s. 464.018, F.S., in references thereto;
 120 reenacting s. 775.051, F.S., relating to exclusion as
 121 a defense and nonadmissibility as evidence of
 122 voluntary intoxication to incorporate the amendment
 123 made by the act to s. 893.02, F.S., in a reference
 124 thereto; reenacting ss. 944.17(3)(a), 948.001(8), and
 125 948.101(1)(e), F.S., relating to receipt by the state
 126 correctional system of certain persons sentenced to
 127 incarceration, the definition of the term "probation,"
 128 and the terms and conditions of community control,
 129 respectively, to incorporate the amendment made by the
 130 act to s. 948.03, F.S., in references thereto;
 131 providing effective dates.

132
 133 Be It Enacted by the Legislature of the State of Florida:

134
 135 Section 1. Subsection (7) of section 110.12315, Florida
 136 Statutes, is amended to read:

137 110.12315 Prescription drug program.—The state employees'
 138 prescription drug program is established. This program shall be
 139 administered by the Department of Management Services, according
 140 to the terms and conditions of the plan as established by the
 141 relevant provisions of the annual General Appropriations Act and
 142 implementing legislation, subject to the following conditions:

143 (7) The department shall establish the reimbursement
 144 schedule for prescription pharmaceuticals dispensed under the
 145 program. Reimbursement rates for a prescription pharmaceutical
 146 must be based on the cost of the generic equivalent drug if a
 147 generic equivalent exists, unless the physician, advanced

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148 registered nurse practitioner, or physician assistant
 149 prescribing the pharmaceutical clearly states on the
 150 prescription that the brand name drug is medically necessary or
 151 that the drug product is included on the formulary of drug
 152 products that may not be interchanged as provided in chapter
 153 465, in which case reimbursement must be based on the cost of
 154 the brand name drug as specified in the reimbursement schedule
 155 adopted by the department.

156 Section 2. Paragraph (c) of subsection (1) of section
 157 310.071, Florida Statutes, is amended, and subsection (3) of
 158 that section is republished, to read:

159 310.071 Deputy pilot certification.—

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

163 (c) Be in good physical and mental health, as evidenced by
 164 documentary proof of having satisfactorily passed a complete
 165 physical examination administered by a licensed physician within
 166 the preceding 6 months. The board shall adopt rules to establish
 167 requirements for passing the physical examination, which rules
 168 shall establish minimum standards for the physical or mental
 169 capabilities necessary to carry out the professional duties of a
 170 certificated deputy pilot. Such standards shall include zero
 171 tolerance for any controlled substance regulated under chapter
 172 893 unless that individual is under the care of a physician,
 173 advanced registered nurse practitioner, or physician assistant
 174 and that controlled substance was prescribed by that physician,
 175 advanced registered nurse practitioner, or physician assistant.
 176 To maintain eligibility as a certificated deputy pilot, each

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certificated deputy pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the certificateholder satisfactorily meets the standards. The standards for certificateholders shall include a drug test.

(3) The initial certificate issued to a deputy pilot shall be valid for a period of 12 months, and at the end of this period, the certificate shall automatically expire and shall not be renewed. During this period, the board shall thoroughly evaluate the deputy pilot's performance for suitability to continue training and shall make appropriate recommendations to the department. Upon receipt of a favorable recommendation by the board, the department shall issue a certificate to the deputy pilot, which shall be valid for a period of 2 years. The certificate may be renewed only two times, except in the case of a fully licensed pilot who is cross-licensed as a deputy pilot in another port, and provided the deputy pilot meets the requirements specified for pilots in paragraph (1)(c).

Section 3. Subsection (3) of section 310.073, Florida Statutes, is amended to read:

310.073 State pilot licensing.—In addition to meeting other requirements specified in this chapter, each applicant for license as a state pilot must:

(3) Be in good physical and mental health, as evidenced by documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician within the preceding 6 months. The board shall adopt rules to establish requirements for passing the physical examination, which rules

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shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a licensed state pilot. Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, advanced registered nurse practitioner, or physician assistant and that controlled substance was prescribed by that physician, advanced registered nurse practitioner, or physician assistant. To maintain eligibility as a licensed state pilot, each licensed state pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the licensee satisfactorily meets the standards. The standards for licensees shall include a drug test.

Section 4. Paragraph (b) of subsection (3) of section 310.081, Florida Statutes, is amended to read:

310.081 Department to examine and license state pilots and certificate deputy pilots; vacancies.—

(3) Pilots shall hold their licenses or certificates pursuant to the requirements of this chapter so long as they:

(b) Are in good physical and mental health as evidenced by documentary proof of having satisfactorily passed a physical examination administered by a licensed physician or physician assistant within each calendar year. The board shall adopt rules to establish requirements for passing the physical examination, which rules shall establish minimum standards for the physical or mental capabilities necessary to carry out the professional duties of a licensed state pilot or a certificated deputy pilot.

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Such standards shall include zero tolerance for any controlled substance regulated under chapter 893 unless that individual is under the care of a physician, advanced registered nurse practitioner, or physician assistant and that controlled substance was prescribed by that physician, advanced registered nurse practitioner, or physician assistant. To maintain eligibility as a certificated deputy pilot or licensed state pilot, each certificated deputy pilot or licensed state pilot must annually provide documentary proof of having satisfactorily passed a complete physical examination administered by a licensed physician. The physician must know the minimum standards and certify that the certificateholder or licensee satisfactorily meets the standards. The standards for certificateholders and for licensees shall include a drug test.

Upon resignation or in the case of disability permanently affecting a pilot's ability to serve, the state license or certificate issued under this chapter shall be revoked by the department.

Section 5. Section 394.453, Florida Statutes, is amended to read:

394.453 Legislative intent.—It is the intent of the Legislature to authorize and direct the Department of Children and Families to evaluate, research, plan, and recommend to the Governor and the Legislature programs designed to reduce the occurrence, severity, duration, and disabling aspects of mental, emotional, and behavioral disorders. It is the intent of the Legislature that treatment programs for such disorders shall include, but not be limited to, comprehensive health, social,

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educational, and rehabilitative services to persons requiring intensive short-term and continued treatment in order to encourage them to assume responsibility for their treatment and recovery. It is intended that such persons be provided with emergency service and temporary detention for evaluation when required; that they be admitted to treatment facilities on a voluntary basis when extended or continuing care is needed and unavailable in the community; that involuntary placement be provided only when expert evaluation determines that it is necessary; that any involuntary treatment or examination be accomplished in a setting which is clinically appropriate and most likely to facilitate the person's return to the community as soon as possible; and that individual dignity and human rights be guaranteed to all persons who are admitted to mental health facilities or who are being held under s. 394.463. It is the further intent of the Legislature that the least restrictive means of intervention be employed based on the individual needs of each person, within the scope of available services. It is the policy of this state that the use of restraint and seclusion on clients is justified only as an emergency safety measure to be used in response to imminent danger to the client or others. It is, therefore, the intent of the Legislature to achieve an ongoing reduction in the use of restraint and seclusion in programs and facilities serving persons with mental illness. The Legislature further finds the need for additional psychiatrists to be of critical state concern and recommends the establishment of an additional psychiatry program to be offered by one of Florida's schools of medicine currently not offering psychiatry. The program shall seek to integrate primary care and psychiatry

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293 and other evolving models of care for persons with mental health
 294 and substance use disorders. Additionally, the Legislature finds
 295 that the use of telemedicine for patient evaluation, case
 296 management, and ongoing care will improve management of patient
 297 care and reduce costs of transportation.

298 Section 6. Subsection (2) of section 394.467, Florida
 299 Statutes, is amended to read:

300 394.467 Involuntary inpatient placement.—

301 (2) ADMISSION TO A TREATMENT FACILITY.—A patient may be
 302 retained by a receiving facility or involuntarily placed in a
 303 treatment facility upon the recommendation of the administrator
 304 of the receiving facility where the patient has been examined
 305 and after adherence to the notice and hearing procedures
 306 provided in s. 394.4599. The recommendation must be supported by
 307 the opinion of a psychiatrist and the second opinion of a
 308 clinical psychologist or another psychiatrist, both of whom have
 309 personally examined the patient within the preceding 72 hours,
 310 that the criteria for involuntary inpatient placement are met.
 311 However, in a county that has a population of fewer than 50,000,
 312 if the administrator certifies that a psychiatrist or clinical
 313 psychologist is not available to provide the second opinion, the
 314 second opinion may be provided by a licensed physician who has
 315 postgraduate training and experience in diagnosis and treatment
 316 of mental and nervous disorders or by a psychiatric nurse. Any
 317 ~~second~~ opinion authorized in this subsection may be conducted
 318 through a face-to-face examination, in person or by electronic
 319 means. Such recommendation shall be entered on an involuntary
 320 inpatient placement certificate that authorizes the receiving
 321 facility to retain the patient pending transfer to a treatment

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322 facility or completion of a hearing.

323 Section 7. Section 395.1051, Florida Statutes, is amended
 324 to read:

325 395.1051 Duty to notify patients and physicians.—

326 (1) An appropriately trained person designated by each
 327 licensed facility shall inform each patient, or an individual
 328 identified pursuant to s. 765.401(1), in person about adverse
 329 incidents that result in serious harm to the patient.
 330 Notification of outcomes of care which ~~that~~ result in harm to
 331 the patient under this section does ~~shall~~ not constitute an
 332 acknowledgment or admission of liability and may not, ~~nor can it~~
 333 be introduced as evidence.

334 (2) A hospital shall notify each obstetrical physician who
 335 has privileges at the hospital at least 90 days before the
 336 hospital closes its obstetrical department or ceases to provide
 337 obstetrical services.

338 Section 8. Paragraphs (e) and (f) of subsection (1) and
 339 paragraph (b) of subsection (4) of section 397.451, Florida
 340 Statutes, are amended to read:

341 397.451 Background checks of service provider personnel.—

342 (1) PERSONNEL BACKGROUND CHECKS; REQUIREMENTS AND
 343 EXCEPTIONS.—

344 (e) Personnel employed directly or under contract with the
 345 Department of Corrections in an inmate substance abuse program
 346 ~~who have direct contact with unmarried inmates under the age of~~
 347 ~~18 or with inmates who are developmentally disabled~~ are exempt
 348 from the fingerprinting and background check requirements of
 349 this section unless they have direct contact with unmarried
 350 inmates under the age of 18 or with inmates who are

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developmentally disabled.

(f) Service provider personnel who request an exemption from disqualification must submit the request within 30 days after being notified of the disqualification. If 5 years or more have elapsed since the most recent disqualifying offense, service provider personnel may work with adults with substance use disorders under the supervision of a qualified professional licensed under chapter 490 or chapter 491 or a master's level certified addiction professional until the agency makes a final determination regarding the request for an exemption from disqualification. ~~Upon notification of the disqualification, the service provider shall comply with requirements regarding exclusion from employment in s. 435.06.~~

(4) EXEMPTIONS FROM DISQUALIFICATION.—

(b) Since rehabilitated substance abuse impaired persons are effective in the successful treatment and rehabilitation of individuals with substance use disorders ~~substance abuse impaired adolescents~~, for service providers which treat adolescents 13 years of age and older, service provider personnel whose background checks indicate crimes under s. 817.563, s. 893.13, or s. 893.147 may be exempted from disqualification from employment pursuant to this paragraph.

Section 9. Subsection (7) of section 456.072, Florida Statutes, is amended to read:

456.072 Grounds for discipline; penalties; enforcement.—

(7) Notwithstanding subsection (2), upon a finding that a physician has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed, in a manner that violates the standard of practice set forth in s.

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458.331(1)(q) or (t), s. 459.015(1)(t) or (x), s. 461.013(1)(o) or (s), or s. 466.028(1)(p) or (x), or that an advanced registered nurse practitioner has prescribed or dispensed a controlled substance, or caused a controlled substance to be prescribed or dispensed in a manner that violates the standard of practice set forth in s. 464.018(1)(n) or s. 464.018(1)(p)6., the physician or advanced registered nurse practitioner shall be suspended for a period of not less than 6 months and pay a fine of not less than \$10,000 per count. Repeated violations shall result in increased penalties.

Section 10. Section 456.44, Florida Statutes, is amended to read:

456.44 Controlled substance prescribing.—

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

(a) "Addiction medicine specialist" means a board-certified psychiatrist with a subspecialty certification in addiction medicine or who is eligible for such subspecialty certification in addiction medicine, an addiction medicine physician certified or eligible for certification by the American Society of Addiction Medicine, or an osteopathic physician who holds a certificate of added qualification in Addiction Medicine through the American Osteopathic Association.

(b) "Adverse incident" means any incident set forth in s. 458.351(4)(a)-(e) or s. 459.026(4)(a)-(e).

(c) "Board-certified pain management physician" means a physician who possesses board certification in pain medicine by the American Board of Pain Medicine, board certification by the American Board of Interventional Pain Physicians, or board certification or subcertification in pain management or pain

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medicine by a specialty board recognized by the American Association of Physician Specialists or the American Board of Medical Specialties or an osteopathic physician who holds a certificate in Pain Management by the American Osteopathic Association.

(d) "Board eligible" means successful completion of an anesthesia, physical medicine and rehabilitation, rheumatology, or neurology residency program approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association for a period of 6 years from successful completion of such residency program.

(e) "Chronic nonmalignant pain" means pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery.

(f) "Mental health addiction facility" means a facility licensed under chapter 394 or chapter 397.

(g) "Registrant" means a physician, physician assistant, or advanced registered nurse practitioner who meets the requirements of subsection (2).

(2) REGISTRATION.—~~Effective January 1, 2012,~~ A physician licensed under chapter 458, chapter 459, chapter 461, or chapter 466, a physician assistant licensed under chapter 458 or chapter 459, or an advanced registered nurse practitioner certified under part I of chapter 464 who prescribes any controlled substance, listed in Schedule II, Schedule III, or Schedule IV as defined in s. 893.03, for the treatment of chronic nonmalignant pain, must:

(a) Designate himself or herself as a controlled substance

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prescribing practitioner on his or her ~~the physician's~~ practitioner profile.

(b) Comply with the requirements of this section and applicable board rules.

(3) STANDARDS OF PRACTICE.—The standards of practice in this section do not supersede the level of care, skill, and treatment recognized in general law related to health care licensure.

(a) A complete medical history and a physical examination must be conducted before beginning any treatment and must be documented in the medical record. The exact components of the physical examination shall be left to the judgment of the registrant ~~clinician~~ who is expected to perform a physical examination proportionate to the diagnosis that justifies a treatment. The medical record must, at a minimum, document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, a review of previous medical records, previous diagnostic studies, and history of alcohol and substance abuse. The medical record shall also document the presence of one or more recognized medical indications for the use of a controlled substance. Each registrant must develop a written plan for assessing each patient's risk of aberrant drug-related behavior, which may include patient drug testing. Registrants must assess each patient's risk for aberrant drug-related behavior and monitor that risk on an ongoing basis in accordance with the plan.

(b) Each registrant must develop a written individualized treatment plan for each patient. The treatment plan shall state

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objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and shall indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the registrant ~~physician~~ shall adjust drug therapy to the individual medical needs of each patient. Other treatment modalities, including a rehabilitation program, shall be considered depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment. The interdisciplinary nature of the treatment plan shall be documented.

(c) The registrant ~~physician~~ shall discuss the risks and benefits of the use of controlled substances, including the risks of abuse and addiction, as well as physical dependence and its consequences, with the patient, persons designated by the patient, or the patient's surrogate or guardian if the patient is incompetent. The registrant ~~physician~~ shall use a written controlled substance agreement between the registrant ~~physician~~ and the patient outlining the patient's responsibilities, including, but not limited to:

1. Number and frequency of controlled substance prescriptions and refills.

2. Patient compliance and reasons for which drug therapy may be discontinued, such as a violation of the agreement.

3. An agreement that controlled substances for the treatment of chronic nonmalignant pain shall be prescribed by a single treating registrant ~~physician~~ unless otherwise authorized by the treating registrant ~~physician~~ and documented in the medical record.

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(d) The patient shall be seen by the registrant ~~physician~~ at regular intervals, not to exceed 3 months, to assess the efficacy of treatment, ensure that controlled substance therapy remains indicated, evaluate the patient's progress toward treatment objectives, consider adverse drug effects, and review the etiology of the pain. Continuation or modification of therapy shall depend on the registrant's ~~physician's~~ evaluation of the patient's progress. If treatment goals are not being achieved, despite medication adjustments, the registrant ~~physician~~ shall reevaluate the appropriateness of continued treatment. The registrant ~~physician~~ shall monitor patient compliance in medication usage, related treatment plans, controlled substance agreements, and indications of substance abuse or diversion at a minimum of 3-month intervals.

(e) The registrant ~~physician~~ shall refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention shall be given to those patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation and requires consultation with or referral to an addiction medicine specialist or psychiatrist.

(f) A registrant ~~physician registered under this section~~ must maintain accurate, current, and complete records that are accessible and readily available for review and comply with the requirements of this section, the applicable practice act, and applicable board rules. The medical records must include, but

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are not limited to:

1. The complete medical history and a physical examination, including history of drug abuse or dependence.
 2. Diagnostic, therapeutic, and laboratory results.
 3. Evaluations and consultations.
 4. Treatment objectives.
 5. Discussion of risks and benefits.
 6. Treatments.
 7. Medications, including date, type, dosage, and quantity prescribed.
 8. Instructions and agreements.
 9. Periodic reviews.
 10. Results of any drug testing.
 11. A photocopy of the patient's government-issued photo identification.
 12. If a written prescription for a controlled substance is given to the patient, a duplicate of the prescription.
 13. The registrant's ~~physician's~~ full name presented in a legible manner.
- (g) A registrant shall immediately refer patients with signs or symptoms of substance ~~abuse shall be immediately referred~~ to a board-certified pain management physician, an addiction medicine specialist, or a mental health addiction facility as it pertains to drug abuse or addiction unless the registrant is a physician who is board-certified or board-eligible in pain management. Throughout the period of time before receiving the consultant's report, a prescribing registrant ~~physician~~ shall clearly and completely document medical justification for continued treatment with controlled

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substances and those steps taken to ensure medically appropriate use of controlled substances by the patient. Upon receipt of the consultant's written report, the prescribing registrant ~~physician~~ shall incorporate the consultant's recommendations for continuing, modifying, or discontinuing controlled substance therapy. The resulting changes in treatment shall be specifically documented in the patient's medical record. Evidence or behavioral indications of diversion shall be followed by discontinuation of controlled substance therapy, and the patient shall be discharged, and all results of testing and actions taken by the registrant ~~physician~~ shall be documented in the patient's medical record.

This subsection does not apply to a board-eligible or board-certified anesthesiologist, physiatrist, rheumatologist, or neurologist, or to a board-certified physician who has surgical privileges at a hospital or ambulatory surgery center and primarily provides surgical services. This subsection does not apply to a board-eligible or board-certified medical specialist who has also completed a fellowship in pain medicine approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who is board eligible or board certified in pain medicine by the American Board of Pain Medicine or a board approved by the American Board of Medical Specialties or the American Osteopathic Association and performs interventional pain procedures of the type routinely billed using surgical codes. This subsection does not apply to a registrant, physician, advanced registered nurse practitioner, or physician assistant who prescribes medically necessary

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controlled substances for a patient during an inpatient stay in a hospital licensed under chapter 395.

Section 11. Paragraph (b) of subsection (2) of section 458.3265, Florida Statutes, is amended to read:

458.3265 Pain-management clinics.—

(2) PHYSICIAN RESPONSIBILITIES.—These responsibilities apply to any physician who provides professional services in a pain-management clinic that is required to be registered in subsection (1).

(b) ~~Only a person may not dispense any medication on the premises of a registered pain-management clinic unless he or she is a physician licensed under this chapter or chapter 459 may dispense medication or prescribe a controlled substance regulated under chapter 893 on the premises of a registered pain-management clinic.~~

Section 12. Paragraph (b) of subsection (2) of section 459.0137, Florida Statutes, is amended to read:

459.0137 Pain-management clinics.—

(2) PHYSICIAN RESPONSIBILITIES.—These responsibilities apply to any osteopathic physician who provides professional services in a pain-management clinic that is required to be registered in subsection (1).

(b) ~~Only a person may not dispense any medication on the premises of a registered pain-management clinic unless he or she is a physician licensed under this chapter or chapter 458 may dispense medication or prescribe a controlled substance regulated under chapter 893 on the premises of a registered pain-management clinic.~~

Section 13. Paragraph (e) of subsection (4) of section

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458.347, Florida Statutes, is amended, and paragraph (c) of subsection (9) of that section is republished, to read:

458.347 Physician assistants.—

(4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

(e) A supervisory physician may delegate to a fully licensed physician assistant the authority to prescribe or dispense any medication used in the supervisory physician's practice unless such medication is listed on the formulary created pursuant to paragraph (f). A fully licensed physician assistant may only prescribe or dispense such medication under the following circumstances:

1. A physician assistant must clearly identify to the patient that he or she is a physician assistant. Furthermore, the physician assistant must inform the patient that the patient has the right to see the physician prior to any prescription being prescribed or dispensed by the physician assistant.

2. The supervisory physician must notify the department of his or her intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician assistant. Authority to dispense may be delegated only by a supervising physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must file with the department a signed affidavit that he or she has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application. Three of the 10 hours must consist of a continuing education course on the safe and

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641 effective prescribing of controlled substance medications
 642 offered by a statewide professional association of physicians in
 643 this state accredited to provide educational activities
 644 designated for the American Medical Association Physician's
 645 Recognition Award Category I Credit or designated by the
 646 American Academy of Physician Assistants as a Category 1 Credit.

647 4. The department may issue a prescriber number to the
 648 physician assistant granting authority for the prescribing of
 649 medicinal drugs authorized within this paragraph upon completion
 650 of the foregoing requirements. The physician assistant shall not
 651 be required to independently register pursuant to s. 465.0276.

652 5. The prescription must be written in a form that complies
 653 with chapter 499 and must contain, in addition to the
 654 supervisory physician's name, address, and telephone number, the
 655 physician assistant's prescriber number. Unless it is a drug or
 656 drug sample dispensed by the physician assistant, the
 657 prescription must be filled in a pharmacy permitted under
 658 chapter 465 and must be dispensed in that pharmacy by a
 659 pharmacist licensed under chapter 465. The appearance of the
 660 prescriber number creates a presumption that the physician
 661 assistant is authorized to prescribe the medicinal drug and the
 662 prescription is valid.

663 6. The physician assistant must note the prescription or
 664 dispensing of medication in the appropriate medical record.

665 (9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on
 666 Physician Assistants is created within the department.

667 (c) The council shall:

668 1. Recommend to the department the licensure of physician
 669 assistants.

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670 2. Develop all rules regulating the use of physician
 671 assistants by physicians under this chapter and chapter 459,
 672 except for rules relating to the formulary developed under
 673 paragraph (4)(f). The council shall also develop rules to ensure
 674 that the continuity of supervision is maintained in each
 675 practice setting. The boards shall consider adopting a proposed
 676 rule developed by the council at the regularly scheduled meeting
 677 immediately following the submission of the proposed rule by the
 678 council. A proposed rule submitted by the council may not be
 679 adopted by either board unless both boards have accepted and
 680 approved the identical language contained in the proposed rule.
 681 The language of all proposed rules submitted by the council must
 682 be approved by both boards pursuant to each respective board's
 683 guidelines and standards regarding the adoption of proposed
 684 rules. If either board rejects the council's proposed rule, that
 685 board must specify its objection to the council with
 686 particularity and include any recommendations it may have for
 687 the modification of the proposed rule.

688 3. Make recommendations to the boards regarding all matters
 689 relating to physician assistants.

690 4. Address concerns and problems of practicing physician
 691 assistants in order to improve safety in the clinical practices
 692 of licensed physician assistants.

693 Section 14. Effective January 1, 2017, paragraph (f) of
 694 subsection (4) of section 458.347, Florida Statutes, is amended
 695 to read:

696 458.347 Physician assistants.—

697 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

698 (f)1. The council shall establish a formulary of medicinal

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699 drugs that a fully licensed physician assistant having
 700 prescribing authority under this section or s. 459.022 may not
 701 prescribe. The formulary must include ~~controlled substances as~~
 702 ~~defined in chapter 893,~~ general anesthetics, and radiographic
 703 contrast materials, and must limit the prescription of Schedule
 704 II controlled substances as defined in s. 893.03 to a 7-day
 705 supply. The formulary must also restrict the prescribing of
 706 psychiatric mental health controlled substances for children
 707 under 18 years of age.

708 2. In establishing the formulary, the council shall consult
 709 with a pharmacist licensed under chapter 465, but not licensed
 710 under this chapter or chapter 459, who shall be selected by the
 711 State Surgeon General.

712 3. Only the council shall add to, delete from, or modify
 713 the formulary. Any person who requests an addition, deletion, or
 714 modification of a medicinal drug listed on such formulary has
 715 the burden of proof to show cause why such addition, deletion,
 716 or modification should be made.

717 4. The boards shall adopt the formulary required by this
 718 paragraph, and each addition, deletion, or modification to the
 719 formulary, by rule. Notwithstanding any provision of chapter 120
 720 to the contrary, the formulary rule shall be effective 60 days
 721 after the date it is filed with the Secretary of State. Upon
 722 adoption of the formulary, the department shall mail a copy of
 723 such formulary to each fully licensed physician assistant having
 724 prescribing authority under this section or s. 459.022, and to
 725 each pharmacy licensed by the state. The boards shall establish,
 726 by rule, a fee not to exceed \$200 to fund the provisions of this
 727 paragraph and paragraph (e).

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728 Section 15. Subsection (2) of section 464.003, Florida
 729 Statutes, is amended to read:

730 464.003 Definitions.—As used in this part, the term:

731 (2) "Advanced or specialized nursing practice" means, in
 732 addition to the practice of professional nursing, the
 733 performance of advanced-level nursing acts approved by the board
 734 which, by virtue of postbasic specialized education, training,
 735 and experience, are appropriately performed by an advanced
 736 registered nurse practitioner. Within the context of advanced or
 737 specialized nursing practice, the advanced registered nurse
 738 practitioner may perform acts of nursing diagnosis and nursing
 739 treatment of alterations of the health status. The advanced
 740 registered nurse practitioner may also perform acts of medical
 741 diagnosis and treatment, prescription, and operation as
 742 authorized within the framework of an established supervisory
 743 protocol which are identified and approved by a joint committee
 744 composed of three members appointed by the Board of Nursing, two
 745 of whom must be advanced registered nurse practitioners, three
 746 members appointed by the Board of Medicine, two of whom must
 747 have had work experience with advanced registered nurse
 748 practitioners, and the State Surgeon General or the State
 749 Surgeon General's designee. Each committee member appointed by a
 750 board shall be appointed to a term of 4 years unless a shorter
 751 term is required to establish or maintain staggered terms. The
 752 Board of Nursing shall adopt rules authorizing the performance
 753 of any such acts approved by the joint committee. Unless
 754 otherwise specified by the joint committee, such acts must be
 755 performed under the general supervision of a practitioner
 756 licensed under chapter 458, chapter 459, or chapter 466 within

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~~the framework of standing protocols which identify the medical acts to be performed and the conditions for their performance.~~
The department may, by rule, require that a copy of the protocol be filed with the department along with the notice required by s. 458.348.

Section 16. Section 464.012, Florida Statutes, is amended to read:

464.012 Certification of advanced registered nurse practitioners; fees; controlled substance prescribing.—

(1) Any nurse desiring to be certified as an advanced registered nurse practitioner shall apply to the department and submit proof that he or she holds a current license to practice professional nursing and that he or she meets one or more of the following requirements as determined by the board:

(a) Satisfactory completion of a formal postbasic educational program of at least one academic year, the primary purpose of which is to prepare nurses for advanced or specialized practice.

(b) Certification by an appropriate specialty board. Such certification shall be required for initial state certification and any recertification as a registered nurse anesthetist or nurse midwife. The board may by rule provide for provisional state certification of graduate nurse anesthetists and nurse midwives for a period of time determined to be appropriate for preparing for and passing the national certification examination.

(c) Graduation from a program leading to a master's degree in a nursing clinical specialty area with preparation in specialized practitioner skills. For applicants graduating on or

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after October 1, 1998, graduation from a master's degree program shall be required for initial certification as a nurse practitioner under paragraph (4)(c). For applicants graduating on or after October 1, 2001, graduation from a master's degree program shall be required for initial certification as a registered nurse anesthetist under paragraph (4)(a).

(2) The board shall provide by rule the appropriate requirements for advanced registered nurse practitioners in the categories of certified registered nurse anesthetist, certified nurse midwife, and nurse practitioner.

(3) An advanced registered nurse practitioner shall perform those functions authorized in this section within the framework of an established protocol that is filed with the board upon biennial license renewal and within 30 days after entering into a supervisory relationship with a physician or changes to the protocol. The board shall review the protocol to ensure compliance with applicable regulatory standards for protocols. The board shall refer to the department licensees submitting protocols that are not compliant with the regulatory standards for protocols. A practitioner currently licensed under chapter 458, chapter 459, or chapter 466 shall maintain supervision for directing the specific course of medical treatment. Within the established framework, an advanced registered nurse practitioner may:

(a) Monitor and alter drug therapies.

(b) Initiate appropriate therapies for certain conditions.

(c) Perform additional functions as may be determined by rule in accordance with s. 464.003(2).

(d) Order diagnostic tests and physical and occupational

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therapy.

(4) In addition to the general functions specified in subsection (3), an advanced registered nurse practitioner may perform the following acts within his or her specialty:

(a) The certified registered nurse anesthetist may, to the extent authorized by established protocol approved by the medical staff of the facility in which the anesthetic service is performed, perform any or all of the following:

1. Determine the health status of the patient as it relates to the risk factors and to the anesthetic management of the patient through the performance of the general functions.

2. Based on history, physical assessment, and supplemental laboratory results, determine, with the consent of the responsible physician, the appropriate type of anesthesia within the framework of the protocol.

3. Order under the protocol preanesthetic medication.

4. Perform under the protocol procedures commonly used to render the patient insensible to pain during the performance of surgical, obstetrical, therapeutic, or diagnostic clinical procedures. These procedures include ordering and administering regional, spinal, and general anesthesia; inhalation agents and techniques; intravenous agents and techniques; and techniques of hypnosis.

5. Order or perform monitoring procedures indicated as pertinent to the anesthetic health care management of the patient.

6. Support life functions during anesthesia health care, including induction and intubation procedures, the use of appropriate mechanical supportive devices, and the management of

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fluid, electrolyte, and blood component balances.

7. Recognize and take appropriate corrective action for abnormal patient responses to anesthesia, adjunctive medication, or other forms of therapy.

8. Recognize and treat a cardiac arrhythmia while the patient is under anesthetic care.

9. Participate in management of the patient while in the postanesthesia recovery area, including ordering the administration of fluids and drugs.

10. Place special peripheral and central venous and arterial lines for blood sampling and monitoring as appropriate.

(b) The certified nurse midwife may, to the extent authorized by an established protocol which has been approved by the medical staff of the health care facility in which the midwifery services are performed, or approved by the nurse midwife's physician backup when the delivery is performed in a patient's home, perform any or all of the following:

1. Perform superficial minor surgical procedures.

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

3. Order, initiate, and perform appropriate anesthetic procedures.

4. Perform postpartum examination.

5. Order appropriate medications.

6. Provide family-planning services and well-woman care.

7. Manage the medical care of the normal obstetrical patient and the initial care of a newborn patient.

(c) The nurse practitioner may perform any or all of the following acts within the framework of established protocol:

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873 1. Manage selected medical problems.
 874 2. Order physical and occupational therapy.
 875 3. Initiate, monitor, or alter therapies for certain
 876 uncomplicated acute illnesses.
 877 4. Monitor and manage patients with stable chronic
 878 diseases.
 879 5. Establish behavioral problems and diagnosis and make
 880 treatment recommendations.
 881 (5) The board shall certify, and the department shall issue
 882 a certificate to, any nurse meeting the qualifications in this
 883 section. The board shall establish an application fee not to
 884 exceed \$100 and a biennial renewal fee not to exceed \$50. The
 885 board is authorized to adopt such other rules as are necessary
 886 to implement the provisions of this section.
 887 (6) (a) The board shall establish a committee to recommend a
 888 formulary of controlled substances that an advanced registered
 889 nurse practitioner may not prescribe or may prescribe only for
 890 specific uses or in limited quantities. The committee must
 891 consist of three advanced registered nurse practitioners
 892 licensed under this section, recommended by the Board of
 893 Nursing; three physicians licensed under chapter 458 or chapter
 894 459 who have work experience with advanced registered nurse
 895 practitioners, recommended by the Board of Medicine; and a
 896 pharmacist licensed under chapter 465 who holds a Doctor of
 897 Pharmacy degree, recommended by the Board of Pharmacy. The
 898 committee may recommend an evidence-based formulary applicable
 899 to all advanced registered nurse practitioners which is limited
 900 by specialty certification, is limited to approved uses of
 901 controlled substances, or is subject to other similar

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902 restrictions the committee finds are necessary to protect the
 903 health, safety, and welfare of the public. The formulary must
 904 restrict the prescribing of psychiatric mental health controlled
 905 substances for children under 18 years of age to advanced
 906 registered nurse practitioners who also are psychiatric nurses
 907 as defined in s. 394.455. The formulary must also limit the
 908 prescribing of Schedule II controlled substances as defined in
 909 s. 893.03 to a 7-day supply, except that such restriction does
 910 not apply to controlled substances that are psychiatric
 911 medications prescribed by psychiatric nurses as defined in s.
 912 394.455.
 913 (b) The board shall adopt by rule the recommended formulary
 914 and any revisions to the formulary which it finds are supported
 915 by evidence-based clinical findings presented by the Board of
 916 Medicine, the Board of Osteopathic Medicine, or the Board of
 917 Dentistry.
 918 (c) The formulary required under this subsection does not
 919 apply to a controlled substance that is dispensed for
 920 administration pursuant to an order, including an order for
 921 medication authorized by subparagraph (4) (a) 3., subparagraph
 922 (4) (a) 4., or subparagraph (4) (a) 9.
 923 (d) The board shall adopt the committee's initial
 924 recommendation no later October 31, 2016.
 925 Section 17. Effective January 1, 2017, subsection (3) of
 926 section 464.012, Florida Statutes, as amended by this act, is
 927 amended to read:
 928 464.012 Certification of advanced registered nurse
 929 practitioners; fees; controlled substance prescribing.-
 930 (3) An advanced registered nurse practitioner shall perform

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those functions authorized in this section within the framework of an established protocol that is filed with the board upon biennial license renewal and within 30 days after entering into a supervisory relationship with a physician or changes to the protocol. The board shall review the protocol to ensure compliance with applicable regulatory standards for protocols. The board shall refer to the department licensees submitting protocols that are not compliant with the regulatory standards for protocols. A practitioner currently licensed under chapter 458, chapter 459, or chapter 466 shall maintain supervision for directing the specific course of medical treatment. Within the established framework, an advanced registered nurse practitioner may:

(a) Prescribe, dispense, administer, or order any drug; however, an advanced registered nurse practitioner may only prescribe or dispense a controlled substance as defined in s. 893.03 if the advanced registered nurse practitioner has graduated from a program leading to a master's or doctoral degree in a clinical nursing specialty area with training in specialized practitioner skills. Monitor and alter drug therapies.

(b) Initiate appropriate therapies for certain conditions.

(c) Perform additional functions as may be determined by rule in accordance with s. 464.003(2).

(d) Order diagnostic tests and physical and occupational therapy.

Section 18. Subsection (3) of section 464.013, Florida Statutes, is amended to read:

464.013 Renewal of license or certificate.—

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(3) The board shall by rule prescribe up to 30 hours of continuing education biennially as a condition for renewal of a license or certificate.

(a) A nurse who is certified by a health care specialty program accredited by the National Commission for Certifying Agencies or the Accreditation Board for Specialty Nursing Certification is exempt from continuing education requirements. The criteria for programs must shall be approved by the board.

(b) Notwithstanding the exemption in paragraph (a), as part of the maximum 30 hours of continuing education hours required under this subsection, advanced registered nurse practitioners certified under s. 464.012 must complete at least 3 hours of continuing education on the safe and effective prescription of controlled substances. Such continuing education courses must be offered by a statewide professional association of physicians in this state accredited to provide educational activities designated for the American Medical Association Physician's Recognition Award Category 1 Credit, the American Nurses Credentialing Center, the American Association of Nurse Anesthetists, or the American Association of Nurse Practitioners and may be offered in a distance-learning format.

Section 19. Paragraph (p) is added to subsection (1) of section 464.018, Florida Statutes, and subsection (2) of that section is republished, to read:

464.018 Disciplinary actions.—

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

(p) For an advanced registered nurse practitioner:

1. Presigning blank prescription forms.

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2. Prescribing for office use any medicinal drug appearing on Schedule II in chapter 893.

3. Prescribing, ordering, dispensing, administering, supplying, selling, or giving a drug that is an amphetamine or a sympathomimetic amine drug, or a compound designated in s. 893.03(2) as a Schedule II controlled substance, to or for any person except for:

a. The treatment of narcolepsy; hyperkinesia; behavioral syndrome in children characterized by the developmentally inappropriate symptoms of moderate to severe distractibility, short attention span, hyperactivity, emotional lability, and impulsivity; or drug-induced brain dysfunction.

b. The differential diagnostic psychiatric evaluation of depression or the treatment of depression shown to be refractory to other therapeutic modalities.

c. The clinical investigation of the effects of such drugs or compounds when an investigative protocol is submitted to, reviewed by, and approved by the department before such investigation is begun.

4. Prescribing, ordering, dispensing, administering, supplying, selling, or giving growth hormones, testosterone or its analogs, human chorionic gonadotropin (HCG), or other hormones for the purpose of muscle building or to enhance athletic performance. As used in this subparagraph, the term "muscle building" does not include the treatment of injured muscle. A prescription written for the drug products identified in this subparagraph may be dispensed by a pharmacist with the presumption that the prescription is for legitimate medical use.

5. Promoting or advertising on any prescription form a

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community pharmacy unless the form also states: "This prescription may be filled at any pharmacy of your choice."

6. Prescribing, dispensing, administering, mixing, or otherwise preparing a legend drug, including a controlled substance, other than in the course of his or her professional practice. For the purposes of this subparagraph, it is legally presumed that prescribing, dispensing, administering, mixing, or otherwise preparing legend drugs, including all controlled substances, inappropriately or in excessive or inappropriate quantities is not in the best interest of the patient and is not in the course of the advanced registered nurse practitioner's professional practice, without regard to his or her intent.

7. Prescribing, dispensing, or administering a medicinal drug appearing on any schedule set forth in chapter 893 to himself or herself, except a drug prescribed, dispensed, or administered to the advanced registered nurse practitioner by another practitioner authorized to prescribe, dispense, or administer medicinal drugs.

8. Prescribing, ordering, dispensing, administering, supplying, selling, or giving amygdalin (laetrile) to any person.

9. Dispensing a substance designated in s. 893.03(2) or (3) as a substance controlled in Schedule II or Schedule III, respectively, in violation of s. 465.0276.

10. Promoting or advertising through any communication medium the use, sale, or dispensing of a substance designated in s. 893.03 as a controlled substance.

(2) The board may enter an order denying licensure or imposing any of the penalties in s. 456.072(2) against any

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applicant for licensure or licensee who is found guilty of violating any provision of subsection (1) of this section or who is found guilty of violating any provision of s. 456.072(1).

Section 20. Subsection (21) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(21) "Practitioner" means a physician licensed under ~~pursuant to~~ chapter 458, a dentist licensed under ~~pursuant to~~ chapter 466, a veterinarian licensed under ~~pursuant to~~ chapter 474, an osteopathic physician licensed under ~~pursuant to~~ chapter 459, an advanced registered nurse practitioner certified under chapter 464, a naturopath licensed under ~~pursuant to~~ chapter 462, a certified optometrist licensed under ~~pursuant to~~ chapter 463, or a podiatric physician licensed under ~~pursuant to~~ chapter 461, or a physician assistant licensed under chapter 458 or chapter 459, provided such practitioner holds a valid federal controlled substance registry number.

Section 21. Paragraph (n) of subsection (1) of section 948.03, Florida Statutes, is amended to read:

948.03 Terms and conditions of probation.—

(1) The court shall determine the terms and conditions of probation. Conditions specified in this section do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. These conditions may include among them the following, that the probationer or offender in community control shall:

(n) Be prohibited from using intoxicants to excess or

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possessing any drugs or narcotics unless prescribed by a physician, advanced registered nurse practitioner, or physician assistant. The probationer or community controllee ~~may shall~~ not knowingly visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.

Section 22. Paragraph (a) of subsection (1) and subsection (2) of section 458.348, Florida Statutes, are amended to read:

458.348 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(1) NOTICE.—

(a) When a physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which relationship or orders contemplate the performance of medical acts, or when a physician enters into an established protocol with an advanced registered nurse practitioner, which protocol contemplates the performance of medical ~~acts identified and approved by the joint committee pursuant to s. 464.003(2) or~~ acts set forth in s. 464.012(3) and (4), the physician shall submit notice to the board. The notice shall contain a statement in substantially the following form:

I, ...(name and professional license number of physician)..., of ...(address of physician)... have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with ...(number of persons)... emergency medical technician(s), ...(number of persons)... paramedic(s), or ...(number of persons)... advanced registered nurse practitioner(s).

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1105
 1106 (2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE.—The
 1107 joint committee ~~created under s. 464.003(2)~~ shall determine
 1108 minimum standards for the content of established protocols
 1109 pursuant to which an advanced registered nurse practitioner may
 1110 perform medical acts ~~identified and approved by the joint~~
 1111 ~~committee pursuant to s. 464.003(2)~~ or acts set forth in s.
 1112 464.012(3) and (4) and shall determine minimum standards for
 1113 supervision of such acts by the physician, unless the joint
 1114 committee determines that any act set forth in s. 464.012(3) or
 1115 (4) is not a medical act. Such standards shall be based on risk
 1116 to the patient and acceptable standards of medical care and
 1117 shall take into account the special problems of medically
 1118 underserved areas. The standards developed by the joint
 1119 committee shall be adopted as rules by the Board of Nursing and
 1120 the Board of Medicine for purposes of carrying out their
 1121 responsibilities pursuant to part I of chapter 464 and this
 1122 chapter, respectively, but neither board shall have disciplinary
 1123 powers over the licensees of the other board.
 1124 Section 23. Paragraph (a) of subsection (1) of section
 1125 459.025, Florida Statutes, is amended to read:
 1126 459.025 Formal supervisory relationships, standing orders,
 1127 and established protocols; notice; standards.—
 1128 (1) NOTICE.—
 1129 (a) When an osteopathic physician enters into a formal
 1130 supervisory relationship or standing orders with an emergency
 1131 medical technician or paramedic licensed pursuant to s. 401.27,
 1132 which relationship or orders contemplate the performance of
 1133 medical acts, or when an osteopathic physician enters into an

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1134 established protocol with an advanced registered nurse
 1135 practitioner, which protocol contemplates the performance of
 1136 medical acts ~~identified and approved by the joint committee~~
 1137 ~~pursuant to s. 464.003(2)~~ or acts set forth in s. 464.012(3) and
 1138 (4), the osteopathic physician shall submit notice to the board.
 1139 The notice must contain a statement in substantially the
 1140 following form:
 1141
 1142 I, ...(name and professional license number of osteopathic
 1143 physician)..., of ...(address of osteopathic physician)... have
 1144 hereby entered into a formal supervisory relationship, standing
 1145 orders, or an established protocol with ...(number of
 1146 persons)... emergency medical technician(s), ...(number of
 1147 persons)... paramedic(s), or ...(number of persons)... advanced
 1148 registered nurse practitioner(s).
 1149 Section 24. For the purpose of incorporating the amendment
 1150 made by this act to section 456.072, Florida Statutes, in a
 1151 reference thereto, subsection (10) of section 458.331, Florida
 1152 Statutes, is reenacted to read:
 1153 458.331 Grounds for disciplinary action; action by the
 1154 board and department.—
 1155 (10) A probable cause panel convened to consider
 1156 disciplinary action against a physician assistant alleged to
 1157 have violated s. 456.072 or this section must include one
 1158 physician assistant. The physician assistant must hold a valid
 1159 license to practice as a physician assistant in this state and
 1160 be appointed to the panel by the Council of Physician
 1161 Assistants. The physician assistant may hear only cases
 1162 involving disciplinary actions against a physician assistant. If

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the appointed physician assistant is not present at the disciplinary hearing, the panel may consider the matter and vote on the case in the absence of the physician assistant. The training requirements set forth in s. 458.307(4) do not apply to the appointed physician assistant. Rules need not be adopted to implement this subsection.

Section 25. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, paragraph (g) of subsection (7) of section 458.347, Florida Statutes, is reenacted to read:

458.347 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(g) The Board of Medicine may impose any of the penalties authorized under ss. 456.072 and 458.331(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 26. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, subsection (10) of section 459.015, Florida Statutes, is reenacted to read:

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

(10) A probable cause panel convened to consider disciplinary action against a physician assistant alleged to have violated s. 456.072 or this section must include one physician assistant. The physician assistant must hold a valid license to practice as a physician assistant in this state and

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be appointed to the panel by the Council of Physician Assistants. The physician assistant may hear only cases involving disciplinary actions against a physician assistant. If the appointed physician assistant is not present at the disciplinary hearing, the panel may consider the matter and vote on the case in the absence of the physician assistant. The training requirements set forth in s. 458.307(4) do not apply to the appointed physician assistant. Rules need not be adopted to implement this subsection.

Section 27. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, paragraph (f) of subsection (7) of section 459.022, Florida Statutes, is reenacted to read:

459.022 Physician assistants.—

(7) PHYSICIAN ASSISTANT LICENSURE.—

(f) The Board of Osteopathic Medicine may impose any of the penalties authorized under ss. 456.072 and 459.015(2) upon a physician assistant if the physician assistant or the supervising physician has been found guilty of or is being investigated for any act that constitutes a violation of this chapter or chapter 456.

Section 28. For the purpose of incorporating the amendment made by this act to section 456.072, Florida Statutes, in a reference thereto, subsection (5) of section 465.0158, Florida Statutes, is reenacted to read:

465.0158 Nonresident sterile compounding permit.—

(5) In accordance with this chapter, the board may deny, revoke, or suspend the permit of; fine; or reprimand a permittee for:

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1221 (a) Failure to comply with this section;
 1222 (b) A violation listed under s. 456.0635, s. 456.065, or s.
 1223 456.072, except s. 456.072(1)(s) or (1)(u);
 1224 (c) A violation under s. 465.0156(5); or
 1225 (d) A violation listed under s. 465.016.
 1226 Section 29. For the purpose of incorporating the amendment
 1227 made by this act to section 456.44, Florida Statutes, in a
 1228 reference thereto, paragraph (mm) of subsection (1) of section
 1229 456.072, Florida Statutes, is reenacted to read:
 1230 456.072 Grounds for discipline; penalties; enforcement.—
 1231 (1) The following acts shall constitute grounds for which
 1232 the disciplinary actions specified in subsection (2) may be
 1233 taken:
 1234 (mm) Failure to comply with controlled substance
 1235 prescribing requirements of s. 456.44.
 1236 Section 30. For the purpose of incorporating the amendment
 1237 made by this act to section 456.44, Florida Statutes, in a
 1238 reference thereto, section 466.02751, Florida Statutes, is
 1239 reenacted to read:
 1240 466.02751 Establishment of practitioner profile for
 1241 designation as a controlled substance prescribing practitioner.—
 1242 The Department of Health shall establish a practitioner profile
 1243 for dentists licensed under this chapter for a practitioner's
 1244 designation as a controlled substance prescribing practitioner
 1245 as provided in s. 456.44.
 1246 Section 31. For the purpose of incorporating the amendment
 1247 made by this act to section 458.347, Florida Statutes, in a
 1248 reference thereto, section 458.303, Florida Statutes, is
 1249 reenacted to read:

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1250 458.303 Provisions not applicable to other practitioners;
 1251 exceptions, etc.—
 1252 (1) The provisions of ss. 458.301, 458.305, 458.307,
 1253 458.309, 458.311, 458.313, 458.315, 458.317, 458.319, 458.321,
 1254 458.327, 458.329, 458.331, 458.337, 458.339, 458.341, 458.343,
 1255 458.345, 458.347, and this section shall have no application to:
 1256 (a) Other duly licensed health care practitioners acting
 1257 within their scope of practice authorized by statute.
 1258 (b) Any physician lawfully licensed in another state or
 1259 territory or foreign country, when meeting duly licensed
 1260 physicians of this state in consultation.
 1261 (c) Commissioned medical officers of the Armed Forces of
 1262 the United States and of the Public Health Service of the United
 1263 States while on active duty and while acting within the scope of
 1264 their military or public health responsibilities.
 1265 (d) Any person while actually serving without salary or
 1266 professional fees on the resident medical staff of a hospital in
 1267 this state, subject to the provisions of s. 458.321.
 1268 (e) Any person furnishing medical assistance in case of an
 1269 emergency.
 1270 (f) The domestic administration of recognized family
 1271 remedies.
 1272 (g) The practice of the religious tenets of any church in
 1273 this state.
 1274 (h) Any person or manufacturer who, without the use of
 1275 drugs or medicine, mechanically fits or sells lenses, artificial
 1276 eyes or limbs, or other apparatus or appliances or is engaged in
 1277 the mechanical examination of eyes for the purpose of
 1278 constructing or adjusting spectacles, eyeglasses, or lenses.

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1279 (2) Nothing in s. 458.301, s. 458.305, s. 458.307, s.
 1280 458.309, s. 458.311, s. 458.313, s. 458.319, s. 458.321, s.
 1281 458.327, s. 458.329, s. 458.331, s. 458.337, s. 458.339, s.
 1282 458.341, s. 458.343, s. 458.345, s. 458.347, or this section
 1283 shall be construed to prohibit any service rendered by a
 1284 registered nurse or a licensed practical nurse, if such service
 1285 is rendered under the direct supervision and control of a
 1286 licensed physician who provides specific direction for any
 1287 service to be performed and gives final approval to all services
 1288 performed. Further, nothing in this or any other chapter shall
 1289 be construed to prohibit any service rendered by a medical
 1290 assistant in accordance with the provisions of s. 458.3485.

1291 Section 32. For the purpose of incorporating the amendment
 1292 made by this act to section 458.347, Florida Statutes, in a
 1293 reference thereto, paragraph (b) of subsection (7) of section
 1294 458.3475, Florida Statutes, is reenacted to read:

1295 458.3475 Anesthesiologist assistants.—

1296 (7) ANESTHESIOLOGIST AND ANESTHESIOLOGIST ASSISTANT TO
 1297 ADVISE THE BOARD.—

1298 (b) In addition to its other duties and responsibilities as
 1299 prescribed by law, the board shall:

1300 1. Recommend to the department the licensure of
 1301 anesthesiologist assistants.

1302 2. Develop all rules regulating the use of anesthesiologist
 1303 assistants by qualified anesthesiologists under this chapter and
 1304 chapter 459, except for rules relating to the formulary
 1305 developed under s. 458.347(4)(f). The board shall also develop
 1306 rules to ensure that the continuity of supervision is maintained
 1307 in each practice setting. The boards shall consider adopting a

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1308 proposed rule at the regularly scheduled meeting immediately
 1309 following the submission of the proposed rule. A proposed rule
 1310 may not be adopted by either board unless both boards have
 1311 accepted and approved the identical language contained in the
 1312 proposed rule. The language of all proposed rules must be
 1313 approved by both boards pursuant to each respective board's
 1314 guidelines and standards regarding the adoption of proposed
 1315 rules.

1316 3. Address concerns and problems of practicing
 1317 anesthesiologist assistants to improve safety in the clinical
 1318 practices of licensed anesthesiologist assistants.

1319 Section 33. For the purpose of incorporating the amendment
 1320 made by this act to section 458.347, Florida Statutes, in
 1321 references thereto, paragraph (e) of subsection (4) and
 1322 paragraph (c) of subsection (9) of section 459.022, Florida
 1323 Statutes, are reenacted to read:

1324 459.022 Physician assistants.—

1325 (4) PERFORMANCE OF PHYSICIAN ASSISTANTS.—

1326 (e) A supervisory physician may delegate to a fully
 1327 licensed physician assistant the authority to prescribe or
 1328 dispense any medication used in the supervisory physician's
 1329 practice unless such medication is listed on the formulary
 1330 created pursuant to s. 458.347. A fully licensed physician
 1331 assistant may only prescribe or dispense such medication under
 1332 the following circumstances:

1333 1. A physician assistant must clearly identify to the
 1334 patient that she or he is a physician assistant. Furthermore,
 1335 the physician assistant must inform the patient that the patient
 1336 has the right to see the physician prior to any prescription

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being prescribed or dispensed by the physician assistant.

2. The supervisory physician must notify the department of her or his intent to delegate, on a department-approved form, before delegating such authority and notify the department of any change in prescriptive privileges of the physician assistant. Authority to dispense may be delegated only by a supervisory physician who is registered as a dispensing practitioner in compliance with s. 465.0276.

3. The physician assistant must file with the department a signed affidavit that she or he has completed a minimum of 10 continuing medical education hours in the specialty practice in which the physician assistant has prescriptive privileges with each licensure renewal application.

4. The department may issue a prescriber number to the physician assistant granting authority for the prescribing of medicinal drugs authorized within this paragraph upon completion of the foregoing requirements. The physician assistant shall not be required to independently register pursuant to s. 465.0276.

5. The prescription must be written in a form that complies with chapter 499 and must contain, in addition to the supervisory physician's name, address, and telephone number, the physician assistant's prescriber number. Unless it is a drug or drug sample dispensed by the physician assistant, the prescription must be filled in a pharmacy permitted under chapter 465, and must be dispensed in that pharmacy by a pharmacist licensed under chapter 465. The appearance of the prescriber number creates a presumption that the physician assistant is authorized to prescribe the medicinal drug and the prescription is valid.

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6. The physician assistant must note the prescription or dispensing of medication in the appropriate medical record.

(9) COUNCIL ON PHYSICIAN ASSISTANTS.—The Council on Physician Assistants is created within the department.

(c) The council shall:

1. Recommend to the department the licensure of physician assistants.

2. Develop all rules regulating the use of physician assistants by physicians under chapter 458 and this chapter, except for rules relating to the formulary developed under s. 458.347. The council shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule developed by the council at the regularly scheduled meeting immediately following the submission of the proposed rule by the council. A proposed rule submitted by the council may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules submitted by the council must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules. If either board rejects the council's proposed rule, that board must specify its objection to the council with particularity and include any recommendations it may have for the modification of the proposed rule.

3. Make recommendations to the boards regarding all matters relating to physician assistants.

4. Address concerns and problems of practicing physician assistants in order to improve safety in the clinical practices

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of licensed physician assistants.

Section 34. For the purpose of incorporating the amendment made by this act to section 458.347, Florida Statutes, in a reference thereto, paragraph (b) of subsection (7) of section 459.023, Florida Statutes, is reenacted to read:

459.023 Anesthesiologist assistants.—

(7) ANESTHESIOLOGIST AND ANESTHESIOLOGIST ASSISTANT TO ADVISE THE BOARD.—

(b) In addition to its other duties and responsibilities as prescribed by law, the board shall:

1. Recommend to the department the licensure of anesthesiologist assistants.

2. Develop all rules regulating the use of anesthesiologist assistants by qualified anesthesiologists under this chapter and chapter 458, except for rules relating to the formulary developed under s. 458.347(4)(f). The board shall also develop rules to ensure that the continuity of supervision is maintained in each practice setting. The boards shall consider adopting a proposed rule at the regularly scheduled meeting immediately following the submission of the proposed rule. A proposed rule may not be adopted by either board unless both boards have accepted and approved the identical language contained in the proposed rule. The language of all proposed rules must be approved by both boards pursuant to each respective board's guidelines and standards regarding the adoption of proposed rules.

3. Address concerns and problems of practicing anesthesiologist assistants to improve safety in the clinical practices of licensed anesthesiologist assistants.

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Section 35. For the purpose of incorporating the amendment made by this act to section 464.012, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 456.041, Florida Statutes, is reenacted to read:

456.041 Practitioner profile; creation.—

(1) (a) The Department of Health shall compile the information submitted pursuant to s. 456.039 into a practitioner profile of the applicant submitting the information, except that the Department of Health shall develop a format to compile uniformly any information submitted under s. 456.039(4)(b). Beginning July 1, 2001, the Department of Health may compile the information submitted pursuant to s. 456.0391 into a practitioner profile of the applicant submitting the information. The protocol submitted pursuant to s. 464.012(3) must be included in the practitioner profile of the advanced registered nurse practitioner.

Section 36. For the purpose of incorporating the amendment made by this act to section 464.012, Florida Statutes, in references thereto, subsections (1) and (2) of section 458.348, Florida Statutes, are reenacted to read:

458.348 Formal supervisory relationships, standing orders, and established protocols; notice; standards.—

(1) NOTICE.—

(a) When a physician enters into a formal supervisory relationship or standing orders with an emergency medical technician or paramedic licensed pursuant to s. 401.27, which relationship or orders contemplate the performance of medical acts, or when a physician enters into an established protocol with an advanced registered nurse practitioner, which protocol

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contemplates the performance of medical acts identified and approved by the joint committee pursuant to s. 464.003(2) or acts set forth in s. 464.012(3) and (4), the physician shall submit notice to the board. The notice shall contain a statement in substantially the following form:

I, ...(name and professional license number of physician)..., of ...(address of physician)... have hereby entered into a formal supervisory relationship, standing orders, or an established protocol with ...(number of persons)... emergency medical technician(s), ...(number of persons)... paramedic(s), or ...(number of persons)... advanced registered nurse practitioner(s).

(b) Notice shall be filed within 30 days of entering into the relationship, orders, or protocol. Notice also shall be provided within 30 days after the physician has terminated any such relationship, orders, or protocol.

(2) ESTABLISHMENT OF STANDARDS BY JOINT COMMITTEE.—The joint committee created under s. 464.003(2) shall determine minimum standards for the content of established protocols pursuant to which an advanced registered nurse practitioner may perform medical acts identified and approved by the joint committee pursuant to s. 464.003(2) or acts set forth in s. 464.012(3) and (4) and shall determine minimum standards for supervision of such acts by the physician, unless the joint committee determines that any act set forth in s. 464.012(3) or (4) is not a medical act. Such standards shall be based on risk to the patient and acceptable standards of medical care and shall take into account the special problems of medically underserved areas. The standards developed by the joint

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committee shall be adopted as rules by the Board of Nursing and the Board of Medicine for purposes of carrying out their responsibilities pursuant to part I of chapter 464 and this chapter, respectively, but neither board shall have disciplinary powers over the licensees of the other board.

Section 37. For the purpose of incorporating the amendment made by this act to section 464.013, Florida Statutes, in a reference thereto, subsection (7) of section 464.0205, Florida Statutes, is reenacted to read:

464.0205 Retired volunteer nurse certificate.—

(7) The retired volunteer nurse certificate shall be valid for 2 years, and a certificateholder may reapply for a certificate so long as the certificateholder continues to meet the eligibility requirements of this section. Any legislatively mandated continuing education on specific topics must be completed by the certificateholder prior to renewal; otherwise, the provisions of s. 464.013 do not apply.

Section 38. For the purpose of incorporating the amendment made by this act to section 464.018, Florida Statutes, in a reference thereto, subsection (11) of section 320.0848, Florida Statutes, is reenacted to read:

320.0848 Persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.—

(11) A violation of this section is grounds for disciplinary action under s. 458.331, s. 459.015, s. 460.413, s. 461.013, s. 463.016, or s. 464.018, as applicable.

Section 39. For the purpose of incorporating the amendment

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made by this act to section 464.018, Florida Statutes, in a reference thereto, subsection (2) of section 464.008, Florida Statutes, is reenacted to read:

464.008 Licensure by examination.—

(2) Each applicant who passes the examination and provides proof of meeting the educational requirements specified in subsection (1) shall, unless denied pursuant to s. 464.018, be entitled to licensure as a registered professional nurse or a licensed practical nurse, whichever is applicable.

Section 40. For the purpose of incorporating the amendment made by this act to section 464.018, Florida Statutes, in a reference thereto, subsection (5) of section 464.009, Florida Statutes, is reenacted to read:

464.009 Licensure by endorsement.—

(5) The department shall not issue a license by endorsement to any applicant who is under investigation in another state, jurisdiction, or territory of the United States for an act which would constitute a violation of this part or chapter 456 until such time as the investigation is complete, at which time the provisions of s. 464.018 shall apply.

Section 41. For the purpose of incorporating the amendment made by this act to section 464.018, Florida Statutes, in references thereto, paragraph (b) of subsection (1), subsection (3), and paragraph (b) of subsection (4) of section 464.0205, Florida Statutes, are reenacted to read:

464.0205 Retired volunteer nurse certificate.—

(1) Any retired practical or registered nurse desiring to serve indigent, underserved, or critical need populations in this state may apply to the department for a retired volunteer

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nurse certificate by providing:

(b) Verification that the applicant had been licensed to practice nursing in any jurisdiction in the United States for at least 10 years, had retired or plans to retire, intends to practice nursing only pursuant to the limitations provided by the retired volunteer nurse certificate, and has not committed any act that would constitute a violation under s. 464.018(1).

(3) The board may deny a retired volunteer nurse certificate to any applicant who has committed, or who is under investigation or prosecution for, any act that would constitute a ground for disciplinary action under s. 464.018.

(4) A retired volunteer nurse receiving certification from the board shall:

(b) Comply with the minimum standards of practice for nurses and be subject to disciplinary action for violations of s. 464.018, except that the scope of practice for certified volunteers shall be limited to primary and preventive health care, or as further defined by board rule.

Section 42. For the purpose of incorporating the amendment made by this act to section 893.02, Florida Statutes, in a reference thereto, section 775.051, Florida Statutes, is reenacted to read:

775.051 Voluntary intoxication; not a defense; evidence not admissible for certain purposes; exception.—Voluntary intoxication resulting from the consumption, injection, or other use of alcohol or other controlled substance as described in chapter 893 is not a defense to any offense proscribed by law. Evidence of a defendant's voluntary intoxication is not admissible to show that the defendant lacked the specific intent

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to commit an offense and is not admissible to show that the defendant was insane at the time of the offense, except when the consumption, injection, or use of a controlled substance under chapter 893 was pursuant to a lawful prescription issued to the defendant by a practitioner as defined in s. 893.02.

Section 43. For the purpose of incorporating the amendment made by this act to section 948.03, Florida Statutes, in a reference thereto, paragraph (a) of subsection (3) of section 944.17, Florida Statutes, is reenacted to read:

944.17 Commitments and classification; transfers.—

(3) (a) Notwithstanding the provisions of s. 948.03, only those persons who are convicted and sentenced in circuit court to a cumulative sentence of incarceration for 1 year or more, whether sentence is imposed in the same or separate circuits, may be received by the department into the state correctional system. Such persons shall be delivered to the custody of the department at such reception and classification centers as shall be provided for this purpose.

Section 44. For the purpose of incorporating the amendment made by this act to section 948.03, Florida Statutes, in a reference thereto, subsection (8) of section 948.001, Florida Statutes, is reenacted to read:

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

(8) "Probation" means a form of community supervision requiring specified contacts with parole and probation officers and other terms and conditions as provided in s. 948.03.

Section 45. For the purpose of incorporating the amendment made by this act to section 948.03, Florida Statutes, in a reference thereto, paragraph (e) of subsection (1) of section

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948.101, Florida Statutes, is reenacted to read:

948.101 Terms and conditions of community control.—

(1) The court shall determine the terms and conditions of community control. Conditions specified in this subsection do not require oral pronouncement at the time of sentencing and may be considered standard conditions of community control. The court shall require intensive supervision and surveillance for an offender placed into community control, which may include, but is not limited to:

(e) The standard conditions of probation set forth in s. 948.03.

Section 46. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA

20th District

February 10, 2016

The Honorable Rene Garcia, Chair
Senate Appropriations Subcommittee on Health and Human Services
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Garcia:

I respectfully request consideration of Senate Bill 1250/Behavioral Health Workforce by the Senate Subcommittee on Health and Human Services at your earliest convenience.

This bill expands the authority of a psychiatric nurse to approve the release of a patient from a receiving facility, also authorizing procedures for recommending admission of a patient to a treatment facility, adding psychiatry to a list of primary care specialties under the Statewide Medicaid Residency Program, and requiring advanced registered nurse practitioners and physician assistants who prescribe controlled substances for pain management to make a certain designation, comply with registration requirements, and follow specified standards of practice, etc..

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

Jack Latvala
State Senator
District 20

Cc: Scarlet Pigott, Staff Director; Robin Jackson, Administrative Assistant

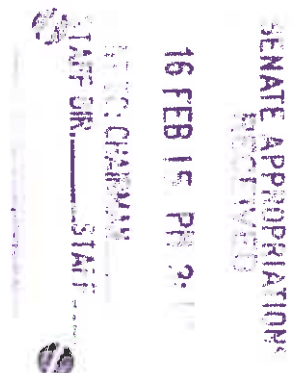
REPLY TO:

□ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
□ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

ANDY GARDINER
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)

2-24-16

Meeting Date

CS/SB 1250

Bill Number (if applicable)

Topic Behavioral Health Workforce

Amendment Barcode (if applicable)

Name MARK FONTAINE

Job Title Executive Director

Address 2868 Nathan Drive

Phone 878-2196

Street

Tallahassee FL 32308

City

State

Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA Alcohol + Drug Abuse 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.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/24/11

Meeting Date

1250

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Chris Lyon

Job Title Attorney

Address 315 S. Colham St., Ste. 830

Phone 222-5702

Street

Tall

City

FL

State

32301

Zip

Email chyonellw-law.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Association of Nurse Anesthetists

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24/16
Meeting Date

1250
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name THAD LOWREY

Job Title VP Governmental Relations

Address 7720 Woodhollow St. Ste 102

Phone 727-992-8508

Port Richey FL 34668
City State Zip

Email lowrey@operation.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing OPERATION PAR

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24/16

Meeting Date

SB 1250

Bill Number (if applicable)

Topic SB 1250 Behavioral Health Workforce

Amendment Barcode (if applicable)

Name Shane Messer

Job Title Legislative Affairs

Address 3116 E Park Ave

Street

Tallah

City

FL

State

32301

Zip

Phone 850 322 6693

Email Shane@fcmh.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Florida Council for Behavioral Healthcare

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

2/24/16

Bill Number (if applicable)

1250

Topic Behavioral Health work force

Amendment Barcode (if applicable)

Name Corinne Mixon

Job Title Lobbyist

Address 119 E Park

Phone 766 5795

Street

City

Tally 32301

State

Zip

Email corinnemixon@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against

(The Chair will read this information into the record.)

Representing The Florida Academy of Physician Assistants

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24/16

Meeting Date

1250

Bill Number (if applicable)

Topic Behavioral Health workforce

Amendment Barcode (if applicable)

Name Alisa LaPort (ah LEE sa)

Job Title Lobbyist

Address PO Box 1344

Phone 850-443-1319

Street

Tallahassee

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Nurses Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/1/16

Meeting Date

CS/SB
1250
Bill Number (if applicable)

Topic BEHAVIORAL HEALTH WORKFORCE

Amendment Barcode (if applicable)

Name NATALIE KELLY

Job Title EXECUTIVE DIRECTOR

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Phone (850) 570-5747

Street

ORLANDO

City

FLORIDA

State

32301

Zip

Email NATALIE.KELLY@ME.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA ASSOCIATION OF MANAGING ENTITIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24/2016
Meeting Date

1250
Bill Number (if applicable)

Topic Behavioral Health Workforce

Amendment Barcode (if applicable)

Name Chris Floyd

Job Title Consultant

Address 101 E. College Ave

Phone 813-624-5117

Tallahassee FL 32301
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL Assoc. of Nurse Practitioners

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
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 Appropriations Subcommittee on Health and Human Services

BILL: PCS/SB 236 (278672)

INTRODUCER: Appropriations Subcommittee on Health and Human Services; Senators Grimsley and Gaetz

SUBJECT: Certificates of Need for Rural Hospitals

DATE: February 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Stovall	HP	Favorable
2.	Brown	Pigott	AHS	Recommend: Fav/CS
3.			FP	

I. Summary:

PCS/SB 236 modifies the eligibility criteria for a rural hospital to construct a replacement facility without first obtaining a certification of need (CON). The population density threshold is raised from less than 30 to less than 100 persons per square mile, which is consistent with the population density included in the definition of a rural hospital, and deletes a requirement for the county in which the hospital will be situated to have a population between 15,000 and 18,000 residents. The bill provides that in order for the CON exemption to be triggered, the replacement hospital may not be located within 15 miles of a currently licensed hospital in an adjacent county.

The bill has an indeterminate fiscal impact on the Agency for Health Care Administration (AHCA).

The bill's effective date is July 1, 2016.

II. Present Situation:

Florida's CON Program

Overview

In Florida, a CON is a written statement issued by the AHCA evidencing community need for a new, converted, expanded, or otherwise significantly modified health care facility or health service, including hospices. The Florida CON program has three levels of review: full, expedited and exempt.¹ Unless a project is exempt from the CON program, it must undergo a full comparative review. Expedited review is primarily targeted towards nursing home projects.

¹ Section 408.036, F.S.

Full CON Review Process

Full CON review is a lengthy process that starts with the AHCA determining need for a specific facility type or service. Upon determining that a need exists, AHCA accepts applications for CON based on batching cycles. At least 30 days prior to the application deadline for a batch cycle, an applicant must file a letter of intent with AHCA.² A letter of intent must describe the proposal, specify the number of beds sought, and identify the services to be provided and the location of the project.³ Applications for CON review must be submitted by the specified deadline for the particular batch cycle.⁴ The AHCA must review the application within 15 days of the filing deadline and, if necessary, request additional information for an incomplete application.⁵ The applicant then has 21 days to complete the application or it is deemed withdrawn from consideration.⁶

Within 60 days of receipt of the completed applications for that batch, the AHCA must issue a State Agency Action Report and Notice of Intent to grant a CON for a project in its entirety, to grant a CON for identifiable portions of a project, or to deny a CON for a project.⁷ The AHCA must then publish the decision, within 14 days, in the Florida Administrative Register.⁸ If no administrative hearing is requested within 21 days of the publication, the State Agency Action Report and the Notice of Intent become a final order of the AHCA.⁹

An applicant for CON review must submit a fee to the AHCA at the time of application submission. The minimum CON application filing fee is \$10,000.¹⁰ In addition to the base fee, an applicant must pay a fee of 1.5 percent of each dollar of the proposed expenditure; however the total fee may not exceed \$50,000.¹¹

Projects Subject to Full CON Review

Section 408.036(1), F.S., lists projects that are required to undergo a full comparative CON review, including:

- The addition of beds by new construction or alteration in a community nursing home or intermediate care facility for the developmentally disabled;
- The new construction or establishment of additional health care facilities,¹² including the replacement of a health care facility that is not located within one mile of an existing health care facility, if the number of beds in each licensed bed category will not increase;

² Section 408.039(2)(a), F.S.

³ Section 408.039(2)(c), F.S.

⁴ Rule 59C-1.008(1)(g), F.A.C.

⁵ Section 408.039(3)(a), F.S.

⁶ Id.

⁷ Section 408.039(4)(b), F.S.

⁸ Section 408.039(4)(c), F.S.

⁹ Section 408.039(4)(d), F.S.

¹⁰ Section 408.038, F.S.

¹¹ Id.

¹² Section 408.032, F.S., defines “health care facility” as a hospital, long-term care hospital, skilled nursing facility, hospice, or intermediate care facility for the developmentally disabled.

- The conversion from one type of health care facility to another, including from a general hospital to a specialty hospital;
- The establishment of a hospice or hospice inpatient facility;
- An increase in the number of beds for comprehensive rehabilitation; and
- The establishment of tertiary health services,¹³ including inpatient comprehensive rehabilitation.

Projects Subject to Expedited CON Review

Section 408.036(2), F.S., permits certain projects to undergo expedited CON review. Applicants for expedited review are not subject to the application deadlines associated with full comparative review and may submit an application at any time. Projects subject to an expedited review include the transfer of a CON and certain replacements, relocations, and new construction of nursing homes.¹⁴

Exemptions from CON Review

Section 408.036(3), F.S., provides many exemptions to CON review. Exempted projects must only submit an application for exemption to the AHCA and pay a \$250 fee. Exempted projects include:

Hospital Exemptions

- Adding hospice services or swing beds¹⁵ in a rural hospital, the total of which does not exceed one-half of its licensed beds;
- Converting licensed acute care hospital beds to Medicare and Medicaid certified skilled nursing beds in a rural hospital, as defined in s. 395.602, F.S., so long as the conversion of the beds does not involve the construction of new facilities;
- Adding hospital beds licensed under ch. 395, F.S., for comprehensive rehabilitation, the total of which may not exceed 10 total beds or 10 percent of the licensed capacity, whichever is greater;
- Establishing a Level II neonatal intensive care unit (NICU) if the unit has at least 10 beds, and if the hospital had a minimum of 1,500 births during the previous 12 months;
- Establishing a Level III NICU if the unit has at least 15 beds, and if the hospital had a Level II NICU and a minimum of at least 3,500 births during the previous 12 months;
- Establishing a Level III NICU if the unit has at least five beds, is a verified trauma center,¹⁶ and has a Level II NICU;

¹³ Tertiary health services include: pediatric cardiac catheterization, pediatric open-heart surgery, organ transplantation, neonatal intensive care units, comprehensive rehabilitation, medical or surgical services which are experimental or developmental in nature to the extent that the provision of such services is not yet contemplated within the commonly accepted course of diagnosis or treatment for the condition addressed by a given service, heart transplantation, kidney transplantation, liver transplantation, bone marrow transplantation, lung transplantation, pancreas and islet cells transplantation, heart/lung transplantation, adult open heart surgery, neonatal and pediatric cardiac and vascular surgery, and pediatric oncology and hematology. See s. 408.032(17), F.S., and rule 59C-1.002(41), F.A.C.

¹⁴ See s. 408.036(2), F.S.

¹⁵ Section 395.602(2)(g), F.S., defines “swing bed” as a bed which can be used interchangeably as either a hospital, skilled nursing facility (SNF), or intermediate care facility (ICF) bed pursuant to 42 C.F.R. parts 405, 435, 440, 442, and 447.

¹⁶ Section 395.4001(14), F.S., defines “trauma center” as a hospital that has been verified by the Department of Health to be in substantial compliance with the requirements in s. 395.4025, F.S., and has been approved to operate as a Level I trauma

- Providing percutaneous coronary intervention for patients presenting with emergency myocardial infarctions in a hospital that does not have an approved adult open-heart-surgery program;¹⁷
- Adding mental health services or beds if the applicant commits to providing services to Medicaid or charity care patients as a level equal to or greater than the district average; and
- Establishing an adult open-heart surgery program in a hospital located within the boundaries of a health service planning district, which:¹⁸
 - Has experienced an annual net out-migration of at least 600 open heart surgery cases for three consecutive years; and
 - Has a population that exceeds the state average of population per licensed and operational open-heart programs by at least 25 percent.

Rural Hospitals

Part III of ch. 395, F.S., governs rural hospitals. A rural hospital is defined in s. 395.602(2)(e), F.S., as a licensed, acute care hospital having 100 or fewer licensed beds and an emergency room which is:

- The sole provider in a county with a population density no greater than 100 persons per square mile;
- An acute care hospital in a county with a population density no greater than 100 persons per square mile which is at least 30 minutes of travel time from any other acute care hospital in the same county;
- A hospital supported by a tax district or sub-district whose boundaries encompass an area of 100 persons or fewer per square mile;
- A hospital with a service area of fewer than 100 persons per square mile, with service area being defined as the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent five-year period; or
- A hospital designated as a critical access hospital under s. 408.07(15), F.S.¹⁹

An acute care hospital that has not previously been designated as a rural hospital and that meets the criteria of the definition will be granted rural hospital status upon submitting an application, including supporting documentation, to the AHCA.²⁰

Currently, 28 hospitals meet the statutory definition of rural hospitals:

Rural Hospital	County	City	Beds
Baptist Medical Center - Nassau	Nassau	Fernandina Beach	62
Calhoun-Liberty Hospital	Calhoun	Blountstown	25
Campbellton-Graceville Hospital	Jackson	Graceville	25

center, Level II trauma center, or pediatric trauma center, or is designated as a Level II trauma center pursuant to s. 395.4025(14), F.S.

¹⁷ Id.

¹⁸ This exemption is obsolete and is replaced by a licensure process under s. 408.0361, F.S.

¹⁹ Section 408.07(15), F.S., defines a critical access hospital as “a hospital that meets the definition of ‘critical access hospital’ in s. 1861(mm)(1) of the Social Security Act and that is certified by the Secretary of Health and Human Services as a critical access hospital.”

²⁰ See s. 395.602(2)(e), F.S.

Rural Hospital	County	City	Beds
Desoto Memorial Hospital	Desoto	Arcadia	49
Doctors Memorial Hospital	Holmes	Bonifay	20
Doctors' Memorial Hospital Inc.	Taylor	Perry	48
Ed Fraser Memorial Hospital	Baker	MacClenny	25
Fishermen's Hospital	Monroe	Marathon	25
Florida Hospital Flagler	Flagler	Palm Coast	99
Florida Hospital Wauchula	Hardee	Wauchula	25
George E Weems Memorial Hospital	Franklin	Apalachicola	25
Healthmark Regional Medical Center	Walton	Defuniak Springs	50
Hendry Regional Medical Center	Hendry	Clewiston	25
Jackson Hospital	Jackson	Marianna	100
Jay Hospital	Santa Rosa	Jay	49
Lake Butler Hospital Hand Surgery Center	Union	Lake Butler	25
Lakeside Medical Center	Palm Beach	Belle Glade	70
Madison County Memorial Hospital	Madison	Madison	25
Mariners Hospital	Monroe	Tavernier	25
Northwest Florida Community Hospital	Washington	Chipley	59
Putnam Community Medical Center	Putnam	Palatka	99
Raulerson Hospital	Okeechobee	Okeechobee	100
Regional General Hospital Williston ²¹	Levy	Williston	40
Sacred Heart Hospital On The Emerald Coast	Walton	Miramar Beach	58
Sacred Heart Hospital On The Gulf	Gulf	Port Saint Joe	19
Shands Lake Shore Regional Medical Center	Columbia	Lake City	99
Shands Live Oak Regional Medical Center	Suwannee	Live Oak	25
Shands Starke Regional Medical Center	Bradford	Starke	49

Rural hospitals are eligible to participate in Medicaid's rural hospital financial assistance programs under s. 409.9116, F.S. Rural hospitals may also receive special consideration in the General Appropriations Act for Medicaid reimbursement due to their rural status.

Rural Counties and Population Density

The Department of Health maintains a list of rural counties that is based on a density of less than 100 persons per square mile.²² The following list identifies Florida's 30 rural counties and their density according to the 2010 Census.

County	Density	County	Density	County	Density
Baker	46.3	Gulf	28.6	Liberty	10.0
Bradford	97.3	Hamilton	28.7	Madison	27.8
Calhoun	25.8	Hardee	43.5	Monroe	73.3
Columbia	84.7	Hendry	34.0	Okeechobee	51.7
DeSoto	54.7	Highlands	96.1	Suwannee	60.4
Dixie	23.3	Holmes	41.3	Taylor	21.7
Franklin	21.2	Jackson	54.3	Union	64.6
Gadsden	89.9	Jefferson	24.7	Wakulla	50.7
Gilchrist	48.5	Lafayette	16.3	Walton	52.0
Glades	16.7	Levy	36.5	Washington	42.9

²¹ Formerly known as Tri County Hospital - Williston.

²² <http://www.floridahealth.gov/programs-and-services/community-health/rural-health/documents/rual-counties-2000-2010.pdf> (last visited Feb. 2, 2016).

III. Effect of Proposed Changes:

The bill modifies the eligibility criteria for a rural hospital to construct a replacement facility without first obtaining a CON. The population density threshold is raised from less than 30 to less than 100 persons per square mile, which is consistent with the population density included in the definition of a rural hospital. The bill deletes the county population criteria of between 15,000 and 18,000 persons and provides that in order for the CON exemption to be triggered, the replacement hospital may not be located within 15 miles of a currently licensed hospital in an adjacent county. The bill also deletes the requirement that the replacement facility must be in the current primary service area and deletes the definition of service area.

The current exemption applies to 11 counties: Calhoun, Dixie*, Franklin, Glades*, Gulf, Hamilton*, Jefferson*, Lafayette*, Liberty*, Madison, and Taylor counties.

An assessment of which counties would be affected by the bill in terms of qualifying for the exemption is not yet available from the AHCA.

* These counties do not currently have a licensed hospital.

The bill is effective July 1, 2016.

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:

A replacement hospital over one mile from the original location costs the maximum CON fee of \$50,000. PCS/SB 236 provides the opportunity for a hospital in a rural county to avoid that cost as well as additional costs related to the CON process.

C. Government Sector Impact:

The bill could create an increase in workload at the AHCA due to a potential increase in CON applications, but the extent of that effect is indeterminate.²³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 395.6025 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

Recommended CS by Appropriations Subcommittee on Health and Human Services on February 24, 2016:

The proposed CS:

- Specifies that the CON exemption applies to replacement hospitals;
- Deletes a requirement for the county in which the hospital will be situated to have a population between 15,000 and 18,000 residents; and
- Provides that in order for the CON exemption to be triggered, the replacement hospital may not be located within 15 miles of a currently licensed hospital in an adjacent county

B. Amendments:

None.

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

²³ *Id.*



357004

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
	.	
	.	
	.	

Appropriations Subcommittee on Health and Human Services
(Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 395.6025, Florida Statutes, is amended
to read:

395.6025 Rural hospital replacement facilities.—

Notwithstanding ~~the provisions of~~ s. 408.036, a hospital defined
as a statutory rural hospital in accordance with s. 395.602, or
an ~~a not-for-profit~~ operator of rural hospitals, is not required



357004

11 to obtain a certificate of need for the construction of a
12 replacement ~~new~~ hospital located in a county with a population
13 ~~of at least 15,000 but no more than 18,000 and a density of less~~
14 ~~than 100~~ 30 persons per square mile, ~~or a replacement facility,~~
15 provided that the replacement, ~~or new,~~ facility is not located
16 within 15 ~~10~~ miles of the site of a ~~the~~ currently licensed ~~rural~~
17 hospital in an adjacent county ~~and within the current primary~~
18 ~~service area. As used in this section, the term "service area"~~
19 ~~means the fewest number of zip codes that account for 75 percent~~
20 ~~of the hospital's discharges for the most recent 5-year period,~~
21 ~~based on information available from the hospital inpatient~~
22 ~~discharge database in the Florida Center for Health Information~~
23 ~~and Policy Analysis at the Agency for Health Care~~
24 ~~Administration.~~

25 Section 2. This act shall take effect July 1, 2016.

26
27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 Delete everything before the enacting clause
30 and insert:

31 A bill to be entitled

32 An act relating to certificates of need for rural
33 hospitals; amending s. 395.6025, F.S.; revising the
34 criteria for exempting a rural hospital or the
35 operator of rural hospitals from the requirement to
36 obtain a certificate of need for the construction of a
37 replacement facility; providing an effective date.

By Senator Grimsley

21-00333-16

2016236__

A bill to be entitled

An act relating to certificates of need for rural hospitals; amending s. 395.6025, F.S.; revising the criteria for exempting a rural hospital or the not-for-profit operator of rural hospitals from the requirement to obtain a certificate of need for the construction of a new or replacement facility within the primary service area; providing an effective date.

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

Section 1. Section 395.6025, Florida Statutes, is amended to read:

395.6025 Rural hospital replacement facilities.—
Notwithstanding the provisions of s. 408.036, a hospital defined as a statutory rural hospital in accordance with s. 395.602, or a not-for-profit operator of rural hospitals, is not required to obtain a certificate of need for the construction of a new hospital located in a county with a population ~~of at least 15,000 but no more than 18,000~~ and a density of less than 100 ~~30~~ persons per square mile, or a replacement facility, provided that the replacement, or new, facility is located within ~~10 miles of the site of the currently licensed rural hospital and within~~ the current primary service area. As used in this section, the term "service area" means the fewest number of zip codes that account for 75 percent of the hospital's discharges for the most recent 5-year period, based on information available from the hospital inpatient discharge database in the Florida Center for Health Information and Policy Analysis at the

Page 1 of 2

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

21-00333-16

2016236__

Agency for Health Care Administration.

Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Rene Garcia, Chair
Appropriations Subcommittee on Health and Human Services

Subject: Committee Agenda Request

Date: February 9, 2016

I respectfully request that **Senate Bill #236**, relating to Certificate of Need for Rural Hospitals, and **Senate Bill 946**, relating to Authorized Practices of Advanced Registered Nurse Practitioners and Licensed Physician Assistants be placed on the:

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

A handwritten signature in cursive script that reads "Denise Grimsley".

Senator Denise Grimsley
Florida Senate, District 21

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/24/16

Meeting Date

236

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Steve Eckenia

Job Title

Address P.O. Box 551

Phone 850-681-6788

Street

Tallahassee

FL

32302

City

State

Zip

Email SteveE@ughlaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing HCA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate
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 Appropriations Subcommittee on Health and Human Services

BILL: PCS/CS/SB 1378 (799956)

INTRODUCER: Appropriations Subcommittee on Health and Human Services; Health Policy Committee;
and Senator Garcia

SUBJECT: Drug Safety

DATE: February 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Stovall	HP	Fav/CS
2.	Brown	Pigott	AHS	Recommend: Fav/CS
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1378 amends Florida's Prescription Drug Monitoring Program (PDMP) to require pharmacies to offer for sale prescription lock boxes and to display a sign indicating the boxes are available there. The bill authorizes the Department of Health (DOH) to develop and distribute statewide and on the Internet a pamphlet containing specific information, and, if copies of the pamphlet are provided by the DOH, the bill requires pharmacists to distribute the pamphlet at no cost. The bill directs that this act may be cited as "Victoria's Law."

The bill has no fiscal impact on state government.

The bill's effective date is July 1, 2016.

II. Present Situation:

Section 893.055, F.S, creates the PDMP within the DOH and requires the DOH to design and establish a comprehensive electronic database system to collect controlled substance prescription dispensing information, while not infringing upon the legitimate prescribing or dispensing of controlled substances by a prescriber or dispenser acting in good faith and in the course of professional practice.

The DOH's 2014-2015 Prescription Drug Monitoring Program Annual Report¹ shows that Florida experienced a steady rise in oxycodone-caused death rates from 2005 to a peak in 2010. In 2014, the rate decreased to the lowest since 2006. Recent declines in overdose deaths may be attributed to safer, more effective pain management, changes in state regulatory policies, and promotion of the use of the information maintained in the PDMP.² According to the federal Centers for Disease Control and Prevention, "While Florida has been viewed as the epicenter of the nation's 'pill mill' epidemic, new statistics reflect that the efforts of the Drug Enforcement Administration (DEA) and its federal, state, and local law enforcement partners have made a significant difference in Florida."³ The PDMP, in combination with changes in regulation, has proven effective at reducing opioid use.⁴

In 2010, Massachusetts became the first state to require pharmacies to carry prescription lock boxes and make available pamphlets on prescription drug abuse with the enactment of Chapter 283 of the Acts of 2010, adding *Safeguards to the Prescription Monitoring Program and furthering Substance Abuse Education and Prevention*. The act requires all pharmacies in Massachusetts that dispense Schedule II, III, IV, or V prescription drugs to make available lock boxes for sale at each location.⁵

Florida currently does not have any requirement that pharmacies carry prescription lock boxes or make available literature on prescription drug abuse.

III. Effect of Proposed Changes:

The bill amends s. 893.055, F.S., Florida's PDMP, to require pharmacies to offer for sale prescription lock boxes. The bill defines "prescription lock boxes" to mean "a box or a bag with a locking mechanism that cannot be tampered with or opened without the application of extreme force." The bill requires pharmacies to display a sign on or near the pharmacy counter stating, "Prescription Lock Boxes for Securing Your Prescription Medications Are Available at This Pharmacy."

The bill authorizes the DOH to develop and distribute a written pamphlet that must contain educational information about the following:

- Precautions regarding the use of pain management prescriptions;
- The potential for misuse and abuse of controlled substances by adults and children;
- The risk of controlled substance dependency and addiction;

¹ Florida Dep't of Health, *2014-2015 Prescription Drug Monitoring Program Annual Report* (December 1, 2015), p. 7, available at <http://www.floridahealth.gov/statistics-and-data/e-forcse/news-reports/documents/2015-pdmp-annual-report.pdf>, (last visited Jan. 28, 2016).

² Centers for Disease Control and Prevention. *Injury Prevention & Control: Prescription Drug Overdose*, available at: <http://www.cdc.gov/drugoverdose/index.html>, (last visited Jan. 28, 2016).

³ Id. at p. 9.

⁴ Rutkow, L., et.al., *Effect of Florida's Prescription Drug Monitoring Program and Pill Mill Laws on Opioid Prescribing and Use*, JAMA Intern Med., 2015;175(10):1642-1649, available at <http://archinte.jamanetwork.com/article.aspx?articleid=2429105>, (last visited Jan. 28, 2016).

⁵ See Chapter 283, Section 11, Laws of Mass., 2010. *Safeguards to the Prescription Monitoring Program and furthering Substance Abuse Education and Prevention*, available at: <https://malegislature.gov/Laws/SessionLaws/Acts/2010/Chapter283>, (last visited Jan. 28, 2016).

- The proper storage and disposal of controlled substances;
- Controlled substance addiction support and treatment resources; and
- Telephone help lines and website links that provide counseling and emergency assistance for individuals dealing with substance abuse.

If the DOH develops the written pamphlet, the DOH must distribute copies of the pamphlet to pharmacies throughout the state and make the contents of the pamphlet available in electronic form on its website. If copies of the pamphlet are provided by the DOH, pharmacists must distribute the pamphlet to consumers when dispensing a prescription or controlled substance and must offer them to consumers in a display. Pharmacies may not charge for the pamphlets.

The bill directs that the act may be cited as “Victoria’s Law.”

The bill has an effective date of July 1, 2016.

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:

PCS/CS/SB 1378 requires pharmacies to stock prescription lock boxes, increasing their costs to inventory the boxes. If the written pamphlets are provided by the DOH, the bill requires a pharmacist, not a non-pharmacist employee of the pharmacy, to distribute the pamphlet to a consumer each time any prescription is dispensed, thereby increasing the pharmacist’s workload.

C. Government Sector Impact:

Since the bill authorizes, but does not require, the DOH to develop the written pamphlet, the bill has no direct fiscal impact. The cost of developing and distributing the pamphlet statewide would be significant, and the DOH would need a legislative appropriation before doing so.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill defines a “prescription lock box” as a box or a bag with a locking mechanism that cannot be tampered with or opened without the application of extreme force. The intent of the bill relating to “extreme force” is unclear. “Extreme force” is not defined, and the bill seems to indicate that opening the box should require the application of extreme force under any circumstances, regardless of who is seeking access.

VIII. Statutes Affected:

This bill substantially amends section 893.055 of the Florida Statutes.

IX. Additional Information:

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

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on February 24, 2016:

The proposed CS authorizes, rather than requires, the DOH to develop a written pamphlet to be made available in pharmacies statewide and requires pharmacists to distribute the pamphlets only if they are made available by the DOH.

CS by Health Policy on February 1, 2016

The CS directs that the act may be cited as “Victoria’s Law.” All other provisions remain unchanged.

- B. **Amendments:**

None.



705210

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/24/2016	.	
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Appropriations Subcommittee on Health and Human Services
(Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be cited as "Victoria's Law."

Section 2. Present subsections (15), (16), and (17) of
section 893.055, Florida Statutes, are redesignated as
subsections (17), (18), and (19), respectively, and new
subsections (15) and (16) are added to that section, to read:
893.055 Prescription drug monitoring program.—



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(15) Pharmacies shall offer for sale prescription lock boxes at each store location. Pharmacies shall make customers aware of the availability of the prescription lock boxes by displaying a sign on or near the pharmacy counter which measures at least 4 inches by 5 inches and includes the statement, in a legibly printed font, "Prescription Lock Boxes for Securing Your Prescription Medications Are Available at This Pharmacy." As used in this subsection, the term "prescription lock box" means a box or a bag with a locking mechanism that cannot be tampered with or opened without the application of extreme force.

(16) (a) The department may develop a written pamphlet relating to controlled substances which includes educational information about the following:

1. Precautions regarding the use of pain management prescriptions.

2. The potential for misuse and abuse of controlled substances by adults and children.

3. The risk of controlled substance dependency and addiction.

4. The proper storage and disposal of controlled substances.

5. Controlled substance addiction support and treatment resources.

6. Telephone helplines and website links that provide counseling and emergency assistance for individuals dealing with substance abuse.

(b) If the department develops a written pamphlet relating to controlled substances, the department shall distribute copies of the pamphlet to pharmacies throughout the state and make the



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contents of the pamphlet available in electronic form on its
website. If copies of the pamphlet are provided by the
department, a pharmacist shall distribute the pamphlet to a
consumer when dispensing a prescription or a controlled
substance and shall offer them to consumers in a display.
Pharmacies may not charge consumers a fee for the pamphlet.

Section 3. This act shall take effect July 1, 2016.

===== 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 drug safety; providing a short
title; amending s. 893.055, F.S.; requiring pharmacies
to offer for sale prescription lock boxes; requiring
pharmacies to display a certain sign; defining the
term "prescription lock box"; requiring the Department
of Health to develop and distribute a pamphlet;
requiring the pamphlet to contain certain information;
requiring pharmacists to distribute the pamphlet in
certain circumstances; prohibiting a pharmacy from
charging a fee for the pamphlet; providing an
effective date.

By the Committee on Health Policy; and Senator Garcia

588-02908-16

20161378c1

A bill to be entitled

An act relating to drug safety; providing a short title; amending s. 893.055, F.S.; requiring pharmacies to offer for sale prescription lock boxes; requiring pharmacies to display a certain sign; defining the term "prescription lock box"; requiring the Department of Health to develop and distribute a pamphlet; requiring the pamphlet to contain certain information; requiring pharmacists to distribute the pamphlet in certain circumstances; prohibiting a pharmacy from charging a fee for the pamphlet; providing an effective date.

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

Section 1. This act may be cited as "Victoria's Law."

Section 2. Present subsections (15), (16), and (17) of section 893.055, Florida Statutes, are redesignated as subsections (17), (18), and (19), respectively, and new subsections (15) and (16) are added to that section, to read:

893.055 Prescription drug monitoring program.—

(15) Pharmacies shall offer for sale prescription lock boxes at each store location. Pharmacies shall make customers aware of the availability of the prescription lock boxes by displaying a sign on or near the pharmacy counter which measures at least 4 inches by 5 inches and includes the statement, in a legibly printed font, "Prescription Lock Boxes for Securing Your Prescription Medications Are Available at This Pharmacy." As used in this subsection, the term "prescription lock box" means a box or a bag with a locking mechanism that cannot be tampered with or opened without the application of extreme force.

(16) (a) The department shall develop a written pamphlet

588-02908-16

20161378c1

relating to controlled substances which includes educational information about the following:

1. Precautions regarding the use of pain management prescriptions.

2. The potential for misuse and abuse of controlled substances by adults and children.

3. The risk of controlled substance dependency and addiction.

4. The proper storage and disposal of controlled substances.

5. Controlled substance addiction support and treatment resources.

6. Telephone helplines and website links that provide counseling and emergency assistance for individuals dealing with substance abuse.

(b) The department shall distribute copies of the pamphlet to pharmacies throughout the state and make the contents of the pamphlet available in electronic form on its website. A pharmacist shall distribute the pamphlet to a consumer when dispensing a prescription or a controlled substance and shall offer them to consumers in a display. Pharmacies may not charge consumers a fee for the pamphlet.

Section 3. This act shall take effect July 1, 2016.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1378
Bill Number (if applicable)

Meeting Date _____

Topic DRUG safety

Amendment Barcode (if applicable) _____

Name BETH LABASKY

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Speaking: ☒ For ☐ Against ☐ Information

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

Representing Informed Families of FIA. Lock Your MEDS PROGRAM

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: SB 401

Case:

Caption: Senate Appropriations Subcommittee on Health and Human Services

Type:

Judge:

Started: 2/24/2016 1:35:00 PM

Ends: 2/24/2016 2:11:48 PM

Length: 00:36:49

1:34:59 PM Call to order and roll call
1:35:18 PM Quorum present
1:35:29 PM Opening remarks - Chair Garcia
1:35:32 PM TAB 2: CS/SB 750 (Hutson)
1:36:23 PM Senator Bean Question
1:38:05 PM 286946 - Adopted
1:38:47 PM 968620 - Withdrawn
1:38:52 PM Senator Sobel Comments
1:40:04 PM Back on the bill as amended
1:40:07 PM Senator Grimsley Question
1:40:17 PM Senator Hutson Responds
1:41:32 PM Michael Wickersheim, Director of Legislative Affairs, Florida Department of Children and Families
1:41:55 PM Public Testimony
1:42:00 PM Gaby Garcia-Vera, Field Coordinator, National Latina Institute for Reproductive Justice, waives against
1:42:07 PM William Lawson, Field Representative, Central Florida AFL-CIO, waives against
1:42:12 PM Karen Woodell, Executive Director, Florida Center for Fiscal and Economic Policy, speaks against
1:44:34 PM Jose Palucios, waives against
1:44:39 PM Pamela Gomez, Central Florida Community Organizer, Florida Immigrant Coalition, speaks against
1:46:07 PM Senator Sobel request DCF to speak more on issue
1:46:29 PM DCF unsure how to answer
1:47:07 PM Senator Hutson Comments
1:49:36 PM Senate Abruzzo Comments
1:50:45 PM Senator Sobel Comments
1:51:57 PM Chair Garcia Comments
1:52:47 PM Senator Hutson Closing Comments
1:53:36 PM CS/SB 750 - Favorable
1:54:00 PM TAB 3: CS/SB 1250 (Latvala) (Presented by Representative Kathleen Peters)
1:56:49 PM 163046 - Adopted
1:57:59 PM 221126 - Withdrawn
1:58:23 PM Public Testimony
1:58:29 PM Mark Fontaine, Executive Director, Florida Alcohol and Drug Abuse Association, waives in support
1:58:36 PM Chris Lyon, Attorney, Florida Association of Nurse Anesthetists, waives in support
1:58:51 PM Thad Lowrey, VP Government Relations, Operation PAR, waives in support
1:58:55 PM Shane Messer, Legislative Affairs, Florida Council for Behavioral Healthcare, waives in support
1:59:03 PM Corinne Mixon, Lobbyist, The Florida Academy of Physician Assistants, waives in support
1:59:14 PM Alisa LaPolt, Lobbyist, Florida Nurses Association, waives in support
1:59:26 PM Natalie Kelly, Executive Director, Florida Association of Managing Entities, waives in support
1:59:31 PM Back on the bill as amended
1:59:50 PM CS/SB 1250 - Favorable
2:00:18 PM TAB 4: SB 236 (Grimsley)
2:01:18 PM 357004 - Adopted
2:01:49 PM Back on the bill as amended
2:02:02 PM Public Testimony
2:02:08 PM Steve Ecenia, HCA, waives in support
2:02:21 PM SB 236 - Favorable
2:02:39 PM TAB 1: CS/SB 1138 (Clemens)
2:03:35 PM 286946 - Adopted
2:04:04 PM Public Testimony
2:04:12 PM Mark Fontaine, Executive Director, Florida Alcohol and Drug, speaks in support
2:04:42 PM Greg Pound, Pinellas County Florida Government Corruption
2:05:42 PM Senator Abruzzo Comments
2:06:15 PM CS/SB 1138 - Favorable

2:06:24 PM	Pass Chair to Senator Smith
2:06:35 PM	TAB 5: CS/SB 1378 (Garcia)
2:07:30 PM	705210 - Adopted
2:08:05 PM	Back on the bill as amended
2:08:13 PM	Public Testimony
2:08:19 PM	Beth Labasky, Consultant, Informed Families of Florida-Lock Your Meds Program, waives in support
2:08:39 PM	CS/SB 1378 - Favorable
2:09:04 PM	Pass Chair back to Chair Garcia
2:09:13 PM	Senator Garcia Comments
2:10:43 PM	Senator Bean Motion/Comments - record show voting affirmative CS/SB 1250, SB 236, CS/SB 1138,
CS/SB 1378	
2:11:36 PM	Chair Garcia without objection show that motion adopted
2:11:38 PM	Meeting Adjourned